



Thursday, May 7, 2009

MIAMI-DADE PD CASELOAD FIVE TIMES NATIONAL AVERAGE: STUDY FINDS COURTS WASTE TIME, PRECIOUS MONEY ON PETTY CRIME

By Billy Shields (with *National Law Journal* credited with contributing)

(Appeared in Multiple Florida DBR publications, including *Miami Daily Business Review*, *Broward Daily Business Review*, *Palm Beach Daily Business Review*)

Misdemeanor caseloads for Miami-Dade public defenders are more than five times the national standard, according to a newly released report by the National Association of Criminal Defense Lawyers.

'It really highlights a lot of the problems we've been pointing out for the last six to seven months,' said Miami-Dade Public Defender Carlos Martinez. 'The system has got to get better. There are some charges that need to be decriminalized.'

The national caseload standard per public defender is 400 a year, but Miami-Dade public defenders handle on average 2,232 cases a year, the study noted.

The association produced the first-of-its-kind report on the status of misdemeanor courts after 18 months of research on courts in seven states.

It concluded state and local governments are wasting millions of tax

dollars and court time prosecuting petty offenses and violating the constitutional rights of citizens by coercing them into cutting deals without counsel.

Miami-Dade County Court Judge Sam Slom disputed some of the report's broad condemnations of misdemeanor courts but agreed the courts are overburdened.

'I don't think that county court is a waste of time. There are many offenses that need to be disposed of: DUI is a serious offense, battery, animal abuse,' he said. 'But I do believe that there are cases that are brought into court that should not be classified as criminal offenses.'

Slom said using a vehicle for commercial purpose was one misdemeanor he thought should be decriminalized.

'Other types of misdemeanors don't need to clog up the courts,' said Todd Foster, a partner with Cohen Foster & Romine in Tampa and an NACDL board member. 'Driver's license offenses, tag offenses, trespassing --; they can be easily and appropriately diverted and not consume the resources of the court.' The report dubbed 'Minor Crimes, Massive Waste: The Terrible Toll of America's Broken Misdemeanor Courts' comes as courts across the United States

grapple with record budget shortfalls. In California's Contra Costa County, the district attorney's office cut back misdemeanor filings this week to violent crimes because of budget cuts requiring layoffs. Adults will not be prosecuted for minor drug and property crimes, trespassing and loitering, among other things.

Martinez's office --; one of the largest in the country with an annual budget of about \$26 million --; already has produced a test case for the state budget crunch.

Miami-Dade Circuit Judge Stanford Blake ruled in September that the public defender's office could decline third-degree felony cases after determining the office was cash-strapped and overworked. The decision is on appeal. One quirk of misdemeanor court is that a defendant doesn't have a right to counsel if jail time is off the table.

That's a two-edged sword, Martinez said. On the one hand, it means public defenders can concentrate on more serious cases. But on the other hand, 'it is a travesty we have people going to misdemeanor court without an attorney,' he said. 'The stigma of having a criminal conviction still applies.'

The report specified a host of offenses around the nation that demonstrate 'overcriminalization' in the United States. One offense it cited: In Orlando it's a crime to feed the homeless.

Miami criminal defense lawyer Milton Hirsch described the NACDL's findings as a sign of the times, characterizing the U.S. justice system as a victim of its own success.

'It was very good at adjudicating common law crimes. But what we started to do was say look, if there's a problem, define it as a crime, and the

criminal justice system will deal with it,' he said. 'That has proven to be a bad idea.'