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January 30, 2014

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Ms. Lisa Deane
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016

Re: Proposal for Creation of State Bar Indigent Defense Commission

Dear Ms. Deane,

Thank you for allowing me the opportunity to provide feedback on the proposal for the creation of a State Bar Indigent Defense Commission that was submitted by Mr. Larry Hammond, Ms. Anne Chapman, and Ms. Anna Finn.

I have reviewed the proposal memorandum dated June 21, 2013, and the Reporting Form dated July 9, 2013. The proposal raises numerous concerns for me.

First, I note that, according to the Reporting Form, the proposal was vetted only to stakeholders in the defense community and the Special Committee on Operations and Priorities. The proponents state a number of issues, such as training availability, caseload levels, and low compensation for indigent defenders, as if these are undisputed facts. However, the numerous other stakeholders, such as the judicial community, the prosecutors, and the various state and county governments involved with overseeing and funding indigent defense, were not afforded an opportunity to provide input as to whether these issues exist.

Assuming, for the sake of argument, the validity of the issues, the next question is whether the State Bar is the appropriate venue to address the matters. The proposal appears to conclude that the State Bar should create an Indigent Defense Commission because the issues are tied to a criminal defendant's constitutional right to counsel. However, if this were the appropriate standard, then a host of other issues would fall under the umbrella of the State Bar, such as matters regarding the representative of victims' constitutional rights. Would the creation of an Indigent Defense Commission then be precedent for commissions on a wide variety of other matters?

"Empowering Arizona's prosecutors to administer justice and contribute to public safety through training and advocacy."

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Additionally, it is unclear what action the proponents are seeking that the State Bar take with any information obtained through the commission. Some of the issues raised, such as compensation, involve organizations outside the scope of the State Bar. Other proposed topics, such as legislative changes, may result in conflict with the general bar membership.

Last, but certainly not least, is the drain that creating the commission would place on State Bar resources. Faced with the challenge of limited resources, the State Bar has recently reevaluated, and scaled back, on committees and projects that supported the general bar membership. The proposed Indigent Defense Commission would not only reverse that direction, but it would funnel the State Bar's limited resources away from the needs of the general bar membership, to that of the narrow practice of criminal defense. Although the proponents do not "anticipate" that a commission would be expensive or onerous for State Bar staff, they nonetheless request, for example, that hearings be held across Arizona. Those hearings would be the first step, under the proposal, to then preparing recommendations for action. Therefore, it is difficult to imagine a scenario under which the creation of the proposed commission would not, in fact, unduly tap the State Bar's limited resources.

Once again, I greatly appreciate having the opportunity to provide input on this matter. Please let me know if I may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Ortiz", with a long horizontal flourish extending to the right.

Elizabeth Ortiz
Executive Director

JD