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“Defense Vouchers”–Free-Market Solution To Public Defender Woes?

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Two scholars writing for the libertarian Cato Institute are proposing a “free market for defense services” that would attempt to “function in the same way that the existing market functions for affluent defendants who are able to retain their own counsel.” New York University law Prof. Stephen Schulhofer and Santa Clara University law Prof. David Friedman “see budgetary vulnerability and implicit conflicts of interest as inherent in any system where the defendant’s attorney is chosen for him by the state.”

Schulhofer and Friedman suggest a system of “defense vouchers” that could be cashed by any qualified lawyer chosen by the defendant. Under the current system of providing legal aid to the indigent, the professors complain, “the person who has the most at stake is allowed no way in choosing the professional who will provide hom one of the most important services he will ever need.” It would be like the federal government telling Medicare recipients what physician to use, say the professors.

Link: http://www.cato.org/pub_display.php?pub_id=12106

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