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EDITORIAL:

THE ORLEANS PUBLIC DEFENDERS' OFFICE:

REVAMPING THE NEW ORLEANS CRIMINAL JUSTICE SYSTEM AFTER KATRINA

Anne Keith Walton*

They call it the “loading dock.” It is a room in the Orleans Parish Prison that serves as the site for first-appearance hearings. It is where every morning, seven days a week, a handful of attorneys from the recently restructured Orleans Public Defenders’ office go to meet approximately forty to fifty newly-arrested men and women. Together, they navigate a shockingly malfunctioning judicial system to protect the individuals’ Constitutional rights, but they face endless challenges.

After officials escort the arrestees into the “loading dock,” the public defenders have about thirty minutes to address the group, explain the upcoming proceeding, and carefully determine if each arrestee is “indigent” and eligible to receive free legal counsel. When the judge takes the bench, an official in the “loading dock” turns on a television equipped with a video conferencing system, allowing the judge to address the arrestees from the Orleans Parish Criminal District Court located next door. Why the accused do not have the opportunity to join the judge and the prosecutor in the courtroom is unclear, but what *is* clear is that the distance provided by the video conferencing system makes it easier for the judge to run through the list of charges, accept the prosecutor’s accusations as fact, and set astronomical bonds without having to look the jail-bound men and women in the face.

Occasionally, the public defenders make arguments that probable cause does not exist or that the bond set is excessive, but they rarely succeed. Most of the time, the judge views the public defenders’ arguments as interruptions or delays, reprimands them, and proceeds to set bonds so high that one wonders what has happened to the Eighth Amendment’s command that “excessive bail shall not be required.” New Orleans judges set bond in nearly every case, sending many harmless offenders with jobs and families to jail for up to two months while they await indictment, simply because they cannot afford to pay the amount required for their release. No one profits from this system, except perhaps the bail bondsmen who conveniently set up shop across the street from the jail. The dehumanizing process used to usher the arrestees through their first-appearance hearings and into the jail explains why the room where it takes place has been cynically called the “loading dock.”

With so many injustices present in an arrestee’s first appearance before a judge, before charges are ever brought against him, it is clear that the New Orleans criminal justice system is broken and in desperate need of repair. Thanks to the Orleans Public Defenders’ office (OPD), created after Hurricane Katrina hit the city, there is hope. Since its formation in 2006, OPD has made a laudable commitment to restoring justice in New Orleans’ criminal courthouse and to providing the legal representation that accused persons deserve. The dedicated, zealous attorneys that OPD has hired in the last few years are revamping New Orleans’ criminal justice system, and they are capturing the attention and support of people around the country.

Before Katrina, the public defender’s office was a small room located in the courthouse that contained no computers or supplies. In the old system, the court appointed private attorneys worked as public defenders on a part-time basis to represent indigent defendants, resulting in a focus on revenue-generating private cases at the expense of clients who could not pay for the attorneys’ services. Furthermore, a horizontal representation scheme where attorneys were assigned to specific judges and courtrooms created an employer-employee type relationship between judges and public defenders.

After Katrina, Ronald Sullivan, former Director of the Public Defender Service for the District of Columbia (PDS), joined former PDS colleagues, Jonathan Rapping and Steven Singer, to lead a movement for change in New Orleans’ public defender’s office. First, the new team at OPD moved the office out of the courthouse and into a building around the corner, where they occupy an entire floor. Federal funds and grants enabled them to purchase computers and other necessary supplies. Full-time public defenders replaced part-time private attorneys in the office, and vertical replaced horizontal representation so that public defenders now answer to their clients throughout their entire cases instead of to the judges. Two years later, the staff of OPD consists of thirty-six attorneys, a social worker unit, and administrative assistants.

Several important projects are underway, including the development of a computerized case-management system and the creation of a special litigation department that will focus on appellate issues. OPD attorneys have already begun to tackle the first-appearance debacle, concentrating on challenging the statute that allows the government to hold arrestees who cannot afford to post bond for forty-five to sixty days without formally charging them with any crime. In the next few years, OPD hopes to expand its office, hire more supervising attorneys, and reduce the enormous caseloads that public defenders now carry.

To accomplish its goals, the office needs to continue to hire attorneys who are passionate about public defense, are excited to join a growing office, and are motivated to fight an uphill battle to fix a broken system. OPD offers a unique opportunity for those who join its staff to determine the future of public defense in New Orleans and to help rebuild a city that is still rebounding from Katrina. With excellent leaders and high-quality attorneys and staff at OPD, hopefully one day the “loading dock” and the problems that surround it will be history.

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