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Don't allow justice to derail

Data needed to address **indigent defense** funding needs.

"... every person is entitled to assistance of counsel ... appointed by the court if he is indigent and charged with an offense punishable by imprisonment. The legislature shall provide for a uniform system for securing and compensating qualified counsel for indigents."

Louisiana Constitution, Article I, '§13.

Overhauling Louisiana's woefully underfunded **indigent defense** system to provide competent legal counsel to crime suspects isn't a social program for the poor. It's about justice for the accused, yes, but also about protecting the interests of crime victims.

Just ask the chief justice of the state Supreme Court, Pascal Calogero, who made a historic plea last week to a joint session of the Legislature to assume its constitutional obligation to fix the system. The best place to begin is with a package of bills by state Sen. Lydia Jackson of Shreveport.

"We owe it to our citizens," Calogero said, in an account in The Advocate of Baton Rouge, "especially to the victims of crime, to do what we can to ensure that convictions are obtained that will survive the appellate process and constitutional challenge ... so another victim does not have to go through the agony of an overturned conviction."

He clearly speaks of what he knows. On April 1, the Supreme Court, in an opinion written by Shreveport Justice Jeff Victory, fired a shot across the bow of the Legislature saying **indigent defense** funding ultimately is not the burden of local government.

The opinion serves as a warning that the justice system could grind to a halt by concluding an overwhelmed Calcasieu Parish district court could halt prosecution of indigent cases until adequate funds become available to guarantee a defendant's right to counsel. Calcasieu is the poster child for court overload where a class action suit was filed on behalf of nine defendants who had been awaiting trials for up to two years. Calcasieu public defenders have been known to carry 400 cases each. The American Bar Association standard is 150.

Jackson's package lays the groundwork for a system overhaul by prudently gathering information. Her package requires uniform reporting of revenue and expenditures of all components of the criminal justice system, including district attorneys, courts, law enforcement and, of course, **indigent defense** offices. Establishing baseline information using uniform data will help the Legislature identify the inequities before considering how much money is needed and where to get it. The Louisiana **Indigent Defense** Board would also be empowered to collect information about public defender case loads to assist accountability.

Louisiana's criminal defense challenges are well documented. A 2003 federal Department of Justice report listed Louisiana with the highest adult incarceration rate in the country: One out of every 125 residents was behind bars. Eight out of 10 defendants require public defenders. Yet, Louisiana spends \$2.10 per capita on **indigent defense** compared to \$5.45 in Arkansas and \$8.31 in Tennessee.

Funding is built largely on the vagaries of traffic enforcement by short-staffed police agencies. The system gets as much as \$35 from court costs associated with fines. But not only is ticket writing declining in many jurisdictions, not all jurisdictions impose that court fee. Jackson would eliminate jurisdictional exemptions to infuse more dollars into the system.

In the past, funding shortages to hire sufficient numbers of criminal lawyers have forced Caddo judges to appoint tax attorneys or other civil specialists to defend those accused of burglary, drug dealing and violent crimes. By contrast, a 2004 analysis of Caddo Parish showed the district attorney's financial resources three times that of the public defender's revenues that had decreased 13 percent over four years.

Despite the chief justice's call to avoid turf protection, resistance has come from both district attorneys as well as public defenders. Throwing up roadblocks serves no purpose but to delay fixes to the system. And that serves neither defendant, victim nor taxpayer.

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