

Editorial: Defense for the poor

Published 6:43 pm, Thursday, September 26, 2013

THE ISSUE:

New York is neglecting the constitutional mandate to provide adequate criminal defense for the poor.

THE STAKES:

The state must step up to provide the resources needed to fix the problem.

Fifty years ago, in the landmark *Gideon v. Wainwright* decision, the U.S. Supreme Court affirmed that state courts are required, under the 14th Amendment, to provide legal counsel to defendants in criminal cases who cannot afford their own attorneys.

Gov. Nelson Rockefeller stepped up, signing a bill into law to ensure all New Yorkers would have access to criminal defense services. Under the measure, each of the state's 62 counties would have a public defender office and work with the local advocacy groups and courts to fulfill the mandate of the U.S. Constitution.

Today, that system is so inadequate that it qualifies as a failure.

Criminal defense services across the Empire State are an underfunded mishmash of programs that, in many communities, don't come close to handling a crushing caseload. The American Bar Association estimates 80 percent of people who face criminal charges cannot afford a lawyer.

A 2010 lawsuit, brought on behalf of 20 people who could not pay for their own legal counsel, asserts that they suffered severe consequences for want of adequate legal representation. The suit argues these failings aren't limited to the five counties in which their cases were handled.

The case has merit. The state's highest court, the Court of Appeals, reinstated it after a lower court dismissed it. That prompted settlement negotiations between plaintiffs and the state Attorney General's Office. But the talks have languished and the case is now set for trial in December.

Undoubtedly the breakdown in talks is over money — how much is needed to fix the problem.

Tax dollars aren't unlimited. But state officials surely recognize the inadequacy of New York's present system, and the need to improve it.

Far too often, poor people languish in jail before they're tried for want of a good lawyer. Meanwhile, we continue to read of how Wall Street bankers are able, with the help of good (expensive) lawyers, to avoid criminal liability for the damage they did to the American and global economies, bringing financial ruin to millions of families.

The state has established a \$12 million grant pool to help counties improve criminal defense services to the poor. It's a positive but tiny step, making barely a dent in a diffused system that, at an estimated cost of \$380 million a year, is under-funded.

New York needs a better managed, statewide mechanism to ensure access to sufficient indigent criminal defense services. Surely the state's energy and resources could be better spent coming up with a solution than paying for a costly, protracted trial.

Gov. Andrew Cuomo, Attorney General Eric Schneiderman and state lawmakers must provide the resources to make proper criminal defense representation for the poor a reality in every court in the state. Until then, New York's system will not be fully deserving of the name "justice."

To comment: tletters@timesunion.com or at <http://blog.timesunion.com/opinion>