

“Overloaded”

Monroe News-Star

6/19/05

Louisiana’s indigent defense system is in a state of crisis that affects all citizens. In 1963, the United States Supreme Court held in *Gideon v. Wainwright* that “*the right to counsel may not be deemed a necessity in some countries, but it is in ours.*” In this vein, our state constitution requires the legislature to provide a uniform defense system.

National and local media repeatedly criticize Louisiana’s indigent defense system and demand structural reform. Much of this focus reflects the sentiment of a Washington Post editorial, which recently called our system “*perhaps the country’s most bizarre.*” The Louisiana Supreme Court – first in 1993 and again in April 2005 –clearly articulated that the indigent defense system fails to provide equal access to justice and desperately needs to be fixed. The crisis affects nearly *ninety percent* of Louisiana’s accused defendants who are poor and require the state to provide defense services.

Deficiencies result in tragic injustices. A strong public defense system gives credibility to the prosecution; its absence calls into question the credibility of Louisiana’s entire administration of criminal justice. Since 1985, Louisiana has exonerated seven men from death row – after they served a combined total of 75 years for crimes that they did not commit. Two of the last three men executed in our state were represented by appointed counsel who were later disbarred and can no longer practice law. Louisiana simultaneously has the *highest incarceration and exoneration* rate in the country. Public safety is compromised by a weak public defense system, and public confidence is shattered by flagrant injustices.

Increased funding alone will not solve Louisiana’s indigent defense problems. Without adherence to national standards that demand efficiency and fiscal responsibility, the indigent defense system will remain in crisis. Only when the legislature adopts national standards, including the American Bar Association’s *Ten Principles of a Public Defense Delivery System* and the American Council of Chief Defenders and the National Juvenile Defender Center’s *Ten Core Principles for Providing Quality Delinquency Representation through Indigent Defense Delivery Systems*, will we be assured that as taxpayers, we are not throwing good money into a broken system. Louisiana needs an indigent defender system that is independent of political interference, provides uniformity in oversight, training and qualification requirements, and statewide fiscal responsibility.

In 2003, the legislature created a broad-based Indigent Defense Task Force to study the indigent defense system and make recommendations to the legislature on how to reform its many problems. This week, the legislature is struggling to adopt a nearly unanimous recommendation resulting from two years of work from the Indigent Defense Task Force. Political conflicts create the most significant barriers to indigent defense reform.

For example, the Louisiana District Attorney's Association (LDAA) is the most vocal opponent of the Task Force's recommendation – even though it participated in the Task Force's work. Only in Louisiana can an arm of the justice system with a clear conflict of interest play such a large role in shaping the fiscal and management structure of its constitutional adversary. LDAA's opposition to reform is troubling and underscores the need for political independence. In the face of political conflicts, Governor Blanco has been silent, providing no leadership on the issue. Independence from politics as usual is the only way poor people in Louisiana will finally have equal access to justice.

Providing a working indigent defender structure that is adequately funded prevents victims from enduring the agony of an overturned conviction, limits the possibility that innocent persons suffer conviction and unwarranted punishment, and appropriately punishes the guilty. In Louisiana, access to justice should not depend on how much money is in your pocket. As a community we should support meaningful indigent defense reform – it's the right thing to do.