

The Roanoke Times

No small matters of justice

Crackdowns on minor infractions shouldn't be allowed to overwhelm the courts.

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The "broken-windows" theory of crime-fighting holds that stopping minor infractions prevents major crimes because signs of neighborhood decay, like graffiti or broken windows, create a "no one cares" atmosphere that invites criminality.

Communities all over the country have cracked down on misdemeanors as they got tough on crime.

A report issued last week by the National Association of Criminal Defense Lawyers shows the broken-windows strategy opening onto a different view: the one where the people arrested for petty, non-violent offenses have their day in court. Due process, it seems, is a rare sight.

The report, "Minor Crimes, Massive Waste," asserts that explosive growth in misdemeanor cases in recent decades has so overburdened America's courts that millions of accused offenders -- overwhelmingly indigent -- are denied equal justice every year. As a result, innocent people go to jail, as do guilty people who needn't be there -- all at great cost.

Many had no legal representation at all. Researchers who visited courts in seven states -- Virginia was not one -- regularly saw prosecutors, and sometimes judges, pressure indigent defendants to waive their right to counsel even when they faced the possibility of jail time.

But then, as the report notes, those who were represented by a public defender or court-appointed lawyer likely did not fare much better. Crushing caseloads and lack of resources often don't allow defense lawyers to mount an actual defense.

That is for people who can afford to pay lawyers. Poor defendants plead guilty, and the courts move on.

Criminologists are divided over whether the "broken-windows" strategy cuts crime. If its critics are right, and declines are due to other factors, a benefit still accrues to law-abiding citizens able to enjoy a better quality of life.

It should not be bought, though, at the cost of justice.

The defense lawyers' report urges several thoughtful reforms to bring integrity to the system. The first could be the key to the rest: "Divert misdemeanors that do not impact public safety to penalties that are less costly to taxpayers." Unclog the courts, and free the time and money needed to assure the rights of people who should be in court.

Don't ignore broken windows. Make the vandals fix them.

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