

Times Picayune (LA) - **Lawyers to be named in capital cases; Indigent defense chief is lining up contracts** – By Laura Maggi – (Tuesday, October 03, 2006) -

Potentially resolving a dispute between Criminal District Court judges and the New Orleans public defender system, a lead attorney for that office said Monday that lawyers will soon be appointed to poor people facing death penalty charges.

At a hearing before Judges Calvin Johnson and Frank Marullo, Steve Singer, the new trial chief for the Orleans Parish Indigent Defender Program, said he is working on contracts with groups of attorneys to handle the 30 to 32 defendants indicted for capital crimes, mostly first-degree murder.

In some cases, attorneys with the program will take on the job, said Singer, who told Marullo he would personally take on a defendant in his courtroom accused of raping a child. The death penalty can be imposed on someone convicted of the aggravated rape of a child under 13.

The sudden dearth of attorneys to handle death penalty cases sprang from the decision by Singer and others trying to revamp the New Orleans public defense office to require all lawyers to work full time. They argue the change will improve the quality of the legal representation for defendants who can't afford to hire a lawyer. Previously, public defenders were allowed to have a private practice on the side.

The switch to a full-time system prompted six lawyers to quit the New Orleans office last month, including two of the three attorneys handling the capital cases. The third capital lawyer was transferred to another section.

Judges with defendants on their dockets facing the death penalty pressed Singer to appoint attorneys to the cases. Marullo at one point threatened to find Singer in contempt of court and refused to let Dwight Doskey, who had quit the defender program, stop representing his public clients.

On Monday, both Johnson and Marullo responded positively to the news that attorneys would soon be available.

"Just make sure that those four clients will have lawyers," said Johnson, referring to the defendants awaiting trial in his courtroom, saying that he would give the new attorneys plenty of time to prepare. "I know that they won't be able to try the case next week or next month."

One issue left unresolved is exactly how much will be paid to Doskey, who under Marullo's orders two weeks ago represented a client of the public defender office at trial, billing the office \$163 an hour for his services, which is what the federal government pays for capital defense.

Singer said he will work with Doskey to come to an arrangement about the bill, but emphasized that in the future he could get attorneys at much cheaper rates.

Both Marullo and Johnson told Doskey that they would let him out of his old public defender cases. Doskey had filed a writ with the Louisiana Supreme Court to get out of

representing child-rape suspect Irvin Rousell, noting that he had worked 27 years as a public defender at a "substandard salary with no retirement benefits."

In the end, Doskey persuaded a jury to convict Rousell of the lesser crime of sexual battery, though Rousell had repeatedly confessed to the crime. He was sentenced to 10 years in prison.

While Singer will hire attorneys to handle most of the outstanding capital cases, a state-financed capital office is expected to take on the new cases for which District Attorney Eddie Jordan seeks the death penalty. Kerry Cuccia, director of the Capital Defense Project of Southeast Louisiana, said his office has already started work on some of the more recent cases.

Cuccia estimated that he had enough extra money doled out by the Louisiana Indigent Defense Assistance Board to handle about 20 New Orleans cases, less than the 30 to 40 capital cases the judges estimated the district attorney brings each year.

In an interview after the hearing, Singer said the greater issue is the flawed structure of paying for public defense in Louisiana, which is the only state in the country to rely primarily on court fees on traffic tickets.

"Ultimately, what everyone needs to realize is that there are not enough resources and money to handle the existing workload," Singer said.

Some advocates are currently arguing that the state Legislature needs to change the way that public defense is run and financed in Louisiana. The Louisiana Justice Coalition went so far as to commission a statewide poll about the issue.

The poll, which was released Monday, found that people across the state believe that those accused of crimes should receive quality legal representation, even if they cannot afford to pay for an attorney, said Heather Hall, director of the group.

According to the poll, 88 percent of people said they strongly agreed that money should not be the determining factor in the quality of their legal representation. Another 80 percent strongly agreed that competent legal representation was necessary to prevent innocent people from being sent to prison.

When told that one defendant in Calcasieu Parish waited 18 months to talk to a lawyer, 82 percent of respondents agreed that represented a serious problem that had to be fixed.

The enthusiasm for providing quality public defense was less marked when asked about proposed changes to improve the system.

For example, 48 percent strongly agreed that it would be a good idea if public defenders and prosecutors had the same salaries and 38 percent strongly agreed that state funds should be used for professional development. In both instances, 25 percent of respondents said it was a "somewhat good idea" to implement those changes.

More than 80 percent of those questioned said they supported the idea of a statewide oversight board for public defense, with 64 percent strongly supporting the concept.

The poll was based on 609 telephone interviews conducted in July by Belden Russonello & Stewart, paid for by the coalition, which gets most of its financial support from the Open Society Institute. The margin of sampling error is plus or minus 4 percentage points.