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Public defenders provide same quality defense as private attorneys | Opinion

Gary Beatty Guest columnist

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A false narrative has been perpetrated, by some who claim to be criminal justice reform advocates, that criminals represented by the public defender (PD) are not receiving the same quality defense as those who “can afford to hire” private attorneys.

In over 30 years as a prosecutor, that was not my experience.

Within the PD office are some very good attorneys, and some not so — just as there are among private defense attorneys. But at least those incompetents in the PD’s office can be fired. Incompetent private attorneys continue to ply their trade — and high fees are no measure of competence.

Spending a lot of money on an attorney is no assurance a defendant will be acquitted. I was involved in a joint state/federal prosecution where a prominent defense attorney was paid \$500,000 (yes, a half million), and the defendant got life in federal prison. In one of my Brevard County cases, a defendant was convicted of murder after paying a top criminal defense law firm \$150,000. Competent prosecutors, with sufficient evidence, will convict a guilty defendant regardless of how much is paid to a defense attorney.

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The O.J. Simpson case is touted as an example of literally getting away with murder because he could afford to hire a so-called “dream team” of lawyers. The term “dream team” was media hype. Simpson walked because of an incompetent prosecution and evidence mishandled by inept police. An experienced PD could have gotten an acquittal in those circumstances.

More than once I’ve smelled the odor of alcohol on well-paid private attorneys in court. Another admitted under oath to being under the influence of cocaine during a critical hearing. I never had a similar experience with a PD and I’m certain that (18th Circuit Public Defender) Blaise Trettis would fire any of his attorneys who went to court impaired.

The false narrative claims PD’s don’t have time to talk to their clients. If a PD only talks to a client “for a few minutes before court” it’s because the client didn’t show up for their office appointment, which I’m told happens frequently. Lack of communication is usually the fault of the defendant, not the PD.

Prosecutors, who have the “burden of proof” (thus requiring more work), have a heavier case load than the PDs. In addition to all the defendants represented by the PD, prosecutors

also have the cases represented by private attorneys. If a prosecutor goes to trial unprepared, the defendant will be acquitted. An unprepared PD, with even minimal skills, can get their client off if the prosecution is equally unprepared.

One of the finest examples of criminal lawyering in American history was John Adams' successful defense of the British soldiers falsely accused of murder in the Boston Massacre.

In his summation to the jury, Adams said: " Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence."

Nor can any amount of money paid to a criminal defense attorney alter the state of facts and evidence of guilt. In response to that some will say, "What about Casey Anthony?" But that case actually proves my point.

The defense attorneys did not "win" the Anthony case, the prosecution "lost" it by making some critical errors in the presentation of the evidence, errors that an experienced PD would have exploited. (I knew Assistant State Attorney Jeff Ashton as a fellow prosecutor. Unfortunately, Jeff was relegated to second chair in that case and thus unable to make critical decisions in how the prosecution should proceed. Had he been the lead for the state, I believe Anthony would have been convicted.)

Public defenders are licensed attorneys in good standing with the Florida Bar — which regulates all lawyers in Florida. PD's specialize in criminal defense. Some even become board certified in criminal trial law.

But more fundamentally, what criminal justice reform advocates who criticize public defenders apparently fail to realize is that there are two very obvious alternatives to reliance on a public defender.

First, no one accused is compelled to utilize the PD. All are free to retain their own private counsel.

Second, and more obvious, is that if you don't want to have to rely on a PD to defend you, then simply don't commit a crime in the first place. But that simple solution apparently escapes the geniuses who consider themselves "criminal justice reformers."

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