

STATE OF INDIANA] LAKE CIRCUIT COURT
COUNTY OF LAKE] CAUSE NUMBER 45C019507CT01339

STRALEY M. THORPE, on his own]
behalf as a Lake County County] Court public defender, and on]
behalf of his public defender]
clients,]
DERRICK DAVIS, LARRY PETERSON,]
MUSTAFA N. SHABAZZ, EUGENE EDDIE,]
HOBART KENDRICK, LAWRENCE MOREFIELD]
and LAMART CARTER, on their own]
behalf and on behalf of all]
others similarly situated.]
Plaintiffs,]
-vs-]
STATE OF INDIANA, et al.,]
Defendants]

PLAINTIFFS' FIRST AMENDED COMPLAINT
CLASS ACTION

INTRODUCTORY STATEMENT

1. This is a class action commenced under 42 U.S.C. §1983, the United States Constitution and the Indiana Constitution.

2. Plaintiffs seek an order requiring the defendants, and each of them, to provide adequate criminal legal defense services to poor persons who are criminal defendants in Lake County, Indiana.

3. Plaintiffs bring this action on behalf of all present and future indigent persons charged with having committed criminal offenses in Lake County, Indiana.

4. Indigent defense legal services must be adequate to assure that an indigent defendant has a fair opportunity to present an adequate, thorough, rigorous and vigorous defense and public defenders must be free from undue judicial influence.

5. The State of Indiana is required by the United States Constitution and the Indiana Constitution to provide adequate legal representation to poor persons charged with having committed criminal offenses.

6. Indiana has delegated this duty to Lake County and its governing institutions.

7. Lake County, and its governing institutions, have accepted the responsibility for fulfilling this duty.

8. Legal services provided by Lake County to poor people and indigent persons charged with crimes do not satisfy minimum constitutional obligations.

9. Plaintiffs allege a systemic failure on the part of the Defendants, and each of them, to provide constitutionally adequate criminal defense services for poor persons charged with crimes.

10. These failures are inherent in, and pervasive throughout, the Lake County Public Defender "system."

Parties

Plaintiffs:

11. Plaintiff Straley M. Thorpe ("Mr. Thorpe") is a duly licensed attorney in Indiana who is a public defender in Lake Superior Court-County Division Room III. He is bringing this suit on his own behalf and on behalf of his public defender clients.

12. Plaintiff Derrick L. Davis ("Mr. Davis") is an indigent person charged with having committed criminal offenses in Lake County, Indiana.

13. Plaintiff Larry Peterson ("Mr. Peterson") is an indigent

person charged with having committed criminal offenses in Lake County, Indiana.

14. Plaintiff Mustafa N. Shabazz ("Mr. Shabazz") is an indigent person charged with having committed criminal offenses in Lake County, Indiana.

15. Plaintiff Eugene Eddie ("Mr. Eddie") is an indigent person charged with having committed criminal offenses in Lake County, Indiana.

16. Plaintiff Hobart Kendrick ("Mr. Kendrick") is an indigent person charged with having committed criminal offenses in Lake County, Indiana.

17. Plaintiff Lawrence Morefield ("Mr. Morefield") is an indigent person charged with having committed criminal offenses in Lake County, Indiana.

18. Plaintiff Lamart Carter ("Mr. Carter") is an an indigent person charged with having committed criminal offenses in Lake County, Indiana.

19. The State of Indiana ("Indiana") has a constitutional duty to provide constitutionally adequate assistance of counsel to poor people charged with crimes.

20. Defendant Governor Evan Bayh ("Governor") is the chief executive branch officer of Indiana and is sued individually and in the official capacity as governor. The Governor has taken an oath to uphold the Indiana and United States Constitutions.

21. Defendant Lake County is a political and geographical subdivision of Indiana and exists under the laws of Indiana and has

a constitutional duty to provide constitutionally adequate assistance of counsel to poor persons charged with crimes.

22. Defendant County Council of Lake County, Indiana ("Council") is the legislative branch of Lake County government and is vested with the legislative powers of Lake County, Indiana including the power to create, maintain and adequately fund the provision of legal representation for poor persons charged with crimes. Each member of the County Council has taken an oath to uphold the Indiana and United States Constitutions.

23. Defendant Board of County Commissioners of Lake County, Indiana ("Commissioners") is the executive branch of Lake County government and has the duty to create, maintain, and adequately fund a constitutionally adequate Lake County Public Defender System and provide adequate resources for legal representation of poor persons charged with crimes. Each member of the Board of Commissioners has taken an oath to uphold the Indiana and United States Constitutions.

24. Defendant Superior Court of Lake County Indiana and its Criminal, Juvenile and County Divisions (hereinafter "Lake County Courts" unless a particular court is specifically identified) constitute the local presence of the state judicial branch of government and have the duty, responsibility, authority, and jurisdiction to create, maintain and adequately fund a constitutionally adequate Lake County Public Defender System in order to enforce the constitutional rights of indigent criminal defendants, to have constitutionally adequate assistance of counsel

at the trial and appellate stages. Each member of the Superior Courts has taken an oath to uphold the Indiana and United States Constitutions.

25. The Lake County Courts have a constitutional duty to provide each poor person charged with a crime with an adequate attorney, who must provide the indigent defendant with legal services which protect him and provide him with the best defense possible under the circumstances of the case and given the defendant's particular situation.

26. Defendant Frances DuPey is a duly elected member of the County Council of Lake County, Indiana and is sued individually and in the official capacity of member of the County Council. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

27. Defendant Troy Montgomery is a duly elected member of the County Council of Lake County, Indiana and is sued individually and in the official capacity of member of the County Council. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

28. Defendant Morris Carter, is a duly elected member of the County Council of Lake County, Indiana and is sued individually and in the official capacity of member of the County Council. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

29. Defendant Lance Ryskamp is a duly elected member of the County Council of Lake County, Indiana and is sued individually and

in the official capacity of member of the County Council. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

30. Defendant John Aguilera is a duly elected member of the County Council of Lake County, Indiana and is sued individually and in the official capacity of member of the County Council. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

31. Defendant Robert Crossk is a duly elected member of the County Council of Lake County, Indiana and is sued individually and in the official capacity of member of the County Council. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

32. Defendant Larry Blanchard is a duly elected member of the County Council of Lake County, Indiana and is sued individually and in the official capacity of member of the County Council. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

33. Defendant Rudolph Clay is a duly elected County Commissioner and is a member of the Board of County Commissioners of Lake County, Indiana and is sued individually and in the official capacity of County Commissioner. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

34. Defendant Ernest Niemeyer is a duly elected County Commissioner and is a member of the Board of County Commissioners of Lake County, Indiana and is sued individually and in the

official capacity of County Commissioner. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

35. Defendant Peter Katic is a duly elected County Commissioner and is a member of the Board of County Commissioners of Lake County, Indiana and is sued individually and in the official capacity of County Commissioner. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

36. Defendant James Clement is the chief executive officer for the Lake Superior Court, Criminal Division and is a judge in the criminal division of the Superior Court of Lake County, Indiana and is sued individually, and in the capacities of the chief executive officer for the Lake County Superior Court Criminal Division. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

37. Defendant Richard Conroy is a judge in the criminal division of the Superior Court of Lake County, Indiana and is sued individually and in the capacity of Lake County, Indiana Superior Court Judge. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

38. Defendant James Letsinger is a judge in the criminal division of the Superior Court of Lake County, Indiana and is sued individually and in the capacity of Lake County, Indiana Superior Court Judge. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

39. Defendant Richard Maroc is a judge in the criminal division of the Superior Court of Lake County, Indiana and is sued

individually and in the capacity of Lake County, Indiana Superior Court Judge. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

40. Defendant Mary Beth Bonaventura is a judge in the Juvenile Division of the Superior Court of Lake County, Indiana and is sued individually and in the capacity of Lake County, Indiana Superior Court Judge. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

41. Defendant Nicholas J. Schiralli is a judge in the County Division of the Superior Court of Lake County, Indiana and is sued individually and in the capacity of Lake County, Indiana Superior Court Judge. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

42. Defendant Sheila M. Moss is a judge in the County Division of the Superior Court of Lake County, Indiana and is sued individually and in the capacity of Lake County, Indiana Superior Court Judge. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

43. Defendant Anthony P. Trapane is a judge in the County Division of the Superior Court of Lake County, Indiana and is sued individually and in the capacity of Lake County, Indiana Superior Court Judge. This Defendant has taken an oath to uphold the Indiana and United States Constitutions.

Class Allegations

44. The named plaintiffs bring this action as a class action under I.R.T.P. Rule 23, on behalf of themselves and all persons

similarly situated.

45. The class that plaintiffs seek to represent consists of all individuals who are, or will in the future be, adversely affected by the unconstitutional practices of the Lake County Public Defender "system."

46. The class of plaintiffs is the following class:

all poor and/or indigent persons who are, or will be, charged with violations of the criminal laws of Indiana in the Superior Courts (Criminal, Juvenile, and County Divisions) of Lake County.

47. The named plaintiffs and the class are, or will be, subject to the acts, practices and omissions complained of herein.

48. The Plaintiff class meets all of the requirements of I.R.T.P. Rule 23(A) in that:

The Plaintiff class is so numerous that joinder of all members is impracticable. More than five thousand (5,000) persons each year are indigent criminal defendants in Lake County and are affected each year by the systemic deficiencies outlined in this complaint.

49. The questions of law raised are common to all members of the Plaintiff class.

50. The claims of the representative parties are typical of the claims of the class, in that all class members have been, or will be, denied effective indigent representation prior to conviction and after conviction.

51. The representative parties will fairly and adequately protect the interests of the class, in that all questions of law affecting the named Plaintiffs are equally applicable to the Class;

and Plaintiffs are represented by counsel who are familiar with questions of law and fact applicable to the class, and who are experienced in public interest litigation involving federal constitutional law and affecting low income persons.

52. Plaintiff class satisfies the requirements of I.R.T.P. 23(B) in that the prosecution of separate actions by individual members of the class would create a risk of:

inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class.

53. The parties opposing the class have acted, or refused to act, on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

54. Questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

55. The Defendants, and each of them, have acted, or refused to act, on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole.

56. Specifically the Defendants, and each of them individually and acting in concert, have failed to provide a system of indigent defense which meets Federal and State constitutional guarantees for indigent criminal defense.

FACTS

57. Plaintiff Straley M. Thorpe has been a public defender in Lake Superior Court-County Division Room III since 1985.

58. Plaintiff Derrick L. Davis is an indigent person charged with having committed criminal offenses in Lake County, Indiana.

59. Mr. Davis has been in custody since 17 June 1994 when he surrendered to law enforcement authorities.

60. On or about 12 July 1994 Mr. Davis had his initial hearing.

61. On or about 19 July 1994 a Lake County Public Defender was appointed to represent Mr. Davis.

62. Since that date his public defender has personally met with Mr. Davis twice.

63. Each meeting lasted less than 1/2 hour.

64. Since that date his public defender has spoken with Mr. Davis over the telephones three times.

65. Each telephone call lasted for less than 1/2 hour.

66. Since that date Mr. Davis has written to his public defender three times but has never received a written response.

67. Plaintiff Larry Peterson is an indigent person charged with having committed criminal offenses in Lake County, Indiana.

68. Mr. Peterson has been in custody since approximately January 6, 1995.

69. Since that date his trial public defender, Angela Bryant, has personally met with Mr. Peterson only three (3) times. No meeting lasted more than ten (10) minutes.

70. Mr. Peterson has written his public defender

approximately thirty times seeking more information on his case. She has only responded to three of the letters.

71. Mr. Peterson is "OR'ed" on the case in Lake County but remains in custody on a hold from Kentucky. Mr. Peterson has requested assistance in being promptly returned to Kentucky but his public defender has provided no assistance. As a result of the Public Defender not assisting Mr. Peterson in making the proper demand for transportation to Kentucky to be tried on the Kentucky case, Mr. Peterson is being held unnecessarily. A competent attorney would have provided counsel to Mr. Peterson which would result in his being transported to Kentucky for trial on the Kentucky charges.

72. Mr. Peterson has spoken with his attorney less than five times because the Lake County has a telephone policy which only permits inmates to use the phones on Wednesday and Friday. The phones are turned on at 8:30 a.m. (when the attorneys are usually in court) and turned off at 12:00 noon (when the attorneys are not in court).

73. Mr. Peterson's attorney refuses to accept collect phone calls at her private office.

74. Plaintiff Mustafa N. Shabazz ("Mr. Shabazz") was arrested on or about 17 January 1995 for possession of a firearm without a permit and escape.

75. Mr. Shabazz's initial hearing was on or about 1 February 1995.

76. On or about 7 February 1995 a Lake County Public Defender

was appointed to represent Mr. Shabazz at trial.

77. Since that date his trial public defender has personally met with Mr. Shabazz less than five (5) times.

78. During these meetings Mr. Shabazz was led to believe based upon statements of his public defender that his public defender had been in ex parte communications with the trial court judge regarding what sentence would be imposed.

79. Each meeting lasted less than 1/2 hour.

80. Since that date his public defender has spoken with Mr. Shabazz over the telephones twice.

81. Each telephone call lasted for less than fifteen minutes.

82. Since that date Mr. Shabazz has written to his trial public defender ten times but has never received a written response.

83. Mr. Shabazz was convicted at a trial. It was the first trial setting and Mr. Shabazz, because his defense had not been prepared, moved to continue the trial. The motion was denied.

84. After the conviction and sentencing a Lake County Appellate Defender was appointed to represent Mr. Shabazz on his appeal.

85. Since that date his appellate public defender has never met with Mr. Shabazz to discuss his case.

86. Since that date his appellate public defender has never spoken with Mr. Shabazz over the telephone.

87. Since that date Mr. Shabazz has written to his trial public defender five times but has never received a written

response.

88. Plaintiff Eugene Eddie ("Mr. Eddie") is an indigent person charged with having committed crimes in Lake County.

89. Mr. Eddie has been in custody since 12 February 1995.

90. Since that date his public defender has personally only met with Mr. Eddie three times.

91. Each meeting lasted less than fifteen minutes and consisted, almost exclusively, of the public defender lobbying Mr. Eddie to accept a plead agreement.

92. Since that date his public defender has never spoken with Mr. Eddie on the telephone.

93. Hobart Kendrick ("Mr. Kendrick") is an indigent person charged with having committed crimes in Lake County whose experience with the Lake County Public Defender system is similar to Mr. Davis', Mr. Peterson's, and Mr. Eddie's.

94. Lawrence Morefield ("Mr. Morefield") is an indigent person charged with having committed crimes in Lake County whose experience with the Lake County Public Defender system is similar to Mr. Davis', Mr. Peterson's, and Mr. Eddie's.

95. Lamart Carter ("Mr. Carter") is an indigent person charged with having committed crimes in Lake County.

96. Mr. Carter has been incarcerated 14 months. His first public defender did not visit him for the first six months Mr. Carter was in custody.

97. Mr. Carter's public defender was to be suspended from the practice of law for misconduct and another public defender was

appointed to represent Mr. Carter.

98. Mr. Carter's second public defender visited him one time in jail.

99. In February 1995 Mr. Carter's second public defender withdrew from Mr. Carter's case and a third public defender was appointed.

100. Mr. Carter's third public defender visited Mr. Carter twice but only to pass on plea offers from the state and did not discuss preparing a defense.

101. Mr. Carter's third public defender did not investigate Mr. Carter's case.

FACTUAL ALLEGATIONS AS TO THE PLAINTIFF CLASS

102. Each year approximately eighty percent (80%) of all persons charged with crimes in Lake County Courts (Superior, Juvenile and County Division) qualify for public defenders.

103. More than 60% of the persons charged with crimes who end up being represented by Lake County Public Defenders are African-American or Hispanic.

104. The State of Indiana is required by the United States Constitution and the Indiana Constitution to provide adequate legal representation to poor persons charged with having committed criminal offenses.

105. The Courts of the State of Indiana are required by the United States Constitution, and the Constitution of Indiana, to provide poor persons charged with having committed criminal offenses with adequate legal representation.

106. Indiana has, in fact, in law, and in effect, delegated this duty to provide adequate legal representation to poor people charged with having committed criminal offenses to Lake County and its governing institutions including, but not limited to, the County Council of Lake County, Indiana; the Board of County Commissioners of Lake County, Indiana; and the Lake County Courts.

107. Lake County and its governing institutions including, but not limited to, the County Council of Lake County, Indiana; the Board of County Commissioners of Lake County, Indiana; and the Lake County Superior Courts have, in fact, accepted the responsibility for fulfilling this duty has been.

108. Defendant Lake County and its governing institutions, as identified in paragraph immediately preceding this one, have not in fact fulfilled these duties.

109. By delegating to Lake County the entire burden of, and responsibility for, providing defense services for criminal indigent defendants without assuring that effective assistance of counsel is in fact provided, the State of Indiana has ignored, and violated, its constitutional obligations to assure the adequacy of such services and the fair trial of such defendants.

110. Indiana has shifted to Lake County the entire financial burden for providing indigent criminal defense services, a burden it is, in fact, unwilling, to bear.

111. The amount spent by the State of Indiana to prosecute indigent defendants is far more than double the amount spent to defend poor persons charged with crimes.

112. The Defendants, and each of them, have failed to allocate constitutionally adequate funds or create a constitutionally adequate system to deliver indigent defense services.

113. The Defendant Lake County, the Council and the Commissioners provide funds for indigent public defense as part of the Courts' budgets.

114. The amount of funds provided to the Defendant Courts has been, is, and, without judicial intervention, will continue to be, constitutionally adequate assistance of counsel.

115. The compensation paid to Lake County Public Defenders to provide indigent representation has been, is, and will, without judicial intervention, continue to be, seriously inadequate and, along with the lack of any funds for defense services, hampers a Public Defender's ability, in light of case loads and lack of support services, to provide effective representation to indigent defendants.

116. Lake County Public Defenders are hampered by the lack of funds and are unable to retain experts to conduct scientific tests, investigations, or provide other defense services.

117. Indigent defense services provided in Lake County, Indiana do not satisfy the minimum constitutional obligations of providing adequate defense to indigent criminal defendants and juveniles.

118. These failures are inherent in and pervasive throughout the Lake County Public Defender "system."

119. The Defendants have not established a uniform system of

public defense nor any guidelines controlling establishing public defense.

120. The Defendant Lake County Courts use a contract system in which the individual attorney contracts to provide services for a specified dollar amount.

121. Each Defendant Court and each Defendant Judge contracts with private attorneys to provide legal representation for indigent defendants in their respective court.

122. Lake County Public Defenders are hired by the individual Judges and are paid out of that Court's budget.

123. The contracts to provide legal representation to indigents are not let on an open bid system nor are there any adopted or written "guidelines" which control hiring or firing of public defenders.

124. Lake County Public Defenders are subject to no apparent non-judicial supervision or any quality control.

125. In virtually all the Courts, the decision on whether to hire a particular attorney is based upon that attorney's personal, and/or partisan, relationship with the particular judge who hires the particular public defender.

126. Lake County Public Defenders are generally, though not always, hired on a partisan basis; viz., Republican judges hire Republican attorneys.

127. Upon information and belief, the political party loyalty of applicants for the position of Lake County Public Defenders is determined, and/or known of, and/or is a factor in the decision to

hire a person to be a Lake County Public Defender.

128. All past and present Lake County Public Defenders appear to have been hired because of their personal, and/or partisan, and/or political connections with the hiring Judge and not because of any documented skill, or competence, either in providing or managing public defense that they were required to demonstrate in order to be employed.

129. The Defendant Judges who decide whether to employ the particular Lake County Public Defenders who practice in his, or her, court have direct hiring, disciplining and firing powers.

130. This relationship creates an inherent conflict of interest in that Lake County Public Defenders must vigorously represent their clients (a circumstance that inevitably, upon occasion, involves angering a judge) in front of that same person who can fire them from their position as a Lake County Public Defender.

131. Thus, there is a direct and immediate disincentive for Lake County Public Defenders to do anything that would displease the Judge.

132. Lake County Public Defenders receive clients on a rotating basis and there is no upper limit on the number of cases a Lake County Public Defender may have assigned to him or her.

133. Compensation for Lake County Public Defenders does not vary with the number of cases assigned, or amount of time, or effort, expended by the lawyer on a particular case.

134. Lake County Public Defenders are all considered

"part-time" at-will employees and most have private civil and criminal law practices which compete for their time and attention.

135. Lake County Public Defenders do not have adequately funded staff investigators, staff secretaries, or staff paralegals.

136. There is a Lake County Public Defender Office.

137. However, the administrator of the Public Defender Office is an individual who is presently, or recently has been, suspended from the practice of law by the Indiana Supreme Court for neglecting client affairs, and who was hired by the Presiding Judge for reasons not associated with this individual's competence.

138. The Defendants Council and Commissioners have intentionally underfunded this portion of the Courts' budgets to such an extent that the funds appropriated are insufficient to provide adequate indigent defense services.

139. The Defendants Lake County Courts and Judges have intentionally failed to mandate funds for this underfunded this portion of the Courts' budgets to such an extent that the funds appropriated are insufficient to provide adequate indigent defense services.

140. The fees paid to Lake County Public Defenders are seriously inadequate, and along with the lack of any funds for defense services, hamper their ability to provide effective assistance of counsel to indigent defendants.

141. Lake County Public Defenders often have insufficient time to consult with their indigent clients.

142. Insufficient time to consult with clients is detrimental

to a Public Defender's ability to represent these clients since the delays result in lost evidence when memories fade, witnesses disappear and physical evidence is lost.

143. Lake County Public Defenders are also hampered in their ability to provide effective representation by the lack of funds available to retain experts, conduct scientific tests or provide other defense services.

144. Lake County Public Defenders are often unable to adequately represent their clients due to the unavailability of funds for expert witnesses and investigation expenses.

145. There is intense pressure from the courts and prosecutors to hurry the cases of indigent defendants to guilty pleas or to trial which does not give adequate time to investigate the cases and to prepare adequate defenses.

146. Indigent criminal defendants in Lake County are denied a fair trial and effective assistance of counsel, in that the various "system" for providing indigent criminal defense inherently provides inadequate resources and services.

147. As a direct and proximate result, Lake County Public Defenders are rendered ineffective as the adversarial process is undermined and unreasonably, and unjustly, skewed to favor the prosecution.

148. The cumulative effect of the inadequacies in the provision of indigent criminal defense in Lake County constitutes a systemic failure to satisfy minimum constitutional standards.

149. The gross disparity between the resources expended for

the prosecution, as compared to the defense of, criminal indigent defendants reflects a fundamental unevenness in the adversary process that precludes a fair trial.

150. The lack of resources increases the burden on Lake County Public Defenders and, in effect, creates a financial disincentive for them to provide thorough and effective defense services consistent with minimum standards of representation.

151. The failure to provide adequate resources for essential investigation and other defense-related expenses, such as expert witnesses, psychiatric examinations and scientific tests, imposes a substantial burden on Lake County Public Defenders.

152. Public Defenders are not appointed to the defense promptly after the arrest, or if appointed, are not able, because of staggering caseloads and inadequate funding for investigation, to undertake the immediate representation of members of the plaintiff class.

153. This failure to promptly appoint a public defender deprives a defendant of the opportunity to obtain effective assistance of counsel when the evidence is fresh and the individual's constitutional rights are most at risk.

154. This deprives indigent defendants of counsel at critical stages of the prosecution.

155. The Lake County Public Defender "system" for providing legal representation to poor people charged with crimes allows insufficient time and resources to permit adequate defense services, including:

- a. interviewing;
- b. investigation;
- c. research;
- d. motion practice;
- e. trial preparation;
- f. client advice; and,
- g. overall attention to the case, given forced excessive caseloads.

156. Lake County government has had reports on the Lake County Public Defender "system" prepared in the past.

157. In 1972, a report titled A Program for the Improved Administration of Justice in Lake County was prepared by the Institute of Court Management.

158. In 1973, a report titled Criminal Court Calendar Management in Lake County was prepared by the American Judicature Society.

159. In 1974, a report titled The Structure and Funding for Criminal Defense of Indigents in Indiana, was prepared by the Criminal Courts Technical Assistance Project.

160. In 1974, a report titled Review of the Structure, Scope and Adequacy of the Public Defender System in Lake County, Indiana was prepared by the Criminal Courts Technical Assistance Project.

161. These past and present constitutional deficiencies of the Lake County Public Defender "system" have recently been catalogued in a report prepared for the State Public Defender Office by the Spangenberg Group ("Spangenberg").

162. The Spangenberg Report is titled A Study of the Lake County, Indiana Superior Court Trial and Appellate Public Defender Systems, 1982-1992. A copy is attached and incorporated by reference as Exhibit 1.

163. Spangenberg, a nationally recognized expert in the area of gauging and providing indigent defense, came to several professional expert opinions regarding the Lake County "system" of public defense.

164. The Spangenberg Report expressed the opinion that "due to numerous systemic deficiencies, the Lake County Public Defender "system" in operation in the Lake County Superior Court during the period 1982 to 1992 was unable to assure the effective assistance of counsel for indigent defendants that they are entitled to under the United States Constitution, the Indiana Constitution and Indiana law." (Spangenberg at 4)

165. Spangenberg was of the opinion that "the system in question during this time period could not guarantee reasonably effective assistance of counsel as required under the Sixth Amendment." (Spangenberg at 4-5)

166. In judging the Lake County system the Spangenberg Report used nationally recognized standards for delivery of defense services set forth in the American Bar Association's Standards for Criminal Justice, Providing Defense Services in effect for the period 1982-1992. (Spangenberg at 5)

167. The ABA Criminal Justice Standards are recognized as the most significant model for criminal justice systems. (Spangenberg at 6)

168. The Spangenberg Report used other standards. (Spangenberg at 6)

169. According to reports available as far back as 1972, the

Lake County Public Defender "system" was unconstitutionally defective because it failed to provide constitutionally adequate assistance of counsel.

170. Constitutional litigation has previously been brought against the Lake County Public Defender "system." (Spangenberg at 8)

171. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has been denied adequate resources to provide constitutionally adequate assistance of counsel to the Plaintiff class. (Spangenberg at 11)

172. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel to indigents charged with criminal offenses. (Spangenberg at 11)

173. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defenders have been forced to operate within a system which makes it impossible to provide constitutionally adequate assistance of counsel. (Spangenberg at 11)

174. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to comply with relevant provisions of the ABA Criminal Justice Standards and other standards. (Spangenberg at 12)

175. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel sufficient

to comply with the Sixth Amendment. (Spangenberg at 12)

176. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has had a structure which requires Lake County Public Defenders to "serve two masters (the judge and their private practice) a situation which has created conflicts and disincentives to devote sufficient time to their public defender clients." (Spangenberg at 12)

177. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has lacked a program to effectively address conflicts and overload of public defenders. (Spangenberg at 12)

178. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has had a hiring process for Lake County Public Defenders in which the Defendant Judges have handpicked Public defenders who worked in their courtrooms. (Spangenberg at 13)

179. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide Lake County Public Defenders with adequate support services, including investigators, experts and secretaries. (Spangenberg at 13)

180. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide adequate training to new, as well as experienced, public defenders. (Spangenberg at 13)

181. Beginning as long ago as 1972, and continuing until the

present, the Lake County Public Defender "system" has had an inadequate physical facility including insufficient office space, insufficient office equipment and an inadequate law library. (Spangenberg at 13)

182. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide any adequate outlet for overflow cases. (Spangenberg at 13)

183. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide counsel to indigent defendants at their initial hearing. (Spangenberg at 13)

184. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to adequately address the provision of counsel in execution cases until compelled to by other governmental entities. (Spangenberg at 13)

185. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to attempt to equalize the extreme disparity in resources between public defenders and prosecutors. (Spangenberg at 13)

186. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel because Lake County Public Defenders were unable to devote their full and undivided attention to their indigent clients. (Spangenberg at 14)

187. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which encourages, condones, and continues to employ public defenders who fail to visit clients, fail to file motions (other than bond reduction motions), who fail to use experts and investigators and who willingly go to trial whether or not they are prepared. (Spangenberg at 14)

188. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a "system" which has created incentives to public defenders to inadequately represent indigent persons charged with having committed crimes. (Spangenberg at 15)

189. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has caused part-time public defenders to have caseloads which far exceed caseload standards of the NLADA and NAC. (Spangenberg at 15)

190. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has caused part-time public defenders to have caseloads which far exceed caseload standards promulgated by the Indiana Public Defender Commission. (Spangenberg at 15)

191. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which creates incentives for public defenders to frequently fail to learn enough about their clients or the facts of their clients' cases to effectively represent them. (Spangenberg at 16)

192. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has created incentives to Lake County appellate public defenders to fail to visit their clients, to file illogical and poorly-prepared briefs, to fail to file reply briefs, to fail to file petitions for rehearing, and to fail to file petitions for transfer, by not adequately paying appellate public defenders. (Spangenberg at 16)

193. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which lacks an assigned counsel program to address problems of conflicts and attorney overload. (Spangenberg at 16-17)

194. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has lacked an independent chief public defender to supervise attorneys, provide administrative services or act as public defender in situations of overload. (Spangenberg at 19)

195. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has tolerated "politics" and judicial interference and influence to pervert the provision of constitutionally adequate assistance of counsel. (Spangenberg at 19)

196. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has failed to terminate public defenders for shoddy work. (Spangenberg at 19)

197. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system in which familiarity with a judge, or other county official, rather than skill or experience, has been the basis for hiring. (Spangenberg at 20)

198. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has failed to protect the professional relationship between attorney and client and failed to provide public defenders with the same freedom of action as private counsel. (Spangenberg at 20-21)

199. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to

provide constitutionally adequate assistance of counsel by being a system which has had a hiring process which effectively thwarts public defender independence. (Spangenberg at 22)

200. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system in which issues of race, and politics, pervade and taint the hiring process and in which political --in the sense of narrow partisan and/or patronage-- concerns overshadow professional competence and dedication to the rights of indigent defendants. (Spangenberg at 25-26)

201. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system in which hiring has been driven by considerations of politics and race. (Spangenberg at 26)

202. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has failed to compensate personnel in a manner comparable to the prosecutor's office. (Spangenberg at 26)

203. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has failed to provide resource equity, in terms of lawyers, compensation for lawyers, secretaries, law clerks and

investigators and expert witnesses between the prosecutor's office and public defenders. (Spangenberg at 26)

204. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has failed to insulate public defenders from judicial interference and meddling, by making public defenders at-will employees of the judges in whose courts they practice. (Spangenberg at 29)

205. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has tolerated unequal judicial treatment of public defenders compared to private counsel. (Spangenberg at 30)

206. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has allowed judges to treat public defenders differently from, and less favorably in comparison to, private counsel. (Spangenberg at 30)

207. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system in which support services for Public Defenders were constitutionally inadequate, investigators were unreliable, secretaries untrained in legal work, and experts rarely available.

(Spangenberg at 33)

208. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has had judges hiring investigators for public defenders. (Spangenberg at 33)

209. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has required investigators for public defenders to also be investigators for the probation office. (Spangenberg at 34)

210. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has failed to have an adequate number of adequately trained secretaries for public defenders. (Spangenberg at 35)

211. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has failed to provide adequate expert witnesses for public defenders. (Spangenberg at 35)

212. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has provided no training for new public defenders.

(Spangenberg at 36)

213. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has placed its most inexperienced public defenders into the most complex cases without adequate training, supervision or support services. (Spangenberg at 37)

214. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has proximately resulted in constitutionally inadequate representation, in that trial public defenders in execution cases have not conducted adequate legal research on their clients' cases and did not conduct constitutionally adequate crime and life history investigations on the clients in preparation for trial. (Spangenberg at 38)

215. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has demanded that public defenders carry caseloads far in excess of the number of cases an attorney can carry and provide effective assistance of counsel. (Spangenberg at 41)

216. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has caused public defenders to fail to:

- a. visit clients in jail;
- b. conduct factual investigations;
- c. do legal research;
- d. have criminal investigations when it was in the client's best interests to have a criminal investigation conducted;
- e. provide any representation in matters involving sentencing;
- f. prepare for trial;
- g. advise clients to plead guilty when it is in the client's best interest to proceed to trial;
- h. tender jury instructions;
- i. preserve error in trial; (Spangenberg at 43)

217. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has --as a result of public defenders who were ignorant of the law, overloaded with cases, interfered with by trial judges, who placed private clients' interests ahead of public defender clients' interests, lacked training and supervision, and/or lacked necessary support services-- resulted in constitutional violations. (Spangenberg at 43)

218. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has, in execution cases, forced under-qualified attorneys to take on cases far too sophisticated and complex for their level of expertise. (Spangenberg at 44)

219. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which, in execution cases, amounts to judicial murder.

220. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has overloaded appellate public defenders. (Spangenberg at 45)

221. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide resources to make it impossible for public defenders to:

- a. appear at the prefiling stage of criminal proceedings;
- b. appear at preliminary and/or initial hearings;
- c. promptly meet with clients;
- d. promptly conduct factual investigations;
- e. do legal research;
- f. have criminal investigations done when it has been in the client's best interests to have a criminal investigation conducted;
- g. conduct discovery;
- h. file appropriate motions;
- i. adequately prepare for trial;
- j. provide any adequate representation in matters involving sentencing such as raising mitigating factors;
- k. advise clients to proceed to trial, rather than plead guilty, when it was in the client's best interest to proceed to trial;
- l. tender jury instructions;
- m. preserve error in trial; (Spangenberg at 46-47)

222. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has prevented public defenders from representing every client zealously. (Spangenberg at 49)

223. The failure, alleged in the paragraph immediately

preceding this, has compromised the integrity of guilty pleas, guilty findings, and sentences, and the judicial process. (Spangenberg at page 49)

224. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has -- as a result of relentless caseloads, the complex and serious nature of the felony cases handled, the lack of sufficient support staff, the lack of investigators and experts, and the imbalanced relationships public defenders were forced to have with judges-- resulted in guilty pleas, guilty findings, and sentences which are constitutionally invalid. (Spangenberg at 50)

225. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has made it difficult, if not impossible, for judges to be sensitive to the important roles of both the prosecutor and defense counsel in relation to public defense. (Spangenberg at 53)

226. Beginning as long ago as 1972, and continuing until the present, the Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has resulted in judicial abuse and intimidation of public defenders. (Spangenberg at 54)

227. Little of significance has changed in the Lake County Public Defender "system" since the following reports placed the

Defendants, and each of them on notice of the constitutional failings inherent in the Lake County Public Defender "system":

- a. A Program for the Improved Administration of Justice in Lake County (1972);
- b. Criminal Court Calendar Management in Lake County (1973);
- c. The Structure and Funding for Criminal Defense of Indigents in Indiana (1974);
- d. Review of the Structure, Scope and Adequacy of the Public Defender System in Lake County, Indiana (1974)

228. The Lake County Public Defender "system" has failed to provide constitutionally adequate assistance of counsel by being a system which has remained unconstitutional for all the reasons alleged above for more than twenty (20) years and will not be changed without judicial intervention.

229. The public defender system in operation in Lake County as documented in the Spangenberg Report for the period 1982 to 1992 has not materially changed as of the date of the filing of this complaint --except perhaps to deteriorate further-- with regard to assuring effective assistance of counsel for plaintiff class members which they are entitled to under the United States Constitution, the Indiana Constitution and Indiana law.

230. All Defendants, or their predecessors in office, are, or have been, aware for more than twenty (20) years of the systemic failures and inadequacies of the Lake County Public Defender "system" and have intentionally failed to act in any responsible way to alleviate, or remedy the constitutional failings detailed in this complaint.

231. The Lake County indigent defense system was, and remains,

inherently incapable of providing constitutionally adequate services and has inherent conflicts of interest which has make the entire "system" --if it could be called one --constitutionally deficient.

232. Indigent criminal defense services in Lake County, Indiana function without regard for, and in violation of accepted minimum standards of, training, workload and resources standards for indigent defense services which has have been promulgated by the American Bar Association; the National Study Commission on Defense Services; the National Legal Aid and Defender Association; the National Advisory Commission on Criminal Justice Standards and Goals; and the Indiana Public Defender Council guidelines.

233. The State of Indiana has made funds available to counties which comply with the Indiana Public Defender Council guidelines. See I.C. 33-9-15-1 et seq.

234. All Defendants, except the State of Indiana and the Governor, have chosen to not comply with the guidelines described in the paragraph immediately preceding this one, in order to maintain and perpetuate the present unconstitutional system, to maintain improper political and patronage based employment decisions and in order to continue to provide inadequate assistance of council.

235. Indigent criminal defense services in Lake County function without regard for, and in violation of, these accepted minimum standards.

236. Without judicial intervention the Defendants, and each of

them will either continue to engage in or continue to permit, the practices alleged above to continue and the Plaintiffs, and the Plaintiff class will continue to be harmed.

237. Plaintiffs have no adequate remedy at law, but must call upon equity for effective relief.

FIRST CAUSE OF ACTION
FIFTH AMENDMENT-DUE PROCESS OF LAW

238. Paragraphs 1 through 237 are hereby realleged by incorporation.

239. The Fifth Amendment of the United States Constitution, states:

No person shall be . . . deprived of life, liberty, or property, without due process of law;

240. The inherent inadequacies of the Lake County Public Defender "system", and its lack of adequate funding and other sources, alleged above deny the Plaintiffs, and the class they represent, due process of law guaranteed them by the Fifth Amendment to the Constitution.

SECOND CAUSE OF ACTION
SIXTH AMENDMENT-ADEQUATE ASSISTANCE OF COUNSEL

241. Paragraphs 1 through 237 are hereby realleged by incorporation.

242. The Sixth Amendment of the United States Constitution states:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state . . . (and) to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him; to have compulsory

process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

243. The inherent inadequacies of the Lake County Public Defender "system", and its lack of adequate funding, alleged above, deny the Plaintiffs, and the class they represent, their rights to a speedy and public trial by an impartial jury, to be informed of the nature and the cause of the accusation, to confront witnesses, to have compulsory process to obtain witnesses and to have the assistance of counsel for their defense as guaranteed them by the Sixth Amendment to the Constitution.

THIRD CAUSE OF ACTION
RIGHT TO BAIL

244. Paragraphs 1 through 235 are hereby realleged by incorporation.

245. The Eighth Amendment of the United States Constitution states, in its pertinent part:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

246. The inherent inadequacies of the Lake County Public Defender "system", the delays in appointment of counsel, and the caseloads imposed upon counsel appointed for pretrial detainees in jail, alleged above, effectively deny the Plaintiffs', and the class they represent, their right to bail and inflict cruel and unusual punishments in violation of the Eighth and Fourteenth Amendments and other rights under the Eighth Amendment.

FOURTH CAUSE OF ACTION
FOURTEENTH AMENDMENT-DUE PROCESS

247. Paragraphs 1 through 237 are hereby realleged by incorporation.

248. The Fourteenth Amendment of the United States Constitution states:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

249. The systemic and funding deficiencies of the Lake County Public Defender "system", alleged above, violate the Plaintiffs', and the class they represent, their rights to due process of law under the Fourteenth Amendment to the United States Constitution.

FIFTH CAUSE OF ACTION
FOURTEENTH AMENDMENT-EQUAL PROTECTION OF THE LAW

250. Paragraphs 1 through 237 are hereby realleged by incorporation.

251. The Fourteenth Amendment of the United States Constitution states:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

252. Non-indigent criminal defendants in Lake County are afforded a different, and inferior, quality of justice and the failure of the Lake County Public Defender "system", denies the Plaintiffs', and the class they represent, their rights to equal protection of the law guaranteed by the 14th Amendment.

SIXTH CAUSE OF ACTION
DUE COURSE OF LAW

253. Paragraphs 1 through 237 are hereby realleged by incorporation.

254. Article 1 Section 12, of the Indiana Constitution states:

All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.

255. The systemic and funding deficiencies of the Lake County Public Defender "system", alleged above, violate the Plaintiffs', and the class they represent, rights to have the courts open, speedily and freely administered justice, in violation of Article 1, Section 12 of the Indiana Constitution.

SEVENTH CAUSE OF ACTION
RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL

256. Paragraphs 1 through 237 are hereby realleged by incorporation.

257. Article 1, Section 13 of the Indiana Constitution states:

In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury . . . to be heard by himself and counsel; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

258. The systemic and funding deficiencies of the Lake County Public Defender "system", alleged above, violate the Plaintiffs', and the class they represent, rights to a public trial by an impartial jury, to be heard by effective counsel, to meet witnesses face to face, and to have compulsory process for obtaining

witnesses, guaranteed to them by Article 1, Section 13 of the Indiana Constitution.

EIGHTH CAUSE OF ACTION
RIGHT TO REASONABLE BAIL

259. Paragraphs 1 through 237 are hereby realleged by incorporation.

260. Article 1, Section 16, of the Indiana Constitution states:

Excessive bail shall not be required.
Excessive fines shall not be imposed. Cruel
and unusual punishments shall not be
inflicted.

261. The systemic and funding deficiencies of the Lake County Public Defender "system", violate the Plaintiffs', and the class they represent, rights to bail and against the infliction of cruel and unusual punishments guaranteed them by the Article 1, Section 16 of the Indiana Constitution.

NINTH CAUSE OF ACTION
RIGHT TO BAIL

262. Paragraphs 1 through 237 are hereby realleged by incorporation.

263. Article 1, Section 17, of the Indiana Constitution states:

Offenses, other than murder or treason, shall
beailable by sufficient sureties.

264. The systemic and funding deficiencies of the Lake County Public Defender "system", violate the Plaintiffs', and the class they represent, right to bail as guaranteed them by Article 1, Section 17 of the Indiana Constitution.

TENTH CAUSE OF ACTION
REFORMATION NOT VINDICTIVE JUSTICE

265. Paragraphs 1 through 237 are hereby realleged by incorporation.

266. Article 1, Section 18, of the Indiana Constitution states:

The penal code shall be founded on the principles of reformation, and not of vindictive justice.

267. The systemic and funding deficiencies of the Lake County Public Defender "system", violate the Plaintiffs', and the class they represent, rights to reformation and against vindictive justice which are guaranteed them by Article 1, Section 18 of the Indiana Constitution.

ELEVENTH CAUSE OF ACTION
EQUAL PRIVILEGES AND IMMUNITIES

268. Paragraphs 1 through 237 are hereby realleged by incorporation.

269. Article I, Section 23, of the Indiana Constitution states:

The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

270. The systemic and funding deficiencies of the Lake County Public Defender "system", violate the Plaintiffs', and the class they represent, rights to equal privileges and immunities which are guaranteed them under Article 1, Section 23 of the Indiana Constitution.

TWELFTH CAUSE OF ACTION

UNIFORM GENERAL APPLICATION OF LAW

271. Paragraphs 1 through 237 are hereby realleged by incorporation.

272. Article 4, Section 23, of the Indiana Constitution states:

In all the cases enumerated in the preceding Section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

273. The systemic and funding deficiencies of the Lake County Public Defender "system", violate the Plaintiffs', and the class they represent, rights to the uniform operation of laws which are guaranteed them under Article 4, Section 23 of the Indiana Constitution.

THIRTEENTH CAUSE OF ACTION
RACIAL DISCRIMINATORY EFFECT

274. Paragraphs 1 through 237 are hereby realleged by incorporation.

275. It is known, and understood, to the persons who operate the Lake County Public Defender "system", virtually all of whom are white, that most of the persons represented by Lake County Public Defenders are African-American and/or Hispanic.

276. Part of the reason that the Council, Commissioners and Judges have neglected to assure that adequate legal counsel is provided to poor persons charged with crimes in Lake County is a racial animus, and/or a lack of concern, about whether Africa-Americans and Hispanics receive constitutionally adequate assistance of counsel.

277. The systemic and funding deficiencies of the Lake County criminal defense scheme for indigents violate the Plaintiffs', and the class they represent, rights guaranteed them by the Fourteenth and Fifteenth Amendments to be free from governmental policies which have a known racially discriminatory effect.

278. Some Defendants desire to implement a Lake County Public Defender "system" which comports with Indiana Constitutional and Federal Constitutional requirements, but have been frustrated by other Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court:

B. Immediately order that the public defenders representing the named Plaintiffs be provided adequate resources to provide effective assistance of counsel, or in the alternative, that they be released from custody and/or not forced to go to trial until adequate legal representation is provided.

C. Order that Defendants provide, including mandating funds and/or a new public defender system structure, a system of adequate indigent defense which will provide, at a minimum, for the speedy and immediate appointment of attorneys at critical stages for all indigents;

D. Order that Defendants provide adequate defense services and experts needed for the representation of indigents;

E. Order that Defendants provide adequate compensation for indigent defense attorneys.

F. Order that uniform standards be promulgated and adopted

governing the representation of indigents consistent with the judgment in this case.

G. Award attorneys' fees and costs incurred in this action and all other relief as may be appropriate under 42 U.S.C. 1988 or under any other pertinent statute.

H. Make and enforce such other orders as may aid the Defendants in the discharge of their solemn oaths of office.

I. Award money damages and grant such other and further relief as the Court deems just and proper.

Respectfully Submitted, this Friday 1 September 1995.

LAUDIG & GEORGE

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document has been served, via first class mail, postage prepaid, or by hand-delivery upon:

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on this Friday 1 September 1995.

Stephen Laudig