

March 20, 2006 Monday

**HEADLINE:** EDITORIAL: Jail without representation

**BODY:**

Like many other aspects of the criminal justice system, New Orleans' indigent defense program was in disarray long before post-Katrina levee breaches put Tulane and Broad under water. The program provides lawyers to the substantial majority of suspects who are too poor to hire their own counsel. It has been overburdened for years, and its troubles have only worsened since Katrina -- so much so that last month, Criminal District Court Judge Arthur Hunter ruled that the program cannot adequately represent suspects in his court.

New Orleans now has less than a dozen of the 42 public defenders it used to employ. Thousands of criminal suspects from the city have been dispersed across the state. According to a recent report by Safe Streets/Strong Communities, an advocacy group, most of these suspects had little contact with public defenders before the storm and have basically no such contact now. Their proceedings are in limbo. More than six months after Katrina, some suspects in misdemeanor cases have now been detained for longer than they would have been if tried and convicted.

The destruction caused by Hurricane Katrina gives New Orleans an opportunity to revisit all aspects of the criminal justice system. And improving indigent defense is a key part of keeping the entire justice system fair and honest.

Focusing public attention on indigent defense is always difficult, because criminal proceedings are complex, even to regular viewers of shows like "Law and Order"; because the court system is decentralized; because of the common presumption that everyone who is arrested is guilty. That notion surely underlies state Rep. Jack Smith's proposal to pay for raises for prison guards by cutting the governor's indigent-defense request. To his credit, Corrections Secretary Richard Stalder pointed out that indigent defense is crucial to the functioning of the justice system.

Criminal suspects haven't been convicted yet and are entitled by law to decent representation. When prosecutors win cases, it should be because of persuasive evidence of a suspect's guilt -- not because that suspect was incapable of putting up a defense.

Better indigent defense could also mean savings to the public -- in the form of less jail time for arrestees who ultimately aren't charged. Past studies by the Metropolitan Crime Commission have indicated that charges eventually are dropped against half or more of those arrested by New Orleans police. But that often doesn't happen for weeks after a suspect is arrested. In other communities, cases are processed more quickly. Greater involvement by public defenders in New Orleans would likely create pressure to move cases more quickly.

But improving indigent defense will require state lawmakers to pony up. In most of the state, traffic tickets finance the operations of local indigent defense boards, even though experts -- and state Supreme Court justices -- have been imploring for years

to allocate more money for public defenders. To her credit, Gov. Kathleen Blanco is proposing to double the state appropriation from \$10 million to \$20 million.

That should help. But unless the state enforces limits on defenders' caseloads and requires local boards to be independent from political pressure -- among other reforms -- there's a limit to how much the extra money can accomplish.

The indigent-defense program isn't the only part of the justice system that needs improvement. According to crime commission statistics, New Orleans police made fewer arrests relative to similar communities -- and prosecutors won relatively fewer convictions -- in violent crime cases. Drug cases made up a much larger percentage of cases in New Orleans than elsewhere. Factors ranging from the sloppy handling of evidence to the intimidation of witnesses meant fewer convictions and kept cases from proceeding.

The justice system needs to be swift, fair and efficient. When innocent people are convicted and guilty people go free, victims are denied justice. Public safety suffers. Building a functional criminal justice system is crucial to New Orleans' future. And improving indigent defense needs to be part of the agenda.