

STANDARDS OF JUSTICE

Louisiana's Criminal Justice System

MAY 2005

To ensure for all Louisianans reliability and fairness in our criminal justice system, Louisiana should adopt the following **Standards of Justice** as the minimum criteria for the provision of indigent defense. These standards are based on the American Bar Association *Ten Principles of a Public Defense Delivery System*.

STANDARDS OF JUSTICE

Introduction to the Principles

In the landmark 1963 decision *Gideon v. Wainwright*, the U.S. Supreme Court ruled, “The right of one charged with a crime to counsel may not be deemed fundamental in *some* countries, but it is in ours.” The court affirmed the procedural and substantive safeguards that are enshrined by our Constitution to ensure that all individuals stand equal before the law, regardless of how much money they have. In addition to this protection, Article 1, Section 13 of the Louisiana State Constitution mandates that the legislature shall provide for a uniform system for securing and compensating qualified counsel for indigents. Courts have consistently ruled that in criminal court, lawyers are necessities, not luxuries. It is a gross injustice to deny competent counsel to individuals simply because they are too poor to afford it.

Louisiana’s indigent defense system is currently in a state of crisis. Louisiana’s indigent defense system is so weakened in relations to other agencies in the criminal justice system it calls into question the ability of that entire system to dispense justice fairly and accurately. Two Louisiana Supreme Court decisions, *State v. Peart* (1993) and *State v. Citizen* (2005), have affirmed chronic, widespread problems in the delivery of public defense services. Indigent defense reform requires the State to make significant financial investment to fulfill its constitutional obligations and enact deep structural changes to ensure adequate oversight of expenditures and performance.

The following *Ten Principles* are the fundamental criteria that should be considered in the effort to provide equal access to justice through indigent defense reform.

1. Independence

Standard: The public defense function, like the prosecution and the judiciary, should be independent. To safeguard independence and to promote efficiency, accountability, and quality of services, Louisiana should constitute a single, nonpartisan board to oversee public defender and assigned counsel systems. This oversight should not include judges, prosecutors, or law enforcement, and appointments to the board should be divided among all branches of government.

2. Statewide Funding and Accountability

Standard: The responsibility to provide defense services for those who cannot afford an attorney rests with the State, which should provide adequate state funding and a statewide administrative structure responsible for ensuring uniform quality and accountability. Louisiana should eliminate inflexible compensation limits that discourage court-appointed counsel from rendering quality legal services. Courts should appoint counsel, according to a coordinated plan directed by the state’s oversight board, and the appointment process should not be ‘ad hoc’.

3. Prompt Appointment of Counsel

Standard: Louisiana should furnish counsel to the indigent accused upon request, after determining the accused is eligible. Except in extraordinary circumstances, counsel should be appointed within 24 hours after arrest or detention, or 48 hours should the arrest or detention occur on a weekend or state holiday.

4. Communication with Clients

Standard: Louisiana’s coordinated plan for oversight of the public defense function should require counsel to interview clients as soon as possible following appointment and to maintain regular client contact through every stage of the case to ensure the full exchange of legal, procedural and factual information. To ensure confidential communications, jails, prisons and courthouses should provide adequate private meeting spaces for counsel to confer with clients in a timely manner.

5. Manageable Caseloads

Standard: Louisiana, through its oversight board, should set maximum caseload limits for public defenders and assigned counsel. Neither public defenders nor court-appointed lawyers should be expected or required to accept caseloads that interfere with the rendering of quality representation or lead to the breach of professional standards.

6. Minimum Qualifications

Standard: Louisiana should adopt minimum training and experience requirements that counsel must satisfy before qualifying for appointment and before being appointed cases of increasing complexity and seriousness. Louisiana's oversight board should determine whether individual counsel has satisfied these requirements and should be responsible for ensuring uniformly high quality of counsel throughout the state.

7. Continuous Representation

Standard: Louisiana's public defender and court appointed systems should be structured to allow for continuous representation of clients from initial assignment through direct appeal. Courts should refuse to substitute counsel except in extraordinary circumstances for good cause.

8. Parity

Standard: Louisiana should ensure that the prosecution and defense functions have parity of workload, salaries and benefits, and other resources such as technology, facilities, legal research, administrative staff, paralegals, investigators, and access to forensic services and experts. Court appointed counsel should be paid a reasonable fee in addition to actual overhead and expenses. State law should require every locality that provides resources or support to its District Attorney's office to provide comparable local funding for any public defender's office in the same jurisdiction.

9. Continuing Legal Education and Training

Standard: Louisiana's oversight board should establish standards requiring continuing legal education for all public defender attorneys, including attending national training programs that have relevance to the development of trial advocacy skills. This training should include criminal law, criminal procedure, evidence, appellate practice, ethics, and the forensic sciences. The board should provide intensive entry-level training for all new attorneys, and local public defender offices should orient new attorneys to local practice. Staff who assist attorneys in providing defense services should have systematic and comprehensive training appropriate to their specialties.

10. Performance Standards and Evaluation

Standard: Louisiana's oversight board should establish quality and efficiency standards and regularly evaluate public defender offices and the assigned counsel system according to those standards as well as national standards. The oversight board should also undertake periodic quality and efficiency review of its program by outside, independent evaluators.



LOUISIANA JUSTICE COALITION

Fighting For Fairness

**Louisiana Justice Coalition
1600 Oretha C. Haley, Floor 2
New Orleans, Louisiana 70113**

**www.lajusticecoalition.org
504-522-3949 (o) 504-522-5430 (f)**

The Louisiana Justice Coalition (LJC) will ensure the creation of a fully funded, statewide indigent defense system that complies with national standards set by the American Bar Association *Ten Principles of a Public Defense Delivery System* and the American Council of Chief Defenders and National Juvenile Defender Center *Ten Core Principles for Quality Delinquency Defense through Indigent Defense Delivery Systems*. LJC has initiated a public education campaign to highlight the crisis in Louisiana's indigent defense system and to bring about reform. The campaign will create a sustained base for coalition members to continue to advocate for fundamental fairness in Louisiana's criminal justice system for all of our citizens.

This publication was made possible, in part, by a grant from the U.S. Justice Fund of the Open Society Institute.