

Public Defenders & an Office of Capital Writs

It is generally accepted today that the common good is best safeguarded when personal rights and duties are guaranteed. The chief concern of civil authorities must therefore be to ensure that these rights are recognized, respected, coordinated, defended and promoted, and that each individual is enabled to perform his duties more easily. For to safeguard the inviolable rights of the human person, and to facilitate the performance of his duties, is the principal duty of every public authority. (*Pope John XXIII, Peace on Earth*)

Church teaching

- ★ Regulations contrary to the dignity and fundamental rights of the human person should be definitively abolished from national legislation, as should laws which deny prisoners religious freedom. There will also have to be a review of prison regulations where they give insufficient attention to those who have serious or terminal illnesses. Likewise, institutions offering legal protection to the poor must be further developed. (*Pope John XXIII, Peace on Earth*)
- ★ Considering the human person as the foundation and purpose of the political community means in the first place working to recognize and respect human dignity through defending and promoting fundamental and inalienable human rights...Officials of the court are especially called to exercise due discretion in their investigations so as not to violate the rights of the accused to confidentiality and in order not to undermine the principle of the presumption of innocence. (*Compendium on the Social Doctrine of the Church, 388, 404*)
- ★ We believe that both victims and offenders are children of God. Despite their very different claims on society, their lives and dignity should be protected and respected. We seek justice, not vengeance. We believe punishment must have clear purposes: protecting society and rehabilitating those who violate the law. (*USCCB, Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*)
- ★ Our witness to respect for life shines most brightly when we demand respect for each and every human life, including the lives of those who fail to show that respect for others. The antidote to violence is love, not more violence. (*Living the Gospel of Life: A Challenge to American Catholics, Washington, DC: USCCB, 1998, no. 22, USCCB*)

Resources

- ★ **Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice** (USCCB) (www.usccb.org/sdwp/criminal.shtml)
- ★ **Restore Justice** offers a place of compassion and assistance, resources and services and educational information for anyone who is affected by crime (www.RestoreJustice.com)
- ★ **Catholic Campaign for Human Development** (USCCB) (www.PovertyUSA.org)
- ★ **Texas Department of Criminal Justice** (www.tdcj.state.tx.us)
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The Texas Catholic Conference strives to ensure that all people are given quality representation in a court of law. We support the creation of an office of capital writs and the expansion of public defenders office throughout the state to ensure that all people are given the opportunity to quality counsel.

The U.S. Constitution mandates that all accused persons have the right to a speedy and public trial, as well as counsel for his or her defense. Currently, local officials in each Texas county decide how to comply with the constitutional and statutory requirements that lawyers be provided to indigent criminal defendants. Local governments pay most indigent defense costs, and these costs increased after the implementation of the Texas Fair Defense Act in 2002. As more money and attention are focused on indigent defense, however, a broad array of officials—from prosecutors to judges to county executives—have found that indigent defense is a critical tool for promoting efficiency throughout the entire criminal justice system. This efficiency matters because law enforcement consumes the largest share of county budgets.

Public Defenders Offices

Public defenders serve almost all urban jurisdictions in the United States outside Texas. Fewer public defenders serve in Texas than elsewhere in the nation. Although the number is growing, public defenders serve in fewer than 10% of Texas counties (excluding the regional capital murder public defender serving the 7th and 9th judicial regions and the appellate defender serving the 4th Court of Appeals), and their work is often limited, i.e. to juvenile, appellate, or misdemeanor cases. The number of Texas public defender offices (PDOs) has grown from five to fifteen over the past six years; this does not include Harris County, however, which is the largest urban area in the nation without a public defender system."

Public defenders offer quality, cost, and administrative advantages. Public defender offices operate for the defense in the same way that district and county attorney offices operate in every Texas county for the prosecution, and they do so for the same reason: proficiency.

Office of Capital Writsⁱⁱ

An Office of Capital Writs would represent death penalty defendants in their appeals, or writs of habeas corpus. Providing adequate legal representation is especially important in habeas proceedings because state habeas is the "safety net" designed to catch the innocent and those treated unfairly by the system. Habeas proceedings are opportunities to raise claims of prosecutorial misconduct, ineffective assistance of trial counsel, or present evidence not developed or discovered during trial—including new evidence of innocence.

Not only are state habeas proceedings the appropriate forum for submitting new evidence, they are typically a prisoner's final opportunity to do so. If a claim for relief is not presented in state habeas, it cannot be considered by the federal courts except in extraordinary circumstances--even when the claim is clearly meritorious and undermines all confidence in the outcome of the trial. Any omissions by habeas counsel can permanently foreclose both state and federal review of any issues or facts overlooked by counsel.

ⁱ "Blueprint for Creating a Public Defender Office in Texas, Second Edition." Texas Task Force on Indigent Defense. June 2008. <<http://www.courts.state.tx.us/tfid/pdf/2008revisedblueprintfinal.pdf>>.

ⁱⁱ "C.S.S.B 1655." House Committee Report Version. 80th Regular Session. <<http://www.capitol.state.tx.us/tlodocs/80r/analysis/html/sb01655h.htm>>.