

# Indigent-defense crisis needs attention



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New Orleans' indigent-defender program may have received the lion's share of media attention in the wake of Hurricane Katrina, but it would be wrong to believe that Louisiana's indigent-defense problems are concentrated in Orleans, or that they were created by Hurricane Katrina.

In most parishes across the state, Louisiana's indigent-defense system is broken and must be fixed. The crisis has been extensively docu-

mented in research evaluations and media coverage. Injustice, inefficiency, lack of hard data and questionable representation are the hallmarks of our broken system.

The right to counsel ensures that justice is available for all, not just those who can afford it. In Louisiana, 85 percent to 90 percent of all criminal defendants are represented by public defenders.

In its landmark decision *Gideon v. Wainwright* (1963), the U.S. Supreme Court ruled, "reason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless one is provided for him."

In addition to the law of the United States, the Louisiana State Constitution also promises the right to counsel. "At each stage of the proceedings, every person is entitled to assistance of counsel of his choice, or appointed by the court if he is indigent. ... The

Legislature shall provide for a uniform system for securing and compensating qualified counsel for indigents."

It is the process, not the punishment, that distinguishes just governments from the rest, and the due-process rights guaranteed to all criminal defendants in America – regardless of how much money they have – is part of what makes America the world's greatest democracy.

In Louisiana, the process of providing the right to counsel has serious problems. In fact, many argue that the indigent-defense system in Louisiana is so weakened in relation to other criminal-justice components it calls into question the ability of the entire criminal-justice system to dispense justice accurately and fairly.

Louisiana's public-defense system is drastically underfunded. Limited resources mean long pre-trial delays for clients, little money for defense investigation and overworked lawyers. Defendants languish in jail for months or even years waiting for their turn in the backlog. During this time, many never meet with their lawyers until they arrive at court, moments before trial.

Louisiana's 41 indigent-defense programs receive the vast majority of funding from local court costs collected primarily from traffic violations. In many districts there is an inverse correlation between the district's ability to collect funds and the resources required to provide indigent-defense services. In other words, Louisiana's system is set up so that the parishes with the greatest need often have the least resources. The *Washington Post* called Louisiana's public-defense system, "the country's most bizarre."

The state of Louisiana – not local districts – needs to appropriate adequate funds to ensure that every judicial district is able to effectively provide the right to counsel to indigent defendants. In 2006, the Legislature added \$10 million to the state pot for public

defense. This was the first significant increase in a decade, and still far short of what is required to ensure that Louisiana's public defenders can effectively represent defendants. Without an increase in funds, the indigent-defense system drags the operation of the rest of the agencies in the criminal-justice system to a halt.

In addition to increasing state funding, Louisiana must create and enforce standards to ensure that the public-defender system will provide high-quality legal representation and be considered an equal partner in the criminal-justice system. Advocates across the legal community in Louisiana – including the Louisiana State Bar Association and the Louisiana Public Defender's Association – have also urged the Legislature to enact reforms.

Government has the responsibility to provide for positive community welfare, to ensure public safety, to safeguard our tax dollars with responsible policies and to deliver justice for all. More than a dozen lawsuits around the state, 34 editorials, frequent exonerations and the threat of released prisoners in Orleans should motivate the Legislature to undertake substantive reforms in 2007.

Before Clarence Earl Gideon made history at the Supreme Court, he wrote, "I believe that each era finds an improvement of law, each year brings something new for the benefit of mankind." More than 40 years after Gideon expressed that hope, Louisiana has the opportunity to realize this improvement as we strive to build "a better Louisiana" to show to the rest of the world and enjoy for ourselves.

More information about Louisiana's indigent-defense system is available at [www.la-justicecoalition.org](http://www.la-justicecoalition.org).

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