

REPORT WITH RECOMMENDATION

LOS ANGELES COUNTY BAR ASSOCIATION

RECOMMENDATION

RESOLVED that the American Bar Association recognizes that the highest priority of the bar and bench must be to promote improvements in the American system of justice by ensuring balanced and adequate funding for, and timely access to, the entire justice system and urges Association entities, state and local bars and affiliated organizations to form coordinated action committees with non-lawyer groups to:

1. assess the depth and breadth of the crisis in their jurisdictions;
2. design and implement an action plan to attack the crisis and maintain and improve balanced and adequate funding for the entire justice system;
and,
3. educate policy makers that their actions may have consequences for the entire justice system well beyond their intended purpose.

REPORT

At its February, 1990 meeting, the House of Delegates adopted a resolution sponsored by the Los Angeles County Bar Association urging the ABA to study and address the current state of the American justice system. The report noted that many civil and criminal justice systems are overwhelmed by heavy case burdens and receive inadequate resources. These problems are marked by several factors, including budget cuts, lay-offs of justice system personnel, delays in handling of cases and -- in some cases -- a complete shut down of the courts.

Although these problems are identified most closely with urban areas, such as Los Angeles, New York and Chicago, similar problems exist in small cities and towns across the nation. One example of this crisis is reflected in the fact that almost every state has one or more jurisdictions under court order to reduce their prison or jail population.

In response to the 1990 resolution, the Board of Governors created the Task Force on the Crisis in the Justice System, chaired by former ABA President Robert D. Raven. After an intense six-month study, the Task Force reported to the Board of Governors at the 1990 Annual Meeting in Chicago. The Task Force confirmed that the justice system crisis was a national problem, and resulted from two significant factors: the long-term, chronic underfunding of the system and the deluge of criminal cases thrust into the justice system by the war on drugs. The Task Force noted that while the criminal justice system has suffered quietly with these problems for years, a new threat had emerged as resources previously committed to the civil justice system were being drained away to deal with the increasing caseloads on the criminal side. Many of these observations were first noted in the December, 1989 report of the ABA Criminal Justice Section's Committee on Criminal Justice in A Free Society, chaired by Professor Samuel Dash.

The Task Force determined it was time for a fundamental shift in thinking about the justice system and its resource. They recommended that the bar and bench think of the system as an "entire" system, with interactive parts that are dependent on one another for their operation. More importantly, the Task Force noted that changes in any one part of the system can drastically alter operations in another part. For example, if a municipality responds to an increase in crime by dramatically adding to the number of police officers on the streets, it is easy to predict that these new police officers will make more arrests resulting in more work for the courts, prosecutors, indigent defense workers, etc. A more subtle example is the adoption of mandatory minimum sentences. If a defendant "has nothing to lose" by pleading guilty, they are more likely to go to trial, creating an increased workload for the courts and others involved.

The Task Force recognized that analysis of examples such as this is a long-term project and recommended creation of a new entity, the ABA Special Committee on Funding the Justice System. The Special Committee was directed by the Board of Governors in August, 1990 with developing models for use by state and local bar associations, as well as others to ensure balanced and adequate funding for the justice system.

The Special Committee has made three critical observations during its work. First, they have determined that because there are a variety of means for funding the justice system there can be no national or global solution. Solutions that work in areas that are funded by legislative bodies will not work in locales where the system is more dependent on the collection of user fees or fines for its operation. For this reason, committees to analyze their own situation and to spearhead a local effort to provide adequate resources to the system.

Second, the Special Committee recognizes that the changing face of politics demands a new approach to securing balanced and adequate funding for the justice system. The bar and bench must reach out and build coalitions with other groups that have an interest in an effective justice system if there is to be any chance of securing additional or balanced funding for the system. These groups include business organizations, civil rights groups, child advocacy organizations and anyone else who uses the courts to redress wrongs. The bar and bench can be much more effective working with these groups at the local level to secure additional funding for the justice system.

Finally, the Special Committee recognizes that given budget constraints in many states and municipalities across the nation additional funding may not be available for the justice system at this time. It is important that local policy makers understand that their actions -- such as mandatory minimums -- can have a negative impact on the justice system. It is important, especially in a time of strained resources, to encourage policy makers to make decisions that will not harm an already overburdened system.

Conclusion

Because of tight budget restraints in almost every state across the nation, it is essential that a serious, effective campaign on behalf of the justice system be mounted at this time. This recommendation sets out a game plan that all state and local bar associations -- with the help of the ABA Special Committee on Funding the Justice System -- can use to direct this effort at the local level.

Respectfully submitted,

Andrea Sheridan Ordin
President
Los Angeles County Bar

August, 1991