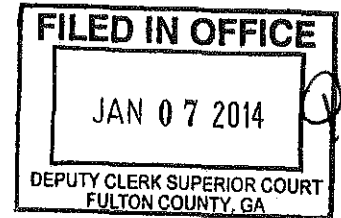


**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**



N.P. by his next friend,
SHANEKA DARDEN,

S.C., by his next friend,
CHRISTY COLEY,

A.J., by her next friend
MCLETHAR JOHNSON,

W.M., by his next friend,
LETANYA MERCER,

MYKENZIC PHILLIPS,
RICHARD YOUNG,
RODERICK MORGAN, JR.,
WESLEY HARPER,

on behalf of themselves and
all persons similarly situated,

Plaintiffs,

v.

THE STATE OF GEORGIA,

NATHAN DEAL,
in his official capacity as
Governor of the State of Georgia;

W. TRAVIS SAKRISON,
in his official capacity as
Director of the Georgia
Public Defender Standards Council,
and his successors and assigns;

Civil Action No. 2014CV241025

**COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF**

CLASS ACTION

GEORGIA PUBLIC DEFENDER)
STANDARDS COUNCIL,)
and its successors and)
assigns;)
)
RONALD CROSS,)
G.S. HODGES,)
ARCH MCGARITY,)
MURPHY MILLER,)
E. LEE MORRIS, III,)
LAMAR PARIS,)
DONNA SEAGRAVES,)
W. DAVID SIMS,)
EDWARD TOLLEY,)
each in his or her official capacity as)
a member of the Georgia Public)
Defender Standards Council, and)
their successors and assigns,)
)
BEN HILL COUNTY;)
)
BEN HILL COUNTY)
BOARD OF COMMISSIONERS;)
)
BENNIE CALLOWAY,)
DANIEL COWAN,)
SCOTT DOWNING,)
PHILIP JAY, III, and)
O.D. NETTER,)
each in his official capacity as a)
Commissioner of Ben Hill County;)
)
CRISP COUNTY;)
)
CRISP COUNTY)
BOARD OF COMMISSIONERS;)
)

SAM FARROW, JR.)
LARRY FELTON,)
CLARK HENDERSON,)
WALLACE MATHIS, and)
ARTHUR JAMES NANCE,)
each in his official capacity as a)
Commissioner of Crisp County;)
)
DOOLY COUNTY;)
)
DOOLY COUNTY)
BOARD OF COMMISSIONERS;)
)
CHARLES ANDERSON,)
DAVID BARRON,)
EUGENE CASON,)
TERRELL HUDSON, and)
HARRY WARD,)
each in his official capacity as a)
Commissioner of Dooly County;)
)
WILCOX COUNTY;)
)
WILCOX COUNTY)
BOARD OF COMMISSIONERS;)
)
DAVID BROWN,)
ARTHUR GREENE,)
JOWAN JOHNSON,)
MARVIN KEENE,)
TRACY TYNDAL,)
each in his official capacity as a)
Commissioner of Wilcox County;)
)
KRISTEN W. PACK,)
in her official capacity)
as Judge of the Juvenile Court)

for the Cordele Judicial Circuit;)
)
JOHN C. PRIDGEN,)
in his official capacity)
as Chief Judge of the Superior Court)
for the Cordele Judicial Circuit;)
)
ROBERT W. CHASTEEN,)
in his official capacity)
as Judge of the Superior Court)
for the Cordele Judicial Circuit;)
)
T. CHRISTOPHER HUGHES,)
in his official capacity)
as Judge of the Superior Court)
for the Cordele Judicial Circuit;)
)
G. RUSSELL WRIGHT,)
ROBERT SHERRELL,)
each in his official capacity,)
as a member of the Cordele Judicial)
Circuit Supervisory Panel and their)
successors and assigns;)
)
TIMOTHY EIDSON,)
in his official capacity as Circuit)
Public Defender for the Cordele)
Judicial Circuit,)
)
DENISE FACHINI,)
in her official capacity as)
District Attorney for the)
Cordele Judicial Circuit;)
)
CHERI NICHOLS,)
BRADFORD RIGBY,)
CHRISTIAN BROWN,)

LARA TODD,)
A. ZACHARY FAISON,)
LAUREN WARBINGTON,)
each in his or her official capacity as)
Assistant District Attorney)
for the Cordele Judicial Circuit,)
)
Defendants.)
_____)

PRELIMINARY STATEMENT

1. The right to counsel—essential for fair trials, equal justice, reliable verdicts, and just sentences—is routinely violated or reduced to a hollow formality in the Cordele Judicial Circuit (the “Circuit”). Children who cannot afford a lawyer often find there is no public defender available to represent them, but they are processed through the courts nonetheless. Adults who cannot afford a lawyer may languish in jail for months after arrest without seeing a public defender. All but a few convictions are obtained through guilty pleas by people who do not receive the most basic elements of legal representation such as substantive attorney-client interviews, investigations, motions practice, and informed, professional advice about whether to plead guilty and other decisions.

2. The Circuit’s public defender office is severely understaffed and grossly underfunded. It has only three full-time lawyers and, since July 1, 2013, a lawyer under contract to work no more than 75 hours per month. This is half the

number of attorneys in the Cordele Circuit District Attorney's office. The disparity is even greater with respect to investigators: while the District Attorney's office is assisted by numerous local and state law enforcement agencies, the Circuit's public defender office has a single investigator who typically only conducts initial interviews with people detained in jail for the sole purpose of completing the public defender eligibility application. Unlike other circuit public defender offices in the State, the Cordele Circuit Public Defender Office does not receive county funds to employ additional assistant public defenders and investigators.

3. The Circuit's public defenders are required to handle such an excessive number of cases that they are unable to provide representation in all of the courts and cases in the Circuit. Each county has a Superior Court and a juvenile court. There are three Superior Court judges and one juvenile court judge. Thus, there may be more judges presiding over courts than there are public defenders. On many occasions, all of the public defenders must be in one court to deal with a large volume of cases and are unable to be in another court. The public defenders are unable to spend more than a few minutes per case which does not allow them to develop representational relationships with the people they are supposed to represent.

4. Children routinely appear in a juvenile court without counsel because all of the public defenders are attending proceedings in one of the Superior Courts in the Circuit. Children may be represented by a public defender at one hearing in juvenile court, but find that they have no counsel when they return to court for contested adjudication hearings, disposition hearings, restitution hearings, probation revocation hearings, or other proceedings. This occurs regularly despite a statutory mandate that public defenders provide representation to children who “face a disposition of confinement, commitment, or probation.” O.C.G.A § 17-12-23(a)(3). As a result, some children, such as A. P., whose affidavit is appended, are tried and sentenced without counsel despite their desire to be represented by counsel. In 2012, the juvenile courts of the Cordele Circuit handled 681 juvenile delinquency and unruly cases. The public defender reported handling only 52 of those cases.

5. The Circuit Public Defender Office has not established “a juvenile division within the circuit public defender office to specialize in the defense of juveniles,” as required by Georgia’s Indigent Defense Act of 2003 (“the Act”). O.C.G.A § 17-12-23(c). Because the Cordele Public Defender has failed to do this, there is no public defender in Cordele with the specific training and focus to provide the meaningful representation contemplated by statute for juveniles. By

contrast, the District Attorney's office dedicates at least one prosecutor to the circuit's juvenile courts.

6. In the Superior Courts, the public defenders are called upon to handle a very large volume of cases against adult defendants in an unreasonably compressed time frame. The three Superior Court judges attempt to resolve as many cases as possible at arraignments even though many defendants have not spoken with an attorney before appearing for arraignments. The District Attorney and her assistants make plea offers on the day of arraignment or immediately prior to arraignment that expire if not promptly accepted. As a result, the public defenders have an exceedingly narrow window of time in which to meet adult defendants, determine if the ones they have not met before are eligible for their services, and convey plea offers to them. All of the public defenders attend arraignments in order to deal with the volume of cases in the short time frame.

7. At arraignments, a Superior Court judge calls the calendar of cases and then takes a recess so that the public defenders can relay plea offers to defendants. The Judges also tell defendants that if they so choose, they can speak directly to the prosecutors about their cases without warning them of the dangers of doing so. The judges return to the bench after the recess and accept guilty pleas and impose sentences – often accepting pleas from groups of defendants at a time.

Many of those defendants have their only meeting with a public defender during the recess. Other defendants plead guilty after talking to a prosecutor without even the pretense of representation.

8. The public defenders have little time for conversations with each defendant during the recess. The public defenders usually know nothing about the people they meet for the first time during the recess or the charges against them. As a result, the public defenders have no ability to assess the validity of the charges; conduct necessary investigations; determine the presence of legal issues and conduct research; learn anything about the records and backgrounds of the defendants; or determine possible collateral consequences of a conviction, such as restrictions on housing, revocation or suspension of driver licenses, eligibility for military service, job training, employment, and immigration consequences. They simply convey the District Attorney's plea offer and its expiration date, leaving it to the defendants to make an uninformed decision about whether to take the offer that day. People who are represented by the public defender are under pressure to make decisions without sufficient time or information to make informed decisions.

9. The public defenders are also unable to provide much representation at other stages of the cases – if there are other stages. People detained after arrest regularly languish in jail for weeks or months because, despite the public

defender's duty under the Act to provide "the services of counsel" within three business days of an arrest and application for representation, O.C.G.A. § 17-12-23(b), counsel do not even meet with their clients until the day of, or a few days before superior court bond hearings or arraignment. With the exception of the few requests for preliminary hearings made in the last six months pursuant to O.C.G.A. § 17-7-20, *et seq.*, public defenders rarely ask for these hearings even though every defendant who is held in custody or released on bond with restrictive conditions prior to indictment is entitled by law to such a hearing, and these hearings provide the earliest opportunity to obtain valuable information about the charges against a defendant. One public defender wrote to a client *asking the client to explain to the public defender* why a preliminary hearing was needed in his case.

10. The public defenders engage in virtually no case- and client-specific motions practice and lack the staff to conduct necessary investigations. Defendants who plead not guilty at arraignments are given the responsibility for investigating their own cases. For instance, public defenders will ask clients to identify and locate witnesses in their cases without making an independent effort to find witnesses.

11. Both children and adults who are processed by the public defenders are assessed a \$50 public defender fee. A.P. was required to pay the \$50 fee even

though a public defender missed two of her three hearings, including the one at which she was adjudicated delinquent. Although O.C.G.A. § 15-21A-6(c) provides that “[t]he court shall waive the fee if it finds that the applicant is unable to pay the fee or that measurable hardship will result if the fee is charged,” the public defenders, the superior court judges, and the juvenile court judge do not routinely inform defendants that the fee can be waived. The public defender refuses as a matter of policy to seek waiver of the fee, even for clients for whom payment would be a measurable hardship.

12. Thus, fifty years after the United States Supreme Court’s decision in *Gideon v. Wainwright*, 372 U.S. 335 (1963), establishing the right to counsel for poor people accused of crimes; forty-six years after the Court’s decision in *In re Gault*, 387 U.S. 1 (1967), requiring attorneys for children accused of delinquent acts; and over forty years after the Supreme Court recognized in our courts “an obsession for speedy dispositions, regardless of the fairness of the result” that resulted in “assembly line justice,” *Argersinger v. Hamlin*, 407 U.S. 25, 34, 36 (1972), these constitutional guarantees remain illusory in the Circuit. Poor people accused of crime in the Cordele Circuit are not “represented by counsel” in any meaningful way and, instead, are processed through the courts in assembly-line

fashion at arraignments and largely neglected the rest of the time. Children are frequently not represented at all.

13. Plaintiffs seek, on behalf of themselves and all persons similarly situated, declaratory and injunctive relief to compel the Defendants to provide Plaintiffs with counsel as required by the Sixth and Fourteenth Amendments to the United States Constitution; Article I, Section 1, Paragraphs I (due process), II (equal protection), XII (right to the courts) and XIV (right to counsel) of the Georgia Constitution, the Act, O.C.G.A. §§ 17-12-1, *et seq.*, and other applicable law. *See Wilbur v. City of Mount Vernon*, 2013 WL 6275319 (Dec. 4, 2013 W.D. Wash.); *Heckman v. Williamson County*, 369 S.W.3d 137 (Tex. 2012); *Hurrell-Harring v. State*, 930 N.E.2d 217 (N.Y. 2010). *See also Public Defender, 11th Judicial Circuit v. State*, 115 So.3d 261 (Fla. 2013); *State ex rel. Missouri Public Defender Comm'n v. Waters*, 370 S.W.3d 592 (Mo. 2012).

JURISDICTION AND VENUE

14. This action is brought to enforce rights conferred by the United States and Georgia Constitutions and other applicable law. It is brought under the authority vested in this Court pursuant to O.C.G.A. § 9-4-2; O.C.G.A. § 9-4-3; O.C.G.A. § 9-5-1; and 42 U.S.C. § 1983.

15. Venue is proper in Fulton County because substantial declaratory and equitable relief is sought against at least one Defendant residing in Fulton County. *See* O.C.G.A. § 9-10-30; Ga. Const. art. VI, § 1, ¶¶ III.

PLAINTIFFS

N.P., by his next friend Shaneka Darden

16. Plaintiff N.P. is a fifteen-year-old African-American child in the eighth grade. Shaneka Darden is his mother.

17. On December 2, 2013, Plaintiff N.P. was arrested at school in Ben Hill County and charged with burglary. After his arrest, he was taken to the Eastman Regional Youth Development Campus in Dodge County, Georgia, located about an hour from Ben Hill County.

18. On December 6, 2013, Plaintiff N.P. appeared in the Ben Hill County Juvenile Court for a detention hearing. A male public defender was present in court and appeared on Plaintiff N.P.'s behalf. The court refused to release Plaintiff N.P. from detention.

19. On January 2, 2014, Plaintiff N.P. was returned to Ben Hill County for another hearing in juvenile court, where he spoke to a female public defender. He does not know her name. After speaking with her, he was returned to custody without going before Defendant Pack. He does not know when his next hearing is,

and because he has seen two different public defenders, he does not know which public defender will represent him, if any at all.

20. Plaintiff N.P. remains in detention and continues to face adjudication in the Ben Hill Juvenile Court. Because of the Cordele Circuit Public Defender's inconsistent presence in juvenile court, Plaintiff N.P. faces a severe and unacceptably high risk of not receiving any counsel at all future juvenile delinquency proceedings.

S.C., by his next friend Christy Coley

21. Plaintiff S.C. is a fifteen-year-old African-American child in the ninth grade. Christy Coley is his mother.

22. On October 24, 2013, Plaintiff S.C. appeared in the Ben Hill County Juvenile Court to be arraigned on a burglary charge arising out of Wilcox County. He did not know why he had to appear in Ben Hill County when his charge stemmed from Wilcox County.

23. That day, Plaintiff S.C. applied for a public defender to represent him. The public defender who was present spoke to Plaintiff S.C. before court. After this conversation, Plaintiff S.C. admitted to the burglary charge. After adjudicating him delinquent, the court ordered Plaintiff S.C. to serve twelve months probation, perform forty community service hours, and pay \$50 in court fees and a \$50 public

defender application fee. Restitution, the court decided, would be considered at a separate hearing. Plaintiff S.C. does not know when this hearing will occur, nor has a public defender been in contact with him since October 24th to discuss or prepare for the restitution hearing.

24. Plaintiff S.C.'s juvenile court case remains open, and he cannot afford a lawyer. Because of the Cordele Circuit Public Defender's inconsistent presence in juvenile court, Plaintiff S.C. faces a severe and unacceptably high risk of not receiving any counsel at his restitution hearing and all future juvenile delinquency proceedings.

A.J., by her next friend Mclethar Johnson

25. Plaintiff A.J. is a thirteen year-old African-American child in the seventh grade. Mclethar Johnson is her mother.

26. On October 24, 2013, Plaintiff A.J. appeared in the Ben Hill County Juvenile Court to be arraigned on the following charges from four separate cases that all stemmed from incidents at school: affray, simple battery, disorderly conduct, and four counts of disrupting a school. On that day, she requested a lawyer to represent her and spoke with an assistant public defender present in court. Plaintiff A.J. denied all of the allegations against her. She was told she would be notified of a future court date in which she could present any testimony

from witnesses on her behalf. Less than a week before the scheduled hearing, Plaintiff A.J. was served a notice to return to court on December 5, 2013 for an adjudication hearing.

27. Between October 24, 2013 and December 5, 2013, no one from the public defender's office got in touch with Plaintiff A.J. to discuss the charges, the state's evidence, possible witnesses for the defense, possible defenses, or mitigating factors.

28. On December 5, 2013, Plaintiff A.J. and her mother walked about a mile to reach the court because the family does not have a car and public transportation is not available.

29. When they reached the court, Plaintiff A.J. learned that her case was continued for another week because all of the public defenders were in Crisp County Superior Court handling cases. No one from the Cordele Circuit Public Defender's Office notified Plaintiff A.J. or her mother in advance to inform them of the Public Defender's planned absence or of the continuance.

30. On December 13, 2013, Plaintiff A.J. appeared in Ben Hill County Juvenile Court again; this time, a public defender was present. This was Plaintiff A.J.'s first time seeing a public defender since her arraignment on October 24,

2013. Minutes before court began, the public defender informed Plaintiff A.J. that the prosecutor was seeking detention time.

31. Plaintiff A.J. planned to deny all of the charges against her, but decided to admit to all of the charges because she had not talked to her public defender before that day in court and she did not believe he was prepared to mount a defense.

32. Defendant Judge Pack accepted Plaintiff A.J.'s admissions and ordered Plaintiff A.J. to serve fourteen days in detention and twelve months on probation. Defendant Pack also imposed \$50 in court fees and \$50 in public defender application fees in each of her four cases.

33. Plaintiff A.J. was told she could begin her sentence after the Christmas holiday, but she did not want to miss school, so she said she was willing to be taken into custody immediately. A.J. was taken into custody that day and sent over seventy miles away to the Waycross Regional Youth Development Campus, where she was detained through Christmas until December 27, 2013.

34. A.J. is now under probation supervision and is required to pay court costs and public defender application fees. She remains under the court's jurisdiction and is subject to future reprimand and probation revocation proceedings because, under Georgia law, probation can be revoked based on a

failure to pay fines, and Plaintiff A.J. is unable to pay her court-ordered fees. Plaintiff A.J. faces a severe and unacceptably high risk of not receiving any counsel at future juvenile delinquency proceedings because she cannot afford a lawyer and because of the Cordele Circuit Public Defender's inconsistent presence in the circuit's juvenile courts.

W.M., by his next friend Letanya Mercer

35. Plaintiff W.M. is a seventeen-year-old African-American child in the eleventh grade. Letanya Mercer is W.M.'s mother.

36. On November 5, 2013, Plaintiff W.M. appeared in the Crisp County Juvenile Court for a first appearance hearing. He was charged with theft by shoplifting for allegedly stealing Halloween fangs worth \$2.97 from Wal-Mart when he was sixteen-years-old.

37. No public defender was present in juvenile court that day because the entire office was handling arraignments in Dooly County Superior Court. Defendant Pack informed Plaintiff W.M. that no public defender was available, and, without advising him of the benefits of counsel, warning him of the dangers and disadvantages of waiving counsel, or informing him of the full panoply of dispositions the court could impose, asked W.M. if he wanted to go forward

without an attorney and resolve his case immediately, or come back at a later, unspecified time when a public defender might be in court.

38. In the absence of a public defender and without a full understanding of the advantages of having a lawyer, Plaintiff W.M. agreed to proceed without a lawyer and admitted to the shoplifting offense.

39. For stealing Halloween fangs valued at \$2.97, Defendant Pack imposed nine months of probation, 40 community service hours, and an 8 p.m. daily curfew. Plaintiff W.M. must also pay \$50 in court fees and \$2.97 in restitution.

40. W.M. is now under probation supervision and is required to pay court costs. He remains under the court's jurisdiction and is subject to future reprimand and probation revocation proceedings because, under Georgia law, probation can be revoked based on a failure to pay fines, and Plaintiff W.M. is unable to pay the court-ordered fees. Plaintiff W.M. faces a severe and unacceptably high risk of not receiving any counsel at future juvenile delinquency proceedings because he cannot afford a lawyer and, as he has already experienced, there may be no public defender to represent him when he comes before the court.

MYKENZIC PHILLIPS

41. Plaintiff Mykenzic Phillips is a sixteen-year-old African-American who is currently facing multiple felony charges in the Superior Courts of Ben Hill and Wilcox Counties, including theft by taking, theft by receiving stolen property, entering an automobile, and possession of a firearm by a minor.

42. All of these charges originated in the juvenile courts of the Cordele Circuit, but were transferred at the court's discretion to superior court at different times. In August 2013, the Ben Hill County Juvenile Court declined jurisdiction and transferred several cases to superior court at a hearing where Plaintiff Phillips and a public defender were present. After this hearing, Plaintiff Phillips went to the public defender's office to discuss his cases; he was told that he would have to re-apply for the public defender's services solely because his cases were transferred from juvenile court to superior court.

43. On October 17, 2013, Plaintiff Phillips, who was detained at the time, appeared again in Ben Hill County Juvenile Court. No one from the public defender's office showed up. Defendant Pack told Plaintiff Phillips he had a right to counsel, but explained that the public defender's office could not be in court that day. Plaintiff Phillips could, Defendant Pack explained, wait to speak to an attorney before his case was transferred to superior court, but was not told when a public defender would be made available. Nor did she explain the advantages and

disadvantages of having counsel at a transfer proceeding. Given the fact that no public defender was present and without a full understanding of the advantages of having a lawyer, Plaintiff Phillips agreed to go forward without a lawyer.

44. Again acting in her discretion, Defendant Pack decided that Plaintiff Phillips's remaining juvenile cases should be transferred to superior court because she had already done the same with prior cases, and she believed there was nothing else the juvenile courts could do for Plaintiff Phillips. At this point, Defendant Pack explained that Plaintiff Phillips could have a hearing on the transfer issue if he objected to the court's transfer decision. Defendant Pack, however, did not explain what would happen at the hearing, or why counsel would be advantageous to have at the hearing. Without knowing the purpose of the hearing or whether a public defender would be present, Plaintiff Phillips said he did not object to the court's decision.

45. Defendant Pack then put Plaintiff Phillips under oath and asked him if there was anything he wanted to say in response to the court's decision. Without any further guidance as to what he should say, or whether he had to speak at all, Plaintiff Phillips began stating what he knew and did not know about the charged offenses. Partway through Plaintiff Phillips's statements, Defendant Pack told him

to stop talking because mitigating circumstances were not being considered at that time.

46. Plaintiff Phillips is now facing criminal prosecution in the Cordele Circuit and cannot afford counsel. He has suffered, currently suffers, and in the immediate future faces the likelihood of suffering substantial and irreparable injury.

RICHARD YOUNG

47. Plaintiff Young is a forty-seven-year-old African American man who has been held in the Ben Hill County Jail since November 22, 2013. He is charged with the sale of cocaine.

48. Plaintiff Young filled out an application for a public defender about a week after his arrest using forms provided at the jail. Approximately one week later, the public defender's investigator visited Plaintiff Young solely to obtain additional information for his application.

49. On December 11, 2013, Plaintiff Young appeared in Ben Hill Superior Court for a bond hearing. There, he met a public defender for the first time. Plaintiff Young and the public defender spoke for about five minutes before the bond hearing. The court denied bond. The public defender has not moved for

a preliminary hearing in Plaintiff Young's case, and no preliminary hearing has been held.

50. Plaintiff Young has not seen or heard from a public defender since his bond hearing. Because Plaintiff Young cannot afford counsel and faces prosecution in the Cordele Judicial Circuit, he has suffered, currently suffers, and in the immediate future faces the likelihood of suffering substantial and irreparable injury.

RODERICK MORGAN

51. Plaintiff Roderick Morgan is a nineteen-year-old African-American man who is currently being held in the Ben Hill County Jail. He was arrested on October 5, 2013 and charged with two counts of first degree burglary, criminal attempt to commit burglary, possession of tools for the commission of a crime, and criminal trespass. Aside from this arrest, Plaintiff Morgan has no criminal history.

52. At the time of his arrest, Plaintiff Morgan lived with his fiancé and their newborn child in Ben Hill County.

53. Plaintiff Morgan has met with an assistant public defender twice, once at the jail for a few minutes on October 21, 2013, and the second time for a few minutes at a superior court bond hearing on November 7, 2013.

54. On November 7, 2013, the Superior Court set bond at \$50,000. After the hearing, Plaintiff Morgan asked his public defender to file a motion for a bond reduction. His public defender responded that Plaintiff Morgan could file a bond reduction himself by using forms provided at the jail. Plaintiff Morgan has not filed for a bond reduction because he does not know how to obtain the forms his public defender described, nor has his public defender filed a bond reduction motion on his behalf.

55. Plaintiff Morgan has not seen or heard from his public defender since November 7, 2013. He cannot call the public defender office because the jail does not allow free calls to the public defender.

56. Plaintiff Morgan has yet to be arraigned, and he remains in jail. Because Plaintiff Morgan cannot afford counsel and faces prosecution in the Cordele Judicial Circuit, he has suffered, currently suffers, and in the immediate future faces the likelihood of suffering substantial and irreparable injury.

WESLEY HARPER

57. Plaintiff Wesley Harper is a thirty-six-year-old Caucasian man who has been held in the Ben Hill County Jail since August 23, 2013. He is charged with multiple felonies, including possession of methamphetamine with intent to distribute, and sale of methamphetamine.

58. About a week after his arrest, the public defender's investigator met with Plaintiff Harper solely to complete the public defender application form. The meeting lasted a few minutes.

59. On or around September 4, 2013, Plaintiff Harper appeared in Ben Hill Superior Court for a bond hearing. There, for the first time, he met an attorney from the public defender's office. The two did not speak before the hearing; rather, the public defender sat next to Plaintiff Harper during the hearing and said nothing as the presiding judge denied bond.

60. About a month after the superior court bond hearing, a public defender visited Plaintiff Harper in the jail for a few minutes to convey a plea offer from the prosecution. Plaintiff Harper rejected the offer.

61. Plaintiff Harper has not seen or heard from a public defender since October 2013. He has written the public defender's office several times seeking information about his case and asking the public defender to request a preliminary hearing and a reduction of bond. He has received no answer. Plaintiff Harper has yet to be arraigned, and he remains in jail. Because Plaintiff Harper cannot afford counsel and faces prosecution in the Cordele Judicial Circuit, he has suffered, currently suffers, and in the immediate future faces the likelihood of suffering substantial and irreparable injury.

DEFENDANTS

STATE OF GEORGIA

62. Defendant State of Georgia is responsible for providing counsel to adults and children accused of crimes or acts of delinquency who cannot afford a lawyer under the Sixth and Fourteenth Amendments to the United States Constitution; article I, section 1, paragraphs I (due process), II (equal protection), XII (right to the courts) and XIV (right to counsel) of the Georgia Constitution; *In re Gault*, 387 U.S. 1 (1967); *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Wilson v. Southerland*, 258 Ga. 479, 480, 371 S.E.2d 382, 383 (1988); and the Indigent Defense Act, O.C.G.A. §§ 17-12-1, *et seq.* The State Capitol and center of State government is located in Fulton County.

GOVERNOR NATHAN DEAL

63. Defendant Nathan Deal is sued in his official capacity as the Governor of the State of Georgia. His residence and principal place of business are in Fulton County, Georgia. As the chief executive of the State of Georgia, Defendant Deal has an obligation to “take care that the laws are faithfully executed[.]” Ga. Const. art. V, § II, ¶ II. Because the Georgia Public Defender Standards Council (“GPDSC”) is an executive branch agency, Defendant Deal has the ultimate authority to direct and control its operations. Therefore, Defendant Deal is

responsible for ensuring that Georgia fulfills its constitutional and statutory obligations to provide effective counsel to indigent adults and children in the Cordele Circuit.

W. TRAVIS SAKRISON

64. Defendant W. Travis Sakrison is sued in his official capacity as the Director of the GPDSC. He resides in Coweta County, and has his principal place of business in Fulton County, Georgia.

65. As GPDSC Director, Defendant Sakrison is constitutionally and statutorily responsible for providing counsel to indigent children accused of delinquent acts and indigent adults accused of crimes. He is statutorily obligated to “work with and provide support services and programs for circuit public defender offices and other attorneys representing indigent persons in criminal or juvenile cases in order to improve the quality and effectiveness of legal representation of such persons[.]” O.C.G.A. § 17-12-5(b)(1). In addition, he is required to “[a]dminister and coordinate the operations of the council[.]” O.C.G.A. § 17-12-5(d)(3). Defendant Sakrison is also required to “[e]valuate each circuit public defender’s job performance,” O.C.G.A. § 17-12-5(d)(12), and provide evaluation forms to the state’s circuit local supervisory panels, which, by statute,

are required to evaluate the circuit public defender's performance. *See* O.C.G.A. § 17-12-20(d).

GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL AND ITS MEMBERS

66. Defendant Georgia Public Defender Standard Council ("GPDSC") is a state agency of the executive branch of government. Its principal place of business is Fulton County, Georgia. Defendants Ronald Cross, G.S. Hodges, Arch McGarity, Murphy Miller, E. Lee Morris III, Lamar Paris, Donna Seagraves, W. David Sims, and Edward Tolley, serve as members of GPDSC as a public service. They are sued in their official capacities as members of the GPDSC.

67. Defendant GPDSC and its members are statutorily "responsible for assuring that adequate and effective legal representation is provided, independently of political considerations or private interests, to indigent persons who are entitled to representation" under the Act. O.C.G.A. § 17-12-1(c). Defendant GPDSC and its members must "assist the public defenders throughout the state in their efforts to provide adequate legal defense to the indigent." O.C.G.A. § 17-12-6(a). In furtherance of the above statutory mandates, Defendant GPDSC and its members "shall approve the development and improvement of programs which provide legal representation to indigent persons and juveniles[.]" O.C.G.A. § 17-12-8(a),

including the promulgation and implementation of “programs, services, policies, and standards as may be necessary to fulfill the purposes and provisions of this chapter and to comply with all applicable laws governing the rights of indigent persons accused of violations of criminal law.” O.C.G.A. § 17-12-8(b). The members of the council “shall at all times act in the best interest of indigent defendants who are receiving legal representation.” O.C.G.A. § 17-12-7(a).

68. Defendant GPDSC is also the “fiscal officer” for the Cordele Circuit Public Defender and all other circuit public defender offices. It “shall account for all moneys received from each governing authority[.]” O.C.G.A. § 17-12-6(b)(1). As “fiscal officer,” the Council has the authority to authorize additional public defenders and investigators subject to available funds and other considerations. O.C.G.A. §§ 17-12-27(a)(2); 17-12-28(a).

BEN HILL COUNTY, THE BOARD OF COMMISSIONERS, AND ITS MEMBERS

69. Defendants Bennie Calloway, Daniel Cowan, Scott Downing, Philip Jay, III, and O.D. Netter are sued in their official capacities as members of the Ben Hill County Board of Commissioners. Ben Hill County, by and through its Board of Commissioners, has an independent duty to provide representation to poor adults and children accused of crimes and delinquent acts, respectively. *See*

O.C.G.A. § 17-12-31(a). In addition, Defendant Jay, as chair of the Ben Hill Board of Commissioners, must caucus with the Circuit's three other county chairmen to appoint one member to the Cordele Judicial Circuit Supervisory Panel, whose primary task is evaluating the performance of the Circuit Public Defender.

O.C.G.A. § 17-12-20(a). Each commissioner is a resident of Ben Hill County.

CRISP COUNTY, THE BOARD OF COMMISSIONERS, AND ITS MEMBERS

70. Defendants Sam Farrow, Jr., Larry Felton, Clark Henderson, Wallace Mathis, and Arthur James Nance are sued in their official capacities as members of the Crisp County Board of Commissioners. Crisp County, by and through its Board of Commissioners, has an independent duty to provide representation to poor adults and children accused of crime and delinquent acts, respectively. *See* O.C.G.A. § 17-12-31(a). In addition, Defendant Nance, as chair of the Crisp Board of Commissioners, must caucus with the Circuit's three other county chairmen to appoint one member to the Cordele Judicial Circuit Supervisory Panel, whose primary task is evaluating the performance of the Circuit Public Defender. O.C.G.A. § 17-12-20(a). Each commissioner is a resident of Crisp County.

DOOLY COUNTY, THE BOARD OF COMMISSIONERS, AND ITS MEMBERS

71. Defendants Charles Anderson, David Barron, Eugene Cason, Terrell Hudson, and Harry Ward are sued in their official capacities as members of the Dooly County Board of Commissioners. Dooly County, by and through its Board of Commissioners, has an independent duty to provide representation to poor adults and children accused of crime and delinquent acts, respectively. *See* O.C.G.A. § 17-12-31(a). In addition, Defendant Hudson, as chair of the Dooly Board of Commissioners, must caucus with the Circuit's three other county chairmen to appoint one member to the Cordele Judicial Circuit Supervisory Panel, whose primary task is evaluating the performance of the Circuit Public Defender. O.C.G.A. § 17-12-20(a). Each commissioner is a resident of Dooly County.

WILCOX COUNTY, THE BOARD OF COMMISSIONERS, AND ITS MEMBERS

72. Defendants David Brown, Arthur Greene, Jowan Johnson, Marvin Keene, and Tracy Tyndal are sued in their official capacities as members of the Wilcox County Board of Commissioners. Wilcox County, by and through its Board of Commissioners, has an independent duty to provide representation to poor adults and children accused of crime and delinquent acts, respectively. *See* O.C.G.A. § 17-12-31(a). In addition, Defendant Keene, as chair of the Wilcox

Board of Commissioners, must caucus with the Circuit's three other county chairmen to appoint one member to the Cordele Judicial Circuit Supervisory Panel, whose primary task is evaluating the performance of the Circuit Public Defender. O.C.G.A. § 17-12-20(a). Each commissioner is a resident of Wilcox County.

JUVENILE COURT JUDGE KRISTEN W. PACK

73. Defendant Kristen W. Pack, a resident of Crisp County, is sued in her official capacity as the Juvenile Court Judge of the Cordele Judicial Circuit. Defendant Pack presides over proceedings in the juvenile courts of the Cordele Judicial Circuit in which children accused of delinquent acts appear. As Juvenile Court Judge, Defendant Pack is responsible for ensuring that children are provided with counsel, are fully informed regarding their right to counsel, and that any waivers of counsel are made intelligently, knowingly, and voluntarily with a full understanding of the right being relinquished and the consequences of doing so.

CORDELE CIRCUIT SUPERIOR COURT JUDGES

74. Defendants John C. Pridgen, Robert W. Chasteen, and T. Christopher Hughes are sued in their official capacities as superior court judges of the Cordele Judicial Circuit. Defendant Pridgen resides in Crisp County, while Defendants Chasteen and Hughes reside in Ben Hill County. Defendants Pridgen, Chasteen,

and Hughes preside over proceedings in the Superior Courts of the Cordele Judicial Circuit in which indigent persons accused of crimes appear.

CORDELE CIRCUIT SUPERVISORY PANEL MEMBERS

75. Defendants G. Russell Wright, a resident of Crisp County, and Robert Sherrell, a resident of Ben Hill County, are sued in their official capacities as members of the Cordele Judicial Circuit Supervisory Panel (the “Panel”). They serve without compensation as a public service.

76. The Panel is statutorily required to “review the circuit public defender’s job performance” and other data, such as “the number of persons represented [by the office], including cases assigned to other counsel based on conflict of interest; the offenses charged; the outcome of each case; [and] the expenditures made in carrying out the [office’s] duties[.]” O.C.G.A. §§ 17-12-20(d); 17-12-24(c).

77. The Panel is also required to submit an annual report regarding the Cordele Circuit Public Defender Office’s performance to the director of the GPDSC. O.C.G.A. § 17-12-20(d). If the Panel finds that the public defender’s performance is unsatisfactory, it may, “by majority vote of its members adopt a resolution seeking review of its findings and remonstrative action by the director.”

Id.

CORDELE CIRCUIT PUBLIC DEFENDER TIMOTHY EIDSON

78. Defendant Timothy Eidson, a resident of Crisp County, is sued in his official capacity as the Cordele Judicial Circuit Public Defender. As a circuit public defender, Defendant Eidson must provide representation to all indigent adults accused of crime and/or violations of probation in the circuit's superior courts, and indigent children accused of delinquent acts in juvenile court who face probation, commitment, or confinement. O.C.G.A. §§ 17-12-23(a)(1)-(a)(3). Defendant Eidson must establish a dedicated juvenile division within his office staffed with attorneys who "specialize" in the defense of children. O.C.G.A. § 17-12-23(c).

**DENISE FACHINI AND HER ASSISTANTS CHERI NICHOLS,
BRADFORD RIGBY, CHRISTIAN BROWN, A. ZACHARY FAISON,
LARA TODD, AND LAUREN WARBINGTON**

79. Defendant Denise D. Fachini is sued in her official capacity as District Attorney for the Cordele Judicial Circuit. Defendants Cheri Nichols, Bradford Rigby, Christian Brown, A. Zachary Faison, Lara Todd, and Lauren Warbington are also sued in their official capacities as assistant district attorneys. As the District Attorney, Defendant Fachini "represent[s] the state in all criminal cases in the superior court of such district attorney's circuit and in all cases appealed from the superior court and the juvenile courts of that circuit to the Supreme Court and

the Court of Appeals and to perform such other duties as shall be required by law.” Ga. Const., art. VI, § 8, ¶ I(b). Defendants Fachini, Nichols, Rigby, Brown, Todd, Faison, and Warbington have a moral and constitutional duty as prosecutors “to seek justice, not merely to convict.” *Berger v. United States*, 295 U.S. 78, 88 (1935); *State v. Wooten*, 273 Ga. 529, 531, 543 S.E.2d 721, 729 (2001).

FACTS ENTITLING PLAINTIFFS TO RELIEF

A. Defendants Have a Duty to Provide Counsel for Indigent Children and Adults Accused of Crimes.

80. The Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 1, Paragraphs I (due process), II (equal protection), XII (right to the courts), and XIV (right to counsel) of the Georgia Constitution; the Indigent Defense Act, O.C.G.A. §§ 17-12-1, *et seq.*; and other applicable law guarantee every indigent child accused of a delinquent act and adult accused of a crime who faces the loss of liberty the right to the assistance of counsel. *See Gideon*, 372 U.S. at 344; *Douglas v. California*, 372 U.S. 353, 358 (1963); *In re Gault*, 387 U.S. at 41; *Argersinger*, 407 U.S. at 34; *Maine v. Moulton*, 474 U.S. 159, 170-71 (1985); *Wilson*, 258 Ga. 479 at 480, 371 S.E.2d at 383.

81. To fulfill its constitutional and statutory responsibilities, the Georgia Legislature passed the Act. *See* O.C.G.A. §§ 17-12-1, *et seq.* The Act imposes

duties upon the State of Georgia and the counties comprising the Cordele Judicial Circuit to ensure that all indigent adults and children receive constitutionally required assistance of counsel.

82. The Act created a public defender system that is funded by both the State and the four counties in the Circuit. The State is obligated to provide one circuit public defender for each judicial circuit and one assistant public defender for each superior court judge authorized for the circuit, excluding the chief judge and senior judges. O.C.G.A. § 17-12-27(a). Recognizing that this statutory maximum would be insufficient, the State legislature delegated authority to the counties to provide additional assistant public defenders and other staff, and provided that such employment would be authorized and funded by the counties. O.C.G.A. § 17-12-31(a).

83. The Act further requires that circuit public defenders establish a “specialize[d]” juvenile division that provides representation in all delinquency proceedings where a child faces confinement, commitment, or probation. O.C.G.A. §§ 17-12-23(a)(3); 17-12-23(c).

B. Defendants Are Failing to Provide Counsel.

84. Violations of the right to counsel in the Circuit are not new. Men and women accused of crimes who could not afford lawyers filed a civil rights lawsuit

in 2003 challenging the inadequate representation provided by two part-time attorneys who represented those unable to afford counsel pursuant to flat-fee contracts with the counties.¹

85. At that time, a number of poor people accused of crimes in that action were never assigned a lawyer; others languished in jail for months without any contact with one of the contract lawyers. One of them, Samuel Moore, spent thirteen months in the Crisp County Jail without ever seeing a lawyer or being brought before a judge. In the absence of counsel or attention by the court, Mr. Moore remained in jail four months after all charges against him were dismissed.

86. Excessive caseloads and inadequate compensation resulted in adjudications with little or no regard for those accused as individuals and without the professional services of an attorney. Many defendants were appointed counsel on the morning they came to court and left that afternoon with a criminal

¹ See Complaint, *Hampton v. Forrester*, No. 2003-V-118 (Crisp Cnty. Super. Ct. 2003). The lawsuit also alleged that the Circuit's county governments failed to adequately fund the indigent defense system, that superior court judges and district attorneys failed to inform indigent criminal defendants of their right to counsel, and that certain jail courtrooms were illegally closed to the public. Although the defendants agreed to establish a public defender office and open the courtrooms to the public to resolve the case, the counties eliminated funding for public defender positions in 2009 and the public was again excluded from some courtrooms. The issue of public access to courtrooms has recently been litigated in federal court, resulting in a consent order involving the judges and other defendants requiring the courtrooms are open to the public. See Order Granting Declaratory Relief, *Fuqua v. Pridgen*, No. 1:12-cv-093 (M.D. Ga. Nov. 6, 2013).

conviction without having had any meaningful contact with their appointed lawyer, without any investigation into the State's evidence, without any individualized inquiry into the defendant's background, and without any sentencing advocacy. Motions practice was virtually nonexistent, as were preliminary hearings, suppression hearings, or any other features that have come to define an adversarial criminal justice system in the rest of Georgia and across the country.

87. In response to the 2003 litigation, the GPDSC and the Circuit's county governments replaced the contract system in 2004 with a public defender office employing full-time attorneys, whose sole duty was to their indigent clients. Both the State and the counties funded attorney positions for the office.

88. The counties funded two assistant public defender positions until 2008. That year, the number of county-funded assistant public defenders dropped to one. In 2009, Defendant Eidson asked the counties to restore the county-funded position lost in 2008, and to continue funding the remaining county-paid attorney, whose responsibilities included appearing in the Circuit's juvenile courts. Without this position, Defendant Eidson warned that his office "could not adequate[ly] represent juvenile defendants."² Moreover, Defendant Eidson warned that the

² Timothy Eidson, *Justification Statement for Present County Paid Assistant Public Defender* (Mar. 19, 2009) (Exhibit A).

Cordele Circuit Public Defender Office “would cease to function” should the office lose county funding for the existing assistant public defender position and, “[t]he public defender’s office would not be able to handle indigent defense any better than the contract attorneys were able to do prior to the opening of the state offices in 2005 [and] would be subject to the same constitutional infirmities as were alleged in regard to the old contract system.”³

89. Notwithstanding Defendant Eidson’s warnings, the four Defendant County Commissions refused to restore the county-funded position that existed before 2008, and eliminated the office’s sole county-funded attorney who was responsible for juvenile cases. In July 2009, the office was left with three attorneys to handle four superior courts with three judges and four juvenile courts.

90. Since July 2009, the counties have provided only the office space and equipment required by O.C.G.A. § 17-12-34. The State has not provided funding to replace any of the full-time assistant public defender positions lost to county cuts.

91. The counties’ failure to provide funding for the public defender system has resulted in public defenders handling excessive caseloads, providing

³ *Id.*

little to no legal representation for their clients, and routinely being unable to represent children in delinquency proceedings in juvenile court.

92. In calendar year 2010, the first full year after the public defender office was stripped of county funding for attorney positions, the entire office reported handling 1,211 cases. It reported that Defendant Eidson handled 510 cases, of which 299 were felonies; that Assistant Public Defender Steven Knittle handled 518 cases, of which 234 were felonies; and that Assistant Public Defender Rashawn Clark handled 161 cases, of which 92 were felonies.⁴

93. In 2011, the circuit public defender office reported handling 1,198 cases. It reported that Defendant Eidson handled 473 cases, including 283 felonies; that, before leaving the office in 2011, Assistant Public Defender Knittle handled 228 cases, including 102 felonies; that Mr. Knittle's replacement, Joshua Larkey, handled 263 cases, of which 139 were felonies in November and December; and that Assistant Public Defender Clark handled 234 cases, of which 110 were felonies.⁵

⁴ Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Appointed from January 1, 2010 to December 31, 2010, at 17 (Nov. 21, 2013) (Exhibit B).

⁵ Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Appointed from January 1, 2011 to December 31, 2011, at 17 (Nov. 21, 2013) (Exhibit C).

94. In 2012, the office reported that its caseloads grew. It reported that the entire office handled 1,384 cases; that Defendant Eidson handled 694 cases, including 314 felonies; that Assistant Public Defender Joshua Larkey handled 628 cases, including 323 felonies; and that Assistant Rashawn Clark (who was out part of the year on maternity leave) handled 138 cases, including 60 felonies).⁶

95. Judicial circuits with comparable numbers of indigent cases had more attorneys, and smaller per-attorney caseloads, because they received county funding for assistant public defenders. For example, the Tifton Circuit Public Defender, located just south of the Cordele Circuit, also covers four counties. The office has six attorneys, four of which are county-funded. In 2012, the circuit reported handling 1,313 cases, with no single attorney handling over 265 cases.⁷ The Paulding Circuit Public Defender covers one county. The county funds four of the office's seven attorneys. In 2012, the office reported handling 1,334 cases. No single attorney handled over 182 cases.⁸

96. Unlike most states, and despite the GPDSC's duty to "approve and implement programs, services, policies and *standards* . . . to comply with all

⁶ Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Appointed from January 1, 2012 to December 31, 2012, at 16 (Nov. 21, 2013) (Exhibit D).

⁷ *Id.* at 44 (Exhibit E).

⁸ *Id.* at 34 (Exhibit F).

applicable laws” governing the right to counsel, O.C.G.A. § 17-12-8(b) (emphasis added), GPDSC maintains that it currently has no standards for the provision of public defense services by which the quality of representation can be measured and guaranteed. Thus, there is no mechanism for ensuring that constitutionally adequate counsel is being provided to indigent children and adults and preventing deficient representation by mere happenstance of geographic location.

97. The American Bar Association (ABA); the National Legal Aid and Defender Association (NLADA); the Institute of Judicial Administration (IJA); the National Advisory Commission on Criminal Justice Standards and Goals (NAC); have all promulgated standards reflecting a general consensus for measuring the quality of defense representation. *See, e.g., ABA Ten Principles of a Public Defender Delivery System* (2002); *ABA Eight Guidelines of Public Defense Related to Excessive Caseloads* (2009); *IJA—ABA Standards for Juvenile Justice* (1996); *ABA Standards for Criminal Justice, Providing Defense Services* (3d ed. 1992); *ABA Standards for Criminal Justice, Pleas of Guilty* (3d ed. 1999); NLADA, *Standards for the Administration of Assigned Counsel Systems* (1989); NAC, *Report of Task Force on Courts* (1973). Courts have relied upon these standards in assessing the adequacy of counsel. *See, e.g., Missouri v. Frye*, 132 S.Ct. 1399, 1408 (2012) (relying upon *ABA Standards on Pleas of Guilty* and

noting one of its standards has “been adopted by numerous state and federal courts over the last 30 years”); Washington Supreme Court, *Standards for Indigent Defense* (June 15, 2012) (adopting caseloads standards of 150 felonies per attorney per year, 300 misdemeanor cases per attorney per year and 250 juvenile cases per attorney per year based upon existing standards), *available at* www.courts.wa.gov/content/publicUpload/Press%20Releases/25700-A-1004.pdf).

98. The consensus reached by these organizations, courts, and programs with regard to caseloads is that a full-time public defender should handle no more than 150 felonies per year, 300-400 misdemeanors per year, or 250 juvenile delinquency cases per year. These limits are not cumulative, but are to be applied proportionately if an attorney handles more than one category of cases. These caseload limits were adopted by the Georgia Supreme Court in 1998, and by Defendant GPDSC in 2004.⁹ However, GPDSC now takes the position that its only standards are with regard to determining eligibility of defendants for representation by a public defender.

⁹ See STANDARD FOR LIMITING CASE LOADS AND DETERMINING THE SIZE OF LEGAL STAFF IN CIRCUIT PUBLIC DEFENDER OFFICES (Aug. 27, 2004) (Exhibit G); *see also* Report of the Chief Justice Commission on Indigent Defense 40 n.153 (Dec. 2002) (citing Georgia Supreme Court Guideline § 6.1).

99. The caseloads of the Cordele Circuit Public Defender office, which vastly exceed national standards and the caseloads of other offices, make it impossible for the circuit's public defenders to devote adequate time to their cases, conduct or direct investigations, research legal issues, and perform other basic duties of an attorney. As a result, in many cases, they do not provide the knowledge, skill and professional judgment of a lawyer, but perform only the clerical function of informing defendants of plea offers and standing with them as pleas are entered and sentences are imposed. The caseloads also make it impossible for the office to regularly provide public defenders in the Circuit's juvenile courts.

1. The Denial of Counsel for Children in Juvenile Court

100. The Cordele Circuit Public Defender Office has not created a dedicated juvenile division to "specialize" in defending children accused of delinquent acts in violation of O.C.G.A. § 17-12-23(c). As a result, the office lacks any attorney with a specialized knowledge of the legal, developmental, social, and other issues unique to children accused of acts of delinquency, such as child and adolescent development, community-based placements, the collateral consequences of an adjudication of delinquency, and special education and mental health issues.

101. The Cordele Circuit Public Defender is regularly unable to provide lawyers to represent indigent children in juvenile proceedings in which they are constitutionally entitled to counsel despite its responsibility to represent children who “face a disposition of confinement, commitment, or probation.” O.C.G.A §17-12-23(a)(3). When there is no public defender in juvenile court, some children receive no representation; existing clients, like Affiant A.P. are abandoned. As a result, some are adjudicated delinquent without counsel; others face restitution, probation revocation and other hearings without counsel; and others are instructed to come back to court at a later date, as was the case with Plaintiff A.J.¹⁰

102. When there is no public defender in juvenile court, children are given the choice to either continue their hearings to another day so that they can speak with a public defender, or to proceed without counsel in order to resolve their cases immediately. In the absence of public defenders, some children agree to proceed without counsel not because they do not want to be represented by an attorney, but because of the time and cost of repeatedly returning to court, and the uncertainty of not knowing when a lawyer will be available. Some children, like Plaintiff

¹⁰ Affidavit of A.J. (Exhibit H).

W.M.,¹¹ agree to forgo counsel without a full understanding of the consequences, are adjudicated delinquent, and sentenced.

103. According to the Administrative Office of the Courts (“AOC”), 682 delinquency and unruly cases were filed in the Cordele Circuit’s four juvenile courts in 2010. That same year, the Cordele Circuit Public Defender Office reported handling just 70 juvenile cases. In 2011, the circuit’s juvenile courts handled 747 delinquency and unruly cases, according to the AOC; the public defender reported handling 100 juvenile cases. In 2012, the juvenile courts handled 681 delinquency and unruly cases, according to the AOC; that same year, the public defender reported handling just 52 juvenile cases, even though many of the children who appear in the Circuit’s juvenile courts are indigent.¹² Though African Americans comprise about 40% of the Circuit’s population, African American children comprise almost 70% of children referred to the circuit’s juvenile courts for alleged delinquent acts or unruliness.

¹¹ Affidavit of W.M. (Exhibit I).

¹² From 2008 to 2012, each county in the Cordele Circuit had over 28% of its population living below the poverty level. *See* U.S. Dept. of Commerce, U.S. Census Bureau, State and County QuickFacts, *available at* <http://quickfacts.census.gov/qfd/states/#> (Ben Hill, 32.3% of persons living below the poverty level; Crisp County, 31.2% of persons living below the poverty level; Dooly County, 28.6% of persons living below the poverty level; Wilcox 28.6% of persons living below the poverty level).

104. The denial of counsel resulting from these absences is illustrated by the following cases:

a. The public defender represented Affiant A.P., a fifteen-year-old African-American charged with second degree criminal damage to property and battery, at her first appearance hearing on May 15, 2013. Because A.P. denied one of her charges, the court ordered A.P. to reappear on June 20, 2013 for an adjudicatory hearing. Following the hearing on May 15, A.P. gave the assistant public defender the name of a witness who could testify on her behalf. On June 20, 2013, A.P. appeared for her adjudicatory hearing, but no public defender was present. In the absence of counsel, Defendant Pack proceeded to hold the adjudicatory hearing, directly questioning A.P. and her supporting witness and allowing a probation officer to do the same. Defendant Pack then adjudicated A.P. delinquent and sentenced her to twelve months probation, a 7 p.m. curfew, a \$50 court fee, and \$50 public defender application fee. The court further ordered A.P. to reappear on August 30, 2013 for a restitution hearing. On August 30, 2013, the public defender again failed to appear. Defendant Pack proceeded to hold the hearing in the absence of a public defender, and ordered the unrepresented fifteen-year-old to pay an additional \$380 in restitution. Defendant Pack

also advised A.P. to get a job so she can pay her restitution. Defendant Pack did not explain to A.P. the importance of having an attorney or advise her of the dangers of proceeding without counsel during any of these appearances.¹³

b. On November 5, 2013, C.H., a seventeen-year-old African-American, appeared in Crisp County Juvenile Court for a first appearance hearing. He was charged with terroristic threats and simple assault. Upon arriving in court, C.H. requested a lawyer to represent him, but no public defender was present because the entire office was in Dooley County Superior Court handling arraignments. Because no public defender was available, his case was continued for another month.¹⁴

c. A.L., a sixteen-year-old African-American charged with terroristic threats for allegedly threatening a school employee, also appeared in Crisp County Juvenile Court on November 5, 2013 with her mother. After informing A.L. of her right to counsel, Defendant Pack said she did not need an attorney to go forward with her case because any questions she might have could be answered by her mother or the court. If A.L. admitted

¹³ Affidavit of A.P. (Exhibit J).

¹⁴ Affidavit of A. Gupta (Exhibit K).

to the terroristic threats charge and went forward without counsel, Defendant Pack explained, she could leave court with a final order. Alternatively, Defendant Pack explained that if A.L. denied the offense and/or requested to speak with an attorney, she would have to come back to court at a later date. When asked if she wanted to go forward or wait to speak to an attorney, A.L. said she was willing to go forward without a lawyer, admitted to the terroristic threats charge, and was immediately ordered to serve 12 months probation, pay a \$50 court fee, and perform 20 hours community service.¹⁵

d. On August 29, 2013, the entire public defender office was in Crisp County Superior Court handling arraignments. Thus, no public defender was available to appear in Ben Hill County Juvenile Court. J.M., a thirteen-year-old who had previously been represented by the public defender's office at a detention hearing and in other cases, appeared in Ben Hill Juvenile Court for arraignment. The court continued his case because of the public defender's absence. J.W., a white fifteen-year-old, and C.W., a Caucasian thirteen-year-old, were co-defendants in a Wilcox County case who were both charged with child molestation, and appeared in juvenile court that day in Ben Hill County. Both children were detained and were

¹⁵ *Id.*

present for arraignment. J.W. was already represented by the public defender, but C.W. needed a conflict attorney. Both cases were continued, and both boys sent back to detention for even longer periods of time because no one advocated for their release.¹⁶

e. On August 27, 2013, seven children, all African-American, appeared in Crisp County Juvenile Court for first appearance hearings, all without counsel. No public defender was present because the entire office was in Crisp County Superior Court (just one floor up from the juvenile courtroom) for arraignments. The court dismissed one child's case, and continued another case because no family member was present on the child's behalf. Defendant Pack asked the remaining five children if they would like an opportunity to speak to an attorney, or instead "go forward" without counsel and resolve their cases that day. All five children said they would "go forward" without an attorney. Four of the five admitted to the offenses alleged against them. One was sentenced to nine months probation for simple battery; another was sentenced to six months and a 30-day suspended sentence for being unruly; and two children, who were already serving sentences in the Crisp Youth Development Campus for prior felony

¹⁶ Affidavit of L. Rosen (Exhibit L).

adjudications arising from other counties, had their cases transferred to the counties where the prior adjudications arose. The only child who denied the offense against him – unruliness – was told to come to court on September 10, 2013 with witnesses ready to testify on his behalf. Defendant Pack also told him he could speak to counsel in the interim if he so chose, and that the probation officer present in court might have contact information for the public defender office.¹⁷

f. R.T. is a sixteen-year-old African-American who was accused of theft by shoplifting for allegedly stealing candy from a convenience store. On December 5, 2013, R.T. appeared in Ben Hill County Juvenile Court without a lawyer. No public defender was present because, as Defendant Pack explained, their public defender office only has three attorneys, and they had a “very large arraignment calendar” that day in a Superior Court. Defendant Pack told R.T. he was entitled to counsel and could have his case continued if he wanted to speak to an attorney. Alternatively, he could proceed without a lawyer. In the absence of a public defender, R.T. agreed to proceed without a lawyer and admitted to shoplifting. Defendant Pack

¹⁷ Affidavit of M.S. Harbert (Exhibit M).

sentenced him to six months probation and imposed a \$50 court fee. No restitution was imposed because the candy was recovered.¹⁸

105. These examples not only confirm that excessive caseloads cause the public defender's routine absence from juvenile court, but also demonstrate that children decide to forgo counsel without adequate advisements describing the right to counsel, the dangers of self-representation, and the full spectrum of possible dispositions the court may impose post-adjudication. *See In re W.M.F.*, 180 Ga. App. 397, 399, 349 S.E.2d 265, 267-68 (1986) (admission of delinquency was not knowing and voluntarily when the court failed to advise the child of dangers of self-representation); *In re B.M.H.*, 177 Ga. App. 478, 478, 339 S.E.2d 757, 758 (1986) (reversing adjudication where court failed to advise juvenile of dangers of proceeding without counsel and the possible dispositions the court could impose). As a result, the presence of public defenders in the Circuit's juvenile courts is essential to protect the constitutional rights of the children who come before those courts.

106. For instance, on November 26, 2013, J.G., an African-American youth, appeared in Crisp County Juvenile Court charged with criminal trespass, unruliness, and theft by taking. Defendant Pack listed the following as possible

¹⁸ Affidavit of L. Rosen (Exhibit L).

dispositions in his case: counseling, probation, and community service. She did not inform J.G. that he faced detention. Only after J.G. said he was willing to proceed without a lawyer and admitted to each offense did the prosecutor recommend he spend 15 days in short-term detention, a recommendation Defendant Pack followed.

107. Rather than provide adequate verbal warnings about the right to counsel and the possible dispositions at the court's disposal, pre-printed "Acknowledgement of Rights" forms are passed out to children before court without sufficient explanation and without any inquiry into the child's intellectual functioning or ability to read and comprehend the information on the forms.

108. In addition, Judge Pack imposes monetary burdens on children adjudicated delinquent that are either unauthorized, or unaccompanied by advisements alerting children to the availability of an application fee waiver, or an inquiry into the child's ability to pay. For instance, on November 26, 2013, Defendant Pack imposed \$496 in fines against Z.W., an unrepresented seventeen-year-old charged with possession of alcohol by a minor and consumption of alcohol by a minor, offenses that allegedly occurred when he was sixteen-years-old. These fines were not authorized under the Juvenile Code. *See* O.C.G.A. § 15-11-601(a)(8) (enumerating the offenses for which fines may be imposed against

delinquent juveniles). Moreover, O.C.G.A. § 15-21A-6(c) requires the waiver of public defender application fees in cases of undue hardship. Too often, however, children appearing in the circuit's juvenile courts are informed of the application fee, but not the statutorily available fee waiver, causing some to forgo counsel because they cannot afford to pay the fee.

109. The public defender's repeated absences and Defendant Pack's inadequate advisements regarding the right to counsel compel children to proceed without counsel in violation of the constitutions and laws of the United States and Georgia.

2. The Denial of Counsel for Adults in Superior Court.

110. Adults detained in jail after arrest in the Cordele Circuit do not regularly receive the "services of counsel" within three business days of arrest and their application for a public defender in violation of O.C.G.A. § 17-12-23(b). The public defender's investigator typically conducts initial interviews with people detained in the jails, but solely for the purpose of completing the public defender application form. Lasting only a few minutes, these meetings involve no discussion of the defendant's case, strategies for obtaining pre-trial release, or potential legal and factual defenses. Many defendants are not informed whether they have been accepted or rejected for representation by a public defender until at

or near the date of arraignment. If eligible for a public defender, they may not see one until a few days before arraignment, or may have only brief encounters with public defenders at bond hearings or in jail. On occasion, a public defender has interviewed defendants in groups.

111. When people are deemed ineligible for representation by the public defender office, neither the public defenders nor their staff inform them of their right to retain counsel or their right to ask the judge for a lawyer if the court finds they are unable to afford lawyers after making good-faith efforts to retain one. *See Gideon*, 372 U.S. at 344 (a person “who is too poor to hire a lawyer” is guaranteed counsel by the Sixth Amendment). On occasion, a member of the public defender’s staff escorts the applicant to the district attorney’s table to speak directly with a prosecutor.

112. Defendants found eligible for the public defender’s services receive little to no advocacy for the reduction of bond and pretrial release. As a result of the failure of the public defenders to seek review of bonds in a prompt and timely manner, many people accused of crimes are illegally detained in jail and may lose their employment, shelter, means of transportation, and otherwise be injured.

113. Though public defenders in other judicial circuits routinely demand preliminary hearings pursuant to O.C.G.A. § 17-7-20, *et seq.*, for clients soon after

arrest and long before arraignment, that is not the practice in the Cordele Circuit. The Cordele public defenders never asked for a preliminary or commitment hearing in 2011 and 2012. One Cordele public defender even asked her client to provide her, the public defender, with reasons in writing as to why the client was entitled to a preliminary hearing.¹⁹ Only in the last six months have public defenders asked for preliminary hearings in a few cases.

114. Jailed defendants regularly wait weeks or months without a court appearance or a visit from a public defender, unless they are charged with a crime that requires that bond be set by a Superior Court judge. During this time, no attorney is working on their behalf, no investigation is conducted, and no witnesses are interviewed. Thus, the defendants are denied the “consultation, thoroughgoing investigation and preparation” that have been recognized as “vitally important” duties of counsel since *Powell v. Alabama*, 287 U.S. 45, 57 (1932).

115. Many defendants meet a public defender for the first time when they appear in court for arraignment. Even those who have met a public defender previously usually learn of the plea offers in their cases for the first time at a recess after call of the arraignment calendar. Many defendants enter guilty pleas and are

¹⁹ Letters from Asst. Public Defender R. Clark to Def., Dec. 28, 2011 and Jan. 19, 2012 (Exhibit N).

sentenced after the recess without meaningful, confidential, and substantive communications with counsel, without any investigation regarding any aspect of their cases, without any research into any legal issues in their cases, and without any professional and informed assessment by a lawyer of the case against them.

116. In the Circuit's largest county, Crisp, superior court judges convert one of the courthouse's two upstairs courtrooms into a temporary "public defender office," where public defenders meet with dozens of defendants for the first time during a recess on the day of arraignments. At least one sheriff's deputy is stationed in the "office" the entire day, and district attorneys have unfettered access to the "office." For many defendants, this is the only "public defender office" they will see and the only opportunity to speak to a public defender they will have before entering a plea and being sentenced when court resumes. Packed with indigent defendants and their relatives and friends, the courtroom is in no way a law office, but the staging area for an assembly line process in which the Superior Court Judges, the district attorney's office, and the public defenders attempt to resolve as many cases as possible in as little time as possible.

117. Public defenders are regularly paired with defendants in the order they appear on the court calendar or in alphabetical order, rather than based on any existing attorney-client relationship. That is because there is no attorney-client

relationship. One public defender may convey the prosecution's plea offer to a defendant during the recess during arraignments, but another public defender may stand with the defendant when he enters a guilty plea and is sentenced, usually as part of a group. A defendant may speak with one public defender at arraignment, then another at calendar call, and then plead guilty as part of a group accompanied by another public defender. Few defendants have a clear understanding of who, if anyone, is responsible for their case.

118. A proper and constitutional plea bargaining process requires, among other things, multiple interviews with a defendant, fact investigation, legal research, negotiations with the prosecution, and sufficient time for a defendant to consider the alternatives and make a fully informed, knowing, and intelligent decision. Discussions of plea offers are "best conducted in a calm, unhurried, and private atmosphere rather than at the last moment in a courtroom." *ABA Standards on the Prosecution Function* 3.41 (commentary) (3d ed. 1993). While prosecutors have broad discretion with regard to making plea offers and the terms for acceptance, a prosecutor's discretion cannot be exercised in a way that violates the due process rights of an accused, *see, e.g., Blackledge v. Perry*, 417 U.S. 21 (1974); *Santobello v. New York*, 404 U.S. 257 (1971); *North Carolina v. Pearce*, 395 U.S. 711 (1969), and must be exercised in a way that is consistent with the

prosecutor's duty "to seek justice." *Berger*, 295 U.S. at 88. *See also National Prosecution Standards* 2-8.3 ("The prosecutor should cooperate with defense counsel at all stages of the criminal process to ensure the attainment of justice and the most appropriate disposition of each case."); 5.21 (a prosecutor should "make known a policy of willingness to consult with the defense concerning disposition of charges by plea and should set aside times and places for plea negotiations, in addition to pre-trial hearings") (3d ed. 1999).

119. However, because plea offers are generally not communicated before the day of arraignments and because the Cordele public defenders must speak to so many defendants during a recess between the call of the calendar and the entry of guilty pleas, defendants learn of plea offers in hurried conversations limited to a few minutes. Confidentiality is not always maintained. The brief conversations in which plea offers are communicated do not constitute "legal representation." They do not provide defendants with adequate information or sufficient time necessary for making important, life-altering decisions as to whether to accept or reject a plea offer.

120. The public defenders also lack the time and resources to investigate the facts of the case and any issues of mental illness, intellectual limitations or disability, employment, military service, family circumstances, prior convictions

and other aspects of the backgrounds of defendants. During the recess, there is no opportunity for them to learn of and inform defendants of any collateral consequences such as deportation, disenfranchisement, dishonorable discharge from the armed forces, suspension or revocation of driver's licenses, and ineligibility for public benefits, business or professional licenses, and military service.

121. The public defenders are thus unable to “make an independent examination of the facts, circumstances, pleadings and laws involved” in order to “offer [an] informed opinion as to what plea should be entered.” *Von Moltke v. Gillies*, 332 U. S. 708, 721 (1948); *accord Smith v. United States*, 348 F.3d 545, 553 (6th Cir. 2003); *Boria v. Keane*, 99 F.3d 492, 497 (2d Cir. 1996); Unif. Super. Ct. R. 33.4(B) (“[D]efense counsel, after appropriate investigation, should advise the defendant of the alternatives available and of considerations deemed important” in deciding what plea should be entered); Ga. R. of Prof’l Conduct 1.1 (requiring legal knowledge, thoroughness and preparation reasonably necessary for representation); *ABA Standards for Criminal Justice, Pleas of Guilty* § 14-3.2(b) (3d ed. 1999) (“Defense counsel should not recommend to a defendant acceptance of a plea unless appropriate investigation and study of the case has been completed.”).

122. Nevertheless, the public defenders relay the District Attorney's plea offers to defendants, and they inform them that the offer will expire – often within a day – and may not be available again. Defendants thus not only lack essential information, they are also required to decide whether to accept or reject plea offers under immense time pressures contrary to Uniform Superior Court Rule 33.2(A), which requires that they be given a reasonable time to consult with counsel.

123. In accepting guilty pleas after the recess, Superior Court Judges Pridgen, Chasteen, and Hughes ask defendants if they are satisfied with their lawyers. They once asked this by mentioning specific public defenders by name, but this confused many defendants who did not know which public defender was representing them. Defendants Pridgen, Chasteen, and Hughes therefore changed their practice of naming public defenders, and instead ask defendants if they are satisfied with the “public defender office.” As Defendants Pridgen, Chasteen, and Hughes know, there has not been any attorney-client communication, much less a relationship, between the public defenders and the defendants. For example, one defendant, a high school student, answered that he did not have a lawyer; he had only spoken to the public defender investigator about the plea offer. (The investigator no longer discusses plea offers with defendants.). Moreover, Defendants Pridgen, Chasteen, and Hughes are aware that the public defenders

routinely fail to assert their clients' rights on basic matters, such as the right to a preliminary hearing, and it is apparent that the public defenders rarely meet with their clients until the day of court, as evidenced by the decision to convert a courtroom in one county courthouse into a "public defender office." Thus, the question of whether defendants are satisfied with counsel is meaningless to a person who is unlikely to have an independent understanding of the professional responsibilities of a lawyer rendering actual representation, such as meaningful interviews, investigation, motions practice, legal research, and a thorough and informed discussion of the decisions to be made in a criminal case.

124. Even with fewer cases after the guilty pleas at arraignments, the public defenders lack the staff, time, and resources to represent defendants who do not plead guilty at arraignment.

125. The public defenders do not conduct substantive interviews of defendants. Instead, they have asked defendants to write out their versions of events, and have interviewed some defendants in groups.

126. The public defenders lack the staff and resources to investigate the facts of the cases and circumstances of the defendants, such as mental illness, intellectual limitations or disability, employment, military service, family

circumstances, and other aspects of their backgrounds. They are unable to determine collateral consequences and advise defendants with regard to them.

127. The public defenders do not engage in any motions practice based on the particular facts of a case. Instead, they either file brief boilerplate discovery motions or they file no motion at all. Motions in limine, motions to suppress, and other pleadings based on the facts of the cases are rarely filed by the Cordele Circuit Public Defender.

128. Because the public defenders are unable to provide even minimal professional services, defendants receive no meaningful legal advice and advocacy.

129. As evidenced by a public defender asking a defendant to tell her why he was entitled to a preliminary hearing, the Cordele public defenders lack sufficient training to represent defendants accused of crimes. Training is particularly crucial for public defenders who must deal with excessive caseloads and lack adequate resources. *See ABA Ten Principles of a Public Defender Delivery System*, Principle 9 (commentary); *ABA Standards for Criminal Justice, Providing Defense Services*, Standard 5-1.5.

130. The public defenders have a longstanding practice of refusing to represent defendants who cannot pay the public defender application fee in seeking its waiver. *See O.C.G.A. § 15-21A-6(c)*. For many years, the public defender

affirmatively requested the fee's imposition against defendants until the judges started imposing it, and prosecutors started requesting the fee as part of the plea recommendation. The public defenders still do not seek waiver for defendants who ask them to request waivers.

131. The refusal to seek waivers effectively chills a defendant's right to legal representation by preconditioning access to this constitutional right on payment. *See, e.g., Alexander v. Johnson*, 742 F.2d 117, 123-24 (4th Cir. 1984) ("The state's initiatives . . . naturally must be narrowly drawn to avoid . . . chilling the indigent's exercise of the right to counsel"); *see also Griffin v. California*, 380 U.S. 609, 614 (1965) (invalidating a statute that penalized a defendant's assertion of his Fifth Amendment right against self-incrimination). This policy also violates the duty of a lawyer to inform the client of the applicable law and to advocate on behalf of the client's interest. *See* Ga. Bar R. of Prof'l Conduct Rule 1.3, cmt. 1; *see also* Ga. Bar R. of Prof'l Conduct, pmbl., § 2.

132. The public defender's pretrial inattention to both indigent adults and children is not explained by the public defender's focus on, or dedication to representation of indigent defendants at trial. In fact, in 2012, the public defender brought to trial only five cases out of the 1,332 felony and misdemeanor cases handled in superior court.

3. Defendants Have Failed to Adequately Monitor The Representation of Indigent Children and Adults.

133. As discussed above, the Indigent Defense Act requires oversight and monitoring of the circuit public defender at both the state and county levels to ensure the delivery of constitutionally and statutorily mandated legal representation. *See* O.C.G.A. §§ 17-12-1(c), 17-12-5(d)(12), 17-12-20(d).

134. However, Defendants have not implemented effective measures for monitoring and evaluating the performance of the Cordele Circuit Public Defender Office. Defendants do not recognize caseload and other performance standards adopted by the GPDSC in 2004 as binding or even relevant in assessing the performance of the public defender office. Consequently, Defendants have no meaningful criteria with which to evaluate the Cordele Circuit Public Defender Office's performance. Nor do they have a system for ensuring the Cordele Circuit Public Defender Office appears in juvenile courts, promptly communicates with clients, investigates cases, files case-specific motions, advocates for clients at sentencing, and otherwise provides adequate and client-specific representation to its clients.

135. To ensure adequate monitoring at the local level, the Act requires that Defendants Jay, Nance, Hudson, and Keene, as chairmen of their respective boards

of commissioners, appoint one member to the three-member Cordele Judicial Circuit Supervisory Panel, whose primary task is evaluating the performance of the Circuit Public Defender Office. O.C.G.A. § 17-12-20(a). The statute requires that appointments shall occur within sixty days of a vacancy. *Id.* Notwithstanding this statutory obligation, Defendants Jay, Nance, Hudson, and Keene have not appointed an attorney to the Cordele Judicial Circuit Supervisory Panel.

136. If Defendants adequately monitored the Cordele Circuit Public Defender Office, they would have found that the office is severely understaffed and underfunded and unable to meet its constitutional and statutory obligation to provide representation to adults accused of crimes and children accused of acts of delinquency.

137. If Defendants adequately monitored the Cordele Circuit Public Defender Office, they would have found that its attorneys are routinely absent from the Circuit's juvenile courts.

138. If Defendants adequately monitored the Cordele Circuit Public Defender Office, they would have found that it does not provide the "services of counsel" to detained defendants within three business days of arrest and their application for a public defender in violation of O.C.G.A. § 17-12-23(b).

139. If Defendants adequately monitored the Cordele Circuit Public Defender Office, they would have found that its public defenders lack adequate time to interview defendants and are unable to make an independent examination of the facts, circumstances and laws involved in cases in order to offer an informed opinion to defendants as to what plea should be entered.

140. If Defendants adequately monitored the Cordele Circuit Public Defender Office, they would have found that cases are rarely investigated.

141. If Defendants adequately monitored the Cordele Circuit Public Defender, they would have found that its attorneys are in need of training with regard to defending adults and children accused of crimes.

CLASS ACTION ALLEGATIONS

142. Plaintiffs seek the certification of two classes in this action under O.C.G.A. § 9-11-23. In the first class, Plaintiffs N.C., S.C., A.J., and W.M. seek to represent all indigent children who are or will be accused of delinquent acts in the juvenile courts of the Cordele Circuit. In the second class, Plaintiffs Phillips, Young, Morgan, and Harper seek to represent all indigent adults who are or will be accused of crimes in the superior courts of the Cordele Circuit.

A. CHILDREN

143. Plaintiffs N.P., S.C., A.J., and W.M. seek to represent a class consisting of all indigent children who are or will in the future be accused of delinquent acts and subject to proceedings where they face confinement, commitment, probation, or revocation of probation in the Cordele Judicial Circuit's juvenile courts, and are entitled to the assistance of counsel by the Georgia and United States Constitutions, the Indigent Defense Act of 2003, the Juvenile Code, or other applicable law.

144. Plaintiffs N.P., S.C., A.J., and W.M. meet the requirements of O.C.G.A. § 9-11-23(a) in that:

a. The members of this proposed class are so numerous as to make it impracticable to bring separate civil rights actions. According to the AOC, approximately 700 cases are referred to the four juvenile courts in the Cordele Judicial Circuit alleging delinquent acts every year. Furthermore, the membership of the class is constantly changing as new children are accused of delinquent acts and pending cases are resolved. The members of the class are so numerous as to make it impracticable to bring separate civil rights actions.

b. The policies, customs, and practices challenged in this action on behalf of Plaintiffs N.P., S.C., A.J., and W.M., namely the failure to establish a juvenile division in the Cordele public defender's office and the failure to consistently provide counsel in juvenile proceedings, apply equally to Plaintiffs and similarly situated children. Moreover, Plaintiffs N.P., S.C., A.J., and W.M., and the members of the proposed class have a common interest in counsel being regularly available in juvenile court and not arbitrarily denied because there are not enough public defenders to represent clients in the Superior Courts and juvenile courts. Accordingly, the claims asserted by the members constituting the proposed class raise common questions of law and fact that will predominate over individual questions of law or fact, and can be resolved on a class-wide basis;

c. Plaintiffs N.P., S.C., A.J., and W.M. assert claims which are typical of claims members of the proposed class have against the Defendants, i.e. the right of indigent children to counsel in juvenile court; and

d. Plaintiffs N.P., S.C., A.J., and W.M., and their counsel will adequately represent the interests of all members of the proposed class. Plaintiffs N.P., S.C., A.J., and W.M. do not have any interests that would

conflict with members of the proposed class, and Plaintiffs' counsel have the experience and resources necessary to adequately represent all members of the proposed class.

145. Plaintiffs N.P., S.C., A.J., and W.M. meet the requirements of O.C.G.A. § 9-11-23(b)(2) in that a class action is a superior and necessary form for resolving the issues raised by this Complaint because the Defendants' actions have resulted in the arbitrary and unpredictable availability of counsel for all members of the proposed class, making appropriate declaratory and prospective injunctive relief against Defendants with respect to all members of the class.

146. Because Defendants' actions have denied Plaintiffs the right to counsel, and because Plaintiffs are indigent and do not have alternative access to representation, the remedies available at law are both unavailing and unavailable. Thus, class members will suffer substantial and irreparable injury.

B. ADULTS

147. Plaintiffs Phillips, Young, Morgan, and Harper seek to represent a class consisting of: all indigent adults who are or will in the future be accused of felonies, misdemeanors, or violations of the conditions of probation in the Cordele Judicial Circuit's superior courts, and are entitled to the assistance of counsel under

the Georgia and United States Constitutions, the Indigent Defense Act of 2003, or other applicable law.

148. Plaintiffs Phillips, Young, Morgan, and Harper meet the requirements of O.C.G.A. § 9-11-23(a) in that:

a. Members constituting the proposed class are so numerous as to make it impracticable to bring them all before the court. Approximately 1,900 people are charged with criminal offenses in the Cordele Judicial Circuit every year; of these individuals, the public defender office has, on average, represented over 1,260 each year, according to its own data. Furthermore, the membership of this proposed class is constantly changing as new people are charged with crimes and older cases are resolved. Many members of the proposed class are only in it momentarily because they meet their public defenders and plead guilty and are sentenced within a few hours on the same day. The members of the proposed class are so numerous as to make it impracticable to bring separate civil rights actions.

b. The deficiencies, policies, and practices challenged in this action apply equally to Plaintiffs Phillips, Young, Morgan, and Harper and all members of the proposed class. Members of the proposed class are routinely denied essential elements of professional representation as

previously alleged herein, including, but not limited to, prompt communication with an attorney, advocacy for bond and/or bond review, demands for preliminary hearings, investigation into the prosecution's case and potential defenses and mitigating factors, legal counsel during plea negotiations, and sentencing advocacy because the public defender office has far more cases than it can possibly handle competently.

c. This case is about the systemic deficiencies in representation – not the guilt or innocence of individual defendants or the facts of their individual cases. The claims regarding the systemic deficiencies involve common questions of law and facts, such as whether the “meet ‘em and plead ‘em” approach, through which a large number of cases are resolved, constitutes “representation” by “counsel” under the United States and Georgia Constitutions, the Georgia Rules of Professional Responsibility, the Uniform Superior Court Rules, and established standards for the defense of criminal cases; and whether the Cordele Circuit Public Defender Office, as presently constituted, has the capacity to provide all members of the proposed class with the professional services of an attorney-at-law, as opposed to serving the clerical function of communicating plea offers to defendants. All claims asserted by the Plaintiffs, like the common questions

of law and fact, will predominate over individual questions of law or fact, and can be resolved on a class-wide basis.

d. The claims and experiences of Plaintiffs Phillips, Young, Morgan, and Harper are typical of all putative class members in the following respects: they do not receive timely and adequate legal representation or informed professional advice because there are not enough public defenders for the number of indigent adults and children entitled to representation, as alleged herein, and, as a result, their cases are not investigated; legal issues are not identified; preliminary hearings are rarely sought; case-specific motions are not filed; those detained after arrest are denied the “services of counsel” within three business days; plea negotiations primarily consist of the public defender conveying the prosecution’s plea offer without providing legal counsel; and sentencing advocacy is virtually nonexistent.

e. Plaintiffs Phillips, Young, Morgan, Harper, and their counsel will adequately represent the interest of all members of the proposed class. The named Plaintiffs do not have any interests that would conflict with members of the proposed class, and Plaintiffs’ counsel have the experience

and resources necessary to adequately represent all members of the proposed class.

149. Plaintiffs Phillips, Young, Morgan, and Harper meet the requirements of O.C.G.A. § 9-11-23(b)(2) in that a class action is a superior and necessary form for resolving the issues raised by this Complaint because the Defendants' actions have resulted in constitutionally inadequate representation – or no representation at all – for members of the proposed class, making appropriate declaratory and prospective injunctive relief against Defendants with respect to all members of the class.

CAUSES OF ACTION

COUNT I:

DENIAL OF DUE PROCESS IN VIOLATION OF THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION

150. Each and every allegation of the Complaint is incorporated herein as if set forth in full.

151. By their actions, inactions, customs, and practices alleged herein, Defendants Deal; Defendant Sakrison; and the GPDSC and its members, Defendants Cross, Hodges, McGarity, Miller, Morris, Paris, Seagraves, Sims, and Tolley, (collectively “the State Defendants”); Defendants Fachini, Nichols, Rigby, Brown, Todd, Faison, and Warbington (collectively “the District Attorneys”); Ben

Hill County, the Ben Hill County Board of Commissioners and its members; Crisp County, the Crisp County Board of Commissioners and its members; Dooly County, the Dooly County Board of Commissioners and its members; and Wilcox County, the Wilcox County Board of Commissioners and its members (collectively “the County Defendants”); Defendant Pack; and Defendant Eidson, acting under color of state law, have deprived Plaintiffs N.P., S.C., A.J., W.M., and other indigent children eligible for representation by counsel in the juvenile courts in the Circuit. *See In re Gault*, 387 U.S. at 36-37. As such, the Defendants have denied due process of law to Plaintiffs and others similarly situated, in violation of the Fourteenth Amendment of the United States Constitution, as enforced through 42 U.S.C. § 1983 and other applicable law.

COUNT II:

DENIAL OF COUNSEL IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION

152. Each and every allegation of the Complaint is incorporated herein as if set forth in full.

153. By their actions, inactions, customs, and practices alleged herein, the State Defendants; the County Defendants, Cordele Superior Court Judges Pridgen, Chasteen, and Hughes (collectively “the Defendant Superior Court Judges”), the

District Attorneys; and Defendant Eidson, acting under color of state law, have failed to adequately fund and effectively monitor the Cordele Circuit Public Defender Office. These failures have resulted in the denial of adequate legal representation to Plaintiffs Phillips, Young, Morgan, Harper, and other similarly situated indigent adults accused of crimes in the Superior Courts of the Cordele Judicial Circuit in violation of the right to counsel as guaranteed by the Sixth Amendment of the United States Constitution, made applicable to the States by the Due Process Clause of the Fourteenth Amendment, as enforced through 42 U.S.C. § 1983, and *Maine v. Moulton*, 474 U.S. 159 (1985); *Argersinger v. Hamlin*, 407 U.S. 25 (1972); *White v. Maryland*, 373 U.S. 59 (1963); *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Von Moltke v. Gillies*, 332 U. S. 708 (1948).

COUNT III:

DENIAL OF ACCESS TO THE COURTS AND TO COUNSEL IN VIOLATION OF GEORGIA CONSTITUTION, ART. I, § 1, ¶¶ XII AND XIV

154. Each and every allegation of the Complaint is incorporated herein as if set forth in full.

155. By their actions, inactions, customs, and practices alleged herein, the State Defendants; the County Defendants; and Panel members Wright and Sherrell, acting under color of state law, have failed to adequately fund and/or effectively

monitor the Cordele Circuit Public Defender Office, resulting in the denial of timely and adequate representation to indigent adults accused of crimes in the Cordele Judicial Circuit's superior courts their right to the courts and to counsel in violation of article I, section I, paragraphs XII and XIV of the Georgia Constitution.

COUNT IV:

**DENIAL OF DUE PROCESS AND EQUAL PROTECTION
IN VIOLATION OF GEORGIA CONSTITUTION ART. I, § 1, ¶ 1**

156. Each and every allegation of the Complaint is incorporated herein as if set forth in full.

157. By their actions, inactions, customs, and practices alleged herein, the State Defendants; the County Defendants; and Panel members Wright and Sherrell, acting under color of state law, have failed to adequately fund and/or effectively monitor the Cordele Circuit Public Defender Office, resulting in the denial of timely and adequate representation for indigent individuals accused of crime in the superior courts of the Cordele Circuit and indigent children accused of delinquent acts in the circuit's juvenile courts of their right to counsel. As such, Defendants have denied due process of law and equal protection of the law to Plaintiffs and

others similarly situated, in violation of Article I, Section I, Paragraphs I and II of the Georgia Constitution.

COUNT V:

**DENIAL OF COUNSEL IN VIOLATION OF INDIGENT DEFENSE
ACT OF 2003, O.C.G.A. § 17-12-1, *et seq.***

158. Each and every allegation of the Complaint is incorporated herein as if set forth in full.

159. The State Defendants, County Defendants, and Defendant Eidson, acting under color of state law, have failed to provide timely and adequate representation for indigent individuals accused of crime in the superior courts of the Cordele Judicial Circuit, and have denied counsel entirely to some indigent children appearing in delinquency proceedings in the Circuit's juvenile courts, in violation of the Indigent Defense Act of 2003.

160. Moreover, the State Defendants, and Panel members Wright and Sherrell, have collectively failed to adequately monitor, oversee, and supervise the Cordele Circuit Public Defender Office resulting in the denial of the right to counsel and fairness in criminal proceedings.

DECLARATORY RELIEF

161. Each and every allegation of the Complaint is incorporated herein as if set forth in full.

162. Plaintiffs and persons similarly situated seek a declaratory judgment under O.C.G.A. § 9-4-1, *et seq.* to afford relief from uncertainty and insecurity regarding their rights, status, and legal relations as people subject to prosecution in the superior courts of the Cordele Judicial Circuit and the circuit's juvenile courts.

163. A real and actual controversy exists in that the Plaintiffs and persons similarly situated suffered from or face the imminent risk of suffering from the loss of their fundamental rights as stated herein.

164. The Plaintiffs and the proposed classes therefore request that the Court issue a declaratory judgment as set forth in the prayer for relief below.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, Plaintiffs respectfully pray that this Court grant the following:

A. Certify the case as a class action under O.C.G.A. § 9-11-23; GA. CONST. art. I, § 1, ¶ XIV;

B. Declare that:

1. Defendants have deprived Plaintiffs and persons similarly situated of their constitutional and statutory right to counsel in the manner stated herein, resulting in harm and a continuing threat of harm to the adults and children prosecuted in the Circuit;

2. Defendants State of Georgia, Ben Hill County, Crisp County, Dooly County, and Wilcox County, each county's board of commissioners and individual members, have a constitutional, statutory and legal duty to provide funding necessary to provide counsel to adults accused of crimes and children accused of delinquent acts who are facing a loss of liberty and cannot afford a lawyer;

3. Court fees, public defender application fees, fines, or any other monetary obligations may not be imposed on children who lack the means to make payments, or, in the alternative, such monetary obligations may not be imposed unless a determination is made that a child can afford to pay them, and no child may be detained, or have his probation extended for failure to pay such obligations unless a court has made a determination that the child had the ability to pay but willfully refused to do so;

4. Court officials, including judges, prosecutors, and defense counsel, have a constitutional, statutory, legal and ethical responsibility to carry out their duties in a way that does not interfere with or burden the right to counsel of the accused, the right of the accused to make informed, knowledgeable, knowing and intelligent decisions with regard to waiving their constitutional rights and accepting guilty pleas; and the constitutional, statutory, legal and ethical responsibilities of counsel in representing their clients;

5. Defendant Superior Court Judges, Defendant Pack and Defendant Eidson have a constitutional, statutory, legal and ethical responsibility to inform defendants of circumstances in which the public defender application fee may be waived and Defendant Eidson has a constitutional, statutory, legal and ethical responsibility to seek waiver of the fee on behalf of defendants for whom imposition of the fee would be a measurable hardship.

C. Grant injunctive relief under 42 U.S.C. § 1983 and O.C.G.A. § 9-5-1, *et seq.*, requiring Defendants to:

1. provide counsel to all indigent children accused of delinquent acts and facing a disposition of confinement, commitment, or probation at each and every session of the juvenile courts in the Cordele Circuit;

2. provide the services of counsel within three business days of the arrest of any child or adult who cannot afford counsel as required by O.C.G.A. § 17-12-23(b), such services including, but not limited to, an individual, confidential interview by an attorney of the accused; efforts to secure pretrial release for those detained; requests for preliminary hearings where appropriate; any necessary investigations; a professional assessment of the charges, possible defenses and grounds for any motions or other relief; and the filing of case- and client-specific

motions, requests for jury charges and other appropriate applications as required by the facts and law of each case to protect the rights of the accused;

3. provide all adults and children accused of crimes or delinquent acts with an explanation of their right to counsel, including (1) the benefits of counsel, the dangers and disadvantages of proceeding without counsel, and the circumstances under which the public defender fee may be waived; (2) the right of those found ineligible for public defense to retain counsel, and, if they are unable to retain a lawyer despite good faith efforts to do so, to apply to the courts for counsel.

4. monitor the performance of the Cordele Circuit Public Defender Office and require that it maintain reasonable caseloads and that its lawyers and investigator obtain necessary training and supervision; and

5. refrain from imposing court fees, public defender application fees, or any other monetary obligation on adults or children who lack the means to pay them.

D. Grant injunctive relief under 42 U.S.C. § 1983 and O.C.G.A. § 9-5-1, *et seq.*, requiring Defendants Superior Court Judges, District Attorney Denise Fachini and her assistants Cheri Nichols, Bradford Rigby, Christian Brown, A. Zachary Faison, Laura Todd, and Lauren Warbington, to conduct court sessions in

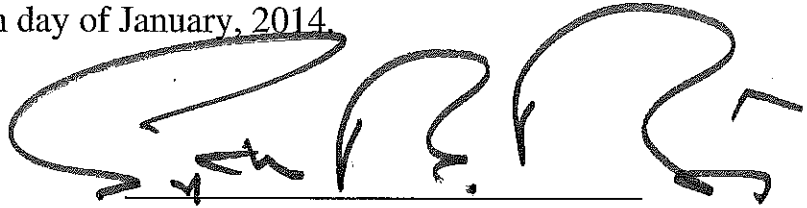
a manner that facilitates and protects the right to counsel of all people accused of crimes, including, but not limited to, permitting time for an individual, confidential interview by an attorney; necessary investigations; professional assessments of any plea offers based upon a knowledgeable assessment of the prosecution's case, possible defenses and legal issues, the record and background of the client, and collateral consequences; compliance by defense counsel with the Georgia Rules of Professional Responsibility; and sufficient time for the accused to make a considered, informed, intelligent decision with regard to accepting or declining a plea offer.

E. Award costs and attorneys fees as permitted by 42 U.S.C. § 1988 and state law;

F. Grant Plaintiffs such other relief as the Court deems just, necessary and proper.

[signatures on next page]

Respectfully submitted this 7th day of January, 2014.

A large, stylized handwritten signature in black ink, likely belonging to Stephen B. Bright, positioned above a horizontal line.

STEPHEN B. BRIGHT

Georgia Bar No. 082075

MELANIE VELEZ

Georgia Bar No. 512460

ATTEEYAH HOLLIE

Georgia Bar No. 411415

CRYSTAL REDD

Georgia Bar No. 969002

**SOUTHERN CENTER FOR HUMAN
RIGHTS**

83 Poplar Street N.W.

Atlanta, Georgia 30303

Telephone: (404) 688-1202

Facsimile: (404) 688-9440

DAVID GERSCH

D.C. Bar No. 367469

PHILIP HORTON

D.C. Bar No. 375667

ARTHUR LUK

D.C. Bar No. 973787

QUIN LANDON

D.C. Bar No. 1001888

KEVIN O'DOHERTY

D.C. Bar No. 1001893

JESSICA D. JONES

D.C. Bar No. 1013131

TIANA RUSSELL

D.C. Bar No. 975463

ELIZABETH OWENS

D.C. Bar No. 1001986

ARNOLD & PORTER, LLP

555 Twelfth Street, NW
Washington, DC 20004-1206
Telephone: (202) 942-5000
Facsimile: 202.942.5999

Counsel for Plaintiffs

ARNOLD & PORTER, LLP²⁰
555 Twelfth Street, NW
Washington, DC 20004-1206
Telephone: (202) 942-5000
Facsimile: 202.942.5999

Counsel for Plaintiffs

²⁰ Applications for Admission Pro Hac Vice for attorneys with Arnold & Porter, LLC will be submitted.

EXHIBIT A



OFFICE OF THE PUBLIC DEFENDER

CORDELE JUDICIAL CIRCUIT

716-D 16th Avenue East
Cordele, Georgia 31015
229-276-2768 Telephone
229-273-5396 Facsimile

Timothy L. Eidson, *Circuit Public Defender*

March 19, 2009

Sherrie Leverett
Finance Director
Crisp County Board of Commissioners
210 South 7th Street
Cordele, Georgia 31015

Re: Requested funding for the Cordele Judicial Circuit Public Defender Office for fiscal year period July 1, 2009 – June 30, 2010.

Dear Sherrie:

Please find enclosed, for consideration, the proposed budget and request for funding for the Cordele Judicial Circuit Public Defender Office for the fiscal year period July 1, 2009 – June 30, 2010.

For the amount requested in support of personnel, I am making a circuit wide request of \$148,773.71. Of this amount, Crisp County is being requested to pay \$62,484.96. I am requesting one additional position of county paid assistant public defender and this is explained in the proposed budget. At present, our caseload exceeds 2000 cases. I have enclosed in the budget a record of our cases for Jan. 1 – Dec. 31 for the years 2007 and 2008. This would presently average about 500 cases per attorney in this office. This far exceeds what our standards suggest. I have attached a copy of the Standards to my proposed budget. We continue to be understaffed with attorneys.

For the amount requested in support of operations, I am making a circuit wide request of \$68,691.00. Of this amount, Crisp County is being requested to pay \$28,850.22. I am requesting \$150.00 more a month for phone expenses and an additional \$4000.00 for a computer and a laptop.

There is a 5% personnel administrative fee and an additional 5% operating administrative fee.

In reference to circuit caseload, Crisp County continues to lead the circuit with 42% of the cases in the circuit, Ben Hill has 39%, Dooly County has 14% and Wilcox County has 5%. Based on these percentages, I am asking the counties to pay a pro rata-share of both the personnel budget and the operations budget. I believe that this is a fair way of determining what amount will be requested from each county.

I believe fully that my office has been a very good steward to the Circuit, recently having returned \$46,918.13 to Crisp County. I returned a total amount of \$110,770.09 Circuit wide. I would hope that it is seen that I do not needlessly spend money, and I certainly am not extravagant. I only request basic things that will make this office operate efficiently.

My office is extremely appreciative of the support that has been provided by the Commissioners as we seek to make sure that the indigent defendants in our county receive effective representation in the courts. Please feel free to call the undersigned Circuit Public Defender should there be any specific questions or comments.

Sincerely,

Timothy Lee Eidson
Circuit Public Defender
Cordele Judicial Circuit

**JUSTIFICATION STATEMENT FOR PRESENT COUNTY PAID ASSISTANT
PUBLIC DEFENDER**

There is presently one county funded assistant public defender. As can be seen on "Exhibit A" attached hereto, this attorney serves a vital function for this office and for the counties.

First, without this attorney, our office could not adequately represent juvenile defendants. This attorney is responsible for handling the juvenile courts in this circuit. Our office normally has to appear for juvenile court three days each week.

Without this attorney, our office could not adequately handle: (1) The Probate Court of Crisp County; (2) The Magistrate Court of Crisp County and (3) The City Courts of Cordele and Arabi. In and of itself, the Probate Court of Crisp County handles a large number of misdemeanor cases in Crisp County. We are not statutorily required to represent these courts, but we do by contract.

There are presently three (3) Superior Court Judges and one (1) Juvenile Court Judge. In the District Attorney's Office, there are six (6) attorneys, which include the DA. In the Public Defender's Office for the Cordele Judicial Circuit, there are only four (4) attorneys who work in the office, which includes myself and the county paid assistant public defender.

Without the county paid assistant public defender, this office would cease to function in a manner that would be able to adequately handle indigent representation in this county. The public defender's office would not be able to handle indigent defense any better than the contract attorneys were able to do prior to the opening of the state offices in 2005. In other words, this office would be subject to the same constitutional infirmities as were alleged in regard to the old contract system.

"Exhibit A" clearly sets out the duties of the county paid assistant public defender and it is clear that this position is an essential position.

"EXHIBIT D"

EXHIBIT B

Attorney Caseload Comparison



Report Date Range Type Cases Appointed in Date Range
 Start Date 01/01/2010
 End Date 12/31/2010
 Circuit Group General Public Defender Offices
 Group Fel/Mis Yes
 Exclude Opt-Out Circuits Yes

Circuit Group Circuits

Printed on: Thursday, November 21, 2013 Page 1 of 49

	Total	Appellate	Dephration	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Local Ordinance	Misc Proceeding	Misd Prob Rev	Misdemeanor	Recorder's Court
Total	137978	504	727	59,573	24,629	15,206	1,472	177	242	5,561	28,958	929
Alapaha	1,614	7	0	578	236	67	0	0	7	181	538	0
Alcovy	4,935	26	0	1,315	1,685	472	104	0	1	223	1,109	0
Appalachian	1,542	6	0	549	108	352	26	0	1	21	479	0
Atlanta	11,996	59	0	9,672	37	1,765	191	0	0	0	272	0
Atlantic	2,064	8	4	1,052	381	252	17	0	0	0	350	0
Augusta	7,863	19	32	2,221	1,107	750	15	157	19	284	3,259	0
Brunswick	2,185	7	0	1,250	629	114	1	0	4	23	157	0
Chattahoochee	3,539	7	0	1,901	747	546	0	0	0	0	338	0
Cherokee	2,801	19	88	1,278	309	41	0	0	4	13	1,049	0
Clayton	4,190	9	0	2,604	881	535	80	0	7	0	74	0
Conasauga	3,310	16	0	1,110	611	122	14	9	2	308	1,118	0
Cordele	1,211	4	0	666	202	70	1	0	0	7	261	0
Coweta	4,437	15	59	2,297	1,047	689	47	1	9	61	212	0
Dougherty	3,487	16	0	1,042	409	212	1	0	0	163	1,644	0
Dublin	1,754	4	45	693	244	225	23	0	15	19	486	0
Eastern	5,135	12	9	2,545	1,312	996	230	0	6	0	25	0
Enotah	1,377	4	0	550	208	72	2	0	2	16	523	0
Flint	2,428	14	0	1,159	442	604	177	0	0	0	32	0
Griffin	3,863	19	51	1,364	473	345	14	6	2	377	1,212	0
Lookout Mountain	2,948	21	0	1,359	831	327	9	0	0	70	331	0
Macon	4,167	9	0	2,349	1,031	635	15	0	3	6	119	0
Middle	1,487	12	35	944	269	225	0	0	0	0	2	0
Mountain	994	3	0	522	325	86	0	0	0	3	55	0
Northeastern	3,341	27	0	1,192	1,440	294	126	0	12	6	244	0
Northern	1,792	7	43	884	37	225	13	0	0	2	581	0
Ocmulgee	4,107	11	0	1,225	819	456	22	0	9	320	1,245	0
Oconee	1,312	4	15	671	171	124	0	0	0	2	325	0
Ogeechee	3,326	11	0	667	397	217	17	0	0	428	1,589	0
Pataula	1,309	2	0	511	401	58	2	0	0	16	319	0
Paulding	1,404	4	0	511	86	261	17	0	1	36	488	0
Piedmont	3,523	9	44	1,028	1,023	111	16	0	5	187	1,100	0
Rockdale	1,900	0	3	582	341	217	32	0	2	4	719	0
Rome	2,910	11	210	1,083	499	110	6	4	0	60	927	0
South Georgia	1,441	3	0	589	348	116	0	0	0	2	383	0

	Recorder's Court	Misdemeanor	Misd Prob Rev	Misc Proceeding	Local Ordinance	Juvenile Prob Rev	Juvenile	Felony Prob Rev	Felony	Deprivation	Appellate	Total
Southern	0	39	0	0	0	19	598	1,089	2,243	0	8	3,996
Southwestern	0	728	34	1	0	0	296	373	766	0	2	2,200
Stone Mountain	929	2,700	1,265	129	0	164	1,564	1,869	4,339	0	36	12,995
Tallapoosa	0	609	9	1	0	4	92	249	710	0	1	1,675
Tifton	0	32	2	0	0	33	216	334	540	0	10	1,167
Toombs	0	220	28	0	0	3	146	109	341	7	11	865
Towaliga	0	289	10	0	0	2	12	16	474	16	0	819
Waycross	0	56	7	0	0	0	100	517	1,123	0	9	1,812
Western	0	2,720	1,368	0	0	29	491	987	1,074	66	22	6,757

	Total	Appellate	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Misd Prob Rev	Misdemeanor
Total	1211	4	666	202	70	1	7	261
Clark, Rashawn	161	0	92	23	25	1	0	20
Czarnota, Steven	21	0	10	6	2	0	0	3
Eidson, Timothy	510	4	299	84	10	0	1	112
Knittle, Steven	460	0	234	79	26	0	6	115
Larkey, Joshua	58	0	31	10	7	0	0	10
Unassigned	1	0	0	0	0	0	0	1

EXHIBIT C

Attorney Caseload Comparison



Report Date Range Type Cases Appointed in Date Range
 Start Date 01/01/2011
 End Date 12/31/2011
 Circuit Group General Public Defender Offices
 Group Fel/Mis Yes
 Exclude Opt-Out Circuits Yes

Circuit Group Circuits

Printed on: Thursday, November 21, 2013 Page 1 of 49

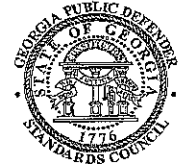
	Total	Appellate	Deprivation	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Local Ordinance	Misc Proceeding	Misd Prob Rev	Misdemeanor	Recorder's Court
Total	136373	437	873	59,400	25,197	14,076	1,448	161	195	5,383	28,104	1,098
Alapaha	1,642	5	0	629	341	54	0	0	0	210	403	0
Alcovy	4,967	37	0	1,277	1,700	488	105	0	1	387	972	0
Appalachian	1,392	2	0	523	95	261	15	0	0	29	467	0
Atlanta	11,328	28	0	8,828	75	1,855	189	0	0	0	353	0
Atlantic	2,205	10	0	1,210	437	208	25	0	0	0	315	0
Augusta	7,858	16	49	2,456	1,254	646	6	153	3	253	3,022	0
Brunswick	2,420	3	0	1,354	696	126	1	0	4	53	183	0
Chattahoochee	3,413	9	0	2,004	621	509	4	0	0	4	262	0
Cherokee	2,850	22	197	1,226	309	78	8	0	1	12	997	0
Clayton	4,454	16	0	2,731	941	691	61	0	8	0	6	0
Conasauga	3,624	15	0	1,210	637	149	6	2	1	293	1,311	0
Cordele	1,198	1	0	634	146	100	0	0	0	17	300	0
Coweta	4,894	9	62	2,535	1,184	697	77	5	6	63	256	0
Dougherty	2,447	17	0	863	330	130	1	0	2	105	999	0
Dublin	1,755	4	22	793	215	159	12	0	0	43	507	0
Eastern	5,161	13	18	2,385	1,557	909	234	0	6	1	38	0
Enotah	1,415	3	0	498	300	81	0	0	1	25	507	0
Flint	2,372	12	0	1,124	455	570	159	0	4	0	48	0
Griffin	3,523	26	48	1,300	358	322	27	1	0	344	1,097	0
Lookout Mountain	2,778	16	0	1,214	821	267	5	0	2	71	382	0
Macon	3,954	9	0	2,252	883	628	28	0	0	1	153	0
Middle	1,215	11	20	736	314	132	1	0	0	0	1	0
Mountain	1,029	1	0	537	351	77	0	0	0	1	62	0
Northeastern	3,129	17	0	1,099	1,343	266	145	0	3	0	256	0
Northern	1,811	2	40	932	53	206	18	0	3	0	557	0
Ocmulgee	3,855	11	0	1,230	813	345	1	0	0	317	1,138	0
Oconee	1,347	1	9	673	164	113	0	0	0	11	376	0
Ogeechee	2,998	8	0	703	333	157	5	0	0	355	1,437	0
Pataula	1,323	5	0	404	491	99	12	0	1	15	296	0
Paulding	1,158	8	1	477	114	141	9	0	0	23	385	0
Piedmont	3,613	9	60	1,126	974	129	21	0	3	186	1,105	0
Rockdale	1,863	0	1	568	282	183	16	0	8	2	803	0
Rome	2,918	9	218	922	580	113	9	0	1	71	995	0
South Georgia	1,522	8	0	642	345	153	9	0	0	0	365	0

	Total	Appellate	Deprivation	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Local Ordinance	Misc Proceeding	Misd Prob Rev	Misdemeanor	Recorder's Court
Southern	4,057	8	0	2,355	1,169	451	20	0	0	0	54	0
Southwestern	2,319	3	0	796	443	205	7	0	1	125	739	0
Stone Mountain	14,160	19	0	4,771	1,891	1,484	153	0	136	1,285	3,323	1,098
Tallapoosa	1,526	4	0	663	239	98	1	0	0	10	511	0
Tifton	1,216	5	0	595	314	239	33	0	0	4	26	0
Toombs	855	18	24	338	90	131	5	0	0	35	214	0
Towaliga	851	0	22	490	32	4	0	0	0	3	300	0
Waycross	1,986	7	0	1,245	560	96	0	0	0	12	66	0
Western	5,972	10	82	1,052	947	326	21	0	0	1,017	2,517	0

	Total	Appellate	Felony	Felony Prob Rev	Juvenile	Misd Prob Rev	Misdemeanor
Total	1198	1	634	146	100	17	300
Clerk, Rashawn	234	0	110	43	27	1	53
Eidson, Timothy	473	0	283	43	6	2	139
Knittle, Steven	228	1	102	40	24	12	49
Larkey, Joshua	263	0	139	20	43	2	59

EXHIBIT D

Attorney Caseload Comparison



Report Date Range Type Cases Appointed in Date Range
 Start Date 01/01/2012
 End Date 12/31/2012
 Circuit Group General Public Defender Offices
 Group Fel/Mis Yes
 Exclude Opt-Out Circuits Yes

Circuit Group Circuits

Printed on: Friday, November 1, 2013 Page 1 of 48

	Total	Appellate	Deprivation	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Local Ordinance	Misc Proceeding	Misd Prob Rev	Misdemeanor	Recorder's Court
Total	135022	362	934	57,216	25,016	14,262	1,345	219	176	5,390	28,031	2,071
Alapaha	1,584	4	0	538	342	53	0	0	2	224	421	0
Alcovy	4,462	20	0	1,022	1,547	498	92	0	0	374	909	0
Appalachian	1,366	2	0	503	109	293	15	0	0	19	425	0
Atlanta	10,860	32	0	8,439	27	1,853	208	0	1	0	300	0
Atlantic	2,495	11	0	1,170	523	190	12	0	0	10	579	0
Augusta	8,052	17	54	2,264	1,114	727	5	203	4	391	3,273	0
Brunswick	2,464	9	0	1,292	819	151	6	0	0	29	158	0
Chattahoochee	3,266	12	0	1,831	550	608	2	0	0	4	259	0
Cherokee	3,060	21	218	1,444	290	109	1	0	1	19	957	0
Clayton	4,595	22	0	2,705	1,166	602	68	0	6	1	25	0
Conasauga	3,489	6	0	1,116	600	135	5	5	6	317	1,299	0
Cordele	1,384	0	0	705	222	52	0	0	0	29	376	0
Coweta	4,995	13	42	2,548	1,223	771	107	1	1	68	221	0
Dougherty	1,979	13	0	787	308	95	3	0	0	73	700	0
Dublin	1,613	0	24	703	186	168	23	0	2	63	444	0
Eastern	4,667	8	18	2,064	1,390	939	213	0	1	1	33	0
Enotah	1,347	2	0	492	247	83	0	0	0	39	484	0
Flint	2,248	7	0	1,015	486	580	117	0	0	1	42	0
Griffin	3,514	21	43	1,350	339	342	23	2	1	341	1,052	0
Lookout Mountain	2,589	8	0	1,118	792	288	15	0	1	59	308	0
Macon	3,704	6	0	2,213	841	456	34	0	1	4	149	0
Middle	1,288	4	17	763	317	175	4	0	0	0	8	0
Mountain	1,154	1	0	624	355	75	0	0	0	8	91	0
Northeastern	3,054	13	0	1,064	1,347	363	73	0	1	0	193	0
Northern	1,928	5	51	948	64	194	16	0	1	5	644	0
Ocmulgee	3,734	6	0	1,094	851	356	7	0	6	263	1,151	0
Oconee	1,389	3	8	731	208	77	0	0	0	3	359	0
Ogeechee	2,383	5	0	666	426	87	2	0	0	199	998	0
Pataula	1,215	3	0	397	436	79	12	0	1	13	273	1
Paulding	1,334	2	0	518	134	179	20	0	0	17	464	0
Piedmont	3,510	8	78	1,012	1,010	142	6	0	0	288	966	0
Rockdale	1,844	0	0	464	302	196	11	3	0	1	867	0
Rome	3,345	6	242	1,080	605	103	7	3	0	116	1,183	0
South Georgia	1,480	4	0	628	353	123	17	0	0	0	355	0

	Recorder's Court	Misdemeanor	Misd Prob Rev	Misc Proceeding	Local Ordinance	Juvenile Prob Rev	Juvenile	Felony Prob Rev	Felony	Deprivation	Appellate	Total
Southern	0	66	5	0	0	7	314	1,159	2,198	0	3	3,752
Southwestern	0	745	103	1	2	0	178	411	710	0	3	2,153
Stone Mountain	2,070	3,459	1,126	138	0	170	1,666	1,603	4,457	0	22	14,711
Tallapoosa	0	564	7	0	0	4	144	195	791	0	5	1,710
Tifton	0	25	6	0	0	15	210	370	679	0	8	1,313
Toombs	0	179	41	0	0	0	131	101	321	8	10	791
Towaliga	0	289	7	1	0	0	3	20	495	14	5	834
Waycross	0	67	8	0	0	0	70	632	1,237	0	5	2,019
Western	0	2,671	1,108	0	0	25	404	996	1,020	117	7	6,348

	Total	Felony	Felony Prob Rev	Juvenile	Misd Prob Rev	Misdemeanor
Total	1384	705	222	52	29	376
Clark, Rashawn	138	60	28	19	6	25
Czarnota, Steven	10	3	3	1	2	1
Eidson, Timothy	594	314	85	2	13	180
Larkey, Joshua	628	323	105	30	7	163
Unassigned	14	5	1	0	1	7

EXHIBIT E

Attorney Caseload Comparison

Report Date Range Type Cases Appointed In Date Range
 Start Date 01/01/2012
 End Date 12/31/2012
 Circuit Group General Public Defender Offices
 Group Fel/Mis Yes
 Exclude Opt-Out Circuits Yes



Circuit Group Circuits

Printed on: Friday, November 1, 2013 Page 1 of 48

	Total	Appellate	Deprivation	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Local Ordinance	Misc Proceeding	Misd Prob Rev	Misdemeanor	Recorder's Court
Total	135022	362	934	57,216	25,016	14,262	1,345	219	176	5,390	28,031	2,071
Alapaha	1,584	4	0	538	342	53	0	0	2	224	421	0
Alcovy	4,462	20	0	1,022	1,547	498	92	0	0	374	909	0
Appalachian	1,366	2	0	503	109	293	15	0	0	19	425	0
Atlanta	10,860	32	0	8,439	27	1,853	208	0	1	0	300	0
Atlantic	2,495	11	0	1,170	523	190	12	0	0	10	579	0
Augusta	8,052	17	54	2,264	1,114	727	5	203	4	391	3,273	0
Brunswick	2,464	9	0	1,292	819	151	6	0	0	29	158	0
Chattahoochee	3,266	12	0	1,831	550	608	2	0	0	4	259	0
Cherokee	3,060	21	218	1,444	290	109	1	0	1	19	957	0
Clayton	4,595	22	0	2,705	1,166	602	68	0	6	1	25	0
Conasauga	3,489	6	0	1,116	600	135	5	5	6	317	1,299	0
Cordele	1,384	0	0	705	222	52	0	0	0	29	376	0
Coweta	4,995	13	42	2,548	1,223	771	107	1	1	68	221	0
Dougherty	1,979	13	0	787	308	95	3	0	0	73	700	0
Dublin	1,613	0	24	703	186	168	23	0	2	63	444	0
Eastern	4,667	8	16	2,064	1,390	939	213	0	1	1	33	0
Enotah	1,347	2	0	492	247	83	0	0	0	39	484	0
Flint	2,248	7	0	1,015	486	580	117	0	0	1	42	0
Griffin	3,514	21	43	1,350	339	342	23	2	1	341	1,052	0
Lookout Mountain	2,589	8	0	1,118	792	288	15	0	1	59	308	0
Macon	3,704	6	0	2,213	841	456	34	0	1	4	149	0
Middle	1,288	4	17	763	317	175	4	0	0	0	8	0
Mountain	1,154	1	0	624	355	75	0	0	0	8	91	0
Northeastern	3,054	13	0	1,064	1,347	363	73	0	1	0	193	0
Northern	1,928	5	51	948	64	194	16	0	1	5	644	0
Ocmulgee	3,734	6	0	1,094	851	356	7	0	6	263	1,151	0
Oconee	1,389	3	8	731	208	77	0	0	0	3	359	0
Ogeechee	2,383	5	0	666	426	87	2	0	0	199	998	0
Pataula	1,215	3	0	397	436	79	12	0	1	13	273	1
Paulding	1,334	2	0	518	134	179	20	0	0	17	464	0
Piedmont	3,510	8	76	1,012	1,010	142	6	0	0	288	966	0
Rockdale	1,844	0	0	464	302	196	11	3	0	1	867	0
Rome	3,345	6	242	1,080	605	103	7	3	0	116	1,183	0
South Georgia	1,480	4	0	628	353	123	17	0	0	0	355	0

	Recorder's Court	Misdemeanor	Misd Prob Rev	Misc Proceeding	Local Ordinance	Juvenile Prob Rev	Juvenile	Felony Prob Rev	Felony	Deprivation	Appellate	Total
Southern	0	66	5	0	0	7	314	1,159	2,198	0	3	3,752
Southwestern	0	745	103	1	2	0	178	411	710	0	3	2,153
Stone Mountain	2,070	3,459	1,126	138	0	170	1,666	1,603	4,457	0	22	14,711
Tallapoosa	0	564	7	0	0	4	144	195	791	0	5	1,710
Tifton	0	25	6	0	0	15	210	370	679	0	8	1,313
Toombs	0	179	41	0	0	0	131	101	321	8	10	791
Towaliga	0	289	7	1	0	0	3	20	495	14	5	834
Waycross	0	57	8	0	0	0	70	632	1,237	0	5	2,019
Western	0	2,671	1,108	0	0	25	404	996	1,020	117	7	6,348

	Total	Appellate	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Misc Prob Rev	Misdemeanor
Total	1313	8	679	370	210	15	6	25
Adaway, Chauntilla	154	0	149	5	0	0	0	0
Bessonette, George	221	2	158	61	0	0	0	0
Dale, Matthew	130	1	23	50	43	5	0	8
Hoffman, Timothy	239	0	157	82	0	0	0	0
Mobley, John	265	0	155	110	0	0	0	0
Tracy, John	214	5	2	8	167	10	6	16
Vowell, Emily	90	0	35	54	0	0	0	1

EXHIBIT F

Attorney Caseload Comparison



Report Date Range Type Cases Appointed in Date Range
Start Date 01/01/2012
End Date 12/31/2012
Circuit Group General Public Defender Offices
Group Fel/Mis Yes
Exclude Opt-Out Circuits Yes

Circuit Group Circuits

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	Total	Appellate	Deprivation	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Local Ordinance	Misc Proceeding	Misc Prob Rev	Misdemeanor	Recorder's Court
Total	135022	362	934	57,216	25,016	14,262	1,345	219	176	5,390	28,031	2,071
Alapaha	1,584	4	0	538	342	53	0	0	2	224	421	0
Alcovy	4,462	20	0	1,022	1,547	498	92	0	0	374	909	0
Appalachian	1,366	2	0	503	109	293	15	0	0	19	425	0
Atlanta	10,860	32	0	8,439	27	1,853	208	0	1	0	300	0
Atlantic	2,495	11	0	1,170	523	190	12	0	0	10	579	0
Augusta	8,052	17	54	2,264	1,114	727	5	203	4	391	3,273	0
Brunswick	2,464	9	0	1,292	819	151	6	0	0	29	158	0
Chattahoochee	3,266	12	0	1,831	550	608	2	0	0	4	259	0
Cherokee	3,060	21	218	1,444	290	109	1	0	1	19	957	0
Clayton	4,595	22	0	2,705	1,166	602	68	0	6	1	25	0
Conasauga	3,489	6	0	1,116	600	135	5	5	6	317	1,299	0
Cordele	1,384	0	0	705	222	52	0	0	0	29	376	0
Coweta	4,995	13	42	2,548	1,223	771	107	1	1	68	221	0
Dougherty	1,979	13	0	787	308	95	3	0	0	73	700	0
Dublin	1,613	0	24	703	186	168	23	0	2	63	444	0
Eastern	4,667	8	18	2,064	1,390	939	213	0	1	1	33	0
Enotah	1,347	2	0	492	247	83	0	0	0	39	484	0
Flint	2,248	7	0	1,015	486	580	117	0	0	1	42	0
Griffin	3,514	21	43	1,350	339	342	23	2	1	341	1,052	0
Lookout Mountain	2,589	8	0	1,118	792	288	15	0	1	59	308	0
Macon	3,704	6	0	2,213	841	456	34	0	1	4	149	0
Middle	1,288	4	17	763	317	175	4	0	0	0	8	0
Mountain	1,154	1	0	624	355	75	0	0	0	8	91	0
Northeastern	3,054	13	0	1,064	1,347	363	73	0	1	0	193	0
Northern	1,928	5	51	948	64	194	16	0	1	5	644	0
Ocmulgee	3,734	6	0	1,094	851	356	7	0	6	263	1,151	0
Oconee	1,389	3	8	731	208	77	0	0	0	3	359	0
Ogeechee	2,383	5	0	666	426	87	2	0	0	199	998	0
Pataula	1,215	3	0	397	436	79	12	0	1	13	273	1
Paulding	1,334	2	0	518	134	179	20	0	0	17	464	0
Piedmont	3,510	8	78	1,012	1,010	142	6	0	0	288	966	0
Rockdale	1,644	0	0	464	302	196	11	3	0	1	867	0
Rome	3,345	6	242	1,080	605	103	7	3	0	116	1,183	0
South Georgia	1,480	4	0	628	353	123	17	0	0	0	355	0

	Total	Appellate	Deprivation	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Local Ordinance	Misc Proceeding	Misd Prob Rev	Misdemeanor	Recorder's Court
Southern	3,752	3	0	2,198	1,159	314	7	0	0	5	66	0
Southwestern	2,153	3	0	710	411	178	0	2	1	103	745	0
Stone Mountain	14,711	22	0	4,457	1,603	1,666	170	0	138	1,126	3,459	2,070
Tallapoosa	1,710	5	0	791	195	144	4	0	0	7	564	0
Tifton	1,313	8	0	679	370	210	15	0	0	6	25	0
Toombs	791	10	8	321	101	131	0	0	0	41	179	0
Towaliga	834	5	14	495	20	3	0	0	1	7	289	0
Waycross	2,019	5	0	1,237	632	70	0	0	0	8	67	0
Western	6,348	7	117	1,020	996	404	25	0	0	1,108	2,671	0

	Total	Appellate	Felony	Felony Prob Rev	Juvenile	Juvenile Prob Rev	Misd Prob Rev	Misdemeanor
Total	1334	2	518	134	179	20	17	464
Anderson, Yatrina	125	0	65	8	1	0	1	50
Bice, Crystal	23	0	11	4	0	0	3	5
Blanchette, Minerva	146	1	56	42	3	0	4	40
Block, Jesse	148	0	31	9	64	8	2	34
Bullard, Brandon	54	0	0	0	48	6	0	0
Davis, Joel	149	0	70	33	1	0	4	41
Driggers, Tom	20	0	5	0	11	1	0	3
Fleischman, Andrew	1	1	0	0	0	0	0	0
Gordon, Rachel	139	0	21	2	51	5	0	60
Jones, Lincoln	98	0	57	10	0	0	1	30
Knudsen, Katherine	57	0	37	0	0	0	0	20
Norman, Charles	182	0	82	22	0	0	1	77
Parsons, Keenan	62	0	27	0	0	0	0	35
Reedy, Angela	45	0	15	0	0	0	0	30
Ricks, Deidre	84	0	41	3	0	0	1	39
Unassigned	1	0	0	1	0	0	0	0

EXHIBIT G



**STANDARD FOR LIMITING CASE LOADS AND DETERMINING THE SIZE OF
LEGAL STAFF IN CIRCUIT PUBLIC DEFENDER OFFICES**

The Georgia Indigent Defense Act requires that the Standards Council adopt "standards for maintaining and operating circuit public defender offices, including *requirements regarding . . . size of legal and supporting staff* of such offices" (O.C.G.A. § 17-12-8(b)(1)), and "*standards for assistant public defenders and appointed council case loads.*" O.C.G.A. § 17-12-8(b)(3).

The Standards Council adopts as its initial standard¹ the case load limits recommended by the American Bar Association Standard 3 "Caseload Limits and Types of Cases." This recommendation was adopted by the Georgia Indigent Defense Council (the predecessor of the Standards Council), and was also approved by the Georgia Supreme Court on November 9, 1998.

The Standard is as follows:

Each circuit public defender office shall employ, beginning on January 1, 2005, a sufficient number of full-time, qualified lawyers as public defenders, so that the average council case loads of the circuit public defender, and of each assistant circuit public defender, shall not exceed the following limits:

150 Felonies (excluding those in which the death penalty is being sought) per attorney per year, or

300 Misdemeanor Cases per attorney per year, or

250 Misdemeanor Juvenile Offender Cases per attorney per year, or

¹ The Standards Council intends to review this Standard as soon as it is able to accumulate reliable statistical data that reflects the actual case loads (both numerical and hourly) of public defenders employed in each Circuit Public Defender Office, and may modify these numerical limits or adopt weighting criteria as the Standards Council deems appropriate.



60 Juvenile Dependency Clients per attorney per year, or

250 Civil Commitment Cases per attorney per year, or

25 Appeals to the Georgia Supreme Court or the Georgia Court of Appeals per attorney per year.

The standard applicable to each category of cases is not a suggestion or guideline, but is intended to be a maximum limitation on the average annual case loads of each lawyer employed as a public defender in the Circuit Public Defender Offices. These limits are not intended to be cumulative or aggregated (e.g., an attorney may not represent defendants in 150 felonies and 300 misdemeanor cases per year), but should be applied proportionately in the case of an attorney whose case load includes cases in more than one category, based on the relative weight attributed to each case in each category under the Standard for Weighting Cases to be adopted by the Standards Council.

Legal Authority: O.C.G.A. § 17-12-8(b)(1); O.C.G.A. § 17-12-8(b)(3).

EXHIBIT H

AFFIDAVIT OF A.J.

I, A.J., having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I was born in 2000. I am under the age of seventeen.
2. I live in Ben Hill County.
3. On October 24, 2013, I went with my mother, Mclethar Johnson, to the Ben Hill County Juvenile Court because I was charged with affray, simple battery, disorderly conduct, and four counts of disrupting a school. These charges were from four separate cases.
4. I wanted a lawyer to help me with my cases, so my mother and I filled out a form asking for one. I talked to a white male attorney from the public defender's office that day, and told him I wanted to deny all of the charges against me. I was told another court date would be set for a hearing.
5. Between October 24, 2013 and my next court date, December 5, 2013, I did not hear anything from my public defender. I did not know if I was supposed to call his office or if he was going to contact me. I thought my public defender would be at my next hearing.

6. On December 5, 2013, my mother and I walked from our house in Fitzgerald to the Ben Hill County Jail because that is where juvenile court is held. ~~I missed a part of school that day to go to court.~~ AJ
7. When we got to the jail, we waited in the hallway to see my public defender. But after 10 or 15 minutes, we learned from a probation officer that there was no public defender in court that day because all of the public defenders were in another court in another county. The probation officer thought I would need to be back in court a week later.
8. On December 13, 2013, I returned to court with my mother. Although I wanted to deny my charges, I decided to admit to them because I did not think my lawyer would be able to fight for me since we hadn't talked about my case since my first court date.
9. The judge sentenced me to fourteen days in detention and 12 months probation. I was told that I could serve the 14 days after Christmas, but I did not want to miss school, so I said I would start the sentence that day.
10. The court also said I had to pay \$50 in court fees for each of my four cases, and a \$50 public defender application fee for each case. My

public defender did not tell me I did not have to pay the application fee if I could not afford it.

11. I was immediately taken into custody that day and sent to the Waycross RYDC. ~~My family could not visit me in Waycross because they had no way of getting down there.~~ ^{At} I spent Christmas in detention in Waycross.
12. On December 27, 2013, I was released from Waycross RYDC.
13. I am now on probation and owe at least \$100 in court fees and public defender application fees. Because I am only 13, I am not old enough to work, and fear that I will have to go back to court because I am still on probation and cannot afford to pay these fees.
14. Because the public defender missed one of my hearings, I am not sure they will be there for me in the future, and fear that I might have to represent myself when I go back to court.

I swear under penalty of perjury that the information given herein is true and correct and understand that a false statement to any item may result in a charge of false swearing.

This 4 day of Jan, 2014

AJ

Signed

AJ

Printed

Sworn to and subscribed before me

This 4 day of January, 2014.

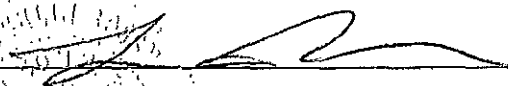

Notary Public
My commission expires: August 9, 2015

EXHIBIT I

AFFIDAVIT OF W.M.

I, W. M., having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I was born in 1997. I am seventeen now but I was under seventeen at the time that I appeared in Crisp County Juvenile Court. I attend high school in Crisp County.
2. I was charged with theft by shoplifting in Crisp County Juvenile Court for allegedly stealing Halloween fangs worth \$2.97 from Wal-Mart.
3. On November 5, 2013, I went with my mother, Letanya Mercer, to the Crisp County Juvenile Court for a first appearance.
4. The judge told me that I had a right to an attorney, but that there was no public defender in court that day. The judge asked me if I wanted to go forward with my case that day without an attorney, or wait to speak with an attorney and come back at a later date. I said that I wanted to go forward with the case without an attorney because I did not know what an attorney does and the judge did not explain how an attorney could help me. Plus, there was no public defender in court that day, and I didn't know how long it would take to see one.

WM Also, I didn't want to have a case hanging over my head and I didn't want to miss school.
5. Everything was moving too fast when I was in court and I did not understand everything that was happening. The judge, the prosecutor, WM

and Mr. Clark, a DJJ representative, were talking during the hearing, but I did not always understand them. I felt that I did not have an opportunity to say anything except to answer the judge's questions.

6. I admitted to the theft by shoplifting charge because I thought that I would get a longer probation sentence or have to go to a detention center if I denied the charge and asked for a hearing.
7. The judge sentenced me to nine months probation, forty hours of community service, an 8 p.m. curfew every night, and \$2.97 in restitution. I also have to pay a \$50 court fee.
8. If I had known what an attorney does, I would have asked for one so that I could have tried to get shorter sentence. I would have gone back to court at a later date if I could have had an attorney and knew when one would be provided.
9. I do not feel comfortable with how my case was handled, and fear that I will have to represent myself again if I have to go back to court on my theft by shoplifting case. I am also concerned that I will have to go back to court and having my probation revoked if I cannot pay the fees. ^{WM} I am unable to afford to pay the fees. ^{WM}

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 4th day of Jan, 2014

WM

Signed

WM

Printed

Sworn to and subscribed before me

This 4th day of Jan, 2014.

Wm. A. H. Harker
Notary Public

My Commission expires on Jan 6, 2016

EXHIBIT J

AFFIDAVIT OF A.P.

I, A.P., having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I was born in 1998. I am under the age of seventeen.
2. I live in Dooly County, which is located in the Cordele Circuit.
3. I was charged with battery and criminal damage to property in the second degree in Dooly County Juvenile Court. I was charged with criminal damage to property because the police thought I broke a car windshield.
4. Even though my case is in Dooly County, I was required to appear in Juvenile Court in Crisp County on April 23, 2013. I appeared with my mother, Comekia Pascual. Court was cancelled that day, but no one told us. I missed school to be in court.
5. My next court date was May 15, 2013. I wanted an attorney to represent me, so before court, I filled out a form asking for a public defender. I was able to meet with Ms. Clark from the public defender's office for a few minutes before my case was called. I told her what happened, and she told me what would happen if I admitted to the charges.

6. I admitted to the battery charge that day at my first court appearance, but I denied the criminal damage to property charge. The judge sentenced me to six months probation, a 7 p.m. curfew, and to pay a \$50 court fee for the battery charge. Ms. Clark told my mother to pay the \$50 public defender application fee.
7. My court date was set for May 29, 2013 and then continued to June 20, 2013.
8. During the time I was waiting to go to court, I did not meet with my public defender to prepare for my trial, and she never called me to talk about my case. I called her to tell her I had a witness who was going to testify for me. I don't know if my lawyer ever called my witness to talk about my case or prepared in any other way for my trial.
9. On June 20, 2013, my public defender did not appear in Dooly County Juvenile Court, and my trial occurred without her. I was never asked if I wanted to go ahead without my lawyer. I did not say that I didn't want a lawyer anymore to represent me. I was not given the option to continue my case until my lawyer could be there.
10. The judge and the probation officer asked me questions. They also questioned my witness. Even though I denied this charge, the judge said I was responsible.

11. I thought my public defender would be at my trial to represent me. I don't understand why my public defender did not appear. She did not inform me in advance that she would not be there. My mother and I thought maybe we had done something wrong. My mother and I thought maybe the public defender did not show up because we had not paid the \$50 application fee for the public defender.
12. I had another hearing in Dooly County Juvenile Court on August 30, 2013. Again, my public defender did not show up to court. No one asked me if I wanted to have a lawyer. I did not say I didn't want a public defender to represent me. I was not given the option to continue my case until my lawyer could be there.
13. I thought my public defender would be at my restitution hearing to represent me. I don't understand why my public defender did not appear. She did not inform me in advance that she would not be there.
14. The only people in court that day were the judge, a probation officer, my mother, and me. The judge and the probation officer questioned me about what happened in my case, and they decided that I had to pay \$380 for the broken windshield.
15. I do not feel comfortable with how my case was handled. I think my public defender should have been in court to help me fight my charge.

Now I have to pay almost \$500 for something I didn't do, and I don't have any way of getting the money. My mother and father have to pay the restitution and court fees for me, and it is hard on them.

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 2nd day of Jan., 2013²⁰¹⁴ ^{AP}

AP

Signed

AP

Printed

Sworn to and subscribed before me ^{AP}

This 2nd day of Jan., 2013²⁰¹⁴

[Signature]

Notary Public

My Commission expires on August 9, 2015

EXHIBIT K

AFFIDAVIT OF ANISHA GUPTA

I, Anisha Gupta, being competent to make this declaration and having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

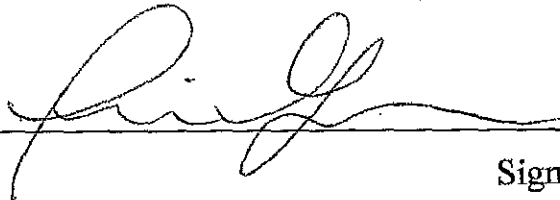
1. I am more than 18 years of age, and am competent to sign this affidavit, which is based on my personal knowledge.
2. My date of birth is April 1, 1987.
3. I was a law student intern with the Southern Center for Human Rights from September 2013 to December 2013.
4. I observed juvenile delinquency proceedings in Ben Hill County on October 10, 2013, and in Crisp County on November 5, 2013. While an attorney with the Cordele Circuit Public Defender's Office appeared on October 10, 2013, no one showed up on November 5, 2013. C.H., a 17 year-old accused of terroristic threats and simple assault who asked to speak to a lawyer, was instructed to come back at an unspecified date because no public defender was available that day. However, three children waived their right to a lawyer, as described below:
5. A.L., a 16 year-old accused of terroristic threats, appeared in court with her mother. Judge Pack informed A.L. that she had the right to a lawyer, and "usually" the Circuit Public Defender's Office comes to juvenile court. But on that day, Judge Pack explained, the office's three attorneys had to be in another court. But, Judge Pack continued, A.L. did not need an attorney to move forward because her mother was available to answer any questions A.L. might have. A.L. could also raise her hand and ask the court any questions, according to Judge Pack. When asked if she wanted to wait to speak to an attorney or go forward with her case, A.L. said she

wanted to go forward without a lawyer and admit to the offense. Judge Pack then sentenced A.L. to nine months on probation and imposed a \$50 court fee and 20 community service hours.

6. L.C. is a 17 year-old who was accused of theft by taking and first degree burglary. At the beginning of his hearing, Judge Pack announced that no public defender was available that day, and offered to continue L.C.'s case if he wished to speak to a public defender. Alternatively, L.C. could go forward without an attorney, admit to his offenses that day, and leave court with a final order. L.C. waived his right to a lawyer, admitted to the theft by taking charge, but denied committing burglary. Because of the denied charge, Judge Pack scheduled an adjudication hearing for a later date, reserving sentencing until both charges were adjudicated.
7. W.M., a 16 year-old, was accused of shoplifting for allegedly stealing Halloween fangs worth \$2.97. Judge Pack advised W.M. that the attorneys from the public defender's office could not be in court that day, and if W.M. wanted to speak with a lawyer, his case would be continued and he could submit an application for the public defender. Judge Pack then explained that W.M. could immediately dispose of his case by admitting to the theft by shoplifting offense, or have his case continued to an unspecified later date if he denied the charge. W.M. waived his right to a lawyer and admitted to the shoplifting offense. The court imposed nine months of probation, \$2.97 in restitution for the stolen fangs, \$50 in court fees, and 40 community service hours.

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 20 day of December, 2013


Signed


ANISHA GUPTA
Printed

Sworn to and subscribed before me

This 20 day of Dec, 2013.


Notary Public

My Commission expires: 02.13.2017

State of California
County of Santa Clara
Subscribed and sworn to (or affirmed) before
me on this 20 day of Dec, 2013.
by Anisha P. Gupta.
proved to me on the basis of satisfactory
evidence to be the person(s) who appeared
before me. 
Signature

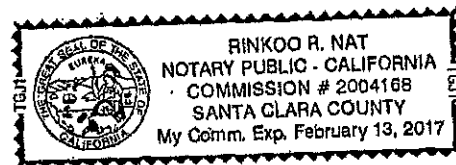


EXHIBIT L

AFFIDAVIT OF LOCHLIN ROSEN

I, Lochlin Rosen, being competent to make this declaration and having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

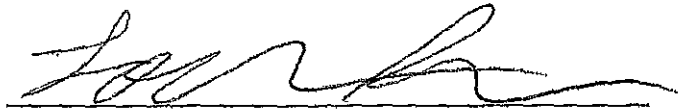
1. I am more than 18 years of age, and am competent to sign this affidavit, which is based on my personal knowledge.
2. My date of birth is November 27, 1988.
3. I am a paralegal and investigator for the Southern Center for Human Rights and have been employed there since June 2011.
4. I have observed juvenile delinquency proceedings throughout the Cordele Judicial Circuit on six separate occasions. Of those six dates, the Cordele Circuit Public Defender was absent for three hearings, as described below:
5. On August 29, 2013, I attended juvenile delinquency proceedings. At the beginning of court, Judge Pack announced that there had been a "misstep" and the Public Defender Office was not present because of hearings occurring at the same time in Crisp County Superior Court. Because of their absence, she continued the arraignments of 13 year-old J.M., who had previously been represented by the Circuit Public Defender Office at a detention hearing, 15 year-old J.W., who was detained and already represented by the Circuit Public Defender Office, and 13 year-old C.W., who was not represented but needed conflict counsel.
6. On October 17, 2013, I attended juvenile delinquency proceedings. While two assistant district attorneys were present, no one from the Cordele Circuit Public Defender's office appeared. One 17 year-old, M.P., appeared in court without a lawyer. He was detained. He was charged with two offenses that allegedly occurred in Wilcox County. After calling

M.P.'s case, Judge Pack explained that his two pending juvenile charges would be transferred to superior court, and that M.P. had the right to object to this decision. M.P. said he did not object. Then, without explaining the dangers of proceeding without a lawyer, Judge Pack asked M.P. if he wanted to speak to a lawyer. M.P. responded that he did not. Judge Pack then put M.P. under oath and asked him if there was anything he wanted to say. M.P. talked about the facts of his case and his limited involvement in the charged offenses. Judge Pack interrupted M.P. because the purpose of the hearing was not to present mitigating factors. She then released him and told him he could apply for a public defender in superior court if he wished.

7. On December 5, 2013, I observed juvenile proceedings. R.T., a 16 year-old accused of shoplifting for allegedly stealing candy from a convenience store, was the only child who went before Judge Pack that day. Judge Pack explained to R.T. that no public defender was in court because their office only has three attorneys and they had a large arraignment calendar. Judge Pack told R.T. that his case could be continued if he wanted to speak to a public defender, or the court could proceed with his case that day without an attorney. Judge Pack did not discuss the advantages of having a lawyer, and the disadvantages of proceeding without one. When asked what he wanted to do, R.T. said he wanted to move forward without a lawyer. He then admitted to the shoplifting offense, at which point he was adjudicated delinquent and ordered to serve six months on probation and pay \$50 in court fees.

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 6 day of January, 2014



Signed

Lochlin Rosen

Printed

Sworn to and subscribed before me

This 6th day of January 2014.

Mary Sidney A. Hackett

Notary Public

My Commission expires: Jan 6, 2016

EXHIBIT M

AFFIDAVIT OF MARY SIDNEY KELLY HARBERT

I, Mary Sidney Kelly Harbert, being competent to make this declaration and having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I am more than 18 years of age, and am competent to sign this affidavit, which is based on my personal knowledge.
2. My date of birth is December 6, 1970.
3. I am a paralegal and investigator for the Southern Center for Human Rights and have been employed there since April 2002.
4. As part of my job, I routinely observe court proceedings throughout Georgia, including the Cordele Judicial Circuit.
5. On August 27, 2013, I attended juvenile delinquency hearings in Crisp County. Judge Kristen Pack presided. There was one attorney from the District Attorney's office present and three representatives from the Department of Juvenile Justice. However, no one from the public defender's office was present because, as Judge Pack repeatedly announced, all of the public defenders had to be in superior court that day. Crisp County Superior Court arraignments, which occurred on the second floor of the Crisp County Courthouse, began at 9 a.m.; Juvenile Court is located on the first floor in the same building and began at 10 a.m.
6. Eight children appeared in juvenile court. Of those eight, seven were there for first appearance hearings, and one for a "reprimand" hearing.
7. Of the seven children present for first appearances, Judge Pack dismissed one child's case and continued another. The remaining five children waived their right to counsel in the public defender's absence. Four of the five children admitted to their offenses as described below:

- a. R.B., a 15-year-old who was not in custody, was accused of simple battery in one case, and an unidentified charge in another case that was not announced in court. After admitting to her offenses, Judge Pack ordered her to serve nine months on probation, pay \$100 in court fees (\$50 for each of her cases), and comply with the provisions of the Probation Management Program, though those were not announced in court;
 - b. D.B, a detained 14 year-old, was accused of criminal damage to property for an incident that allegedly occurred while he was detained in the Crisp County Regional Youth Development Campus ("RYDC") while being housed on a Sumter County adjudication. After securing his admission, Judge Pack transferred his case to Sumter County;
 - c. S.L., a detained 15 year-old, was accused of battery for an alleged altercation that occurred while detained in the Crisp RYDC on a Lowndes County sentence. Like D.B.'s case, Judge Pack accepted his admission and transferred his case to Lowndes County;
 - d. K.Y., a 13 year-old in eighth grade who was not in custody, was accused in three cases of unruliness, interfering with a public school, and transmitting a false public alarm. Judge Pack ordered him to serve six months on probation with a 30-day suspended detention sentence, and to pay \$150 in court fees.
8. R.B., a 14 year-old, is the fifth child who waived his right to counsel. He denied the offense of being unruly. Judge Pack set his adjudication hearing for September 10, 2013, explaining that that will give him time to talk to a public defender if he wished. Judge Pack said she "think[s]" a probation officer present in court has the public defender's business card and application.

9. In the last case heard that day, Judge Pack extended the probation of C.J., a detained fifteen year-old because C.J. had not paid \$50 in court fees. C.J.'s probation was supposed to end September 4, 2013, but was extended to December 31, 2013 as a result of this failure to pay. If the fee was not paid by December 31, 2013, Judge Pack warned, the court would hold another hearing and subpoena her mother to appear in court. There was no inquiry into C.J.'s right to have counsel at this proceeding.

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 6th day of Jan, 2014

Mary Sidney K. Harbert
Signed

Mary Sidney K. Harbert
Printed

Sworn to and subscribed before me

This 6 day of January, 2014.

[Signature]
Notary Public

My Commission expires: 8/18/2014

EXHIBIT N



OFFICE OF THE PUBLIC DEFENDER CORDELE JUDICIAL CIRCUIT

716-D 16th Avenue East
Cordele, Georgia 31015
229-276-2768 Telephone
229-273-5396 Facsimile

Timothy L. Eidson, *Circuit Public Defender*

January 19, 2012

██████████
197 Highway 300 S
Cordele, GA 31015

Mr. ████████:

Thank you for your letter. Regarding your bond reduction, Judges in this circuit require that you wait 90 days before filing a Motion to Reduce Bond. Also you should know that Judges often deny bond reductions unless there has been some change in the case. For example, if your charges had been reduced to a misdemeanor that would be a reason to reduce your bond. The fact that you or your family is not able to post bond is **not** a factor that the judge will consider.

Also, please write me back indicating the reason you are requesting a preliminary hearing.

Sincerely,

Rashawn Clark
Assistant Public Defender



OFFICE OF THE PUBLIC DEFENDER

716-D 16th Avenue East
Cordele, Georgia 31015
229-276-2768 Telephone
229-273-5396 Facsimile

CORDELE JUDICIAL CIRCUIT

Timothy L. Eidson, *Circuit Public Defender*

December 28, 2011

██████████
197 Highway 300 S
Cordele, GA 31015

Mr. ██████████:

Thank you for your letter. Please explain to me why you are requesting a preliminary hearing. I would like to know why you feel like a preliminary hearing is needed in your case. Also, once you are indicted and go to Arraignments (your first court date), I will automatically file a Motion for Discovery in your case. Included in the discovery packet will be all the evidence the State has against you. Your bond hearing was on 12/14/11. I have to wait 90 days before a can file a Motion to Reduce Bond in your case. Therefore I cannot file a Motion to Reduce Bond until 3/14/11.

Sincerely,

Rashawn Clark
Assistant Public Defender