



Harris County, Texas Gets Its First Public Defender



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The promise that every person accused of a crime, rich or poor, should stand equal before the law, is at the root of the fundamental American democratic ideals of liberty and justice. It's imbedded in our Declaration of Independence, our Pledge of Allegiance, and our founding fathers deemed the right so important they secured it in the Sixth Amendment of the United States Constitution.

Unfortunately, though the right was secured on paper, the promise of equal justice for all under the law is one largely left unfulfilled in the United States as a whole, and Harris County in particular. Reality presenting us with a gaping legal divide between justice for the rich and justice for the poor—too often leaving one's innocence dependent on their income.

Why this disjuncture between rights promised and legal reality in Harris County? Simply a predictable byproduct of a structurally unjust legal system that allows judges to choose

the lawyers they want to appoint to the poor. And once a judge has assigned their attorney of choice to the case, that same judge gets to decide whether or not that attorney can investigate the facts of the case, is allowed to hire an expert for the case, and has the power to cease appointing that attorney to cases altogether. Essentially, if the attorney wants to keep getting appointments to make a living; they have to keep the judge happy. Even judges and defense attorneys with the best intentions would find it difficult not to be effected by a system so ripe for abuse and so lacking in independence.

These institutional impediments to protecting the rights of the poor are compounded by the lack of essential resources provided. Thus, attorneys with limited independence to represent their client, are burdened with overwhelming caseloads, inadequate time to visit with clients or conduct sufficient research, limited access to investigators and experts, and no real independence to zealously advocate for their clients' rights.

The end result: a fundamentally unfair system that fails to protect basic Constitutional rights, wastes taxpayer dollars, and places genuinely innocent people at risk of being wrongfully convicted. Not surprisingly, we end up with judges giving individual attorneys upwards of \$400,000 a year in taxpayer dollars, judges assigning individual attorneys upwards of 700 cases year, and the untold human cost of destroying lives with more uncovered wrongful convictions in Harris County than almost any other jurisdiction in the nation. These shameful statistics are clear and convincing evidence that our criminal justice system is broken and in desperate need of repair.

Fortunately, Harris County Commissioner's Court --under the leadership of Commissioners El Franco Lee and Sylvia Garcia -- has taken an integral first step on the path toward advancing public safety, fairness, and justice by establishing a public defender in Harris County. Public defender programs are universally considered the most cost-effective way to deliver quality legal representation to the poor, which is why the Federal government and every major urban area in the country -- except Harris county -- already uses a public defender system. Public defenders improve the quality of representation because they provide an organized institutional infrastructure that ensures accountability, mentoring, performance standards, comprehensive training, and monitoring to ensure consistent, quality representation is being delivered -- just like the prosecutor's office. Public defenders can assign cases based on an attorney's knowledge of a particular area of law to ensure a lawyer with experience is assigned -- just like a prosecutor's office. Public defenders allow improved access to in-house investigators and experts -- just like a prosecutor's office.

A public defender office will not only improve the quality of legal representation, it will save money by pooling resources and reducing duplication of services— tax dollars than can then be used to make or communities safer.

Dr. Martin L. King, Jr. stated, "The arc of the moral universe is long but it bends toward justice." However, that arc does not bend on it's own. It is our responsibility, as citizens in a democracy, to bend that arc toward a more fair and just society. We spend more locking people up that almost any jurisdiction in the country. We have a moral obligation to make a comparable investment toward creating a justice system that seeks to fulfill the

Constitutional promise that all people are treated equally and fairly under the law. In that spirit, I commend our county leaders for this important first step, and hope they will continue the effort build a full fledged, independent, and well funded Public Defender Office as an integral part of the effort to establish a justice system that truly protects the innocent, brings the guilty to justice, and is firmly rooted in fairness and integrity that justice demands.

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