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The Advocate (Baton Rouge, Louisiana)

May 9, 2005 Monday
Metro Edition

SECTION: NEWS; OUR VIEWS; Pg. 6-B;S

LENGTH: 713 words

HEADLINE: Indigent defense reform is costly

BODY:

No politician is going to get many votes in Louisiana by promising to stick up for criminal defendants. So when tax money is doled out in Louisiana, at either the local or state level, money to hire lawyers for defendants who can't afford one is a low priority.

The result has been numerous court rulings that indigent defense in Louisiana is so underfunded and poorly organized as to provide unconstitutional representation.

It's time to fix the system and advance the cause of justice, Louisiana Supreme Court Chief Justice Pascal Calogero recently told a joint session of the Louisiana Legislature.

"I admonish you, simply, to do the right thing," Calogero told lawmakers. Calogero's frank speech at the State Capitol should underscore the urgency for reform.

A couple of bills in the Legislature propose reorganizing the state's indigent defense system to encourage more uniform standards for how indigent defense is provided. As things now stand, indigent defense programs can vary considerably among Louisiana's 41 local public defenders' offices. The state now budgets \$9.7 million for indigent defense. But Louisiana, alone in the nation, depends on local governments to pay most of the cost for indigent defense. Funding - and quality - differ sharply from place to place.

Not everyone is in favor of more centralized state control of indigent defense services. But while opinions regarding the ideal management model for indigent defense vary, it's apparent that fixing the system is going to take a lot of money. A range of experts has put the price tag at \$50 million, which includes the expense of adding new public defenders to the ranks and giving them better training. Eight of every 10 criminal defendants in Louisiana are represented by state-provided lawyers. Not surprisingly, there doesn't seem to be much interest at the Capitol in footing the bill for indigent defense reform, either from existing revenue or new taxes and fees.

"It is never a popular political position to spend money on what some people see as a social program for criminals," said Calogero.

Legislators have an understandable reluctance to touch this issue. One can imagine the prospective political attack ads painting any lawmaker who advocates more resources for indigent defense as being "soft on crime." It's likely that any substantive progress in reform will have to begin with educating the public about

what's at stake.

Self-proclaimed champions of law and order should recognize that order is weakened when law is unjustly applied, diminishing public confidence in the courts. It stands to reason that when defendants lack the resources for a proper defense, the prospect of wrongful convictions is bound to increase.

Wrongful convictions have their own obvious costs, both for those who are wrongfully convicted and for society at large.

Since 1989, 18 people in Louisiana have been exonerated after convictions that carried either a life sentence or the death penalty. DNA technology has made it easier, in cases when DNA evidence exists, for the wrongfully convicted to prove their innocence. But DNA evidence does not exist in most cases, so it cannot be relied upon too heavily as an arbiter of justice. The best method of determining guilt or innocence is the one conceived under constitutional law: a court trial, with a defendant properly and adequately represented by counsel.

Beyond the human tragedy of those who lose freedom - and possibly their lives - when they are wrongfully convicted, the public also pays. For one thing, when the wrong person is convicted of a crime, then the person really responsible for the crime has not been prosecuted. The culprit could still be out on the street, committing more crime. And when the wrongfully convicted are exonerated and seek compensation for their suffering, taxpayers may have to pay the cost. A bill introduced in the current session of the Legislature proposes to create a fund to pay the wrongfully convicted \$25,000 for each year they spent in prison. The measure also would pay for job training and counseling expenses, which could be significant costs.

Many lawmakers - and many members of the public they serve - will balk at the cost of fixing Louisiana's indigent defense system. Even so, we can't afford not to fix it.