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*The Advocate (Baton Rouge, Louisiana) October 21, 2004 Thursday*

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The Advocate (Baton Rouge, Louisiana)

October 21, 2004 Thursday  
Metro Edition

**SECTION:** NEWS; INSIDE REPORT; Pg. 11-B;S

**LENGTH:** 677 words

**HEADLINE:** Public defender flaws hurt accused, victims

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**BODY:**

Famed lawyer Barry C. Scheck visited Baton Rouge last week to preach the virtues of providing better legal assistance for poor people accused of crimes.

The New York City law professor - famous for using DNA to free wrongly convicted rapists and murderers - testified Oct. 7 before Louisiana's **Indigent Defense** Task Force. The Legislature charged the task force with fixing a system reformers say is broken beyond repair.

Attendance at the task force meeting was higher than ever before, but the reception was decidedly cool. Scheck took stock of the atmosphere and replaced his usual "because it's right" rhetoric with "because it works" reasoning.

Thanks to cop TV shows, legal representation upon arrest is the one constitutional right that most Americans know by heart: If you cannot afford an attorney, one will be provided for you.

Scheck, and other critics locally and nationally, say the state has failed its duty.

Though prosecutors disagree, the critics claim the system Louisiana uses is so underfunded that the lawyers available for the poor are unable to provide adequate representation. As president of the National Association of Criminal Defense Lawyers, Scheck is behind the Sept. 23 filing of a lawsuit that could force the courts to take control of Louisiana's public defender

system before the task force can finish its work.

He testified less than a mile from where an accused serial killer was being tried for murders that terrified this city a year ago. He quickly learned how little weight philosophical platitudes carry in Louisiana, particularly when they are perceived to rally support for presumed criminals at the apparent expense of police and prosecutors.

Scheck shifted tacks after gruff questions from Burton Guidry of Baton Rouge, the state attorney general's lead assistant who deals with capital crimes, 21st Judicial District Attorney Scott Perrilloux of Hammond and state Sen. John Hainkel, R-New Orleans.

"The real issue is when you have a system as broken as this one, in terms of the rational allocation of money, it distorts everything," Scheck said.

For instance, in Lake Charles, where the lawsuit was filed, criminal cases take an average of 501 days to resolve because public defenders are so overburdened, he said. The national average is 214 days. Taxpayers feed, clothe and house defendants who - if tried, and a good many aren't - may be found innocent.

"Our founding fathers came up with a brilliant system. But it won't work without a strong adversary system," Scheck said. As director of the Innocence Project, Scheck used DNA to exonerate 151 persons wrongly convicted of a predatory crime.

"When the adversary system breaks down, the system can't determine who isn't doing their job," he said.

"As a general matter, it decreases the capability of sorting out who is innocent and who is guilty," Scheck said. He catapulted to fame as the expert who raised devastating questions about DNA evidence in the O.J. Simpson trial.

Scheck pointed to recent scandals at crime labs in Houston and Oklahoma City, which led to dozens of convictions being overturned. He noted that similar questions have been raised about crime labs in Cleveland and Helena, Mont.

"Whether it's a crime lab or police that cut corners or prosecutors, whatever, it's the defense attorney who reveals that," Scheck said.

"It helps the system get the right guy; it helps the community get just punishment faster for those who deserve it. It helps heal people, helps give closure to victims and their families," Scheck said.

As if to punctuate Scheck's arguments, at the very moment he was testifying, 270 miles to the west of Baton Rouge, Texas was forced by the courts to release a death row inmate.

Ernest Ray Willis spent 17 years on death row after being convicted of burning a woman to death in Pecos County, Texas. Willis walked out of prison (He will not be retried.) because his overworked public defender attorney back in 1987 spent less than three hours preparing for his capital-murder trial.

Mark Ballard covers legal issues before the Legislature.

**LOAD-DATE:** October 21, 2004