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The Times (Shreveport, LA) September 16, 2004 Thursday

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Indigent defense reform overdue

Expected lawsuit likely will compel state to do the right thing.

At Monday's meeting of the state Indigent Defenders Task Force in Baton Rouge, one participant called the state's public defender program "just wrong and indefensible," adding, "it is criminal the way those in it are treated." Consider that defendants in parishes ranging from Rapides to Calcasieu and sometimes Caddo are being represented by overloaded public defenders with scant minutes to interview their clients and prepare cases. Sometimes, a defendant finds himself talking not to an experienced criminal defense lawyer but counsel more at home drafting a will or constructing a contract.

It's a problem without a constituency other than the 80 percent of defendants in the state's criminal justice system who must rely on public defenders. For a state worried about improving its national reputation, beefing up the state's indigent defender system would be a great place to start. Funding is the linchpin that must be addressed by the task force charged with offering up a repair plan.

It's also the toehold for an expected lawsuit in the offing that will challenge the funding mechanism for public defense. Calcasieu Parish will be the focal point, but the impact could ultimately be felt from Shreveport to New Orleans. It shouldn't have come to this.

Some estimates show Louisiana spends \$31 million a year on its **indigent defense** system, about half what a state of comparable size spends. Relying heavily on income generated by court costs -- an approach long ago abandoned by many states -- Louisiana's **indigent**

defense system is guaranteed to be a needy and underfunded courtroom adversary for parish prosecutors who receive more support from state revenues.

It's a system built on an often unpredictable revenue stream that has no bearing on need.

The answers may lie in a combination of approaches, from a larger state allocation to a more stringent needs test that will require some defendants -- you don't have to be indigent to lack the dollars to mount a competent criminal defense -- to pay more. Georgia has begun attaching fees to civil suits, which are more predictable than traffic tickets, and the attorneys there have agreed to pay into a fund that will prevent them from being drafted by local courts for public defender assignments.

This is a problem that not only won't go away but will only deepen the black eye the state has regarding its criminal defense system. A national radio newsmagazine addressed the issue several months ago in a story about the state of public defense across the country. A representative of the National Legal Aid and Defender Association was quoted as saying, "I think Louisiana is particularly bad. It offers one of the starkest examples of the refusal of a state to provide the right to counsel."


Adequate representation by competent legal counsel is a basic right of all American citizens. It's not a right people should have to sign away when they cross into the state of Louisiana.

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