

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;

H. BURTON BAKER,
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;

BRADFORD RIGBY,
CHRISTIAN BROWN,
LARA TODD,
LAUREN WARBINGTON,
GREGORY JOHNSON,
JORDAN STOVER,
each in his or her official capacity as
Assistant District Attorney
for the Cordele Judicial Circuit,

Defendants.

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PRELIMINARY STATEMENT

1. The right to counsel—essential for the rule of law, fair trials, equal justice, reliable verdicts, and just sentences—is routinely violated or reduced to an empty formality in the Cordele Judicial Circuit. “[H]arsh fiscal measures” by the county boards of commissioners in the Circuit have reduced the guarantee of counsel “to a hollow shell of a hallowed right.” *Wilbur v. City of Mount Vernon*, 989 F. Supp. 2d 1122, 1137 (W.D. Wash. 2013). Children who cannot afford lawyers are processed through the juvenile courts without representation. Adults who cannot afford lawyers and obtain pretrial release languish in jail for months after arrest without seeing a public defender until shortly before arraignments. They are not interviewed and their cases are not investigated. For many, their only interaction with a public defender is to be told of a plea offer.

2. All but a few adjudications of delinquency and convictions of crimes are obtained through guilty pleas by children and adults who do not receive the most basic elements of legal representation such as substantive attorney-client interviews, investigations, motions practice, preliminary hearings, informed and professional advice about their choices, and individualized advocacy with regard to guilt or innocence, plea bargaining and sentencing.

3. Representation is impossible because the Circuit’s public defender office is severely understaffed and grossly underfunded. The four counties that

comprise the Cordele Judicial Circuit—Ben Hill, Crisp, Dooly and Wilcox—are the only counties in the State that do not provide funding for their circuit public defender office to employ additional assistant public defenders and investigators beyond those provided by the State. The county commissions that govern those counties are well aware that their “deliberate choices” have “directly and predictably caused” a systemic deprivation of the right to counsel. *Wilbur v. City of Mount Vernon*, 989 F. Supp. 2d 1122, 1124 (W.D. Wash. 2013) (holding inadequate funding resulted in the denial of counsel). Indeed, the counties cut funding for the Cordele Circuit Public Defender Office knowing full well that the office would “cease to function” without it.¹

4. As a result of underfunding, the public defender office has only three full-time lawyers—half the number of attorneys in the Cordele Circuit District Attorney’s office. The three public defenders handle an annual caseload of 1,700, or an average of 567 cases for each attorney—far more than any attorney can competently and ethically handle—in a south Georgia circuit that covers a large geographical area requiring substantial time for transportation. They have a single investigator who typically performs no investigative or other defense function. His

¹ Timothy Eidson, *Justification Statement for Present County Paid Assistant Public Defender* (Mar. 19, 2009) (Exhibit 1).

role has been reduced to the clerical task of completing the public defender eligibility application with people who have been recently arrested.

5. 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 for which they are responsible. Each county has a superior court and a juvenile court. There are three superior court judges and one juvenile court judge.

6. Children appear in juvenile court without counsel despite a statutory mandate that the Circuit Public Defender provide representation to children who "face a disposition of confinement, commitment, or probation." O.C.G.A § 17-12-23(a)(3). From January 2013 to November 2013, the public defender reported providing representation in only 19 delinquency and unruly period; during that same year, the juvenile courts handled 661 cases. The year before, the public defender reported handling only 57 of the 681 delinquency and unruly cases handled by the circuit's juvenile courts.

7. The Cordele Circuit Public Defender has not established "a juvenile division . . . to specialize in the defense of juveniles," as required by Georgia's Indigent Defense Act of 2003. O.C.G.A § 17-12-23(c). As a result, the office lacks any attorney with a specialized knowledge of juvenile law, the evolving rights of children, the developmental, social, and other issues unique to children

accused of acts of delinquency or in need of services, such as child and adolescent development, community-based placements, and special education and mental health issues.

8. In the superior courts, indigent defendants lack counsel at every critical stage in the criminal proceedings. The public defenders do not promptly interview people who are detained, despite their duty 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). Nor do they promptly obtain police reports after arrests and investigate cases.

9. Knowing nothing about the people they represent, public defenders seldom argue for lower bond amounts. They almost never seek preliminary hearings. One public defender even wrote to a defendant asking the defendant to explain to the public defender why a preliminary hearing was necessary in his case.

10. The exclusive function of the public defenders with regard to most adult defendants is relaying plea offers from the district attorney to them. At the time the plea offers are conveyed, the public defenders usually know nothing about the charges or the people they are supposed to be representing. Adult defendants in custody may learn of a plea offer a day or two before or the morning of hearings on bonds or arraignments. Those released on bail may meet the public defender and receive the plea offer during a recess after the arraignment calendar has been

called. The district attorney and her assistants make plea offers at the time of or a day or two before bond motions and/or arraignments that expire if not promptly accepted.

11. In these circumstances, the public defenders are unable to provide legal representation. They have no ability to assess the validity of the charges, the existence of defenses, or the presence of legal issues. They lack the time and resources to adequately evaluate the records and backgrounds of the defendants, or to file motions on behalf of their clients. As a result, the public defenders cannot determine possible collateral consequences of convictions or advocate for dispositions or sentences based on the individual circumstances of defendants. Instead, the public defenders are limited to conveying plea offers at one court session after another until the defendants accept them.

12. 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 regularly tell defendants that they may speak directly to the prosecutors about their cases with inadequate warnings of the dangers of doing so, as well as to the public defenders. 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 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.

13. Defendants who plead not guilty at arraignments are given the responsibility for investigating their own cases. The public defenders ask defendants to perform tasks that are usually within a lawyer's or investigator's purview, including reviewing discovery documents at home or in a jail cell even though the defendants have no legal training and no knowledge of the legal significance of certain information in the documents.

14. While indigent children and adults are denied the most basic elements of legal representation, they are nevertheless assessed a \$50 public defender application fee. In many cases, the public defenders *ask* for the fee to be imposed against indigent defendants. 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. In fact, the public defenders regularly refuse even to consider seeking waiver of the fee, no matter how destitute the defendants and how great the hardship.

15. Thus, 51 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; 47 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 40 years after the Supreme Court recognized the right to a lawyer for any person facing a loss of liberty and expressed its disapproval of “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), the right to counsel remains illusory in the circuit. The poor accused of crime in the circuit are not represented by counsel, but are processed through the courts in the assembly-line fashion condemned in *Argersinger*. Children are frequently not represented at all.

16. As the United States Department of Justice recently stated in a *Statement of Interest* filed in another case seeking to enforce the right to counsel, the denial of counsel may occur in two, often linked, circumstances:

- (1) When, on a systemic basis, lawyers for indigent defendants operate under substantial structural limitations, such as a severe lack of resources, unreasonably high workloads, or critical understaffing of public defender offices; and/or
- (2) When the traditional markers of representation—such as timely and confidential consultation with clients, appropriate investigation, and meaningful adversarial testing of the prosecution’s case—are absent or significantly compromised on a system-wide basis.

Under either or both of these circumstances, a court may find that the appointment of counsel is superficial and, in effect, a form of non-representation that violates the Sixth Amendment guarantee of counsel.²

The Department's *Statement* is as applicable to the Cordele Judicial Circuit as it is to the case in which it was filed. Plaintiffs adopt and hereby incorporate by reference in this Amended Complaint the Department's *Statement*.

17. This action is brought to end this denial of the right to counsel, to replace proceedings which are now a hollow formality with fair proceedings at which those accused are capably represented, and to achieve fair and equal justice for all, as guaranteed by the constitutions and laws of Georgia and the United States. 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, and the Indigent Defense Act of 2003, O.C.G.A. §§ 17-12-1, *et seq.*

18. Plaintiffs also seek mandamus relief to compel the State, Defendant Sakrison as Director of the Georgia Public Defender Standards Council ("The Council"); the Council's members: Defendants Cross, Hodges, McGarity, Miller,

² *Statement of Interest of the United States* at 1, *Hurrell-Harring v. State*, No. 8866-07 (filed Sept. 25, 2014) (Appended to this Complaint as Exhibit 2).

Morris, Paris, Seagraves, Sims, and Tolley; and the Cordele Circuit Public Defender to perform their mandatory and non-discretionary official duties to ensure that the Cordele Circuit Public Defender provides the “services of counsel” to Plaintiffs Phillips, Young, McGruder, Lackey, McKenzie, Steverson, Anderson, and similarly situated adults no more than three business days after a defendant is taken into custody as required by the Indigent Defense Act, O.C.G.A. §17-12-23(b); and establishes a dedicated, experienced juvenile division as required by O.C.G.A. § 17-12-23(c), and provides representation to children in juvenile court who “face a disposition of confinement, commitment, or probation.” O.C.G.A. § 17-12-23(a)(3).

JURISDICTION AND VENUE

19. This action is brought to enforce rights conferred by the United States and Georgia Constitutions, the Indigent Defense Act, and other applicable law. It is brought under the authority vested in this Court pursuant to O.C.G.A. §§ 9-4-2; 9-4-3; 9-5-1; and 42 U.S.C. § 1983. *See* Ga. Const. art. VI, § 1, ¶ 1.

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

PLAINTIFFS

N.P., by his next friend Shaneka Darden

21. Plaintiff N.P. is an indigent fifteen-year-old, African-American child who attends high school in Ben Hill County. Shaneka Darden is his mother.

22. On or around March 9, 2014, Plaintiff N.P. was charged with affray. The charge remains pending.

23. N.P. was previously arrested and charged in nine cases with four counts of burglary, ten counts of entering a motor vehicle with the intent to commit theft, and other offenses. He appeared in juvenile court for a detention hearing and two subsequent hearings. On each occasion, a different public defender was present. During the last appearance on March 4, 2014, Plaintiff N.P. spoke to a third attorney, this time a conflict lawyer, before admitting to the offenses charged in six cases. He was adjudicated delinquent and sentenced to probation and community service, and ordered to complete probation, perform community service, and pay various fees and restitution pay various fees and restitution, including \$300 in public defender application fees, \$50 for each of the six cases.

W.W., by his next friend Annie Anderson

24. Plaintiff W.W. is an indigent fourteen-year-old, African-American child in the seventh grade. Annie Anderson is his mother.

25. On April 30, 2014, Plaintiff W.W. was arrested and taken to Eastman Regional Youth Detention Center. He was charged in Ben Hill County Juvenile Court two cases with three counts of criminal damage to property in the second degree, and four counts of interference with government property.

26. Plaintiff W.W. appeared in Ben Hill County Juvenile Court on May 1, 2014. He did not have a lawyer and there was no one present who could represent him so he was returned to Eastman. Three times he was brought back to the Ben Hill County Juvenile Court but Plaintiff W.W. spoke to a public defender only once during these return trips and was never taken before a judge.

27. W.W. was returned to Court on August 21, 2014, where he admitted to the charges. He was sentenced to two years probation; a suspended sentence of thirty days in detention; and a curfew. He was also ordered to pay restitution.

28. About a week before admitting to the charges, Plaintiff W.W. was charged with battery, obstruction of an officer and disrupting a school after an alleged fight at school. He appeared in juvenile court for a detention hearing around August 18, 2014, and for arraignment on August 28, 2014. A different public defender was present at each hearing.

29. At arraignment on August 28, 2014, a public defender discussed the case with Plaintiff W.W. in a small room adjacent to the courtroom. After the discussion, the public defender dismissed Plaintiff W.W. and told him to tell his

co-defendant to come into the room so that the public defender could speak to the co-defendant about the same case. After meeting with Plaintiff W.W.'s co-defendant, the public defender declared a conflict in representing the co-defendant because they told different accounts of the alleged incident. The public defender agreed to represent Plaintiff W.W., whose charges remain pending.

A.J., by her next friend Mclethar Johnson

30. Plaintiff A.J. is an indigent thirteen-year-old, African-American child in the eighth grade. Mclethar Johnson is her mother.

31. On or around January 24, 2014, Plaintiff A.J. was charged with disorderly conduct. This charge remains pending.

32. On October 24, 2013, Plaintiff A.J. appeared in the Ben Hill County Juvenile Court to be arraigned on the following school-related charges from four separate cases: 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.

33. On December 5, 2013, A.J. appeared in Ben Hill County Juvenile Court for her adjudication hearing, but was told to come back the following week because no public defender was present. On December 13, 2013, Plaintiff A.J. returned to court for her adjudication hearing. Plaintiff A.J. had not seen a public

defender since her arraignment on October 24, 2013. Between October 24, 2013 and December 13, 2013, no one from the public defender office discussed with her the charges, the state's evidence, any investigation, possible witnesses for the defense, possible defenses, or mitigating factors.

34. After a brief conversation with the public defender on December 13, Plaintiff A.J. decided to admit to the charges that day because the public defender was not prepared to mount a defense on her behalf. Defendant Judge Pack ordered Plaintiff A.J. to serve fourteen days in detention and twelve months on probation. She began serving detention immediately and was detained through Christmas, until December 27, 2013. Defendant Pack also imposed \$200 in court fees and \$200 in public defender application fees for four cases, community service, and a curfew.

S.C., by his next friend Christy Coley

35. Plaintiff S.C. is an indigent fifteen-year-old, African-American child in the eighth grade. Christy Coley is his mother.

36. 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. Plaintiff S.C. applied for a public defender that day and was assigned the public defender present. Plaintiff S.C.'s sole conversation with a public defender occurred minutes later. As such, the public defender did not conduct any

investigation, interview any witnesses or visit the location of the alleged crime. After a brief conversation, Plaintiff S.C. admitted to the burglary charge. The Court sentenced Plaintiff S.C. to probation, and community service hours, and he was ordered to pay \$50 in court fees and a \$50 public defender application fee. Restitution, the Court decided, would be considered at a separate hearing. No date has been set for that hearing.

W.M., by his next friend Letanya Mercer

37. Plaintiff W.M. is an indigent seventeen-year-old, African-American child in the twelfth grade. Letanya Mercer is his mother.

38. Plaintiff W.M. appeared in the Crisp County Juvenile Court on November 5, 2013 for a first appearance hearing where he was charged with shoplifting Halloween fangs worth \$2.97 from Wal-Mart. No public defender was present in juvenile court that day because the three public defenders were handling arraignments in Dooly County.

39. 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, she 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.

40. 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 stealing the Halloween fangs. Defendant Pack imposed nine months of probation, forty 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.

41. W.M. remains under the juvenile court's jurisdiction and is subject to probation revocation proceedings.

MYKENZIC PHILLIPS

42. Plaintiff Mykenzic Phillips is an indigent seventeen-year-old, African-American man 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.

43. All of these charges originated in the juvenile courts of the Cordele Circuit, but were moved to superior court in August 2013 and at an October 27, 2013 transfer proceeding where no public defender was present. Lacking a full understanding of the ways in which an attorney could assist at the transfer hearing, Plaintiff Phillips agreed to go forward without a lawyer.

44. In April 2014, Plaintiff Phillips was arrested and charged with three counts of burglary in Ben Hill County. Because he had turned seventeen a month

earlier, these burglary charges were prosecuted in superior court. Unable to post bond, he remained in jail.

45. On June 9, 2014, Plaintiff Phillips pleaded guilty to the burglary charges after two brief meetings with the public defender from April 2014 until June 9, 2014. The public defender never discussed the charges against Plaintiff Phillips, or reported on any investigation.

46. Plaintiff Phillips was sentenced to 15 years of probation, 90-120 days in probation boot camp, 300 hours of community service, \$4000 in restitution and \$150 in public defender application fees for three separate cases.

47. Plaintiff Phillips is currently facing criminal prosecution in the Cordele Circuit for the transferred juvenile court cases.

RICHARD YOUNG

48. Plaintiff Richard Young is an indigent forty-seven-year-old, African-American man who has been incarcerated since November 22, 2013. He is currently being charged in Ben Hill County Superior Court with sale of cocaine.

49. 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 financial information for his application. Plaintiff Young met a public defender for the first time at a superior court bond hearing on December 11, 2013.

They spoke for about five minutes, but had no substantive interview about the case. The court denied bond. No preliminary hearing has been held in Plaintiff Young's case, and the public defender has not moved for one. The public defenders have not contacted Plaintiff Young to discuss his case since his bond was denied.

JAMES STEVERSON

50. Plaintiff James Steverson is an indigent thirty-six-year-old, Caucasian man who has been held in the Ben Hill County Jail since June 3, 2014 on charges of felony possession of cocaine and hindering an officer. He repeatedly sought representation by the public defender office, to no avail.

51. Plaintiff Steverson sent four written requests to the public defender office during the month of June and one written request to the district attorney's office to receive assistance with his cases because he did not know how to apply for a public defender. Three or four weeks after his arrest, Plaintiff Steverson completed a public defender application after an employee at the Ben Hill County Jail provided him with one and instructed him to do so. Plaintiff Steverson had not heard anything from the public defender office a week after he submitted his application, so he asked his girlfriend to contact the public defender office on his behalf.

52. The day after his girlfriend contacted the public defender office, Plaintiff Steverson met with a representative from the public defender office for a

few minutes. The representative did not tell Plaintiff Steverson his name or title, or give him a business card. The sole purpose of the meeting was to complete a second public defender application. The representative told Plaintiff Steverson he would probably not go to court until after he is indicted, which would likely not happen until October 2014 when the Ben Hill County grand jury meets.

53. Plaintiff Steverson is not being represented by the public defender office. Four months after his detention, he has no attorney-client relationship with any public defender. He has not been interviewed regarding the charges. He still does not know the status of his application for a public defender.

CHARLES MCGRUDER

54. Plaintiff Charles McGruder is an indigent fifty-year-old, African-American man facing weapons and drug charges in Crisp County Superior Court. His probation was revoked on May 15, 2014 on the basis of these new charges. He is not receiving representation with regard to the pending charges.

55. Plaintiff McGruder applied for a public defender within two weeks of being arrested on February 9, 2014. He first learned his application was approved the day before a scheduled superior court bond hearing on or around March 17, 2014. His bond was denied the next day. The court scheduled revocation hearings in late March 2014 and mid-April 2014, both of which were postponed. The day before each hearing, a public defender visited Plaintiff McGruder in the jail for

three to five minutes. A revocation hearing was scheduled again for May 15, 2014. A few days before this hearing, a public defender visited Plaintiff McGruder for about five minutes.

56. The public defender met with Plaintiff McGruder in the courtroom minutes before the hearing. The Court found that Plaintiff McGruder had violated probation and revoked fifteen months of his probation. He is currently incarcerated at Coastal State Prison.

57. The public defender has not conducted any substantive interviews with Plaintiff McGruder, requested a preliminary hearing, or filed any motions.

MARCUS LACKEY

58. Plaintiff Marcus Lackey is an indigent thirty-one-year-old, African-American man who has been held in the Dooly County Jail since March 24, 2014 on drug charges.

59. Plaintiff Lackey completed a public defender application around April 10, 2014. He did not see a public defender until a brief meeting the day before a scheduled superior court bond hearing on April 17, 2014. The judge denied bond after a brief hearing.

60. On July 7, 2014, a preliminary hearing was held in Dooly County Superior Court; the court found probable cause. Plaintiff Lackey then appeared for arraignment on August 6, 2014, where he spoke to a public defender he had never

met before. Nevertheless, the public defender relayed a plea offer from the district attorney's office. Three weeks later, Plaintiff Lackey received a copy of the discovery in his case at the jail. Plaintiff Lackey has not discussed his case with a public defender since the preliminary hearing on July 7, 2014, and is uncertain as to who is handling his case. Plaintiff Lackey's charges are pending in Dooly County Superior Court.

ANTHONY MCKENZIE

61. Plaintiff Anthony McKenzie is an indigent forty-one-year-old, African-American man who was arrested on April 12, 2014 in Crisp County on two counts of misdemeanor battery. When he applied for a public defender, he was told by the public defender investigator to "wait and see" what his probation officer would do with the new charges. His probation was revoked after a two-minute conversation with a public defender in court.

62. Plaintiff McKenzie's charges remain pending.

ANNIE ANDERSON

63. Plaintiff Annie Anderson is an indigent forty-year-old, African-American woman who was arrested on May 1, 2014 and charged with disorderly conduct and misdemeanor obstruction of an officer in Ben Hill County.

64. Plaintiff Anderson appeared in Ben Hill County Superior Court on July 1, 2014 for arraignments. She applied for a public defender in court but the

public defender said that he could not represent her because her son was accused of interference with government property involving the public defender office. The public defender told her that she would be appointed a different lawyer.

65. Plaintiff Anderson did not have any contact with a lawyer for over five weeks, until she went to court on September 10, 2014. At that court proceeding, she met a new lawyer who requested a continuance because he was not familiar with the facts of her case.

DEFENDANTS

STATE OF GEORGIA

66. Defendant State of Georgia is responsible for providing counsel to indigent adults accused of crimes, and children accused of delinquent acts 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; and the Indigent Defense Act, O.C.G.A. §§ 17-12-1, *et seq.* The State Capitol and seat of State government is located in Fulton County.

GOVERNOR NATHAN DEAL

67. 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 counsel to indigent children and adults in the Cordele Circuit.

W. TRAVIS SAKRISON

68. 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.

69. 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 obliged 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). He has the sole authority to appoint circuit public defenders, O.C.G.A. §

17-12-20(b)(2), and is required to “[e]valuate each circuit public defender’s job performance,” O.C.G.A. § 17-12-5(d)(12).

GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL AND ITS MEMBERS

70. Defendant Georgia Public Defender Standards 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.

71. 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 Indigent Defense Act. O.C.G.A. § 17-12-1(c). 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). Defendant GPDSC and its members are to “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). They are to promulgate and implement all “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). However, GPDSC lacks the staffing and resources to carry out these functions.

72. 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. O.C.G.A. §§ 17-12-27(a)(2); 17-12-28(a).

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

73. 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. *See* O.C.G.A. § 17-12-31(a). In addition, Defendant Jay, as chair of the Ben Hill Board of Commissioners, is responsible with the Circuit’s three other county chairmen for appointing one member to the Cordele Judicial Circuit Supervisory Panel, whose

primary task is evaluating the performance of the Circuit Public Defender. *See* 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

74. 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 crimes 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, is responsible with the Circuit's three other county chairmen for appointing one member to the Cordele Judicial Circuit Supervisory Panel, whose primary task is evaluating the performance of the Circuit Public Defender. *See* 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

75. 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 crimes 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, is responsible with the Circuit's three other county chairmen for appointing one member to the Cordele Judicial Circuit Supervisory Panel, whose primary task is evaluating the performance of the Circuit Public Defender. *See* 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

76. 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 crimes 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, is responsible with the Circuit's three other county chairmen for appointing one member to the Cordele Judicial Circuit Supervisory Panel, whose primary task is evaluating the performance of the Circuit Public Defender. *See* O.C.G.A. § 17-12-20(a). Each commissioner is a resident of Wilcox County.

JUVENILE COURT JUDGE KRISTEN W. PACK

77. 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 which children accused of delinquent acts or being in need of services are prosecuted. As Juvenile Court Judge, Defendant Pack is responsible for ensuring that children are provided with counsel, that children 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

78. 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 the cases of poor people accused of crimes are prosecuted.

CORDELE CIRCUIT SUPERVISORY PANEL MEMBERS

79. 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.

80. 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” and submit an annual report to the director of the GPDSC. O.C.G.A. §§ 17-12-20(d), 17-12-24(c).

When a vacancy occurs with regard to the Circuit Public Defender, the Panel is required to submit up to five candidates to the Director of GPDSC, who appoints the circuit defender. O.C.G.A. § 17-12-20(b)(2).

CORDELE CIRCUIT PUBLIC DEFENDER H. BURTON BAKER

81. Defendant H. Burton Baker, a resident of Crisp County, is sued in his official capacity as the interim Cordele Judicial Circuit Public Defender. As a circuit public defender, Defendant Baker is responsible for providing representation for all indigent children accused of delinquent acts or being in need of services in juvenile court who face probation, commitment, or confinement, *see* O.C.G.A. § 17-12-23(a)(3), and all indigent adults accused of crimes and/or violations of probation in the circuit’s superior courts, *see* O.C.G.A. §§ 17-12-23 (a) (1) & (2). Defendant Baker is required to 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), and to provide “the services of counsel” to persons detained within three business days of an arrest and application for representation, O.C.G.A. § 17-12-23(b).

**DENISE FACHINI AND HER ASSISTANTS BRADFORD RIGBY,
CHRISTIAN BROWN, LARA TODD, LAUREN WARBINGTON,
GREGORY JOHNSON, AND JORDAN STOVER**

82. Defendant Denise D. Fachini is sued in her official capacity as district attorney for the Cordele Judicial Circuit. Defendants Bradford Rigby, Christian Brown, Lara Todd, Lauren Warbington, Gregory Johnson, and Jordan Stover 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,” Ga. Const., art. VI, § 8, ¶ I(b). This function includes resolving cases with plea bargains and providing discovery to defense counsel. Defendants Fachini, Rigby, Brown, Todd, Warbington, Johnson, and Stover have a duty as prosecutors “to seek justice, not merely to convict.” *State v. Wooten*, 273 Ga. 529, 531, 543 S.E.2d 721, 729 (2001); *see also Berger v. United States*, 295 U.S. 78, 88 (1935) (“[The prosecutor’s role] in a criminal prosecution is not that it shall win a case, but that justice shall be done.”).

FACTS ENTITLING PLAINTIFFS TO RELIEF

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

83. 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; and other applicable law guarantee every indigent child accused of a delinquent act or being in need of services and every adult accused of a crime who faces the loss of liberty the right to the assistance of counsel. *See Gideon v. Wainwright*, 372 U.S. 335, 344 (1963); *Douglas v. California*, 372 U.S. 353, 358 (1963); *In re Gault*, 387 U.S. 1, 41 (1967); *Argersinger v. Hamlin*, 407 U.S. 25, 34 (1972); *Maine v. Moulton*, 474 U.S. 159, 170-71 (1985); *Walker v. State*, 194 Ga. 727, 22 S.E.2d 462 (1942); *Jones v. State*, 57 Ga. App. 344, 195 S.E. 316 (1938); *Sheppard v. State*, 165 Ga. 460, 141 S.E. 196 (1928); *Martin v. State*, 51 Ga. 567, 567 (1874); *Statement of Interest of the United States* filed in *Hurrell-Harring v. State*, Supreme Court of Albany County, N.Y. No. 8866-07 (filed Sept. 25, 2014) (Appended to this Complaint as Exhibit B).

84. Georgia adopted the Indigent Defense Act, O.C.G.A. §§ 17-12-1, *et seq.*, in 2003 to fulfill its constitutional responsibilities with regard to the right to counsel. The Indigent Defense Act created a public defender system to be funded

by both the State and its counties to provide all indigent adults and children with constitutionally required assistance of counsel. In particular, the Indigent Defense Act requires that public defender offices provide “the services of counsel” within three business days of an arrest and application for representation, O.C.G.A. § 17-12-23(b); that they provide representation to children who “face a disposition of confinement, commitment, or probation,” O.C.G.A. § 17-12-23(a)(3); and that they create a dedicated juvenile division to “specialize” in defending children, O.C.G.A. § 17-12-23(c).

85. Under the Indigent Defense Act, 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. *See* O.C.G.A. § 17-12-31(a).

B. Defendants Are Violating Their Obligations to Provide Counsel.

1. The Counties Deliberately Ignore Their Constitutional Obligations.

86. The four county commissions in the Cordele Circuit have long refused to provide the funding necessary to meet their constitutional and legal obligation to provide counsel. People accused of crimes who could not afford lawyers filed a civil rights lawsuit in 2003 challenging the indifference to their plight, denial of counsel, and lack of fairness in the superior courts.³ At that time, a number of poor people accused of crimes were never assigned a lawyer. Some of them languished in jail for months without any contact with a lawyer. For example, Samuel Moore spent thirteen months in the Crisp County Jail without ever seeing a lawyer or being brought before a judge. He remained in jail four months after all charges against him were dismissed. He was one of many people who spent substantial time in jail without ever contacting a lawyer, seeing a judge, or having a bond hearing.

³ See Complaint, *Hampton v. Forrester*, No. 2003-V-118 (Crisp Cnty. Super. Ct. 2003). The lawsuit alleged that the Circuit's county commissions 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 was later resolved with a federal consent order involving the judges and other defendants requiring the courtrooms be open to the public. See Order Granting Declaratory Relief, *Fuqua v. Pridgen*, No. 1:12-cv-093 (M.D. Ga. Nov. 6, 2013).

87. Other adults accused of crimes were appointed one of two part-time attorneys who signed flat-fee contracts with the counties to service the scores of indigent defendants in need of legal representation. Most defendants met one of these lawyers on the morning they came to court, and left that afternoon with a criminal conviction without having had any meaningful contact with their appointed lawyer, without any investigation into the State's case, without any individualized inquiry into their backgrounds, and with little or no regard for them as individuals. Motions practice was virtually nonexistent, as were preliminary hearings, suppression hearings, and every other element of an adversarial criminal justice system.

88. 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 represent indigent defendants. Both the State and the counties funded attorney positions for the office. However, the office was poorly managed, maintained a hostile working environment for women, experienced significant turnover, and continued to neglect clients and to process them through the courts.

89. The counties funded two assistant public defender positions until 2008, when they reduced the number to one. In 2009, then-Cordele Circuit Public Defender Timothy 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 representing children in the circuit's juvenile courts.

Eidson informed the county commissioners that without this position, the public defender office "could not adequate[ly] represent juvenile defendants."⁴

90. Eidson also informed the commissioners that the Cordele Circuit Public Defender Office "would cease to function" should the office lose county funding for the existing assistant public defender position, and that "[t]he public defender 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."⁵

91. With full knowledge of the consequences, the four Defendant County Commissions not only refused to restore the county-funded position that existed before 2008, but also eliminated the office's sole county-funded attorney. This caused the public defender office to "cease to function" as a provider of legal representation to the accused. *Id.*

92. Since July 2009, the public defender office has been left with only three attorneys and one investigator to handle a four-county judicial circuit that

⁴ Timothy Eidson, *Justification Statement for Present County Paid Assistant Public Defender* (Mar. 19, 2009) (Exhibit 1).

⁵ *Id.*

covers a large geographical area, thus requires extensive time traveling from county to county on a weekly basis. Since 2009, the counties have provided only the office space and equipment required by O.C.G.A. § 17-12-34.

2. The Public Defenders Handle Excessive Caseloads.

93. The counties' failure to provide funding for the public defender office has resulted in public defenders handling grossly excessive caseloads far in excess of what an attorney can competently and ethically handle, making it impossible for them to do anything but process people through the system.

94. According to Defendants' data, the public defender office reported closing 1,188 cases in fiscal year 2011.⁶ It reported closing 1,195 cases in fiscal year 2012 with Eidson handling 553 cases, including 317 felonies and Assistant Public Defender Joshua Larkey handling 351 cases, including 157 felonies.⁷ The office closed 1,213 cases in fiscal year 2013, of which Eidson closed 537 cases—284 were felonies, and Larkey closed 534 cases—274 were felonies. In fiscal year 2014, the public defender office reported closing 1,260 cases with Eidson closing

⁶ Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Closed from July 1, 2010 to June 30, 2011, at 28 (Jan.11, 2012).

⁷ Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Closed from July 1, 2011 to June 30, 2012, at 17 (Dec. 14, 2012).

480 cases, including 212 felonies, and Larkey closing 466 cases,⁸ including 219 felonies, far more cases than any attorney can ethically and competently handle.⁹

95. The Cordele Circuit Public Defender Supervisory Panel posted a notice in August 2014, stating that the three attorneys in the office carry an annual caseload of approximately 1,700 cases per year, or 567 cases for each attorney.¹⁰

96. 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 Judicial Circuit Public Defender, located just south of the Cordele Circuit, also covers four counties. The office has seven attorneys, four of whom are county-funded. In fiscal year 2014, the seven attorneys closed 1,135 cases, 125 fewer than the three Cordele Circuit public defenders closed that year, with no single Tifton public defender closing over 258 cases.¹¹ The Dublin Judicial Circuit Public Defender covers four counties. The county funds four of the office's seven attorneys. In fiscal year 2014, the seven attorneys closed 1,067 cases—193 fewer than closed by

⁸ Larkey left the Cordele Circuit Public Defender Office in April 2014, two months before the end of the fiscal year.

⁹ Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Closed from July 1, 2012 to June 30, 2013, at 17 (Aug. 28, 2013).

¹⁰ See Rusty Wright, "Position Available" (announcing opening for Cordele Circuit Public Defender), Georgia Association for Criminal Defense Lawyers Listserv, Aug. 15, 2014 (Exhibit 3).

¹¹ Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Closed from July 1, 2013 to June 30, 2014, at 45 (Sept. 9, 2014).

the three in Cordele—with no single Dublin attorney handling over 235 cases.¹² Paulding County, a single-county circuit, has ten attorneys, seven of which are funded by the county. In fiscal year 2014, it closed 1,110 cases, 150 fewer than Cordele. Only one attorney in that office closed more than 185 cases that year.¹³ The three Cordele public defenders cannot possibly function as “counsel” in the way that the public defenders in Tifton, Dublin, and Paulding circuits do.

97. The caseloads of the Cordele public defenders also exceed all national standards and ones adopted by the Georgia Supreme Court and the Georgia Public Defender Standards Council. 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

¹² Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Closed from July 1, 2013 to June 30, 2014, at 20 (Sept. 9, 2014).

¹³ Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Closed from July 1, 2013 to June 30, 2014, at 35 (Sept. 9, 2014).

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”).

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 cases per year. *See, e.g., 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. 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 2004.¹⁴

¹⁴ *See* Report of the Chief Justice Commission on Indigent Defense at 40 n.153 (Dec. 2002) (citing Georgia Supreme Court Guideline § 6.1); *see also* GPDSC Standard For Limiting Case Loads And Determining The Size Of Legal Staff In Circuit Public Defender Offices (Aug. 27, 2004) (Exhibit 4).

However, GPDSC now takes the position that its only standards are with regard to determining the financial eligibility of defendants for representation by a public defender.

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 represent children and adults they are required to represent. There is no time for interviews, investigations, legal research and litigation of issues, obtaining preliminary hearings, and performing other basic duties of an attorney. The public defenders do not provide the knowledge, skill, and professional judgment of lawyers, but perform only the clerical function of informing children and adults of plea offers and passively standing with them as pleas are entered and sentences are imposed. The courts can record that the accused were accompanied by a lawyer when the pleas were entered and even coax defendants who have no understanding of the right to counsel into saying they were satisfied with their lawyers, but no legal representation is provided.

3. Children Are Denied Counsel in the Circuit's Juvenile Courts.

100. Children are denied representation in the circuit's juvenile courts because there are not enough public defenders to represent both adults and children. The Administrative Office of the Courts reported that 661 delinquency

and unruly cases were adjudicated in the Cordele Circuit's four juvenile courts in 2013.¹⁵ The Cordele Circuit Public Defender reported handling 19 cases in the circuit's four juvenile courts between January 1, 2013 and November 21, 2013,¹⁶ even though many of the children who appear in the circuit's juvenile courts are indigent.¹⁷ In 2012, the public defenders reported representing children in only 57 of the 681 delinquency and unruly cases.¹⁸ They reported providing representation in only 82 of 747 delinquency and unruly cases in 2011.¹⁹

101. Because of a lack of resources and staff, the Cordele Circuit Public Defender Office regularly violates its obligation to represent children who “face a disposition of confinement, commitment, or probation” as required by O.C.G.A. §17-12-23(a)(3). It also fails to meet its obligations under Georgia's recently

¹⁵ Administrative Office of the Courts, “Georgia Juvenile Court Criminal Caseload, Calendar Year 2013” (Exhibit 28).

¹⁶ Georgia Public Defender Standards Council, Case Disposition Statistics: Cases Disposed from January 1, 2013 to November 21, 2013, at 46 (Nov. 21, 2013) (Exhibit 29).

¹⁷ 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).

¹⁸ Administrative Office of the Courts, “Georgia Juvenile Court Criminal Caseload, Calendar Year 2012” (Exhibit 30); Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Appointed from January 1, 2012 to December 31, 2012, at 16 (Nov. 1, 2013) (Exhibit 31).

¹⁹ Administrative Office of the Courts, “Georgia Juvenile Court Criminal Caseload, Calendar Year 2011” (Exhibit 32); Georgia Public Defender Standards Council, Attorney Caseload Comparison: Cases Appointed from January 1, 2011 to December 31, 2011, at 17 (Nov. 21, 2013) (Exhibit 33).

revised Juvenile Code, which requires representation for all poor children who are accused of being in need of services or committing acts of delinquency, and provides that the parent, guardian, or legal custodian of the child cannot waive the child's representation by an attorney. O.C.G.A. §§ 15-11-402(a), 15-11-475(a) and (b).

102. The Cordele Public Defender Office has long violated its obligation to create a dedicated juvenile division to “specialize” in defending children. O.C.G.A. § 17-12-23(c). Thus, the office has no lawyer who is dedicated to the circuit's juvenile courts, let alone one with an expertise in the Juvenile Code and the unique aspects of representing children in juvenile courts.²⁰

103. Because Defendant Pack fails to convey the information children need to make a voluntary decision about whether to proceed with counsel, their waivers are invalid, and thus they are being denied the right to counsel in violation of the constitutions and laws of the United States and Georgia.

²⁰ Adolescent development includes an understanding of how adolescents are “more vulnerable to peer pressure, more emotional, more attracted to risk, and less able to resist impulses than fully matured adults.” Samantha Buckingham, *Reducing Incarceration for Youthful Offenders with a Developmental Approach to Sentencing*, 46 Loy. L.A. L. Rev. 801, 834 (2013). Moreover, young people “over-value the potential benefits of a risky course of action, under-appreciate the potential risks, and are less able to envision the future.” *Id.* at 835. For an extended discussion of adolescent development and the extent to which young people must be viewed and treated differently than adults in the criminal justice system, see *Miller v. Alabama*, 132 S. Ct. 2355, 2464-2465 (2012) (abolishing mandatory life without the possibility of parole sentences for those under 18 at the time of their crime); *Graham v. Florida*, 560 U.S. 48, 68 (2010) (abolishing life without the possibility of parole sentences for juveniles in non-homicide cases); *Roper v. Simmons*, 543 U.S. 551, 569-572 (2005) (outlawing the death penalty for juveniles).

a. Public Defenders Are Routinely Absent From Juvenile Court.

104. There is often no public defender in juvenile court when arraignments or criminal calendar calls are scheduled simultaneously in the circuit's superior courts. When there is no public defender available in juvenile court, some children, like Plaintiffs N.P. and A.J., are told to come back another day, while others are given the choice to either continue their hearings so they can attempt to speak with a public defender, or proceed without counsel in order to resolve their cases immediately.

105. Many children, like Plaintiff W.M., agree to proceed without counsel when conflicting superior court hearings pull public defenders away from juvenile court. On November 5, 2013, Plaintiff W.M. attended arraignments in Crisp County Juvenile Court only to find no public defender present. All of the public defenders were attending arraignments in Dooly County Superior Court. Not knowing when he would see a public defender, Plaintiff W.M. proceeded without a lawyer. By morning's end, he had been adjudicated delinquent, was ordered to serve nine months of probation, and pay court fees and restitution.²¹

106. Similarly, R.T., a sixteen-year-old, African-American child, appeared in Ben Hill County Juvenile Court charged with theft by shoplifting for allegedly

²¹ Affidavit of W.M. at ¶¶ 4, 7 (Exhibit 5).

stealing candy from a convenience store on December 5, 2013. No public defender was present because the three public defenders were in a superior court for arraignments. R.T. proceeded without a lawyer, admitted to shoplifting, and was sentenced to six months of probation.²² No public defender was present in Crisp County Juvenile Court on August 27, 2013, because the three public defenders were upstairs in Crisp County Superior Court for arraignments. Defendant Pack obtained waivers of counsel from five children after asking if they would like an opportunity to speak to an attorney, or “go forward” without counsel and resolve their cases that day instead. Four of the five children admitted to the charges 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 adjudications arising from other counties, had their cases transferred to the counties where the prior adjudications arose.²³

b. Children’s Waivers of Counsel Are Not Voluntary.

107. Defendant Pack routinely fails to adequately advise children of the advantages of having a lawyer and the dangers of proceeding without one. *See In re W.M.F.*, 180 Ga. App. 397, 399, 349 S.E.2d 265, 267-68 (1986) (admission of

²² Affidavit of Lochlin Rosen at ¶ 7 (Exhibit 6).

²³ Affidavit of Mary Sidney Harbert at ¶¶ 5, 7 (Exhibit 7).

delinquency was not knowing and voluntary when the court failed to advise the child of dangers of self-representation). Rather than provide verbal warnings tailored to each child's ability to read and comprehend, Defendant Pack distributes pre-printed "Acknowledgement of Rights" forms describing the right to counsel and possible dispositions, without sufficient explanation, and without any inquiry into the children's ability to read and comprehend the information on the forms.

108. A.L., a sixteen-year-old, African-American female charged with terroristic threats, appeared in Crisp County Juvenile Court on November 5, 2013 with her mother. As usual, no public defender was present. After mentioning that A.L. had a right to counsel, Defendant Pack said A.L. 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. 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, and was both adjudicated delinquent and sentenced to probation that day.²⁴

c. Children Admit to Delinquent Acts Without Understanding the Consequences of a Delinquency Adjudication.

109. Defendant Pack's duty to advise children of their right to counsel is coupled with an obligation to explain the full range of dispositions the court may impose post-adjudication. *See In re B.M.H.*, 177 Ga. App. 478, 478, 339 S.E.2d

²⁴ Affidavit of Anisha Gupta at ¶ 5 (Exhibit 8).

757, 758 (1986) (reversing adjudication where court failed to advise juvenile of dangers of proceeding without counsel and possible dispositions court could impose). Again, relying solely on the Acknowledgment of Rights form to convey the full range of dispositions, Defendant Pack's verbal warnings regarding possible dispositions do not convey this information in a way that children understand, and sometimes omit important information altogether. 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 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 detention, a recommendation Defendant Pack followed.

d. Public Defenders Often Fail to Provide Continuity of Counsel.

110. With no dedicated juvenile division, a public defender's presence in juvenile court is not dictated by expertise, but availability. Any one of the office's three attorneys may appear in court, and they are interchangeable even within the same case. Plaintiff N.P. was transported from the Eastman RYDC to the Ben Hill County Juvenile Court for hearings in December 2013 and in January 2014. Each

time, he spoke with a different public defender. In March 2014, he met a third attorney, a conflict lawyer. On the same day of this meeting, Plaintiff N.P. admitted to all charged offenses, and was ordered to complete probation, perform community service, and pay various fees and restitution.²⁵

e. Children Receive No Advocacy Regarding Fines and Court Fees.

111. Because of the lack of representation of children in the juvenile courts, no showings are made with regard to a child's ability to pay a fee or cost, and financial burdens are placed on children that are either unauthorized, unreasonably high, or unaccompanied by announcements alerting children to the availability of a waiver. For instance, on November 26, 2013, Defendant Pack imposed \$496 in fines against Z.W., an unrepresented seventeen-year-old after adjudicating him delinquent because of possession and consumption of alcohol when he was sixteen years old. Z.W. had no lawyer to argue that these fines were not authorized under the Juvenile Code. *See* O.C.G.A. § 15-11-66(a)(7) (current version at 15-11-601(a)(8)) (enumerating the offenses for which fines may be imposed against delinquent juveniles).

112. O.C.G.A. § 15-21A-6(c) requires the waiver of public defender application fees in cases of undue financial hardship. Too often, however, children

²⁵ Affidavit of N.P. at ¶¶ 5-7, 11 (Exhibit 9).

appearing in the circuit's juvenile courts are informed of the application fee, but not the statutorily available fee waiver, leading to the imposition of fees the children cannot afford.

113. O.C.G.A. § 17-14-5(b) requires that a court consider a variety of factors in determining the amount of restitution that a child pays, including the child's financial resources and need for rehabilitation, the victim's damages, and other case-specific factors. *See* O.C.G.A. § 17-14-10(a); *see also In re E.W.*, 290 Ga. App. 95, 97, 658 S.E.2d 854 (2008). Children typically have fewer resources than adults and a heightened interest in ensuring that restitution amounts accurately reflect actual damages and ability to pay. But without lawyers who understand their cases and backgrounds well enough to advocate for individualized restitution orders, the children in this circuit may be ordered to pay amounts that are unreasonably high.

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

a. Indigent Defendants Do Not Receive the “Services of Counsel.”

114. 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). Most never receive the “services of counsel” at any time, and they may not even

meet a public defender for weeks or months after arrest. Detainees are interviewed by the public defender's investigator solely for the purpose of completing an application form to determine financial eligibility with no discussion of the defendant's case, strategies for obtaining pre-trial release, or potential legal and factual defenses. They are not told whether they are eligible and will be represented, and frequently are not even told how to contact the public defenders.

115. Most defendants do not learn whether they are eligible until the day of arraignment when the public defenders announce they are representing them or inform them that they are not eligible. Detained defendants may learn the status of their application a day or two before at the jail. In cases where superior court judges set bond, defendants briefly meet public defenders who, knowing nothing about the defendants, are not prepared to argue for a lower bond—and often make no arguments. Because superior court bond hearings do not occur in every case and arraignments occur at most four times a year in the Cordele Circuit, many adults go for months before ever knowing whether they are without counsel or “represented” by public defender.

116. When defendants are deemed ineligible for representation by the public defender office, neither the public defenders, their staff or the superior court judges inform them of their right to retain counsel if they can afford one. Nor are they routinely advised of their right to ask the judge for a lawyer if they are unable

to retain lawyers after making good-faith efforts to do so. For instance, a defendant applied for a public defender at the Ben Hill County Superior Court arraignments on July 1, 2014. The public defender announced to the court that the defendant did not qualify for the public defender's services, but, even though denial of eligibility presumably meant the defendant could afford counsel, there was no suggestion that the defendant should be given an opportunity to retain a lawyer, and the public defenders did not ask the court to exercise its discretion to appoint the defendant counsel. So the defendant proceeded *pro se*. The defendant met with an assistant district attorney during a break in the proceedings, later pleaded guilty without counsel, and was sentenced to twelve months probation, and ordered to pay over \$2000 in fines and restitution.²⁶ 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.

b. Public Defenders Fail to Investigate.

117. People accused of crimes in the Cordele Circuit are denied the “consultation, thorough-going investigation and preparation” that have been recognized as “vitally important” duties of counsel since *Powell v. Alabama*, 287 U.S. 45, 57 (1932). People accused of crimes do not meet public defenders until weeks or months after they have been charged, when the public defenders relay the

²⁶ Affidavit of Ben Smith at ¶ 19 (Exhibit 10).

prosecution's plea offer to them at or immediately before arraignments. While their cases are pending, they are not interviewed, no attorney works on their behalf, no investigation is conducted, and no witnesses are interviewed.

118. The public defenders lack the time and resources to investigate the facts of the case and determine if there is a basis for the charges or a defense to them. Charles Brown, detained at the Crisp County Jail in May 2014, was told the public defenders would not have the police report in his case until they obtained discovery after arraignment, which could be months away. The investigator suggested, however, that a member of Mr. Brown's family could obtain a copy of the report from the police. His brother obtained the report the next day.²⁷

119. Public defenders relay plea offers to defendants, but they lack the time and knowledge to provide defendants with informed, professional advice with regard to the offers. Typical is the experience of Timothy Fonder. Public defenders conveyed two plea offers to him at two court proceedings over a three-month period, but otherwise did not discuss or investigate his case. On March 10, 2014, a day before a bond hearing in Ben Hill County, the public defender informed him the prosecution was offering a sentence of 20 years with 10 to serve in exchange for a guilty plea. Fonder rejected it. In the next three and a half months, Fonder sent three letters to the public defender office asking to meet with

²⁷ Affidavit of Charles Brown at ¶ 7-8 (Exhibit 11).

an attorney to discuss his case. He also wrote to Chief Judge Pridgen and the clerk of court. Nevertheless, he did not see a public defender until he was brought to court for arraignment on June 30. At that time, Assistant Public Defender Steve Czarnota informed him of a plea offer of ten years in prison. Fonder also rejected it. Czarnota then informed him that he would be appointed conflict counsel; one of Fonder's co-defendants was also represented by the public defender. Fonder did not meet with the conflict lawyer until the second week of July 2014, approximately five months after his arrest.²⁸

120. People accused of crimes are harmed by the failure of the public defenders to interview defendants and investigate their cases. Eric Wyatt was detained on March 21, 2014, at the Ben Hill County Jail on a 2011 warrant for theft by taking of a truck. He had already entered a plea and been sentenced in connection with the charge in Clayton County in 2011. However, he could not get Tim Eidson to discuss the case in a five-minute meeting when Eidson met him at the jail to fill out an application form. Nor could he get assistant public defender Steve Czarnota to discuss it during a five-minute meeting at a bond hearing on May 1, 2014. On the morning of his arraignment, June 30, 2014, Czarnota told Wyatt that the district attorney's offer was a 20-year-sentence with 10 to serve in prison. Wyatt rejected the offer. Eight days later, Wyatt was informed that the

²⁸ Affidavit of Timothy Fonder at ¶¶ 7, 9-11 (Exhibit 12).

charges had been dismissed and he was released. Had the public defenders interviewed him and checked into his case within three days of when he was taken into custody, he could have been released in March deprived of his liberty for over three months.²⁹

121. People facing revocation of probation based upon new charges are also harmed by the public defender's policy of waiting to see how the revocation is resolved before investigating the new charges. As a result, the public defenders are uninformed about the basis for the revocation, unprepared to challenge or mitigate it, and unprepared to deal with the new charges. Some defendants have even been advised not to apply for a public defender until the probation revocation was resolved. Having been told by the investigator to "wait and see," Plaintiff Anthony McKenzie had no lawyer when he appeared at a revocation hearing on May 15, 2014. After inquiring about counsel, he had a two-minute conversation with a public defender before admitting to the probation violation and being sentenced to serve 90-120 days in a probation detention center.³⁰

122. The public defender office also lacks the staff and resources to investigate the circumstances of the defendants, such as mental illness, intellectual limitations or disability, employment, military service, family circumstances, and

²⁹ Affidavit of Eric Wyatt at ¶¶ 5, 7, 9, 10, 12, 15, 16 (Exhibit 13).

³⁰ Affidavit of Anthony McKenzie at ¶¶ 5-7, 9, 10, 13 (Exhibit 14).

other aspects of their backgrounds. They do not determine whether a conviction would result in any collateral consequences such as suspension or revocation of driver's licenses, disenfranchisement, dishonorable discharge from the armed forces, deportation, and ineligibility for public benefits, business or professional licenses, and military service.

123. Public defenders receive discovery packets from the district attorney's office after arraignments. They provide a copy of the packet to defendants and place the burden on them to investigate their cases. They require defendants like Arianna Hughes, a ninth grader at the time of her arrest;³¹ Marcus Lackey, a Dooly County Jail detainee;³² Danny Simonds;³³ and Shaneka Darden,³⁴ to parse through discovery packets at home or in their jail cells without the benefit of an attorney to counsel them with regard to the discovery.

³¹ Affidavit of Arianna Hughes at ¶¶ 11, 13-14 (Exhibit 15).

³² Affidavit of Marcus Lackey at ¶ 30 (Exhibit 16).

³³ Affidavit of Danny Simonds at ¶ 8 (Exhibit 17) (stating that he received a discovery packet in the mail two days before criminal calendar call along with a letter asking him to bring it to next court date; when he arrived, the public defender did not discuss the discovery with him).

³⁴ Affidavit of Shaneka Darden at ¶ 8 (Exhibit 18) (stating that a public defender attempted to send her a discovery package that included a letter asking that she "read the package of information carefully and call the office to discuss it with an attorney.").

c. Indigent Defendants Receive No Representation Regarding Release and Preliminary Hearings, and There Is No Reliable System for Identifying and Resolving Conflicts of Interest.

124. Because they do not interview their defendants and investigate their circumstances, such as their ties to the community, the public defenders are unable to advocate for reasonable bonds. As a result of their failure to do so and to seek review of bonds in a prompt and timely manner, people accused of crimes are illegally detained in jail. They may lose their employment, shelter, means of transportation, and other necessities.

125. Though public defenders and criminal defense lawyers in other judicial circuits throughout Georgia routinely demand preliminary hearings pursuant to O.C.G.A. § 17-7-20, *et seq.*, and courts routinely conduct them soon after arrest and long before arraignment, the Cordele public defenders almost never demand a preliminary hearing. The Cordele public defenders asked for just one preliminary 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.³⁵

126. In the last two years, public defenders have asked for preliminary hearings in a few cases, but generally do not seek them or tell their clients about

³⁵ Letter from Assistant Public Defender Rashawn Clark to Defendant, Dec. 28, 2011 (Exhibit 19).

them. Maireco Williams, who like other defendants, did not see a public defender between his bond hearing on August 8 and the day before his arraignment on December 3, wrote his own motion for a preliminary hearing, but the court did not rule on it. A public defender advised him the day before arraignment that he would not get a preliminary hearing because he had been indicted.³⁶ Other defendants do not get preliminary hearings because the public defenders do not ask for them.

127. The Indigent Defense Act requires that each circuit public defender office “establish a method for identifying conflicts of interest at the earliest possible opportunity.” O.C.G.A. § 17-12-22(b). While many judicial circuits in Georgia timely appoint conflict counsel, the Cordele Circuit Public Defender routinely fails both to identify conflicts and to provide conflict-free counsel. This was the case for Timothy Fonder. The public defender represented Fonder and a co-defendant even though the two had conflicting interests. Despite these conflicting interests, the public defender office conveyed two plea offers to Fonder over a three-month period. It was only after Fonder rejected the second offer that the public defender office declared a conflict, after having represented Fonder for over four months.³⁷

³⁶ Affidavit of Maireco Williams at ¶ 11 (Exhibit 20).

³⁷ Affidavit of Timothy Fonder at ¶¶ 7, 10 (Exhibit 12).

d. Public Defenders Relay Plea Offers During Plea Bargaining.

128. A 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).

129. Because they do not interview defendants, investigate their cases, research legal issues and obtain even the police report or other discovery before arraignments, the Cordele public defenders are 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. Giles*, 332 U.S. 708, 721 (1948); *accord* 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.”).

130. People accused of crimes in the Cordele Circuit typically receive plea offers at arraignment after meeting a public defender for the first time. Some in custody receive plea offers at or the day before a bond hearing or arraignment after meeting a public defender for the first time. In relaying the district attorney’s plea offers to defendants, the public defenders inform the defendants that the offer will expire—often within a day—and may not be available again. In neither situation is there sufficient time for a person accused to consider the alternatives and make a fully informed, knowing, and intelligent decision.

131. In the circuit’s largest county, Crisp, one of the courthouse’s two upstairs courtrooms is converted on arraignment day into a temporary “public defender office,” where public defenders meet with dozens of defendants for the first time during a recess. At least one sheriff’s deputy is stationed in the “office,” and district attorneys have unfettered access to it. 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.

132. Julie Causey was arrested in Crisp County and charged with possession of methamphetamine and criminal trespassing on November 3, 2013. Because she could not afford bond, she remained in jail. About four days after her arrest, she applied for a public defender during a meeting with the public defender's investigator. She did not learn her application was approved until she appeared at arraignment over two months later on January 16, 2014. At arraignment, she spoke to a public defender for about ten minutes before pleading guilty to the felony. This was her first and only contact with a public defender. The court sentenced her to three years of probation and imposed a \$250 fine.³⁸

133. Lacie Rogers, a seventeen year-old high school student, charged with misdemeanor battery after getting into a fight at school, appeared in Crisp County Superior Court for arraignment on June 4, 2014. She appeared without counsel and applied for a public defender. After submitting her application, she spoke to a public defender and pled guilty that same day. The court ordered her to pay a \$50 public defender application fee—without objection from the public defender—and sentenced her to six months of probation.³⁹

³⁸ Affidavit of Julie Causey at ¶¶ 4-8 (Exhibit 21).

³⁹ Second Affidavit of Mary Sidney Harbert at ¶ 13 (Exhibit 22).

134. Another seventeen-year-old, Quinton Clark, appeared in Crisp County Superior Court the same day charged with five felony counts of entering an automobile. He too applied for a public defender, spoke to a public defender, and pled guilty that same day to all five felony charges. He was sentenced to serve five years of probation and ordered to pay \$500 in fines, an unspecified amount of costs and surcharges, and \$1,307 in restitution. The public defender asked that Clark be required to pay the \$50 public defender application fee. The court granted Eidson's request.⁴⁰

135. Ericka Soto appeared in Ben Hill County Superior Court on April 28, 2014, to be arraigned on two counts of aggravated assault. Though she applied for a public defender before appearing in court, she had yet to speak to one before that day. After a fifteen-minute conversation with one public defender, Ms. Soto stood next to a different public defender that she had never met and pled guilty to both counts of aggravated assault. The court ordered her to serve five years of probation, perform 40 hours of community service, and pay \$1,100 in fines and a \$50 public defender application fee. Neither public defender informed Ms. Soto that the public defender fee could be waived or inquired into her circumstances; if they had, they would have learned that she had a one-year-old child, was pregnant,

⁴⁰ *Id.* at ¶¶ 9-11.

unemployed, and could not afford to pay the fines and fees levied against her, including the public defender application fee.⁴¹

136. Causey, Rogers, Clark and Soto are typical of people whose cases are resolved on the day they meet their public defenders. Neither the public defender who relayed the plea offer to them or the public defenders who stood beside them when the court accepted the pleas were sufficiently familiar with the facts of the case to provide informed legal advice. Causey, Rogers, Clark, Soto and others like them had a lawyer in name only, but they received no actual legal “representation.”

137. The practice of forcing defendants to decide whether to accept or reject plea offers without providing a reasonable time to confer with counsel falls far short of the constitutional guarantee of counsel. *See Von Moltke*, 332 U.S. at 722-23 (describing arraignment as “too important a step in a criminal proceeding” for an indigent defendant to be limited to a three minute conversation with appointed counsel); *see also* Uniform Superior Court Rule 33.2(A) (“A defendant with counsel shall not be required to enter a plea . . . if the defendant has not had a reasonable time to consult with counsel.”).

138. Because so many plea offers are relayed to so many people in such short time frames, the terms of offers are not always communicated accurately. Plaintiff Mykenzic Phillips was told by a public defender that the plea offer

⁴¹ Affidavit of Ericka Soto at ¶¶ 3, 5, 8, 9-11 (Exhibit 23).

consisted of fifteen years' probation, boot camp, and community service, which he accepted. At arraignment, however, the district attorney stated that the agreement consisted of restitution in the amount of \$4,000. Phillips attempted to object, but was told by the public defender to remain silent. The court accepted the plea and sentenced Plaintiff Phillips in accordance with the representations of the district attorney.⁴²

139. A public defender told Shannon Casteel during a meeting that lasted 5 to 10 minutes that the plea offer was 12 months probation. Casteel accepted the plea offer, but when he stood before the court to enter the plea, the prosecutor announced the negotiated plea agreement was for 12 months imprisonment. Casteel withdrew his plea. The public defender later admitted that he "misread the paperwork." The district attorney threatened to seek revocation of Casteel's probated sentence in another case if he did not agree to the 12 month jail sentence that day during the court proceeding. As the public defender stood by, Casteel negotiated with the prosecutor a 6-month jail sentence and a \$1,000 fine.⁴³

140. Public defenders have no attorney-client relationship with the defendants coming before the courts. A defendant may be told of a plea offer by one public defender at a bond hearing, then be told of an offer by another public

⁴² Affidavit of Mykenzic Phillips at ¶¶ 7, 10, 11 (Exhibit 24).

⁴³ Affidavit of Shannon Casteel at ¶¶ 6-9 (Exhibit 25).

defender at or the day before arraignment, 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. Typical are the experiences of the following defendants:

- a. Nekia Bates appeared in Crisp County Superior Court for arraignment on June 4, 2014, and spoke to Assistant Public Defender Steven Czarnota during a recess. However, former Circuit Public Defender Eidson stood next to her when she entered her guilty plea. At one point, Eidson, who had never met Bates and knew nothing about her case, had to stop the proceeding to confer with Czarnota about his conversation with Ms. Bates.⁴⁴
- b. Shaneka Darden appeared in Ben Hill County Superior Court on April 29, 2014, to be arraigned on two misdemeanor charges. She entered a not guilty plea after a public defender told her she would try to get one of her charges dismissed. When Darden returned to court for criminal calendar call on June 12, 2014, a young man from the public defender office called her name. He did not identify himself. He handed Darden a copy of the discovery from the prosecutor's office and informed her that the plea offer required pleading to both charges. Darden agreed to plead

⁴⁴ Second Affidavit of Mary Sidney Harbert at ¶ 19 (Exhibit 22).

to both charges. A different public defender she had never met stood with her during the plea and sentencing.⁴⁵

141. In accepting guilty pleas, Superior Court Judges Pridgen, Chasteen, and Hughes ask defendants if they are satisfied with their lawyers. They once mentioned the public defender standing before the court 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 now ask defendants if they are satisfied with the “public defender office” instead.

142. Despite their queries about what indigent people think of their lawyers, Defendants Pridgen, Chasteen, and Hughes know that there has not been any meaningful attorney-client communication, much less a relationship, between the public defenders and the defendants.

143. 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 courthouse into a “public defender office.” Thus, the question of whether defendants are satisfied with counsel is meaningless

⁴⁵ Affidavit of Shaneka Darden at ¶¶ 6, 8-10 (Exhibit 18).

to a person who is unlikely to have an independent understanding of the professional responsibilities of a lawyer rendering genuine 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.

e. Defendants Are Not Informed That Fees Can Be Waived.

144. While providing no representation to defendants, the public defenders ask the court to impose the public defender application fee of \$50 against defendants if the courts do not impose it on their own. For example, a public defender asked the Crisp County Superior Court on June 4, 2014 to impose the fee against Quinton Clark, a seventeen-year-old who had applied for the public defender's services and, after being informed of the plea offer, pleaded guilty to five felonies on the same day.⁴⁶

145. In addition, the public defenders have a longstanding practice of refusing to seek waivers of the application fee for defendants who cannot pay unless the defendant is sentenced to prison or in exceptional circumstances. *See* O.C.G.A. § 15-21A-6(c). The public defenders do not inform defendants that the fee may be waived.⁴⁷ As a result, some defendants are denied counsel because they cannot pay, while others are forced to pay the fee, along with fines and costs

⁴⁶ Second Affidavit of Mary Sidney Harbert at ¶ 9 (Exhibit 22).

⁴⁷ *See* Affidavit of Ericka Soto at ¶ 9 (Exhibit 23); Affidavit of Danny Simonds at ¶ 10 (Exhibit 17).

despite their inability to pay and the hardship it causes them. In addition to violating the constitution, this practice violates the ethical duties 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, pmb., § 2.

f. The District Attorney Exploits the Lack of Representation to Obtain Guilty Pleas.

146. For a guilty plea to comply with due process, the defendant must enter into the plea freely—with no coercion or threats—and intelligently—having been informed by counsel of the consequences of pleading guilty. In addition, due process demands a plea bargain be conducted in a manner that is fundamentally fair to the defendant.

147. 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 and must be exercised in a way that is consistent with the prosecutor's duty "to seek justice." *Berger v. United States*, 295 U.S. 78, 88 (1935); *see also National Prosecution Standards* 2-8.3 (3d ed. 1999) ("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”).

148. The district attorney and her assistants are fully aware that three public defenders cannot represent the many defendants coming before the superior courts in the circuit.

149. The district attorney knows or should know that the lack of adequate counsel prevents Plaintiffs from making intelligent and knowing decisions when entering into guilty pleas.

150. Despite knowing that Plaintiffs lack adequate counsel, the district attorney, as a matter of custom, policy, and practice, continues to make plea offers with severe time constraints and under threat of greater punishment if the offers are rejected.

151. As an arm of the State, the district attorney has the duty to seek justice and to refrain from improper conduct that infringes upon individual constitutional rights. Yet the district attorney’s practice of making fast-expiring plea offers and using similar coercive negotiation tactics against Plaintiffs who lack adequate counsel does just the opposite. Faced with these tactics and deprived of their constitutional right to counsel, indigent defendants are at risk of pleading guilty

under duress without understanding the implications of their decisions or the viability of alternatives.

152. Because Plaintiffs are deprived of representation by counsel, the presumption of fairness within the plea bargaining process is already severely compromised. Yet the district attorney's exploitation of the process in order to secure convictions removes any fundamental aspect of fairness and justice that may have remained. That the district attorney uses the deficiencies of the public defenders as an advantage is not a form of permissible discretion, but rather an improper and calculated method to secure an untested and unreliable conviction.

g. The Defendants Have Failed to Monitor the Circuit's Failing Indigent Defense System.

153. 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). The Cordele Circuit Public Defender, the State, GPDSC and its Director, and the counties comprising the circuit are responsible for the realization of the constitutional right to counsel under article I, section I, paragraphs XII and XIV of the Georgia Constitution and the Sixth and Fourteenth Amendments to the United States Constitution.

154. However, Defendants have not implemented effective measures for monitoring and evaluating the performance of the Cordele Circuit Public Defender Office and its ability to fulfill its duties with the limited resources that it has. Defendants do not recognize caseload and other performance standards adopted by GPDSC in 2004 as binding or even relevant in assessing the performance of the public defender office.⁴⁸ 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.

155. To ensure constitutionally and statutorily mandated legal representation at the local level, the Indigent Defense 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

⁴⁸ Georgia Public Defender Standards Council, *State of Georgia Performance Standards for Criminal Defense Representation in Indigent Defense Cases*, Apr. 16, 2004 (Exhibit 26); Georgia Public Defender Standards Council, *Performance Standards For Juvenile Defense Representation in Indigent Delinquency and Unruly Cases*, Dec. 10, 2004 (Exhibit 27); Georgia Public Defender Standards Council, *Standard For Limiting Case Loads And Determining The Size Of Legal Staff In Circuit Public Defender Offices*, Aug. 27, 2004 (Exhibit 4).

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.

156. If Defendants adequately monitored the Cordele Circuit Public Defender Office, they would be aware of the lack of representation of children accused of delinquent acts and adults accused of crimes and other deficiencies described herein and could have fulfilled their legal obligation to ensure representation.

CLASS ACTION ALLEGATIONS

157. Plaintiffs seek the certification of two classes in this action under O.C.G.A. § 9-11-23.

A. CHILDREN

158. Plaintiffs N.P., W.W., A.J., S.C., and W.M.—the “Children Plaintiffs”—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, the Juvenile Code, or other applicable law.

159. The Children Plaintiffs 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 Administrative Office of Courts, 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 the Children Plaintiffs, namely the failure to establish a juvenile division in the Cordele public defender office and the failure to consistently provide counsel in juvenile proceedings, apply equally to Plaintiffs and similarly situated children. Moreover, the Children Plaintiffs, 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. The Children Plaintiffs assert claims that 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. The Child Plaintiffs and their counsel will adequately represent the interests of all members of the proposed class. The Child 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.

160. The Child Plaintiffs 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 mandamus, declaratory, and prospective injunctive relief against Defendants with respect to all members of the class.

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

B. ADULTS

162. Plaintiffs Phillips, Young, Steverson, McGruder, Lackey, McKenzie, and Anderson—the “Adult Plaintiffs”—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, or other applicable law.

163. The Adult Plaintiffs 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 the 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 the Adult Plaintiffs 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. Moreover, the Cordele Circuit Public Defender's Office relies on Plaintiffs and putative class members to perform the duties of attorneys and investigators with disturbing regularity. As discussed above, Plaintiffs and putative class members have negotiated with the district attorney's office while the public defender stands idly by, and

been asked to provide a legal justification for requesting a preliminary hearing.

- 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 Conduct, 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 Adult Plaintiffs 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 the statutorily mandated 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. The Adult Plaintiffs 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.

164. The Adult Plaintiffs 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 mandamus, declaratory, and prospective injunctive relief against Defendants with respect to all members of the class.

CAUSES OF ACTION

COUNT I:

MANDAMUS ABSOLUTE

(Asserted pursuant to O.C.G.A. § 9-20-6 against the following defendants in their official capacities: Deal, Sakrison, Cross, Hodges, McGarity, Miller, Morris, Paris, Seagraves, Sims, Tolley, and Baker.)

165. Each and every allegation of this Complaint and every fact set out in all of the exhibits to it are incorporated herein as if set forth in full.

166. The Indigent Defense Act requires that each circuit public defender provide the “services of counsel” to indigent defendants arrested and accused of crimes “not more than three business days after the indigent person is taken into custody.” O.C.G.A §17-12-23(b).

167. The Cordele Circuit Public Defender does not provide the “services of counsel” in accordance with this statutory requirement. Indigent defendants like Plaintiff Steverson, who applied for counsel in July 2014 and has yet to meet a public defender, do not receive any services of counsel for weeks or months after they are taken into custody, if they receive any at all.

168. Mere completion of an application form for the services of a public defender does not constitute the “services of counsel.”

169. Defender Baker, as the interim Cordele Circuit Defender, has a clear and non-discretionary duty to comply with the requirement of the statute.

170. Defendant Deal, as chief executive officer of the State of Georgia; Defendant Sakrison, as Director of the GPDSC; and the GPDSC and its members, Defendants Cross, Hodges, McGarity, Miller, Morris, Paris, Seagraves, Sims, and Tolley, (collectively “the State Defendants”), have a clear and non-discretionary duty to require Defendant Baker to comply with the statute

171. In failing to carry out this duty, these Defendants have deprived Phillips, Young, Steverson, McGruder, Lackey, McKenzie, Anderson, and other similarly situated adults of the rights secured by O.C.G.A. §§ 17-12-23(b) as well as the constitutions and laws of the United States and Georgia.

172. To the extent that Defendants have any discretion in discharging their obligation to timely provide legal representation to Phillips, Young, Steverson, McGruder, Lackey, McKenzie, Anderson, and adults similarly situated, Defendants have committed a gross abuse of any such discretion.

173. There is no other legal relief available to remedy these present violations.

174. Accordingly, Plaintiffs request that the Court grant mandamus nisi, and after a hearing, issue mandamus absolute pursuant to O.C.G.A. § 9-6-20 against Defendant Baker and State Defendants, requiring them to provide indigent children and adults with the “services of counsel” to which they are statutorily entitled as mandated by the Indigent Defense Act. There is no other legal relief available to remedy these present violations. *See Forsyth County v. White*, 272 Ga. 619, 620, 532 S.E.2d 392, 394 (2000) (“Where the duty of public officers to perform specific acts is clear and well defined and is imposed by law, and when no element of discretion is involved in performance thereof, the writ of mandamus will issue to compel their performance.” (quoting *Hartsfield v. Salem*, 213 Ga. 760, 760, 101 S.E.2d 701, 701 (Ga. 1958))).

COUNT II:

MANDAMUS ABSOLUTE

(Asserted pursuant to O.C.G.A. § 9-6-20 against the following defendants in their official capacities: Deal, Sakrison, Cross, Hodges, McGarity, Miller, Morris, Paris, Seagraves, Sims, Tolley, and Baker)

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

176. Indigent children’s right to counsel at all critical stages of juvenile delinquency proceedings is firmly established as a matter of both state and federal

constitutional law. *See In re Gault*, 387 U.S. at 41; *In Interest of S.H.*, 220 Ga. App. 569, 571, 469 S.E.2d 810, 811 (1996).

177. The Indigent Defense Act implements these constitutional mandates by requiring that each circuit public defender establish a dedicated, experienced juvenile division, O.C.G.A. § 17-12-23(c), and provide representation to children in juvenile court who “face a disposition of confinement, commitment, or probation.” O.C.G.A. §17-12-23(a)(3). Defendant Baker has not established a juvenile division in breach of his mandatory duty, and routinely fails to provide any representation in juvenile court in breach of his mandatory duty to do so.

178. The State Defendants have a clear and non-discretionary duty to require Defendant Baker to comply with his legal obligations to establish a juvenile division and provide counsel to children who cannot afford a lawyer to represent them in delinquency proceedings in juvenile court. In failing to carry out this duty, these Defendants have deprived Plaintiffs N.P., W.W., A.J., S.C., W.M., and other similarly situated children of rights secured by O.C.G.A. §§ 17-12-23(c), 17-12-23(a)(3), as well as the constitutions and laws of the United States and Georgia.

179. To the extent that Defendants have any discretion in discharging their obligation to establish a juvenile division and provide legal representation to Plaintiffs N.P., W.W., A.J., S.C., W.M., and other children similarly situated,

Defendants have committed a gross abuse of any such discretion, leaving children without constitutional representation when their liberty is at stake.

180. There is no other legal relief available to remedy these present violations. Accordingly, Plaintiffs N.P., W.W., A.J., S.C., and W.M. request that the Court grant mandamus nisi, and after a hearing, issue mandamus absolute pursuant to O.C.G.A. § 9-6-20 against Defendant Baker and State Defendants, requiring them to establish a juvenile division in the Cordele Judicial Circuit Public Defender's Office that provides consistent, adequate representation for eligible children consistent with O.C.G.A. §§17-12-23(c), 17-12-23(a)(3), and the constitution and laws of the United States and Georgia. *See Forsyth County v. White*, 272 Ga. 619, 620, 532 S.E.2d 392, 394 (2000) ("Where the duty of public officers to perform specific acts is clear and well defined and is imposed by law, and when no element of discretion is involved in performance thereof, the writ of mandamus will issue to compel their performance." (quoting *Hartsfield v. Salem*, 213 Ga. 760, 760, 101 S.E.2d 701, 701 (Ga. 1958))).

COUNT III:

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

181. Each and every allegation of the Complaint and every fact set out in all of the exhibits to it are incorporated herein as if set forth in full.

182. By their actions, inactions, customs, and practices alleged herein, the State Defendants; Defendants Fachini, Rigby, Brown, Todd, Warbington, Johnson, and Stover (collectively “the Defendant 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”); Cordele Superior Court Judges Pridgen, Chasteen, and Hughes (collectively “the Defendant Superior Court Judges”), Defendant Pack; and Defendant Baker, acting under color of state law, have deprived Plaintiffs N.P., W.W., A.J., S.C., W.M., and other similarly situated children of representation by counsel in the juvenile courts in the circuit in violation of their right to due process of law guaranteed by the Fourteenth Amendment of the United States Constitution, as enforced through 42 U.S.C. § 1983 and other applicable law.

COUNT IV:

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

183. Each and every allegation of the Complaint and every fact set out in all of the exhibits to it are incorporated herein as if set forth in full.

184. By their actions, inactions, customs, and practices alleged herein, the State Defendants; the County Defendants; the Defendant Superior Court Judges; the Defendant District Attorneys; and Defendant Baker, acting under color of state law, have deprived Plaintiffs Phillips, Young, Steverson, McGruder, Lackey, McKenzie, Anderson, and other similarly situated indigent adults of their right to counsel in violation of the Sixth Amendment to 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.

COUNT V:

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

185. Each and every allegation of the Complaint and every fact set out in all of the exhibits to it are incorporated herein as if set forth in full.

186. 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 deprived Plaintiffs N.P., W.W., A.J., S.C., W.M., and other similarly situated children, and Plaintiffs Phillips, Young, Steverson, McGruder, Lackey, McKenzie, Anderson, and other similarly situated indigent adults of due process of law and equal protection of the laws as set out herein in violation of the Due Process and Equal Protection Clauses of the

Fourteenth Amendment to the United States Constitution, as enforced through 42 U.S.C. § 1983 and other applicable law.

COUNT VI:

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

187. Each and every allegation of the Complaint and every fact set out in all of the exhibits to it are incorporated herein as if set forth in full.

188. By their actions, inactions, customs, and practices alleged herein, the State Defendants; the County Defendants; the Defendant Judges; the Defendant District Attorneys; Defendant Baker; and Panel members Wright and Sherrell, acting under color of state law, have deprived Plaintiffs Phillips, Young, Steverson, McGruder, Lackey, McKenzie, Anderson, and other similarly situated indigent adults of their right to access to the courts and their right to counsel in violation of article I, section I, paragraphs XII and XIV of the Georgia Constitution.

COUNT VII:

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

189. Each and every allegation of the Complaint and every fact set out in all of the exhibits to it are incorporated herein as if set forth in full.

190. 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 deprived Plaintiffs N.P., S.C., A.J., W.M., and other similarly situated children, and Phillips, Young, Steverson, McGruder, Lackey, McKenzie, Anderson, and other similarly situated indigent adults of due process of law and equal protection of the laws as set out herein in violation of Article I, Section I, Paragraphs I and II of the Georgia Constitution.

COUNT VIII:

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

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

192. The State Defendants, County Defendants, and Defendant Baker, acting under color of state law, have failed to provide representation for indigent defendants accused of crime in the superior courts of the Cordele Judicial Circuit.

193. 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 fundamental fairness in criminal proceedings in violation of the Georgia and United States Constitutions.

DECLARATORY RELIEF

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

195. 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 juvenile and superior courts of the Cordele Judicial Circuit.

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

197. 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. Grant mandamus nisi and, upon hearing, issue mandamus absolute requiring Defendants to provide the services of counsel within three business days

of the arrest of any 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.

C. Grant mandamus nisi and, upon hearing, issue mandamus absolute requiring Defendants to establish a dedicated, experienced juvenile division as required by O.C.G.A. § 17-12-23(c), and provide representation to children in juvenile court who “face a disposition of confinement, commitment, or probation,” as required by O.C.G.A. §17-12-23(a)(3).

D. 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 children and adults 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 each

individual member of the boards, have a constitutional, statutory and legal duty to provide funding necessary to provide counsel to children accused of delinquent acts or being in need of services and adults accused of crimes and 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, knowing, intelligent, and voluntary 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 Baker 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 Baker has a constitutional, statutory, legal and ethical responsibility to seek waiver of the fee on behalf of children and adults who cannot afford the fee and for whom imposition of the fee would be a measurable hardship.

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

1. provide the services of counsel within three business days of the arrest of any 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 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;

2. establish a dedicated, experienced juvenile division as required by O.C.G.A. § 17-12-23(c), to provide representation to children in juvenile court who “face a disposition of confinement, commitment, or probation,” as required by O.C.G.A. §17-12-23 (a)(3);

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.

F. Grant injunctive relief under 42 U.S.C. § 1983 and O.C.G.A. § 9-5-1, *et seq.*, requiring Defendants Superior Court Judges, Defendant Pack, and Defendant District Attorneys 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 a defense 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 Conduct; and sufficient time for the accused to make a considered, informed, intelligent decision with regard to accepting or declining a plea offer.

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

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

Respectfully submitted this 3rd day of October, 2014.



STEPHEN B. BRIGHT

Georgia Bar No. 082075

MELANIE VELEZ

Georgia Bar No. 512460

ATTEEYAH HOLLIE

Georgia Bar No. 411415

RYAN PRIMERANO

Georgia Bar No. 404962

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
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, LLP⁴⁹
555 Twelfth Street, NW
Washington, DC 20004-1206
Telephone: (202) 942-5000
Facsimile: (202) 942-5999

Counsel for Plaintiffs

⁴⁹ Admitted Pro Hac Vice.

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- 1 Timothy Eidson, *Justification Statement for Present County Paid Assistant Public Defender* (Mar. 19, 2009)
- 2 *Statement of Interest of the United States, Hurrell-Harring v. State*, 8866-07 (filed Sept. 25, 2014)
- 3 Rusty Wright, "Position Available", Georgia Association for Criminal Defense Lawyers Listserv, August 15, 2014.
- 4 Georgia Public Defender Standards Council, *Standard for Limiting Case Loads and Determining the Size of Legal Staff in Circuit Public Defender Offices*, Aug. 27, 2004
- 5 Affidavit of W.M.
- 6 Affidavit of Lochlin Rosen
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- 8 Affidavit of Anisha Gupta
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EXHIBIT 1



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 2



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

-----X
KIMBERLY HURRELL-HARRING, *et al.*, on
Behalf of Themselves and All Others Similarly
Situating,

Plaintiffs

INDEX No. 8866-07
(Connolly, J.)

-against-

STATEMENT OF INTEREST OF
THE UNITED STATES

THE STATE OF NEW YORK, *et al.*,

Defendants.

-----X

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STATEMENT OF INTEREST OF THE UNITED STATES

As the Supreme Court recognized in *Powell v. Alabama*, the constitutional right to counsel is more than a formality: It would be “vain” to give the defendant a lawyer “without giving the latter any opportunity to acquaint himself with the facts or law of the case.” 287 U.S. 45, 59 (1932) (*quoting Com. v. O’Keefe*, 148 A. 73, 74 (Pa. 1929)). Without taking a stance on the merits of the case, the United States files this Statement of Interest to assist the Court in assessing whether the State of New York has “constructively” denied counsel to indigent defendants during criminal proceedings. Plaintiffs allege that their nominal representation amounted to no representation at all, such that the State failed to meet its *foundational* obligations to provide legal representation to indigent defendants. *Gideon v. Wainwright*, 372 U.S. 335 (1963). It is the position of the United States that constructive denial of counsel may occur in two, often linked circumstances:

- (1) When, on a systemic basis, lawyers for indigent defendants operate under substantial structural limitations, such as a severe lack of resources, unreasonably high workloads, or critical understaffing of public defender offices; and/or
- (2) When the traditional markers of representation—such as timely and confidential consultation with clients, appropriate investigation, and meaningful adversarial testing of the prosecution’s case—are absent or significantly compromised on a system-wide basis.

Under either or both of these circumstances, a court may find that the appointment of counsel is superficial and, in effect, a form of non-representation that violates the Sixth Amendment guarantee of counsel.

INTEREST OF THE UNITED STATES

The United States has authority to file this Statement of Interest pursuant to 28 U.S.C. § 517, which permits the Attorney General to attend to the interests of the United States in any case pending in a state court. The United States has an interest in ensuring that all jurisdictions—federal, state, and local—are fulfilling their obligation under the Constitution to provide effective assistance of counsel to individuals facing criminal charges who cannot afford an attorney, as required by *Gideon*. The United States can enforce the right to counsel in juvenile delinquency proceedings pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 (Section 14141). The United States is currently enforcing Section 14141's juvenile justice provision through a comprehensive settlement with Shelby County, Tennessee.¹ An essential component of the agreement, which is subject to independent monitoring, is the establishment of a juvenile public defender system with “reasonable workloads” and “sufficient resources to provide independent, ethical, and zealous representation to Children in delinquency matters.” *Id.* at 15.

As the Attorney General stated, “It’s time to reclaim *Gideon*’s petition—and resolve to confront the obstacles facing indigent defense providers.”² In March 2010, the Attorney General launched the Access to Justice Initiative to address the crisis in indigent defense services, and the Initiative provides a centralized vehicle for carrying out the Department of Justice’s (Department) commitment to improving indigent defense.³ The Department has also sought to

¹ Mem. of Agreement Regarding the Juvenile Court of Memphis and Shelby Counties, Tennessee (2012), available at <http://www.justice.gov/crt/about/spl/findsettle.php>.

² Attorney General Eric Holder Speaks at the Justice Department’s 50th Anniversary Celebration of the U.S. Supreme Court Decision in *Gideon v. Wainwright* (March 15, 2013), available at <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-1303151.html>.

³ The Initiative works with federal agencies and state, local, and tribal justice system stakeholders to increase access to counsel, highlight best practices, and improve the justice delivery systems that serve people who are unable to afford lawyers. More information is available at <http://www.justice.gov/atj/>.

address this crisis through a number of grant programs, as well as through support for state policy reform, and has identified indigent defense as a priority area for Byrne-JAG funds, the leading source of federal justice funding to state and local jurisdictions.⁴ In 2013, the Department's Office of Justice Programs announced a collection of grants totaling \$6.7 million to improve legal defense service for the poor.⁵ These grants were preceded by a 2012 \$1.2 million grant program, *Answering Gideon's Call: Strengthening Indigent Defense Through Implementing the ABA Ten Principles of a Public Defense Delivery System*, administered by the Bureau of Justice Assistance.⁶

In addition, it is always in the interest of the United States to safeguard and improve the administration of criminal justice consistent with the prosecutor's professional duty as outlined in the American Bar Association (ABA) Criminal Justice Standards: "It is an important function of the prosecutor to seek to reform and improve the administration of criminal justice. When inadequacies or injustices in the substantive or procedural law come to the prosecutor's attention, he or she should stimulate efforts for remedial action." ABA CRIMINAL JUSTICE STANDARDS, STANDARD 3-1.2(D), PROSECUTION AND DEFENSE FUNCTION (1993).⁷

Thus, in light of the United States' interest in ensuring that any constitutional deficiencies the Court may find are adequately remedied, the United States files this Statement of Interest to address the factors considered in a constructive denial of counsel claim.

⁴ See U.S. Gov't Accountability Office, *Indigent Defense: DOJ Could Increase Awareness of Eligible Funding and Better Determine the Extent to Which Funds Help Support this Purpose* 11-14 (May 2012), available at <http://www.justice.gov/atj/ldp/>.

⁵ As noted by Associate Attorney General Tony West in the announcement, "These awards, in conjunction with other efforts we're making to strengthen indigent defense, will fortify our public defender system and help us to meet our constitutional and moral obligation to administer a justice system that matches its demands for accountability with a commitment to fair, due process for poor defendants." Attorney General Holder Announces \$6.7 Million to Improve Legal Defense Services for the Poor (Oct. 30, 2013), available at <http://www.justice.gov/opa/pr/2013/October/13-ag-1156.html>.

⁶ Grants have been awarded to agencies in Texas, Delaware, Massachusetts, Mississippi, Tennessee, Utah and Michigan.

⁷ Available at http://www.americanbar.org/groups/criminal_justice/standards.html.

BACKGROUND

Fifty years ago, the Supreme Court held that “any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.” *Gideon*, 372 U.S. at 344. Four years later, the Supreme Court held that the right to counsel extended to juveniles in delinquency proceedings. *In re Gault*, 387 U.S. 1, 36 (1967). And yet, as the Attorney General recently noted, “America’s indigent defense systems continue to exist in a state of crisis, and the promise of *Gideon* is not being met.”⁸ Recently, the federal district court in *Wilbur v. City of Mount Vernon* echoed this concern, stating, “The notes of freedom and liberty that emerged from *Gideon*’s trumpet a half a century ago cannot survive if that trumpet is muted and dented by harsh fiscal measures that reduce the promise to a hollow shell of a hallowed right.” 989 F.Supp.2d 1122, 1137 (W.D. Wash. 2013).

Our national struggle to meet the obligations recognized in *Gideon* and *Gault* is well documented.⁹ See, e.g., Am. Bar Ass’n, Standing Comm. on Legal Aid and Indigent Defendants Report, *Gideon’s Broken Promise: America’s Continuing Quest for Equal Justice* (2004); National Juvenile Defender Center (NJDC) State Assessments¹⁰ (outlining obstacles to provision of juvenile defense services in numerous states). Despite long recognition that “the proper performance of the defense function is . . . as vital to the health of the system as the performance of the prosecuting and adjudicatory functions,” Attorney General’s Committee on Poverty and

⁸ Attorney General Eric Holder Delivers Remarks at the Annual Meeting of the American Bar Association’s House of Delegates (Aug. 12, 2013), available at <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130812.html>.

⁹ In March 2013, the Yale Law Journal held a symposium on the challenges of meeting *Gideon*’s promise and published the discussions. See 122 Yale L.J. 8 (June 2013).

¹⁰ Assessments available at <http://www.njdc.info/assessments.php>.

the Administration of Federal Criminal Justice, *Final Report* 11 (1963), public defense agencies nationwide are continually funded at dramatically lower levels than prosecutorial agencies.¹¹

Due to this lack of resources, states and localities across the country face a crisis in indigent defense.¹² In many states, remedying the crisis in indigent defense has required court intervention. *See e.g., Pub. Defender v. State*, 115 So. 3d 261, 278-79 (Fla. 2013) (holding that courts must intervene when public defenders' excessive caseloads and lack of funding result in "nonrepresentation and therefore a denial of the actual assistance of counsel guaranteed by *Gideon* and the Sixth Amendment"); *Missouri Pub. Defender Comm'n v. Waters*, 370 S.W.3d 592, 607 (Mo. 2012) (ruling that the trial court erred when it appointed counsel to indigent defendants when, due to excessive caseloads and insufficient funding, that counsel could not provide adequate assistance, noting that "a judge may not appoint counsel when the judge is aware that, for whatever reason, counsel is unable to provide effective representation to a defendant"); *Duncan v. State*, 832 N.W.2d 761, 771 (Mich. Ct. App. 2012) (holding that, absent court intervention, "indigent persons who are accused of crimes in Michigan will continue to be subject to inadequate legal representation without remedy unless the representation adversely affects the outcome"); *State v. Citizen*, 898 So.2d 325, 338-39 (La. 2005) (holding that courts are obliged to halt prosecutions if adequate funding is not available to lawyers representing indigent defendants).

¹¹ Compare Steven W. Perry & Duren Banks, U.S. Bureau of Justice Statistics, *Prosecutors in State Courts*, 2007 *Statistical Tables* 1 (2012) (noting that prosecution offices nationwide receive a budget of approximately \$5.8 billion), with Lynn Langton & Donald J. Farole, Jr., U.S. Bureau of Justice Statistics, *Public Defender Offices*, 2007 *Statistical Tables* 1(2010) (noting that public defender offices nationwide had a budget of approximately \$2.3 billion). *See also* Nat'l Right to Counsel Comm., *Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel* 61-64 (2009) (collecting examples of funding disparities).

¹² John P. Gross, *Gideon at 50: A Three-Part Examination of Indigent Defense in America*, Nat'l Ass'n of Criminal Def. Lawyers (2013) (describing astonishingly low rates of compensation for assigned counsel across the nation); Cara H. Drinan, *The Third Generation of Indigent Defense Litigation*, 33 N.Y.U. Rev. L. & Soc. Change 427 (2009) (describing crises nationwide).

The United States is taking an active role to provide expertise on this pressing national issue. Last year, the United States filed a Statement of Interest in *Wilbur v. City of Mount Vernon*, a case in which indigent defendants challenged the constitutional adequacy of the public defense systems provided by the cities of Mount Vernon and Burlington in the Western District of Washington.¹³ As in this case, the United States took no position on the merits of the plaintiffs' claims in *Wilbur*, but instead recommended to the court that, if it found for the plaintiffs, the court should ensure that counsel for indigent defendants have realistic workloads, sufficient resources, and are carrying out the hallmarks of minimally effective representation, "such as visiting clients, conducting investigations, performing legal research, and pursuing discovery." Ex. 1 at 5-10. The court in *Wilbur* ultimately ruled for the plaintiffs, finding "that indigent criminal defendants in Mount Vernon and Burlington are systematically deprived of the assistance of counsel at critical stages of the prosecution and that municipal policymakers have made deliberate choices regarding the funding, contracting, and monitoring of the public defense system that directly and predictably caused that deprivation." *Wilbur*, 989 F.Supp.2d at 1124. To remedy this systematic deprivation of counsel, the court ordered increased resources for indigent defense services, controls to be established for defenders' workloads, and monitoring of defenders' actual representation to ensure that they carry out the traditional markers of representation. *Id.* at 1134-37.

DISCUSSION

In this matter, Plaintiffs allege that indigent defendants within five New York counties have been constructively denied counsel in their criminal proceedings. That is, as a result of inadequate funding, indigent defendants face systemic risks of constructive denial of counsel

¹³ Attached as Exhibit 1.

including: “the system-wide failure to investigate clients’ charges and defenses; the complete failure to use expert witnesses to test the prosecution’s case and support possible defenses; complete breakdowns in attorney-client communication; and a lack of any meaningful advocacy on behalf of clients.” Plaintiffs’ Mem. of Law in Opposition to the State Defendant’s Motion for Summary Judgment at 41. An analysis of *Gideon* cases informs the United States’ position that constructive denial of counsel may occur when: (1) on a systemic basis, counsel for indigent defendants face severe structural limitations, such as a lack of resources, high workloads, and understaffing of public defender offices; *and/or* (2) indigent defenders are unable or are significantly compromised in their ability to provide the traditional markers of representation for their clients, such as timely and confidential consultation, appropriate investigation, and meaningful adversarial testing of the prosecution’s case. *Wilbur*, 989 F.Supp.2d 1122; *Pub. Defender v. State*, 115 So. 3d 261; *Missouri Pub. Defender Comm’n*, 370 S.W.3d 592; *Duncan*, 832 N.W.2d 761; *State v. Young*, 172 P.3d 138 (N.M. 2007); *Citizen*, 898 So.2d 325; *Lavallee v. Justices in Hampden Superior Court*, 812 N.E.2d 895 (Mass. 2004); *New York Cnty. Lawyers’ Ass’n v. State*, 196 Misc. 2d. 761 (N.Y. Sup. Ct. 2003); *State v. Peart*, 621 So.2d 780, 789 (La. 1993).

Constructive denial may occur even in public defender systems that are not systematically underfunded if the attorneys providing defender services are unable to fulfill their basic obligations to their clients. The Supreme Court has recognized that, in some circumstances, “although counsel is available to assist the accused during trial, the likelihood that any lawyer, even a fully competent one, could provide effective assistance is so small that a presumption of prejudice is appropriate without inquiry into the actual conduct of the trial.”

United States v. Cronin, 466 U.S. 648, 659-60 (1984). This may occur when, for example, the defense attorney is not provided sufficient time to prepare. *Powell*, 287 U.S. at 53-58.

Thus, whether there are severe structural limitations, the absence of traditional markers of representation, or both, the appointment of counsel is superficial and, in effect, a form of non-representation that may violate the guarantees of the Sixth Amendment.¹⁴

I. The Court May Consider Structural Limitations and Defenders' Failure to Carry Out Traditional Markers of Representation in its Assessment of Plaintiffs' Claim of Constructive Denial of Counsel.

It is a core guarantee of the Sixth Amendment that every criminal defendant, regardless of economic status, has the right to counsel when facing incarceration. *Gideon*, 372 U.S. at 340-44 (1963) (holding that the right to counsel is "fundamental and essential to a fair trial"). This right is so fundamental to the operation of the criminal justice system that its diminishment erodes the principles of liberty and justice that underpin all of our civil rights in criminal proceedings. *Gideon*, 372 U.S. at 340-341, 344; *Powell*, 287 U.S. at 67-69 ("The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel [A Defendant] requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence."); *see also Alabama v. Shelton*, 535 U.S. 654 (2002).

¹⁴ If the Plaintiffs prevail, the court may appoint a monitor as part of its authority to grant injunctive relief. Monitors, or their equivalent, have been utilized in similar cases. In *Wilbur*, pursuant to an order for injunctive relief, the court required the hiring of a "Public Defense Supervisor" to supervise the work of the public defenders. The supervision and monitoring includes extensive file review, caseload assessments, data collection, and reports to the court to ensure there is "actual" and appropriate representation for indigent criminal defendants in the cities of Mount Vernon and Burlington. *See Wilbur*, No. C11-1100RSL at 19. Similarly, in Grant County, Washington, an independent monitor was essential to implementing the court's injunction in a right-to-counsel case. *Best v. Grant Cty.*, No. 04-2-00189-0 (Kittitas Cty. Sup. Ct. Dec. 21, 2004).

As the New York Court of Appeals held in this matter, claims of systemic constructive denial of counsel are reviewed under the principles enumerated in *Gideon* and the Sixth Amendment, not the *Strickland*¹⁵ ineffective assistance standard which provides only retrospective, individual relief. *Hurrell-Harring v. State*, 930 N.E.2d 217, 224 (N.Y. 2010) (holding that these “allegations state a claim, not for ineffective assistance under *Strickland*, but for basic denial of the right to counsel under *Gideon*.”); *see also Luckey v. Harris*, 860 F.2d 1012, 1017 (11th Cir. 1988) (holding that the Sixth Amendment protects rights that do not affect the outcome of a trial, and deficiencies that do not meet the “ineffectiveness” standard may still violate a defendant’s rights under the Sixth Amendment); *Missouri Pub. Defenders Comm’n*, 370 S.W.3d at 607 (holding Sixth Amendment right to counsel requires more than just a “pro forma” appointment whereby the defendant has counsel in name only); *Powell*, 287 U.S. at 58-61 (holding that counsel’s “appearance was rather pro forma than zealous and active [and] defendants were not accorded the right of counsel in any substantial sense”). Courts have consistently defined “constructive” denial of counsel as a situation where an individual has an attorney who is *pro forma* or “in name only.”

A. *Considering the Role of Structural Limitations*

The provision of defense services is a multifaceted and complicated task. To guide the defense function, the ABA and NJDC have promulgated national standards to ensure that defenders are able to establish meaningful attorney-client relationships and provide the constitutionally required services of counsel. *See* ABA, STANDARDS FOR CRIMINAL JUSTICE, PROSECUTION AND DEFENSE FUNCTION; Am. Bar Ass’n, Standing Comm. on Legal Aid and Indigent Defendants, *ABA Eight Guidelines of Public Defense Related to Excessive Workloads*

¹⁵ *Strickland v. Washington*, 466 U.S. 668 (1984).

(2009); Am. Bar Ass'n, Standing Comm. on Legal Aid and Indigent Defendants, *ABA Ten Principles of a Public Defense Delivery System* (2002); NAT'L JUVENILE DEFENDER CTR., NATIONAL JUVENILE DEFENSE STANDARDS (2012). These standards emphasize the structural supports required to ensure that defenders can perform their duties. They include an independent defense function, early appointment, adequate staffing, funding for necessary services (e.g., investigation, retention of experts, and administrative staff), workload controls, training, legal research resources, and oversight connected to practice standards.

In assessing *Gideon* claims for systemic indigent defense failures, courts have considered the absence of these structural supports as reflected in insufficient funding, agency-wide lack of training and performance standards, understaffing, excessive workloads, delayed appointments, lack of independence for the defense function from the judicial or political function, and insufficient agency-wide expert resources.¹⁶ In *Wilbur*, for example, the court noted the structural limitations—insufficient staffing, excessive caseloads, and almost non-existent supervision—that resulted in a system “broken to such an extent that confidential attorney/client communications are rare, the individual defendant is not represented in any meaningful way, and actual innocence could conceivably go unnoticed and unchampioned.”

Wilbur, 989 F.Supp.2d at 1127. The court continued,

The Court does not presume to establish fixed numerical standards or a checklist by which the constitutional adequacy of counsel's representation can be judged. The experts, public defenders, and prosecutors who testified at trial made clear that there are myriad factors that must be considered when determining whether a system of public defense provides indigent criminal

¹⁶ We note that, in alleging that there has been a constructive denial of counsel based on systemic indigent defense failures, plaintiffs are not seeking to reverse criminal convictions but are seeking only prospective injunctive relief. The Court may enter prospective relief upon a finding of a substantial risk of a constitutional violation. *See Brown v. Plata*, 131 S. Ct. 1910, 1941 (2011). In the context of a challenge to a criminal conviction, the defendant must also show that the denial of counsel caused actual prejudice to secure a reversal. *Strickland*, 466 U.S. 668. *Cronic*, 466 U.S. 648, creates a narrow exception to the need to show prejudice where the denial of counsel contaminates the entire criminal proceeding.

defendants the assistance required by the Sixth Amendment. Factors such as the mix and complexity of cases, counsel's experience, and the prosecutorial and judicial resources available were mentioned throughout trial.

Wilbur, 989 F.Supp.2d at 1126.

Similarly, the court in *Pub. Defender v. State*, 115 So. 3d at 279, held that the public defender's office could withdraw from representation of indigent defendants because of structural limitations. Insufficient funds and the resultant understaffing created a situation where indigent defendants did not receive assistance of counsel as required by the Sixth Amendment. Courts have also held in indigent defense funding cases that budget exigencies cannot serve as an excuse for the oppressive and abusive extension of attorneys' professional responsibilities, and courts have the power to take corrective measures to ensure that indigent defendants' constitutional and statutory rights are protected. *See Citizen*, 898 So.2d at 336. Similarly, in *Lavallee*, 812 N.E.2d at 904, the court held that proactive steps may be necessary when an indigent defense compensation scheme "raises serious concerns about whether [the defendants] will ultimately receive the effective assistance of trial counsel." *See also New York Cnty. Lawyers' Ass'n*, 196 Misc. 2d. 761 (holding statutory rates for assigned counsel unconstitutional as they resulted in denial of counsel and excessive caseloads, among other issues); *Young*, 172 P.3d 138 (holding that inadequate compensation of defense attorneys deprived capital defendants of counsel). In all of these cases, the courts granted relief based on evidence that indigent defense services were subject to such substantial structural limitations that actual representation would simply not be possible.

Substantial structural limitations force even otherwise competent and well-intentioned public defenders into a position where they are, in effect, a lawyer in name only. Such limitations essentially require counsel to represent clients without being able to fulfill their basic

obligations to prepare a defense, including investigating the facts of the case, interviewing witnesses, securing discovery, engaging in motions practice, identifying experts when necessary, and subjecting the evidence to adversarial testing. Under these conditions, the issue is not effective assistance of counsel, but, as the Court of Appeals noted, “nonrepresentation.” *Hurrell-Harring*, 930 N.E.2d at 224. Other courts have emphatically made this same point. As the Supreme Court of Louisiana stated, “We know from experience that no attorney can prepare for one felony trial per day, especially if he has little or no investigative, paralegal, or clerical assistance.” *Peart*, 621 So.2d at 789. The court agreed with the trial court’s characterization that “[n]ot even a lawyer with an S on his chest could effectively handle this docket.” *Id.* The court concluded that “[m]any indigent defendants in Section E are provided with counsel who can perform only pro forma, especially at early stages of the proceedings. They are often subsequently provided with counsel who are so overburdened as to be effectively unqualified.” *Id.*

B. Considering the Traditional Markers of Representation

In addition to the presence of structural limitations, courts considering systemic denial of counsel challenges have also examined the extent, or absence of, traditional markers of representation. The traditional markers of representation include meaningful attorney-client contact allowing the attorney to communicate and advise the client, the attorney’s ability to investigate the allegations and the client’s circumstances that may inform strategy, and the attorney’s ability to advocate for the client either through plea negotiation, trial, or post-trial. These factors ensure that defense counsel provide the services that protect their client’s due process rights.

The New York Court of Appeals recognized the importance of these traditional markers, stating, "Actual representation assumes a certain basic representational relationship." *Hurrell-Harring*, 930 N.E.2d at 224. Other courts have adopted this reasoning. For example, in *Wilbur*, 989 F.Supp.2d at 1128, clients met their attorneys for the first time in court and immediately accepted a plea bargain, without discussing their cases in a confidential setting. The court found that these services "amounted to little more than a 'meet and plead' system," and that the resulting lack of representational relationship violated the Sixth Amendment. *Id.* at 1124. Similarly, in *Pub. Defender v. State*, 115 So. 3d at 278, the court reasoned that denial of counsel was present where attorneys engaged in routine meeting and pleading practices, did not communicate with clients, were unable to investigate the allegations, and were unprepared for trial.

The absence of these traditional markers of representation has led courts to find non-representation in violation of the Sixth Amendment. *Wilbur*, 989 F.Supp.2d at 1131. (noting that in such cases "the appointment of counsel may be little more than a sham and an adverse effect on the reliability of the trial process will be presumed") (citing *Cronic*, 466 U.S. at 658-60, and *Avery v. Alabama*, 308 U.S. 444, 446 (1940)); see also *Pub. Defender*, 115 So. 3d at 278; *Citizen*, 898 So.2d 325; *Peart*, 621 So. 2d at 789. The traditional markers require the "opportunity for appointed counsel to confer with the accused to prepare a defense," engage in investigation, and advocate for the client. *Wilbur*, 989 F.Supp.2d at 1131; *Public Defender v. State*, 115 So. 3d at 278; *Peart*, 621 So.2d at 789; see also *Missouri v. Frye*, 132 S. Ct. 1399, 1408 (2012) ("[A]s a general rule, defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the

accused.”); *Powell*, 287 U.S. at 59-60 (finding that when “no attempt was made to investigate” the defendants lacked “the aid of counsel *in any real sense*”) (emphasis added).

The New York Court of Appeals, along with many other courts, has taken note of the vital importance of these traditional markers of representation. These markers may be considered in conjunction with the structural limitations placed on counsel to determine whether the counties “constructively” denied counsel to indigent defendants during criminal proceedings. When assessing the merits of the case, this Court may use this framework to assess whether a systemic “constructive” denial of counsel in violation of *Gideon* and the Sixth Amendment occurred from either factor, standing alone or in conjunction.

CONCLUSION

The Court can consider structural limitations and defenders’ failure to carry out traditional markers of representation in its assessment of Plaintiffs’ claim of constructive denial of counsel.

Respectfully submitted,
MOLLY J. MORAN
Acting Assistant Attorney General
Civil Rights Division
United States Department of Justice

MARK KAPPELHOFF
Deputy Assistant Attorney General
Civil Rights Division

JONATHAN M. SMITH
Chief
Civil Rights Division
Special Litigation Section

JUDY C. PRESTON
Principal Deputy Chief
Civil Rights Division
Special Litigation Section

PAUL KILLEBREW
Paul.Killebrew@usdoj.gov

JEFFREY S. BLUMBERG
Jeff.Blumberg@usdoj.gov
Trial Attorneys
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, NW
Washington, DC 20530
Telephone: (202) 514-2000
Facsimile: (202) 514-6273


WINSOME G. GAYLE
Special Litigation Counsel
Civil Rights Division
Special Litigation Section
Winsome.Gayle@usdoj.gov

Attorneys for the United States of America

Of Counsel:
Karen Lash
Acting Senior Counselor for
Access to Justice
Telephone: (202) 514-7073
karen.lash@usdoj.gov

Jennifer Katzman
Senior Counsel
Access to Justice
Telephone: (202) 514-7086
jenni.katzman@usdoj.gov

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

-----X
KIMBERLY HURRELL-HARRING, *et al.*, on
Behalf of Themselves and All Others Similarly
Situated,

Plaintiffs

-against-

THE STATE OF NEW YORK, *et al.*,

Defendants.
-----X

INDEX No. 8866-07
(Connolly, J.)

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Judge Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

-----X
JOSEPH JEROME WILBUR, *et al.*,

No. C11-1100RSL

Plaintiffs

v.

STATEMENT OF
INTEREST OF THE
UNITED STATES

CITY OF MOUNT VERNON, *et al.*,

Defendants.
-----X

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2 STATEMENT OF INTEREST OF THE UNITED STATES

3 The United States files this Statement of Interest to assist the Court in answering the
4 question of what remedies are appropriate and within the Court's powers should it find that the
5 Cities of Mount Vernon and Burlington violate misdemeanor defendants' right to counsel. The
6 United States did not participate in the trial in this case and takes no position on whether
7 Plaintiffs should prevail on the merits. The United States files this SOI to provide expertise and
8 a perspective that it may uniquely possess. If the Plaintiffs prevail, it is the position of the
9 United States that the Court has discretion to enter injunctive relief aimed at the specific factors
10 that have caused public defender services to fall short of Sixth Amendment guarantees, including
11 the appointment of an independent monitor to assist the Court. The United States has found
12 monitoring arrangements to be critically important in enforcing complex remedies to address
13 systemic constitutional harms.

14 In discussing the remedies available to the Court in this Statement, the United States will
15 address questions (1) and (3) of the Court's Order for Further Briefing, with particular focus on
16 the role of an independent monitor. (Dkt. # 319.) To answer the Court's first question, the
17 United States is unaware of any federal court appointing a monitor to oversee reforms of a public
18 defense agency, but the Ninth Circuit has recognized a federal court's authority in this area under
19 42 U.S.C. § 1983. *Miranda v. Clark County, NV*, 319 F.3d 465 (9th Cir. 2003). The United
20 States is aware of one case in which a federal court, through a Consent Order instituting reforms
21 of a County public defender agency, received reports from the county regarding the progress of
22 those reforms. *Stinson v. Fulton Cnty. Bd. of Comm'rs*, No. 1:94-CV-240-GET (N.D. Ga. May
23 21, 1999). However, the Court did not have the benefit of an independent monitor to assist it in
24 assessing the implementation of the reforms.

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2 Also, an independent monitor is currently monitoring systemic reform of a juvenile
3 public defender system through an agreement between the United States and the Shelby County
4 (TN) Juvenile Court (“Shelby County”).

5 Finally, it is worth noting that but for removal to federal court by the Cities here, this
6 matter would have proceeded in state court, and state court litigation over the crisis in indigent
7 defense is not at all unusual. Those cases bear out the practicality—and, at times, the
8 necessity—of court oversight in this area.

9 In answer to the Court’s third question, a number of states have imposed “hard” caseload
10 standards,¹ but the United States believes that, should any remedies be warranted, defense
11 counsel’s *workload* should be controlled to ensure quality representation. “Workload,” as
12 defined by the *ABA Ten Principles of a Public Defense Delivery System*, takes into account not
13 only a defender’s numerical caseload, but also factors like the complexity of defenders’ cases,
14 their skills and experience, and the resources available to them. Workload controls may require
15 flexibility to accommodate local conditions. Due to this complexity, an independent monitor
16 would provide the Court with indispensable support in ensuring that the remedial purpose of
17 workload controls is achieved.

18 The Washington State Bar’s Standards for Indigent Defense, incorporated by its Supreme
19 Court in its criminal rules, considers the importance of workloads in evaluating the efficacy of
20 defender services. Washington’s move to implement workload controls is a welcome
21 recognition of its obligation under *Gideon*. The United States recognizes that these standards are
22 the result of work commenced at least since 2003 by the Washington State Bar Association’s
23 Blue Ribbon Commission on Criminal Defense and supported by the State Legislature, the

24
25 ¹ For example, Arizona, Georgia, and New Hampshire have specific caseload limitations. A number of states have
“soft” caseload caps by using a weighted system. See attached Exhibit 1 for a description of select jurisdictions.

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2 Washington Defender Association, and the Washington Association of Prosecuting Attorneys,
3 among others. These workload controls are scheduled to go into effect October 2013.²

4 **INTEREST OF THE UNITED STATES**

5 The United States has authority to file this Statement of Interest pursuant to 28 U.S.C.
6 § 517, which permits the Attorney General to attend to the interests of the United States in any
7 case pending in federal court. The United States has an interest in ensuring that all
8 jurisdictions—federal, state, and local—are fulfilling their obligation under the Constitution to
9 provide effective assistance of counsel to individuals facing criminal charges who cannot afford
10 an attorney, as required by *Gideon v. Wainwright*, 372 U.S. 335 (1963). The United States can
11 enforce the right to counsel in juvenile delinquency proceedings pursuant the Violent Crime
12 Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 (Section 14141). As noted
13 above, the United States is currently enforcing Section 14141's juvenile justice provision
14 through a comprehensive out-of-court settlement with Shelby County.³ An essential piece of the
15 agreement, which is subject to independent monitoring, is the establishment of a juvenile public
16 defender system with "reasonable workloads" and "sufficient resources to provide independent,
17 ethical, and zealous representation to Children in delinquency matters." *Id.* at 14-15.

18 As the Attorney General recently proclaimed, "It's time to reclaim Gideon's petition –
19 and resolve to confront the obstacles facing indigent defense providers."⁴ In March 2010, the
20 Attorney General launched the Access to Justice Initiative to address the access-to-justice crisis.
21 Indigent defense reform is a critical piece of the office's work, and the Initiative provides a

22 ² The United States does not by this mean to endorse or detract from the efforts of these entities.

23 ³ Mem. of Agreement Regarding the Juvenile Court of Memphis and Shelby Counties, Tennessee (2012), *available*
24 *at* <http://www.justice.gov/crt/about/spl/findsettle.php>.

25 ⁴ Attorney General Eric Holder Speaks at the Justice Department's 50th Anniversary Celebration of the U.S.
Supreme Court Decision in *Gideon v. Wainwright*, March 15, 2013, *available at*
<http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-1303151.html>.

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2 centralized focus for carrying out the Department's commitment to improving indigent defense.⁵
3 The Department has also sought to address this crisis through a number of grant programs.⁶ The
4 most recent is a 2012 \$1.2 million grant program, *Answering Gideon's Call: Strengthening*
5 *Indigent Defense Through Implementing the ABA Ten Principles of a Public Defense Delivery*
6 *System* administered by the Bureau of Justice Assistance.⁷ In light of the United States' interest
7 in ensuring that any constitutional deficiencies the Court may find are adequately remedied, the
8 United States files this Statement of Interest on the availability of injunctive relief.

9 **BACKGROUND**

10 The Plaintiffs' claims of deprivations of the right to counsel, if meritorious, are part of a
11 crisis impacting public defender services nationwide. Fifty years ago, the Supreme Court held
12 that "any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial
13 unless counsel is provided for him." *Gideon*, 372 U.S. at 344. And yet, as the Attorney General
14 recently noted, "despite the undeniable progress our nation has witnessed over the last
15 half-century—America's indigent defense systems continue to exist in a state of crisis," and "in
16 some places—do little more than process people in and out of our courts."⁸

17 Our national difficulty to meet the obligations recognized in *Gideon* is well documented.⁹
18 See, e.g. ABA Standing Committee on Legal Aid and Indigent Defendants Report, *Gideon's*
19 *Broken Promise: America's Continuing Quest for Equal Justice*, (December 2004). Despite

21 ⁵ The office works with federal agencies, and state, local, and tribal justice system stakeholders to increase access to
22 counsel, highlight best practices, and improve the justice delivery systems that serve people who are unable to afford
23 lawyers. More information is available at <http://www.justice.gov/atj/>.

⁶ See Government Accountability Office, *Indigent Defense: DOJ Could Increase Awareness of Eligible Funding* 11-
14 (May 2012), available at <http://www.justice.gov/atj/idp/>.

⁷ Grants have been awarded to agencies in Texas, Delaware, Massachusetts, and Michigan.

⁸ Attorney General Eric Holder Speaks at the American Film Institute's Screening of *Gideon's Army*, June 21, 2013,
24 available at <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130621.html>.

⁹ In March 2013, the Yale Law Journal held a symposium on the challenges of meeting Gideon's promise and
25 published resulting articles in its most recent issue. See 122 Yale L.J. __ (June 2013).

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2 long recognition that “the proper performance of the defense function is . . . as vital to the health
3 of the system as the performance of the prosecuting and adjudicatory functions,” Attorney
4 General's Committee on Poverty and the Administration of Federal Criminal Justice, *Final*
5 *Report* 11 (1963), public defense agencies nationwide remain at a staggering disadvantage when
6 it comes to resources. Steven W. Perry & Duren Banks, U.S. Bureau of Justice Statistics,
7 *Prosecutors in State Courts, 2007 Statistical Tables* 1 (2012) (noting that prosecution offices
8 nationwide receive about 2.5 times the funding that defense offices receive); National Right to
9 Counsel Committee, *Justice Denied: America's Continuing Neglect of Our Constitutional Right*
10 *to Counsel* 61-64 (2009) (collecting examples of funding disparities).

11 Due to this lack of resources, states and localities across the country face a crisis in
12 indigent defense. Cara H. Drinan, *The Third Generation of Indigent Defense Litigation*, 33
13 N.Y.U. Rev. L. & Soc. Change 427 (2009) (describing crises nationwide). In many states,
14 remedying the crisis in indigent defense has required court intervention. *E.g.*, *State v. Citizen*,
15 898 So.2d 325 (La. 2005); *Hurrell-Harring v. New York*, 930 N.E.2d 217 (N.Y. 2010); *Missouri*
16 *Public Defender Comm'n v. Waters*, 370 S.W.3d 592 (Mo. 2012). The crisis in indigent defense
17 extends to misdemeanor cases where many waive their right to counsel and end up unnecessarily
18 imprisoned. NACDL, *Minor Crimes, Massive Waste* 21 (2009).¹⁰

19 DISCUSSION

20 It is the position of the United States that it would be lawful and appropriate for the Court
21 to enter injunctive relief if this litigation reveals systemic constitutional deficiencies in the
22 Defendants' provision of public defender services. Indeed, the concept of federal oversight to
23 address the crisis in defender services has gained momentum in recent years. *See, e.g.*, *Gideon's*
24

25 ¹⁰ The report is available at <http://www.opensocietyfoundations.org/reports/minor-crimes-massivewaste>.

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2 *Broken Promise, supra*, at 41-42 (recommending federal funding); Drinan, *The Third Generation*
3 *of Indigent Defense Litigation, supra* (arguing federal judges are well suited to address systemic
4 Sixth Amendment claims); Note, *Gideon's Promise Unfulfilled: The Need for Litigated Reform*
5 *of Indigent Defense*, 113 Harv. L. Rev. 2062 (2000) (advocating systemic litigation). (Again,
6 the United States takes no position on the merits of the underlying suit.)

7 **I. The Court Has Broad Authority to Enter Injunctive Relief, Including the**
8 **Appointment of an Independent Monitor, if It Finds a Deprivation of the Right to**
9 **Counsel.**

10 If Plaintiffs prevail on the merits of their claims, or as part of a consent decree, this Court
11 has broad authority to order injunctive relief that is adequate to remedy any identified
12 constitutional violations within the Cities' defender systems. *Swann v. Charlotte-Mecklenburg*
13 *Bd. of Educ.*, 402 U.S. 1, 15 (1971); *see also Thomas v. County of Los Angeles*, 978 F.2d 504,
14 509 (9th Cir. 1992) (noting that courts have power to issue "broad injunctive relief" where there
15 exist specific findings of a "persistent pattern of [police] misconduct"). When crafting injunctive
16 relief that requires state officials to alter the manner in which they execute their core functions, a
17 court must be mindful of federalism concerns and avoid unnecessarily intrusive remedies.
18 *Labor/Community Strategy Center v. Los Angeles County*, 263 F.3d 1041, 1050 (9th Cir. 2001).
19 Courts have long recognized—across a wide range of institutional settings—that equity often
20 requires the implementation of injunctive relief to correct unconstitutional conduct, even where
21 that relief relates to a state's administrative practices. *See, e.g., Brown v. Plata*, 131 S. Ct. 1910
22 (2011) (upholding injunctive relief affecting State's administration of prisons); *Brown v. Bd. of*
23 *Educ.*, 349 U.S. 294 (1955) (upholding injunctive relief affecting State's administration of
24 schools). Indeed, while courts "must be sensitive to the State's interest[s]," courts "nevertheless
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2 must not shrink from their obligation to ‘enforce the constitutional rights of all persons.’” *Plata*,
3 131 S. Ct. at 1928 (quoting *Cruz v. Beto*, 405 U.S. 319, 321 (1972)).

4 In crafting injunctive relief, the authority of the Court to appoint a monitor is well
5 established. *Eldridge v. Carpenters 46*, 94 F.3d 1366 (9th Cir. 1996) (holding that district
6 court’s failure to appoint a monitor was an abuse of discretion where defendant insisted on
7 retaining a hiring practice already held to be unlawfully discriminatory); *Nat’l Org. for the*
8 *Reform of Marijuana Laws v. Mullen*, 828 F.2d 536, 543 (9th Cir. 1987); *Madrid v. Gomez*, 889
9 F. Supp. 1146, 1282 (N.D. Cal. 1995) (holding that the “assistance of a Special Master is clearly
10 appropriate” because “[d]eveloping a comprehensive remedy in this case will be a complex
11 undertaking involving issues of a technical and highly charged nature”).

12 **II. Appointment of an Independent Monitor Is Critical to Implementing Complex**
13 **Remedies to Address Systemic Constitutional Violations.**

14 In the experience of the United States, appointing a monitor can provide substantial
15 assistance to courts and parties and can reduce unnecessary delays and litigation over disputes
16 regarding compliance. This is especially true when institutional reform can be expected to take a
17 number of years. A monitor provides the independence and expertise necessary to conduct the
18 objective, credible analysis upon which a court can rely to determine whether its order is being
19 implemented, and that gives the parties and the community confidence in the reform process. A
20 monitor will also save the Court’s time.

21 In Grant County, Washington, an independent monitor was essential to implementing the
22 court’s injunction in a right-to-counsel case. *Best et al. v. Grant County*, No. 04-2-00189-0
23 (Kittitas Cty. Sup. Ct., filed Dec. 21, 2004). There, the monitor assisted the court and parties for
24 almost six years by conducting site visits, assessing caseloads, and completing quarterly reports
25 on the County’s compliance with court orders. We note that the monitor’s term in Grant County

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2 was limited from the outset to a defined period, and the monitor's final report noted work that
3 still remained to be done.¹¹ In our experience, it is best to continue monitoring arrangements
4 until the affected parties have demonstrated sustained compliance with the court's orders.

5 In 2009, the United States entered a Memorandum of Agreement with King County,
6 Washington to reform the King County Correctional Facility. *United States v. King County,*
7 *Washington*, No. 2:09-cv-00059 (W.D. Wash., filed Jan. 15, 2009). That successful reform
8 process was assisted by an independent monitor. Other significant cases involving monitors
9 include: *United States v. City of Pittsburgh*, No. 97-cv-354 (W.D. Pa., filed Feb. 26, 1997)
10 (police; compliance reached in 1999); *United States v. Dallas County*, No. 3:07-cv-1559-N (N.D.
11 Tex., filed Nov. 6, 2007) (jail); *United States v. Delaware*, No. 1-11-cv-591 (D. Del., filed Jun 6,
12 2011) (mental health system); *United States v. City of Seattle*, No. 12-cv-1282 (W.D. Wash.,
13 filed July 27, 2012)(police). In each of these cases, the independent monitor improved efficiency
14 in implementation, decreased collateral litigation, and provided great assistance to the court.¹²

15 The selection of a monitor need not be a strictly top-down decision by the Court. The
16 parties may agree on who should fill the role of the monitor, but if they cannot, the Court can
17 order them to nominate monitor candidates for the Court's consideration. In addition, it should
18 be noted that the cost of an independent monitor, however it is paid, should not reduce the funds
19 available for indigent defense.

20 Finally, it should be noted that the appointment of an independent monitor can ensure
21 public confidence in the reform process. With allegiance only to the Court and a duty to report
22 its findings accurately and objectively, the monitor assures the public that the Cities will move
23

24 ¹¹ The monitor's final report and two of its quarterly reports are attached as Exhibit 2.

25 ¹² Summaries of those cases, relevant pleadings, and reports from the monitors can be found at
<http://www.justice.gov/crt/about/spl/findsettle.php>.

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2 forward in implementing the Court's order, and will not escape notice if they do not. Moreover,
3 the Cities' progress towards implementing the Court's order will be more readily accepted by a
4 broader segment of the public if that progress is affirmed by a monitor who is responsible for
5 confirming each claim of compliance asserted by the Cities.

6 **III. If the Court Finds Liability in this Case, its Remedy Should Include Workload**
7 **Controls, Which Are Well-Suited to Implementation by an Independent Monitor.**

8 Achieving systemic reform to ensure meaningful access to counsel is an important, but
9 complex and time-consuming, undertaking. Any remedy imposed by the Court may require
10 years of assessment to determine whether it is accomplishing its purpose, and the Court and the
11 parties may need independent assistance to resolve concerns about compliance.

12 One source of complexity will be how the Court and parties assess whether public
13 defenders are overburdened. In its Order for Further Briefing, the Court asked about "hard"
14 caseload standards, which provide valuable, bright-line rules that define the outer boundaries of
15 what may be reasonably expected of public defenders. *ABA Ten Principles, supra*. However,
16 caseload limits alone cannot keep public defenders from being overworked into ineffectiveness;
17 two additional protections are required. First, a public defender must have the authority to
18 decline appointments over the caseload limit. Second, caseload limits are no replacement for a
19 careful analysis of a public defender's *workload*, a concept that takes into account all of the
20 factors affecting a public defender's ability to adequately represent clients, such as the
21 complexity of cases on a defender's docket, the defender's skill and experience, the support
22 services available to the defender, and the defender's other duties. *See id.* Making an accurate
23 assessment of a defender's workload requires observation, record collection and analysis,
24 interviews with defenders and their supervisors, and so on, all of which must be performed
25 quarterly or every six months over the course of several years to ensure that the Court's remedies

1
2 are being properly implemented. The monitor can also assess whether, regardless of workload,
3 defenders are carrying out other hallmarks of minimally effective representation, such as visiting
4 clients, conducting investigations, performing legal research, and pursuing discovery. ABA
5 Standing Committee on Legal Aid and Indigent Defendants, *Eight Guidelines of Public Defense*
6 *Workloads* (August 2009). These kinds of detailed inquiries, carried out over sufficient time to
7 ensure meaningful and long-lasting reform, are critical to assessing whether the Cities are truly
8 honoring misdemeanor defendants' right to counsel, and they can be made most efficiently and
9 reliably by an independent monitor. As shown in Exhibit 2, these are the kinds of inquiries made
10 by the independent monitor in the Grant County, Washington case. Also, should non-
11 compliance be identified, early and objective detection by the monitor, as well as the
12 identification of barriers to compliance, allow the parties to undertake corrective action.

13 An independent monitor may also obviate the need for the Court to dictate specific and
14 rigid caseload requirements. In the Shelby County juvenile justice enforcement matter, for
15 example, the County is required to establish a juvenile defender program that provides defense
16 attorneys with reasonable workloads, appropriate administrative supports, training, and the
17 resources to provide zealous and independent representation to their clients, but the agreement
18 does not specify a numerical caseload limit. *See* Mem. of Agreement at 14-15.

19 CONCLUSION

20 Should the Court find for the Plaintiffs, it has broad powers to issue injunctive relief.
21 That power includes the authority to appoint an independent monitor who would assist the
22 Court's efforts to ensure that any remedies ordered are effective, efficiently implemented, and
23 achieve the intended result.
24
25

Respectfully submitted,

JOCELYN SAMUELS*
Acting Assistant Attorney General
Civil Rights Division
United States Department of Justice

ROY L. AUSTIN, JR. (DC 980360)*
Deputy Assistant Attorney General
Civil Rights Division

JONATHAN M. SMITH (DC 396578)
Chief
Civil Rights Division
Special Litigation Section

JUDY C. PRESTON (MD)*
Principal Deputy Chief
Civil Rights Division
Special Litigation Section

/s/ Winsome G. Gayle
WINSOME G. GAYLE (NY 3974193)*
Trial Attorney
Civil Rights Division
Special Litigation Section
Winsome.Gayle@usdoj.gov

/s/ Paul Killebrew
PAUL KILLEBREW (LA 32176)*
Trial Attorney
Civil Rights Division
Special Litigation Section
Paul.Killebrew@usdoj.gov

950 Pennsylvania Avenue, NW
Washington, DC 20530
Telephone: (202) 514-2000
Facsimile: (202) 514-6273

Attorneys for the United States of America

*Conditional Admission is Pending

Of Counsel:
Deborah Leff (DC 941054)*
Acting Senior Counselor for
Access to Justice
Telephone: (202) 514-7073
deborah.leff@usdoj.gov

Larry Kupers (DC 492450)*
Senior Counsel
Access to Justice
Telephone: (202) 514-7173
Larry.B.Kupers@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

/s/ Winsome G. Gayle
WINSOME G. GAYLE*
Trial Attorney
Civil Rights Division
Special Litigation Section
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Telephone: (202) 514-2000
Facsimile: (202) 514-6273
Winsome.Gayle@usdoj.gov

Attorney for the United States of America

* Conditional Admission is Pending

EXHIBIT 3

From: gacdl@yahoogroups.com [mailto:gacdl@yahoogroups.com] **On Behalf Of** 'Jennifer Mackall '
jennkmac@att.net [gacdl]
Sent: Friday, August 15, 2014 12:03 PM
To: gacdl@yahoogroups.com
Cc: gacdlboard@yahoogroups.com
Subject: [gacdl] Cordele Circuit Public Defender Position Available

From: Rusty Wright [mailto:rwright@crispcounty.com]

POSITION AVAILABLE

The Cordele Circuit Public Defender Selection Panel is currently accepting applications for the position of Circuit Public Defender for the Cordele Judicial Circuit. Applicants must be a member of the Georgia Bar in good Standing. The salary for this position is pursuant to OCGA 17-12-25 as adjusted by the General Assembly. Applications will be accepted until August 25th, 2014.

The Cordele Circuit Public Defender Office serves four counties with a current annual caseload of approximately 1700 cases. The staff currently consists of 3 attorneys and 3 support staff.

Interested applicants should send a resume and cover letter to:

Cordele Public Defender Committee
P.O. Box 938
Cordele, GA 31010-0938

For additional information please contact **Russell Wright,**
229-273-1861.

Posted by Jennifer Mackall, GACDL

Posted by: "Jennifer Mackall " <jennkmac@att.net>

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EXHIBIT 4

**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 5

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.

- 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. *with* I am unable to afford to pay the fees. *with*

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.

Maria Alice R. Harbert
Notary Public

My Commission expires on Jan 6, 2016

EXHIBIT 6

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 7

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 8

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

[Handwritten Signature]
Signed

ANISHA GUPTA
Printed

Sworn to and subscribed before me

This 20 day of Dec, 2013.

[Handwritten Signature]

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. [Handwritten Signature]
Signature

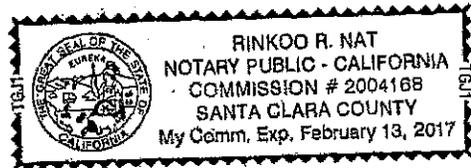


EXHIBIT 9

AFFIDAVIT OF N.P.

I, N.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. I attend ^{high N.P.} ~~middle~~ school in Ben Hill County.
2. I was arrested December 2, 2013 at school and taken to the Eastman Regional Youth Development Campus in Dodge County, Georgia.
3. I was charged in nine cases with four counts of burglary in the first degree, ten counts of entering a motor vehicle with intent to commit theft, one count of criminal damage to property in the first degree, and one count of criminal trespassing in Ben Hill County Juvenile Court.
4. On December 6, 2013, deputies from Ben Hill Sheriff's Department brought me to court for a detention hearing in Ben Hill Juvenile Court.
5. My mother applied for a public defender for me that day in court. I met with a white male public defender for the first time about my cases right before my name was called. We talked for ^{about 30 N.P.} 1 minutes. I do not know his name.
6. At my detention hearing, the public defender asked the judge to release me from detention on an ankle monitor. Judge Pack ordered that I stay in detention because she said I was a threat to public safety. I was driven back to the RYDC. I spent Christmas in detention.

7. I was taken back to Ben Hill Juvenile Court on January 2, 2014. I met with a black female public defender. She told me I would not be going before the judge that day. We talked for about 30 ^{N.P.} minutes. I was taken back to the RYDC after court.
8. Nobody contacted me from the Public Defender's Office about my case while I was waiting for my next court date. The only information I had about my case came from the probation officer who visited me and told me when I was going to court and that the judge was still trying to get me a new lawyer because there were three other people charged with the same offense with me and we were all going to get separate lawyers.
9. I was brought back to Ben Hill Juvenile Court on February 6, 2014. My case was not called. Instead, Judge Pack removed herself from my case and said a new judge was going to handle the case.
10. I went back to the RYDC to wait until a new judge took my case and another court date was set. While I was waiting, I did not have any contact with a public defender.
11. On March 4, 2014, three months after my arrest, I was driven from the Eastman RYDC to the Tift County Juvenile Court where a new judge heard my case. It was there that I met the new public defender on my case. ^{N.P.} His name was ~~David~~ Morgan. I admitted to the charges and the prosecutor agreed to dismiss a few of the

charges against me. I was sentenced to serve 30 days, but they gave me credit for the time I had served since December 2, 2013. I was also sentenced to two years probation; 60 hours of community service; a curfew of 7 p.m.; \$300 in court fees and \$300 in public defender application fees; and \$2,295 in restitution. I have until March 2016 to pay my restitution, fines and fees.

12. While I was in detention, I missed more than two months of the eighth grade.

13. My troubles with the criminal justice system may not be over. In May, I was told by a woman at the probation office that I might be charged with trespassing in a ~~brand~~ new case involving a fight that occurred in March. I swear under penalty of perjury that the information given herein is true and N.P.

correct and understand that a false statement to any item may result in a charge of false swearing.

This 4 day of September 2014

Nighvone Phillips

Signed

Nighvone Phillips

Printed

Sworn to and subscribed before me

This 4th day of September 2014.

Ben H. Smith

Notary Public



My commission expires: April 23, 2018

EXHIBIT 10

AFFIDAVIT OF BEN H. SMITH III

I, Ben H. Smith III, being competent to make this affidavit 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 old, and am competent to sign this affidavit. It is based on my personal knowledge and observations.
2. My date of birth is May 1, 1959.
3. I have worked as an investigator and paralegal for the Southern Center for Human Rights since April 2014.
4. My responsibilities include watching court proceedings across Georgia. That includes the Cordele Judicial Circuit.
5. I attended a variety of proceedings, including arraignments, calendar call, pre-trial clean up proceedings and probation revocation hearings in the Cordele Judicial Circuit. That includes proceedings in Ben Hill County Superior Court on April 14th, April 28th, April 29th, June 12th, June 30th, July 1st, September 10th, and September 19th. I attended proceedings in Crisp County Superior Court on June 3rd, June 4th, June 5th, August 26th, and August 28th, and September 11th. I attended Superior Court proceedings in Dooly County on April 23rd, May 12th, July 18th, August 13th, and September 25th. I attended proceedings in Wilcox County Superior Court on September 9th. I also attended Juvenile Court

sessions on August 21st in Ben Hill County, and on September 8th in Crisp County.

6. In the past six months, I observed public defenders from the Cordele Judicial Circuit:

- Take defendants before a judge to plead guilty within hours of accepting their applications for a public defender.
- Assist defendants in entering pleas while unaware of the state's cases against them or the basic details of their plea agreements with the District Attorney.
- Represent multiple defendants, including defendants that public defender did not personally advise, as they pleaded guilty at the same time in separate cases.
- Say nothing more to the judge than to request that the \$50 application fee be imposed on a defendant.
- Hold meetings with defendants in the courtroom gallery, the jury box, stairwells, and a break room, well within earshot of passersby.

7. At 7 out of 11 arraignment proceedings, I saw defendants sign up for a public defender at the start of the arraignments, and then plead guilty or nolo contendere the same day.

8. At the June 3rd arraignments in Crisp County, 7 of 9 defendants who applied for the public defender pleaded guilty or nolo contendere less than four hours later. The seven defendants entered their pleas at the same time.
9. Among the defendants who pleaded guilty or nolo contendere on the same day they applied for counsel were Karen A. Brown and Cloyd Lee Marshall, who were co-defendants. Ms. Brown pleaded nolo contendere to obstruction of an officer. Mr. Marshall pleaded nolo contendere to giving false information to a law enforcement officer and driving with a suspended license.
10. At the September 9th arraignments in Wilcox County Superior Court, four of the five people represented by the public defender submitted public defender applications and pleaded guilty that same day. The five defendants represented by the public defender entered guilty pleas together before court adjourned at 12:35p.m.
11. Among them was Dominic Scott, who pleaded guilty to criminal trespass and forgery charges an hour after meeting with a lawyer from the Public Defender's Office. The meeting between the attorney, David Rigdon, Mr. Scott and a male relative of Mr. Scott took place three rows behind me in the courtroom gallery. Later, during the taking of the plea, Judge Pridgen asked Mr. Scott if he had had a full opportunity to discuss his case with his lawyer. Mr. Scott paused. "You

want more time?” Judge Pridgen asked Mr. Scott. Public Defender Steve Czarnota, who stood behind Mr. Scott during the taking of the plea, did not say anything. Mr. Scott then went ahead with the plea. Mr. Scott was sentenced to four years probation, 120 hours of community service, and was ordered to pay \$870 in restitution. Mr. Czarnota asked Judge Pridgen, “And the \$50?” The judge then ordered Mr. Scott to pay two public defender application fees, totaling \$100.

12. On July 1st, in Ben Hill County, three of the four defendants represented by the public defender entered pleas of guilty or nolo contendere within three hours of applying for a public defender. The court imposed the \$50 public defender application fee against each of the three defendants.
13. I observed cases in which the Public Defender’s Office was unaware of the state’s cases against the defendants or the basic details of their plea agreements with the District Attorney.
14. The June 5th Crisp County Superior Court arraignment calendar listed the Public Defender as Shannon Casteel’s attorney. Mr. Casteel, who was brought to court from jail, initially entered a guilty plea, but then withdrew it after District Attorney Denise Fachini told the judge that the recommended sentence was 12 months to serve, and Judge Pridgen imposed it. Mr. Casteel shook his head

after the judge imposed the plea. Then Circuit Public Defender Timothy Eidson turned to Ms. Fachini and asked, "Was that probation?" Ms. Fachini replied, "No, that was 12 months to serve." Mr. Eidson indicated there had been a misunderstanding over the recommended sentence. Judge Pridgen said, "Sounds like we've had a failure to communicate." Mr. Casteel then withdrew his plea.

15. On September 19th, in Ben Hill Superior Court, public defender Steve Czarnota misinterpreted a plea offer from the District Attorney's office for Amber Marie Hutchinson. Ms. Hutchinson had agreed to plead guilty to a variety of drug possession charges in two cases, including possession and sale of methamphetamine. The District Attorney's recommended sentence included a combination of multiple concurrent sentences adding up to five years of probation, fines and community service. After an assistant district attorney read the recommended sentence, Circuit Public Defender Burt Baker asked, "Is that three years probation? ... I'm going to need Mr. Czarnota to step here." Mr. Czarnota met with Ms. Hutchinson and the assistant district attorney for two to three minutes while Mr. Baker stood in front of the judge waiting for their discussion to end. Then Mr. Czarnota told Judge Chasteen, "The confusion is on my part. I spoke with the defendant; she accepts that." Judge Chasteen

sentenced Ms. Hutchinson to a total of five years probation, with special drug and alcohol conditions, attendance at a drug treatment center, and required her to pay \$3,200 in fines and \$100 in public defender application fees.

16. On August 26th, in Crisp County Superior Court, Judge Hughes asked Mr. Baker whether he agreed that there was a factual basis to the charges for three separate defendants during the taking of pleas. In two of the cases, Mr. Baker said he had not read the state's case or seen the discovery. In a third case, Mr. Baker said, "Judge, I have no – I have no response to that." The court accepted each guilty plea and sentenced the defendants.
17. On June 12, 2014, at calendar call in Ben Hill County Superior Court, Circuit Public Defender Timothy Eidson announced that 23 of the 58 cases that were being handled by the Public Defender's Office were "ready for trial," although three of them might result in pleas. By the end of the day, all 23 of the defendants charged in those cases had pleaded guilty. None of the clients represented by private attorneys pleaded guilty at the June 12th hearing.
18. Some defendants asked to be represented by the public defender and were turned down because they didn't qualify financially. In some instances, these defendants pleaded guilty without the benefit of an attorney.

19. Johnny Lewis King Jr. was arraigned in Ben Hill County Superior Court on July 1st for endangering a security interest, a misdemeanor. He applied for a public defender in court but he didn't financially qualify, according to Mr. Eidson, who informed the court of this. During a break in the proceedings, Assistant District Attorney Christian Brown came to the courtroom gallery to speak with Mr. King, who was seated directly in front of me. Within an hour, Mr. King pleaded guilty without counsel and was sentenced to 12 months probation, fined \$1,000, and ordered to pay \$1,400.82 in restitution. Mr. King's probation was subject to special drug and alcohol conditions.
20. Public defenders ask judges to impose the \$50 public defender application fee if the judges do not automatically do so. In some instances, it is the only thing a public defender says to a judge about a particular defendant's case outside of "No sir," in response to the judge's question, "Do you have anything to add to the facts of the case?" Or "Yes, your honor," when asked, "Is this your understanding of the plea agreement?"
21. During the June 3rd Crisp County arraignment proceedings, Mr. Eidson asked Judge Pridgen to impose the \$50 application fee in five cases. After Mr. Eidson's request, Judge Pridgen announced that all public defender applicants must pay the fee. Despite the blanket announcement, Mr. Eidson continued to

request the fee be imposed. When defendant Cedric Granville was sentenced for two counts of theft of services, Mr. Eidson said, "Judge, the \$50 application fee." Judge Pridgen replied, "It's still in there."

22. On September 9th, in Wilcox County Superior Court, Mr. Czarnota asked Judge Pridgen to retroactively impose the \$50 public defender application fee on Keisha Cummings after the judge had failed to do so. Mr. Czarnota's request came after Ms. Cummings's hearing had concluded.

23. I observed discussions between public defenders and defendants that were not private. Mr. Eidson routinely discussed plea offers with defendants in the jury box. Sometimes I could hear what he was saying. I saw other public defenders talking to defendants in the hallway outside of the Ben Hill courtroom. On September 9th in Wilcox County Superior Court, I observed Mr. Rigdon talking to one defendant in the stairwell and two others in the courtroom gallery. On June 12th, I observed Mr. Rigdon in the snack room of Ben Hill Superior Court talking to James Curtis Mixon about his case. Visitors must pass through the snack room to get to the men's and women's restrooms, and I observed people walk in and out of the room as this conversation took place.

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 October, 2014

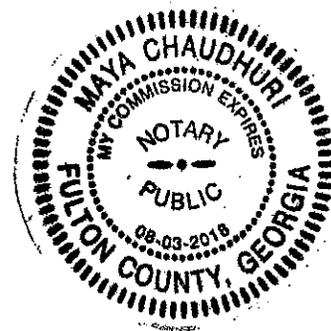
Ben H. Smith III
Signed

Ben H. Smith III
Printed

Sworn to and subscribed before me

This 2nd day of October, 2014.

Maya Chaudhuri
Notary Public



My Commission expires: 08-03-2018

EXHIBIT 11

AFFIDAVIT OF CHARLES BROWN

I, Charles Brown, 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 make this affidavit.
2. I was born in 1978. I am 36 years old.
3. I live in ~~Fulton~~ ^{Dekalb (CB)} County, and Crisp County, I live in Dekalb County, where I work Mondays through Friday, and in Crisp County on weekends. (CB)
4. On May 11, 2014, I was ~~visiting~~ ^{with (CB)} family in Cordele for the Mother's Day weekend and was arrested. I was charged with possession of a firearm during the commission of a crime, theft by receiving stolen property, possession of methamphetamine, driving under the influence of drugs and giving false information to a police officer. I have been in the Crisp County Jail ever since.
5. The next day, ~~Tim Eidson~~ ^{white} from the Public Defender's Office stopped me in ^{a tall man with glasses and a pony tail (CB)} the hallway of the Crisp County Jail and asked me if I wanted a public defender. I said yes, and walked with him into an interview room to talk about my case and fill out an application. He did not introduce himself ~~he did not give me a business card~~ (CB)
6. ~~Mr. Eidson~~ ^{(the man) (CB)} asked me to waive my arraignment and I refused to do so. I told him that I wanted every opportunity to appear before the judge.
7. I asked him if he had a copy of the police report in my case. He told me he would have to wait until he ~~filed~~ ^{was filed (CB)} a motion for discovery to get that. When I questioned how long I would have to wait for that, he told me I could have

my family get a copy of the police report for me. ^{The man (CB)} Mr. Eidson never said ^{would be filed (CB)} when or if he would file a motion for discovery. Our meeting lasted about ^(CB) five minutes. I later learned from a cellmate that the ^(CB) man ~~that~~ I had met with fit the description of Andy Anderson (CB)

8. The next day, my brother obtained a copy of the police report and brought me a copy.

9. I went before Magistrate Judge Gail Sims on May 13, 2014 for my first appearance hearing and was denied bond. She said only the Superior Court could consider bond on my charges.

10. On June 7, Rashawn Clark from the public defender's office came out to the jail to meet with me. The meeting lasted about five minutes. She asked me if I wanted her to represent me at my Superior Court bond hearing on June

10. I told her no.

11. I represented myself at my Superior Court bond hearing. Judge Pridgen denied bond, ^{because of a probation hold (CB)}

12. On June 26, I filed a motion through my brother for a preliminary hearing.

The same day, I sent a letter to the Public Defender requesting their services,

because I decided I cannot represent myself.

^{(For 13-18 see attached page) (CB)}

13. I would rather have a private attorney but I cannot afford one right now. I

^(CB)

do not feel confident the Public Defender is going to fight nearly as hard for me as a paid attorney would.

(CB) 13. I have not received a response from the judge about my request for a preliminary hearing.

(CB) 14. My family sent a fax to the Public Defender's Office on July 9, 2014 asking them to send a lawyer to talk to me at the jail.

(CB) 15. The next day Andy Anderson visited me at the jail. I filled out a second application. The meeting lasted 8 minutes. He tried to make me sign a waiver of arraignment again. I refused. He asked me questions about my brother, Chris, who he said he knew very well.

(CB) 16. ~~On~~ On July 14, 2014, I sent a letter to the Public Defender's Office again requesting a lawyer come see me to talk legal strategy and to plan for my preliminary hearing. My family sent a fax with the same request on the same day.

(CB) 17. I sent another letter requesting a Public Defender come see me.

(CB) 18. I have not received any responses to those written requests.

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 25th day of July, 2014

CHARLES A BROWN

Signed

Charles Brown

Printed

Sworn to and subscribed before me

This 25th day of July, 2014.

BEN H SMITH III

Notary Public

My commission expires: April 23, 2018

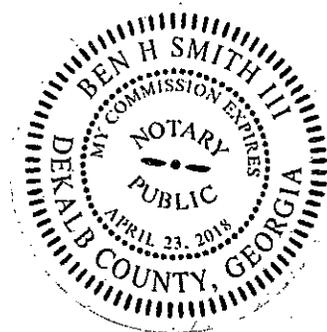


EXHIBIT 12

AFFIDAVIT OF TIMOTHY M. FONDER

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

1. I am over 18 years of age and am competent to make this affidavit.

2. I was born on September 25, 1989. I am 24 years old.

TF *In late February,*
3. TF *On February 21, 2014,* Ben Hill County law enforcement officers picked me up at the Cusseta ^{*City*} ~~County~~ Jail, in ^{*Chattahoochee County, Georgia,*} ~~Alabama~~, on two warrants issued TF

TF *on February 1, 2014,* The warrants accused me of first degree burglary and possession of a firearm by a convicted felon. I was taken from the Cusseta jail, where I was being held on an unrelated charge, to the Ben Hill County Jail that same day.

4. I appeared before a magistrate during my first week at the jail and was denied bond.

5. That same week, after my bond hearing, a guard came to my cell and told me the Public Defender was there to see me. I thought I was going to meet with a lawyer. I was taken to the interview room where I met a tall white man with white hair. He introduced himself but I do not recall his name. He stated that he was from the Public Defender's Office, but that he was not an attorney. He was just there to sign me up for a lawyer

from his office. I asked him how long it would be before my first hearing in Superior Court. The man said he didn't know. The meeting was very brief -- no more than five minutes -- long enough for ^{IF} him to fill out the application, ^{IF} and for me to sign it. ^{IF} The man told me ^{that} somebody would come talk to me. The man did not tell me how to contact the Public Defender's Office.

6. After that meeting, I received notice that I would have a bond hearing on March 11 in Superior Court.
7. About two weeks later, a day before my bond hearing, a guard brought me from my cell to the interview room to meet with Tim Eidson. The meeting lasted about 10 minutes. Mr. Eidson told me the District Attorney was offering me a 20-year sentence with 10 to serve. "That's too much," he said. Mr. Eidson asked me if I would take the deal if he could get the sentence down to 10 years to serve five. I said no. Mr. Eidson didn't ask any questions about the case. He never said anything about taking the case to trial.
8. At my March 11th bond hearing, the judge denied bond because I was already on felony probation. Mr. Eidson did not say anything. He did not try to get me a bond. He just sat there at the defense table.

9. I did not hear anything from the public defender again until my arraignment on June 30. During those two and a half months, I sent three letters to the Public Defender's Office asking for an attorney to come see me. None came. In late April, I wrote the Public Defender, Judge Pridgen and the Clerk of Court to request another bond hearing, a motion to waive indictment and to plead out on the charges. I just wanted to put this thing behind me. The Clerk of Court wrote back that she had forwarded my letter to the judge for his review. Neither the judge nor the Public Defender's Office responded to my requests. TF

10. The next time I saw a public defender was June 30th when I appeared in Ben Hill Superior Court for my arraignment. I met with a lawyer named Steve. I do not remember his last name. He told me the offer from the District Attorney was TF a straight 10-TF years to serve prison sentence. That really TF TF wasn't much better than the original TF 20 to serve 10 deal. I did not take it. Steve also said I would be assigned a conflict attorney.

11. That attorney, Matthew Dale, met with me the second week of July.

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 16 day of July, 2014

Tim Fowles

Signed

Timothy Fowles

Printed

Sworn to and subscribed before me

This 16th day of July, 2014.

Ben H. Smith III

Notary Public

My commission expires: April 23, 2018

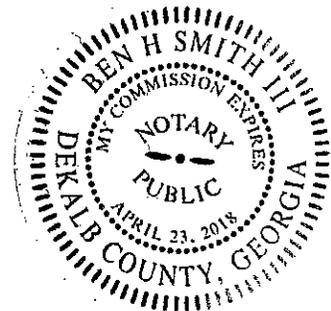


EXHIBIT 13

AFFIDAVIT OF ERIC A. WYATT

I, Eric A. Wyatt, 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 make this affidavit.
2. My date of birth is August 29, 1966.
3. I have limited use of my legs because of a fall in a shower in 2012. I suffer from continuous pain in my back and left leg. As a result I spend much of my time in a wheelchair. I am hypoglycemic, and have high blood pressure.
4. I was arrested by Clayton County police on October 4, 2011 on a theft by conversion charge for taking a truck that belonged to a Ben Hill County man. I pleaded guilty to the charge and received a 360-day sentence with 179 days to serve in the Clayton County Jail. I was released on March 31, 2012. I spent the next two years in various jails in the metro Atlanta area after leaving Clayton County due to other open cases, including a theft by taking case, some traffic offenses and a probation violation.
5. On March 21, 2014, Ben Hill County law enforcement officers picked me up at the Douglas County Jail where I served time for a different offense. I was supposed to be released that day from Douglas County. Instead, I was taken to the Ben Hill County Jail.

6. On March 24th, I was presented with a 2011 warrant issued by a Ben Hill County judge for theft by taking, a felony, for taking the same truck from the same man as the 2011 Clayton County charge.
7. I had already served my time for the offense in Clayton County and the truck had been returned to the widow of Richard Goodman, the truck's owner long before Ben Hill authorities took me into custody.
8. I was taken before a magistrate on March 24th and was denied bond.
9. About four days after arriving at the jail, I was called out of my jail cell and told someone from the Public Defender's Office was here to meet with me. He introduced himself as Tim Eidson. I filled out an application. I asked him whether I could get a bond and be able to sign my own bond. I also asked him if I was released from jail to await trial would there be transportation available to take me back to metro Atlanta. He said he didn't know anything about that. I tried to explain my situation to Mr. Eidson but he stopped me and said he was not going to be my attorney. The meeting lasted about five minutes.
10. I met with a different public defender, Steve Czarnota, before my superior court bond hearing on May 1st. That meeting lasted approximately five minutes. During that meeting, I tried to explain to Mr. Czarnota that I had already faced a separate charge for the same incident in a different county in 2011. I gave him copies of documents to show him that. I asked Mr.

Czarnota what he thought of the documents I presented. He didn't answer me. He just took the documents and made copies. He did not say whether he would look into the matter.

11. Later, Mr. Czarnota did not say anything at my bond hearing. I pleaded not guilty. The judge gave me a \$20,000 bond. I couldn't make that.
12. After that, I did not receive an update from the Public Defender's Office about what progress they had made in looking into the Clayton County case and whether I could avoid prosecution for the same incident in Ben Hill. I did not hear anything at all from the Public Defender's Office from May 1-June 30. The next time I met with Mr. Czarnota was at my arraignment in Ben Hill Superior Court on June 30th. Mr. Czarnota told me the District Attorney's offer was a 20-year-sentence with 10 to serve in prison. My reaction: "Are you serious? I've already been charged with this once. I've already served time for this." I didn't take the deal because I had served time in Clayton County.
13. I tried again to explain my situation to Mr. Czarnota. I gave him copies of some of the same documents I had given him previously to make my point. He told me he would talk to the District Attorney and come back to meet me on July 2.

14. Mr. Czarnota did not come to visit me that day. I did not know how to reach him because neither Mr. Czarnota nor Mr. Eidson gave me information on how to contact them.
15. On July 8, a deputy came to my cell and told me to pack up my belongings because I was being released. The deputy gave me a document stating that the theft by taking charge would no longer be prosecuted. I was taken out to the lobby where I saw Mr. Czarnota. I said, "hey, how are you doing?" and wanted to shake his hand. He walked by without saying a word to me.
16. I don't know why it took so long for someone in the Ben Hill County court system to figure out that I shouldn't have to face prosecution a second time for a nearly three-year-old offense. If the Public Defender's Office had been more responsive, I don't think I would have had to spend three and a half months in a filthy jail riddled with mold and flies where a doctor only comes around once every two weeks and where you have to pay out of pocket to visit nurses and obtain medications. I've never experienced such conditions at any other jail.
17. I know public defenders offices get stuck with lots of cases, but this case is one a lawyer's got to put both feet into. I thought I was going to prison for a long time and I was terrified because I thought I might not survive it because of my health. I lived with that fear, needlessly, for three and a half months.

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 9 day of July, 2014

E. A. Wyatt

Signed

ERIC A. WYATT

Printed

Sworn to and subscribed before me

This 9th day of July, 2014.

Ben H. Smith III

Notary Public

My commission expires: April 23, 2018

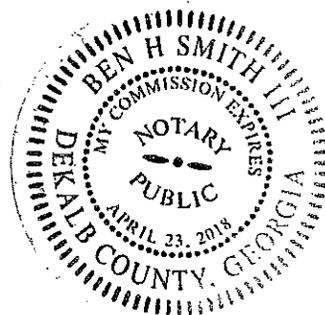


EXHIBIT 14

AFFIDAVIT OF ANTHONY MCKENZIE

I, Anthony McKenzie, 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 1973. I am 41 years old.
2. I live in Crisp County.
3. I was arrested on April 12, 2014 for two misdemeanor battery warrants from 2013 and taken to the Crisp County Jail.
4. I was given a bond on the misdemeanor charges by the magistrate judge at the jail.
5. *A.M* About a week after my arrest, *a white man* ~~Andy Anderson~~ from the public defender's office came to see me in the jail. He asked me what I was in jail for and if I was on probation or parole.
6. When I told him that I was on probation and parole, he told me that he couldn't do anything about the parole situation, but to wait and see what probation does and then we can go from there.
7. I understood that to mean that his office would not represent me until my parole and probation situations were sorted out. I was not given an application for the public defender. However, I was facing new *A.M* misdemeanor charges. *The man* ~~Andy Anderson~~ did not mention anything to me

about being represented on my misdemeanor charges or when I would meet with a lawyer about them.

8. I received a notice from the court saying that I would have a probation hearing on May 15. My probation officer had been to see me at the jail and also let me know I would be going to court.
9. I was brought before the judge on May 15; he asked me if I had a lawyer. I told him that I thought I couldn't have a lawyer for a probation hearing. The judge asked me who told me that and then sent a black female public defender to talk to me.
10. I met with this public defender for about two minutes. She told me that the DA would drop the misdemeanor charges if I agreed to 90 to 120 days in a probation detention center for the probation violation.
11. I told her that I would rather go to prison, because I am a grown man and I can't go to boot camp with these young guys. The public defender didn't ask the DA or the probation officer if prison was an option. She seemed scared to talk to them.
12. I then asked her if I were able to pay my fine would that change the sentence from the DA. She told the judge that if ^I _^ could get out, I could pay my fine, and he said that I would have to wait to pay until after I

was released from detention. She did not tell the DA or probation officer about this.

13. I was sentenced to serve 90 to 120 days in detention. I refused to sign the plea sheet. I asked the lawyer how she could represent me without knowing anything about my case. I told her that I could have gotten myself the same sentence without her. I then asked her why she didn't tell the judge what I had asked her to. She said if I didn't like it, I could file for an appeal.

14. I was visited by my parole officer in jail the day after my hearing. He told me that if I am found guilty on my misdemeanor charges, he would ask for my parole to be revoked.

15. I did not fill out an application for the public defender to represent me at my probation hearing. When I am released from the detention center, I will still be on probation. I thought that my new charges were dropped at that time, but I am not certain anymore.

16. AM On May 19, ~~Andy Anderson~~ ^{the same man who came to see me after my arrest} came to see me at the jail. He asked me

if I wanted to fill out an application for a public defender. I told him

AM that I had already been to court and been sentenced. ^{I didn't know why} He left after I ^{I needed to fill out an application and he didn't explain to} told him that, ^{I had already been to court.} me why I needed to apply.

17. I am now serving my sentence at the Bacon Probation Detention Center. I was told that when my time here is up, I will have to return to the Crisp County Jail.

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 1 day of July, 2014

Anthony McKenzie

Signed

Anthony McKenzie

Printed

Sworn to and subscribed before me

This 1st day of July, 2014.

Mary Adney W. Harbert

Notary Public

My commission expires: Jan. 6, 2016

EXHIBIT 15

AFFIDAVIT OF ARIANNA HUGHES

I, Arianna Hughes, 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 1996. I am eighteen years old.
2. I live in Crisp County.
3. I was arrested for felony shoplifting on December 8, 2013 and taken to jail when I was 17 years old.
4. I spent 10 days in jail and was allowed to bond out on December 18, 2013. I was in ninth grade at the time, and missed school while I was in jail.
5. *AH* After several days in jail, I met someone from the public defender's *AH* office. We talked for about 25 minutes. He did not say whether he was a lawyer. He was a white man in his 50s or 60s and he had a beard. He asked me if I wanted a public defender. I said I was interested but I wanted to talk to my mother before I filled out the application.
6. I appeared in Crisp County Superior Court for arraignment on March 10, 2014.
7. I filled out an application for the public defender in court.

8. After I filled out a public defender application, a man with the public defender's office called my name. He was a tall, white man with wavy hair. I do not remember his name. It was not the same person who met me in jail.
9. He told me that the D.A. was offering me a plea to three years probation, and he said three years is a good offer. He also said he hadn't had a chance to read about my case.
10. I asked him if the plea offer was going to stand if I didn't take it that day. He went to speak to the D.A. about the plea offer and then told me that they said it might not stand.
11. It seemed like I had to talk him into looking into my case he just told me about the plea offer, but didn't say he would do anything for me. After I asked him if he had looked at the evidence in my case, he said he would get discovery.
12. I entered a not guilty plea in court that day and left. I never heard from that lawyer again.
13. A couple months later, an envelope with my discovery papers arrived in the mail with a note that said if I had any questions about the discovery to call the public defender. I thought a lawyer was supposed to help me understand the discovery.

14. I did not meet with the public defender about my discovery before coming back to court. No one from the public defender's office contacted me.

AM 15. I appeared for calendar call on May 14, 2014. ^{I had to miss testing in school in} When my case was ~~order to come to court.~~ ^{asked that my case be continued.} called, a lawyer ~~announced he was ready.~~ This was a different lawyer from the man I met at my arraignment. I had never spoken to this man before.

16. Everyone who had the public defender then went to the courtroom next door and waited to talk to the public defender about their case. I

AM met with a public defender for about 15 minutes. I asked him ~~if they~~ ^{why} ~~my case had been continued.~~ ^{my case had been continued.} ~~had gotten the video from the store I was accused of stealing from.~~

AM The public defender said he ~~had not requested the video but he would~~ ^{would try to get the video} ~~get the video~~ from the store. He then told me to go ~~home~~ ^{to school.}

17. He gave me a business card and told me to call him and come see him.

18. I have not had any contact with the public defender since that day and I am unsure of when my case will be back in 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 1 day of July, 2014

Arianna Hughes

Signed

Arianna Hughes

Printed

Sworn to and subscribed before me

This 1 day of July, 2014.

Mary Anne U. Harbert

Notary Public

My commission expires: Jan. 6, 2016

EXHIBIT 16

AFFIDAVIT OF MARCUS LACKEY

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

1. I am over 18 years of age and am competent to make this affidavit.
2. I was born in 1983. I am 31 years old.
3. I live in DeKalb County.
4. I was arrested on March 24, 2014 in Dooly County and charged with possession of marijuana with intent to distribute, trafficking methamphetamine, conspiracy to commit a felony, and misdemeanor criminal trespass.
5. At my first appearance hearing, I was denied a bond because the magistrate judge could not set bond on my charges.
6. One day after my arrest an older white man with glasses, who I thought was a public defender, came to see me at the jail to ask if I wanted a public defender to represent me. I later found out from inmates that he was the public defender investigator. At that time I declined their services because I thought my family would be able to hire a private attorney for me.
7. On April 4, I received a notice from the court clerk that a bond hearing had been set for April 17 in Superior Court.

8. Once I learned that my family could not raise the money to hire an attorney, on about April 10 I completed an application for the public defender and gave it to an officer at the jail.
9. On April 16, Rashawn Clark, a public defender, came to see me about my bond hearing, which was set for the next day. We spoke for about 15 to 20 minutes.
10. At my bond hearing, the D.A. told the judge that I have a drug history and that I had been arrested in possession of a substantial amount of drugs. The D.A. asked the judge to deny my bond.
11. Although I am currently on probation in DeKalb County, my probation officer has not requested a probation revocation or placed a hold on my release. I have denied the allegation of drug possession and I do not have a criminal history of drug offenses, but Ms. Clark did not raise this at my bond hearing. In my opinion she did not make any effort at my hearing to portray an accurate picture of me to the judge. I was denied bond.
12. Ms. Clark also represented my co-defendant at her bond hearing the same day and it wasn't until after both of our hearings that I was told there was a conflict of interest and Ms. Clark would only be representing me. My co-defendant was granted a bond.

13. I was working two jobs when I was arrested, trying to save up the money to pay for my own place to live. I do not know whether those jobs will still be available to me if I am able to bond out of jail.
14. I wrote to Ms. Clark on about May 17, asking that she file a motion for a bond hearing. I did not get a response from her.
15. Twice when I knew she was meeting with other inmates from the jail, I asked them to tell her I needed to meet with her, but I was never called out for a visit.
16. After my bond hearing, I did not hear anything again from the public defender's office for more than two months.
17. On June 23, a young white man named David arrived at the jail with only a scrap of paper with my name written on it and the phrase "15 do 8." He told me he was there on behalf of Ms. Clark and he said that the D.A. has offered me a plea of 15 do 8. I never asked the public defender to negotiate a plea for me. I told him that I want to take my case to trial.
18. David then asked me if the D.A. comes back with a "sweeter deal" would I change my mind. I told him that I do not intend to plead guilty to charges I am not guilty of.
19. I am not sure if David is a lawyer or a paralegal to Ms. Clark. He did not give me any identification.

20. The next day, June 24, Ms. Clark came to see me at the jail. She said that she heard from her intern David that I do not want to negotiate a plea in my case. I told her I had never asked her for a plea offer. She asked again if I was sure. I said yes, I was sure and asked how she could get me mixed up with someone else. She said she was sorry; she would correct her mistake. I explained my case to her, and she said "I wonder why I haven't filed for a preliminary hearing." She told me that she will file a motion for a preliminary hearing and a bond hearing. She acknowledged that she received my letter in May requesting that she file a motion for a bond hearing, but only said that in this circuit you only get a bond hearing every 90 days. I have never heard of such a long wait.
21. Ms. Clark told me that I ought to have a hearing sometime in the next month.
22. On July 3, Ms. Clark visited me to discuss my preliminary hearing and bond hearings set for July 7th. We talked for about 15 minutes. She asked me if I had any questions I wanted to ask at the hearing. I had prepared a list of questions I wanted to ask and gave it to her. She did not inform me that I could call witnesses or offer evidence at this hearing. She did not call any witnesses or offer any evidence. She

asked the questions I had prepared and asked two of her own during the cross examination of the sole testifying witness.

23. The judge found probable cause in my case.
24. My bond hearing was held immediately after the preliminary hearing and I was denied bond.
25. After my preliminary hearing on July 7th, I did not have any contact with a public defender until my arraignment on August 6th.
26. Before court began, I met with a public defender named Steve, who was filling in for Rashawn Clark.
27. I asked the public defender if I could fire Ms. Clark and he said he would ask his supervisor Burt Baker.
28. He then told me the DA was offering me a plea of 20 years, with 10 years to serve. I told him I was not going to plead guilty and asked what had happened to the previous plea offer of 15 do 8. He said he didn't know anything about my case. He just got my folder that day. He then told me that discovery in my case should be available August 15.
29. Ms. Baker, the jailer, has provided me with more information about my case than the public defender. She gave me copies of the warrants in my case, not the public defenders, and has updated me on the court's schedule.

M.L. 30. I ~~have yet to~~ ^{did} receive discovery ^{on August 22, but} and I haven't heard from the public defender. ^{despite four letters to their office since August 6.} I am not sure who is representing me now.

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 1st day of Oct., 2014

Marcus Laekey

Signed

MARCUS LAEKEY

Printed

Sworn to and subscribed before me

This 1st day of oct., 2014.

Mary Ann E. Harbert

Notary Public

My commission expires: Jan. 6, 2016

EXHIBIT 17

AFFIDAVIT OF DANNY J. SIMONDS

I, Danny J. Simonds, 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 make this affidavit.
2. My date of birth is August 18, 1994.
3. My wife, Ericka Soto, and I were arrested on December 22, 2013. We were each charged with two counts of aggravated assault. I was also charged with one count of simple battery.
4. I spent nine days in the Ben Hill County Jail before I was able to bond out on December 31, 2013. Because I was in jail, I missed being with my one-year-old son for his first Christmas.
5. I wanted to hire a private attorney to represent Ericka and me even though we probably couldn't afford one. I thought we would get better representation from a private lawyer than a public defender. However, I learned on the day of our arraignment, April 28, 2014, that my mother had applied to the Public Defender's Office on behalf of my wife and me.
6. On April 28, 2014, I appeared with Ericka in Ben Hill County Superior Court for our arraignments. That was the first time I met with an attorney from the Public Defender's Office. His name was Steve Czarnota. That meeting lasted approximately five minutes. During that meeting, Mr.

Czarnota told me the District Attorney was offering 10 years probation in exchange for my guilty plea. I turned down the offer because I was already on first offender probation for a burglary conviction and was concerned that my probation would be revoked if I pled guilty to aggravated assault.

7. Between April 29, 2014 and June 12, 2014, I made three calls to Mr.

Czarnota to inquire about my case. Each of the telephone conversations was brief. The last conversation took place on June 10, two days before I was to appear in court for Calendar Call. Each time, Mr. Czarnota said he was hopeful that he could get both of my felony charges reduced to misdemeanors. Mr. Czarnota said that because my wife had pleaded guilty to the felony charges, it would be easier to argue for reduced charges for me. I had played a lesser role in the incident. She had driven the vehicle used in the alleged assault. I was a passenger.

8. On June 10, two days before my second scheduled court appearance, I received a packet of discovery documents from the Public Defender's Office in the mail. I was told to bring them with me to my court appearance.

9. When I arrived in court on June 12, I did not have these documents with me. Mr. Czarnota said it didn't matter, he had a copy. However we did not discuss the documents. I met with Mr. Czarnota for five minutes. Mr.

Czarnota said he could not persuade the District Attorney to drop the felony aggravated assault charges. When I asked him if he would try one more time to seek a better plea deal for me, he said he didn't want to aggravate the District Attorney further.

10. I questioned why the public defender was representing me and my wife in this case, and why I was getting a longer sentence than her when she was the driver and the person who instigated the incident. But I pleaded guilty to avoid the risk of losing at trial. I work for a mechanical service company for the railroad industry and could lose that job, and my means of supporting my wife and one year-old son, if I'm sent to jail. Being on extended probation puts me at greater risk for that. The judge sentenced me to eight years probation, \$1,600 in fines, 60 hours community service, and ordered me to pay the \$50 application fee to the Public Defender's Office. Neither Mr. Czarnota nor anyone else in the Public Defender's Office told me that fee could be waived.

11. It costs only \$50 for the application fee to get a public defender in Ben Hill County. I guess you get what you pay for.

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 1 day of July, 2014

DANNY G. MONDS

Signed

DANNY G. MONDS

Printed

Sworn to and subscribed before me

This 1st day of July, 2014.

BEN H. SMITH III

Notary Public

My commission expires: April 23, 2018

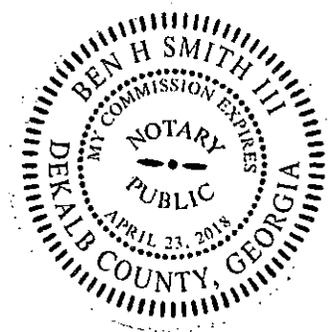


EXHIBIT 18

AFFIDAVIT OF SHANEKA L. DARDEN

I, Shaneka L. Darden, 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 make this affidavit.
2. My date of birth is August 20, 1980. I have four children ages 7, 10, 15 and 17.
3. I was arrested on February 3, 2014 and charged with theft by deception and theft by receiving stolen property, both misdemeanors.
4. I spent five days in the Ben Hill County Jail. I bonded out on February 8, 2014. My mother and father watched over my children while I was in jail.
5. About two days after my arrest, jail guards called me from my cell to tell me that I was going to see a public defender. At this point, I hadn't had my first appearance hearing. I met with an older white man with gray hair, and a gray beard. I don't remember his name. I assumed he was a lawyer because of what the jail guards had told me, but he never said what his job title was. I explained my situation. He took notes and asked only one question about my version of the incident.

I filled out an application to be represented by a public defender. The meeting lasted about five minutes.

6. I did not speak with anyone from the Public Defender's Office until my arraignment two and a half months later on April 29, 2014. I met for about 15 minutes with a dark-skinned lady whose name I can't remember. I told her I was not going to plead guilty. She said she thought the District Attorney might drop the theft by receiving stolen property charge. She did not say how she would accomplish this.
7. I returned to court on June 12, after my sister had told me she had received a notice that I was supposed to appear in Ben Hill Superior Court on that date. When I arrived, I was handed a package, with a postal return to sender notice attached, from a young man with black hair.
8. The package contained a cover letter dated May 30 that was signed by Steve Czarnota, not the female public defender I met with at my arraignment. It included discovery responses from the District Attorney's office. In his letter, Mr. Czarnota advised me to read the package of information carefully and call the office to discuss it with an

attorney.

9. I did not know if the young man who handed me the package was Mr. Czarnota. He did not give me his name. He also did not talk to me about any of the information it contained. Instead, he told me what the D.A. was offering in exchange for my guilty plea: 12 months probation, community service and fines for both charges. I told him that the female attorney I had talked to on April 29 was supposed to speak with the D.A. about getting one of the charges dropped. He then went to talk to that female public defender and then to talk to a white female assistant district attorney with long straight blonde hair. He then came back and told me the D.A. wasn't going to drop the second charge. He said dropping one of the charges wasn't going to make that much of a difference in my final sentence anyway. He also said pleading guilty was the best thing for me to do. When I told him I didn't feel right pleading guilty, he said it wouldn't be a good idea to fight it. If I went to trial, I'd probably lose and get two years in prison, he said.

10. Though I wanted to plead not guilty, I changed my mind because of what the young man said and because the lady attorney I spoke with

did not try to get one of my charges dropped. When I went in front of Judge Hughes to plead guilty, a different public defender stood next to me. He did not introduce himself to me. The judge said his name but I don't remember it. He wore glasses, had short brown hair and a beard. Judge Hughes sentenced me to a total of 12 months probation, 80 hours community service and \$500 in fines. I then turned to the public defender and said I could not afford to pay the fines because I am unemployed. He then asked the judge to consider lowering the fines. However, he did not ask for the \$50 public defender application fee to be waived. The judge cut my fine total to \$200 and raised my community service to 120 hours. Later that day, when I checked in with the probation office, I learned that the entire cost of paying my fines, court costs, public defender application and monthly probation fees will be \$890. I cannot afford that.

11. I am unemployed. I live with my parents and must look after four children, one of whom is currently incarcerated. I have a year to pay off these fines, fees and court costs and right now that seems impossible. Yet, I am afraid what will happen if I don't. I feel I was given no choice

and placed in a hole I won't be able to dig out of.

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 17 day of July, 2014

Shaneka Darden

Signed

Shaneka Darden

Printed

Sworn to and subscribed before me

This 17th day of July, 2014.

Ben H. Smith III

Notary Public

My commission expires: April 23, 2018

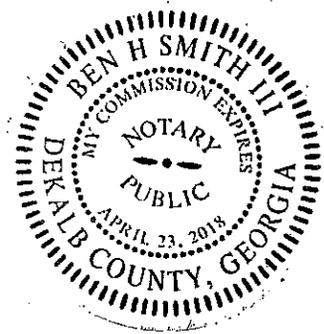


EXHIBIT 19



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

EXHIBIT 20

AFFIDAVIT OF MAIRECO WILLIAMS

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

1. I am over the age of eighteen and competent to make this affidavit.
2. I was born in 1983. I am 31 years old.
3. I live in Crisp County.
4. On July 10, 2013 I had a car accident while driving in Cordele. My girlfriend at the time, Cicely Tyson, was in the car with me and we both were injured and had to go to the hospital.
5. About twelve days after the accident, I was arrested for aggravated assault, aggravated battery, reckless conduct, driving without proof of insurance, too fast for conditions, failure to maintain lane, reckless driving and possession of marijuana less than an ounce.
6. I have been in jail about a year now waiting to resolve the charges against me.
7. I was denied bond at my first appearance hearing because the judge said I posed a threat to Cicely Tyson. She's accused me of wrecking the car on purpose to try to kill her.
8. Soon after my first appearance hearing, an older white man with grey hair from the public defender's office visited me at the jail and asked

if I wanted to apply for a public defender. I do not know if he was a lawyer or not. I completed an application with him. I wanted to talk to him about my case but he told me there wasn't anything that he could do about it.

9. I met Rashawn Clark right before my Superior Court bond hearing on August 8, 2013. She told me that my bond would be denied, but the judge set my bond at \$50,000. My public defender didn't say anything on my behalf, so I spoke up and told the judge that I couldn't

MW afford to make that bond. I also explained that even though the charges say aggravated assault, my case was about a car accident. The judge then set my bond at \$10,000.

10. I did not meet with a public defender again for more than three months -- right before I was to go back to court for arraignment on December 3, 2013. Ms. Clark came to tell me that the DA was offering me a plea of 20 years with 10 years to serve. We talked for as long as it took for her to tell me the plea offer and for me to turn it down.

11. I filed a motion for a preliminary hearing with the clerk of court, and when I saw Ms. Clark in court, I asked her about it. She told me that it was too late; I had already been indicted. By the time I found out I

had a right to a preliminary hearing, it was too late. My public defender never told me about it.

12. In February, 2014 – again a couple days before court – I met with a different public defender. I don't know his name. He told me that the DA was now offering me a plea of 10 years with 7 years to serve. I turned down the plea offer. In court, I never left the little room next to the courtroom that day. My case was continued.

13. I went back to court for my second calendar call on May 14, 2014. I

~~MW~~ had met with Ms. Clark a few days before this. ~~In court~~ ^{She} she relayed

~~that~~ that the DA was lowering the plea offer again to 7 years with 4 years ^{When I went to court,} to serve. I demanded to hear it directly from the DA since all Ms.

~~Clark~~ Clark was doing was telling me what the DA said. The DA then asked if I would take a plea if she reduced it to 15 years probation. I still said no.

14. Sometime in the middle of June 2014, Ms. Clark sent her intern, a short white man with dark hair, to show me a video. He set up the video in the visitation room and then left. Ms. Clark poked her head in to say that if I had any questions, knock on the door. She went to the interview room next door to meet with her other clients. I watched what was supposed to be evidence in my case. It showed me driving

my car. It didn't show the accident. It showed interviews at the police station. After I watched the video, I left the room. I didn't talk to Ms. Clark any more.

15. That same month, I saw Tim Eidson in the hall at the jail and asked if I could talk to him. I told him that I didn't think Rashawn Clark was trying to help me. All he said was that he didn't think the DA was going to take my case to trial. I didn't understand what that meant or what the public defenders were doing on my case.

16. I've been in jail a year and I have no idea what, if anything the public defender's office has done on my case. I don't think Ms. Clark has done any investigation into my case. If she has, she hasn't told me about it and she hasn't written me about it. We have not talked about going to trial. I don't know what they know. I don't know what they're thinking. I know that they don't know me. They come out here the day before court. I just can't seem to get their attention. I've written letters and gotten no response from Ms. Clark. I even had an officer hand her a letter when I saw her come out to the jail, but she didn't ask to see me or respond. I've asked her to look into issues in my case, and I have no idea if she has done it.

17. MW Now I have ^{had} my third calendar call on July 24, 2014. They are just wasting my time. They can skip all these court dates and go straight to trial. I'm afraid they won't be ready for trial. I am going to need someone to cross examine the victim the way they are going to cross examine me. Given the way things are going, I am not sure that is going to happen.

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 ^{MW} ~~21~~ 24 day of ^{MW} ~~21~~ 29, 2014

Maireco williams

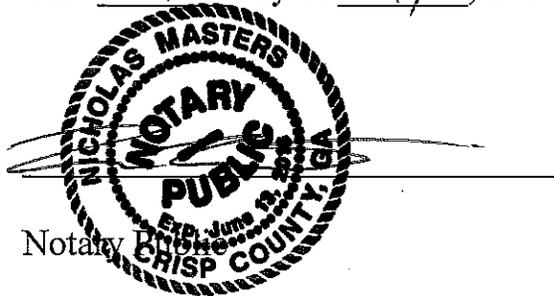
Signed

Maireco williams

Printed

Sworn to and subscribed before me

This 24 day of July, 2014.



Notary Public

My commission expires: _____

EXHIBIT 21

AFFIDAVIT OF JULIE CAUSEY

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

1. I am over the age of eighteen and competent to make this affidavit.
2. I was born in 1968. I am 45 years old.
3. I live in Dooly County.
4. I was arrested on November 3, 2013 in Cordele and charged with criminal trespass and possession of methamphetamine.
5. At my first appearance hearing, my bond was set at \$6,000, but no one in my family could afford to bond me out. My family's trailer had been illegally repossessed and we had no place to live, so we were staying from place to place.
6. I filled out an application for the public defender on November 7th when their investigator came to see me at the jail. We talked about the application. He said he didn't know anything about my case.
7. I didn't see anyone again from the public defender's office until I went to court on January 16, 2014.
8. I went to court on January 16, 2014. I met Tim Eidson for the first and only time in court that day. We talked for about 10-12 minutes. The criminal trespassing charge was dropped, and I agreed to plead

guilty to the methamphetamine possession charge. I was sentenced to serve three years on probation as a first offender, and to pay a \$250 fine, which ended up being more than \$500 when it was all over.

9. On February 1, 2014, I was arrested for hindering a police officer and possession of methamphetamine.

10. On February 5th, a probation officer came to see me in jail. He read the petition against me and told me I would go to court for a revocation hearing on March 18, 2014.

11. The same man from the public defender's office who helped me fill out an application in November came back within a few days of my arrest and I filled out an application.

12. After about six weeks in jail, Public Defender Rashawn Clark came to see me a couple days before my revocation hearing, around March 15th. We spoke for twenty minutes at the most. She told me that it didn't look good on paper that I was just picked up after being released. She said the judge won't put up with it and I had two choices: go to prison for a year or go to rehab for six months. I told her I didn't want either.

13. At the start of the probation hearing on March 18th, Public Defender Clark stood up and said "Ms. Causey is asking for probation. She has

something to say.” I did not know I was going to have to talk to the judge. Nor did I know the public defender wanted me to until that moment. I told the judge that the police officer had jumped on me, but that I was guilty of having methamphetamine. Judge Pridgen laughed at me and said I was a “meth head.”

14. I was sentenced to six months of rehab for the probation violation, but I am not sure if that is in a rehab center or in prison. Then I am to return to the probation conditions after that.
15. The next day, I was returned to court to have a hearing on my new charges. This time I was in front of Judge Chasteen.
16. Ms. Clark told me I might as well go ahead and plead guilty. I said I wasn't guilty of hindering the police because he had jumped on me. She said that she would put it on for the next arraignment, which would be June. I said I wanted to get the case over with. So I asked her if I pleaded guilty to the charges, would I get the same punishment as my probation revocation. She said yes. I repeated that I wasn't guilty of hindering the police. “Whatever,” is all she said.
17. I pleaded guilty and was sentenced to 12 months probation and a \$300 fine for the hindering a police officer charge and three years on

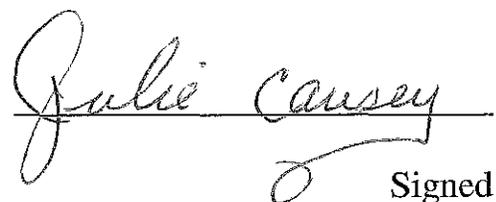
probation and a \$500 fine for the possession of methamphetamine charge. I was also charged the \$50 public defender application fee.

18. I have been waiting almost six months for a bed to become available in rehab. My probation violation sentence was to serve six months in rehab. I am not going to get any credit for the time I have been waiting for a bed. I would have preferred to go to prison if I had known I would be sitting here away from my children all this time, but Ms. Clark did not explain the difference between the sentences.

19. I have written thirteen requests to the jail for an explanation of what I am waiting for, and recently I learned that it might take until December, that's nine months, for a bed in rehab. My mother has called Ms. Clark about five times to find out when I will go to rehab, but she said she didn't know anything.

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 1st day of Oct., 2014


Signed

Julie CAUSEY

Printed

Sworn to and subscribed before me

This 1st day of Oct., 2014.

Mary Schuyler Harkness

Notary Public

My commission expires: Jan. 6, 2016

EXHIBIT 22

AFFIDAVIT OF MARY SIDNEY K. HARBERT

I, Mary Sidney K. Harbert, being competent to make this affidavit 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. Since the filing of *N.P. v. State of Georgia* on January 6, 2014, I have observed court proceedings in Crisp County on June 4 and July 16, 2014; in Dooly County on April 23, 2014; and in Ben Hill County on August 28, 2014.
6. During the June 4, 2014 arraignment proceedings in Crisp County, I observed six of the fifteen clients represented by the public defender enter guilty pleas. None of the people who were represented by private counsel or conflict counsel pleaded guilty that day.

7. Two public defender clients failed to appear for court, and when questioned about their whereabouts by the judge, Mr. Tim Eidson, the Cordele Judicial Circuit Public Defender, told the court he had not had contact with his clients.
8. All guilty pleas were taken after a two-hour break in the proceedings in which the District Attorney and her lawyers passed on plea offers to the public defenders, which in turn passed on the plea offers to their clients. The judge called up seven defendants to enter their guilty pleas as a group.
9. One of the public defender clients who pleaded guilty was Mr. Quinton Durell Clark, who had just applied for public defender services that morning in court. It was in the case of Mr. Clark that Mr. Eidson, when asked by the judge if there was anything else to consider in the sentence of his client, asked the court to impose the \$50 application fee.
10. The judge ordered \$1,127 and \$180 in restitution in Mr. Clark's two cases, although there was not a hearing to determine the appropriate amount, if any, that should be ordered, or a discussion of Mr. Clark's ability to pay.
11. Mr. Eidson provided no advocacy regarding Mr. Clark's sentence. Although the plea was negotiated, the fines and fees were to be determined by the court, and Mr. Eidson had an opportunity to advocate for reduced or no fines

and to request a waiver of the \$50 application fee. He said nothing on Mr. Clark's behalf other than to ask for the \$50 application fee.

12. Mr. Clark's co-defendant, Sytravious Jaquwan Beeks, was also charged in the same counts and the same cases with Mr. Clark. Mr. Beeks was also represented by the Public Defender's Office. He pleaded not guilty to his charges at arraignment. There was no discussion of a conflict of interest in representing them both.
13. I observed the guilty plea of public defender client Lacie Rogers, a 17-year-old junior at Crisp County High School. Ms. Rogers pleaded guilty as part of a group of six defendants pleading guilty who were all represented by the Public Defender's Office. Rogers was charged with one count of simple battery for fighting with a classmate in school. The prosecutor stated the recommended sentence was six months probation, a fine in the discretion of the court and the \$50 application fee.
14. When asked if the sentenced was what he was anticipating, Mr. Tim Eidson replied that it was better than what he was expecting.
15. During the description of the factual basis for the plea, the prosecutor said that Ms. Rogers had been suspended from school for 10 days and had been placed in jail. The judge made a comment about how long ago, being

suspended from school was punishment enough for a fight in school, and he questioned the decision to make the fight a criminal matter.

16. The judge then asked if Ms. Rogers had a criminal history, to which the prosecutor replied that she did not.
17. The judge then suggested that the \$50 public defender application fee be waived in her case, but changed his mind and ordered that the application fee be paid, but no other fines, and that upon payment of the fee, her probation sentence would be suspended.
18. The judge's actions on behalf of Ms. Rogers reduced her sentence and waived her fines without any request or advocacy by her public defender.
19. Ms. Nekia Bates, another public defender client, had been counseled by Steve Czarnota, an assistant public defender, during the two-hour break in the proceeding. However, she was represented by Tim Eidson when she entered her guilty plea. Mr. Eidson did not know Ms. Bates, had never met her, and was not familiar with the facts of her case. When Ms. Bates entered her guilty plea, Mr. Eidson had to pause the proceeding to confer with Mr. Czarnota about what Mr. Czarnota had discussed with Ms. Bates when they met to discuss her case.

20. I observed the April 23, 2014 calendar call in Dooly County. At that proceeding, 50 individuals were listed on the calendar. The Public Defender represented 21 clients and 23 people had retained private counsel.
21. Of the 23 private attorney cases, I observed two conclude with guilty pleas, which had been announced at the call of the calendar; nine cases were continued until next term, four cases were set to argue motions and six cases were announced ready for trial. One case was to be prosecuted by the federal government.
22. Of the 21 clients represented by the public defender, I observed nine clients enter guilty pleas. Of those nine, five cases had been announced ready for trial by Tim Eidson just a short time before entering the pleas.
23. The public defender did not announce they had motions to argue. In fact, in two cases set for trial, both represented by Rashawn Clark, she announced there were no motions to argue. One was the case of Charles James Williams, charged with one count of trafficking cocaine. Mr. Williams' co-defendant, also charged with one count of trafficking cocaine, and who had retained private counsel, had his case continued until the next term. The other was the case of Jorge Alejandro Ortega-Najera, charged with trafficking marijuana and driving without a license.

24. I also observed three defendants apply for public defender services in court. When announcements were made after a break in the proceedings, of these three defendants' cases, it was announced that one case was continued until the next term and two of the cases were scheduled for trial on May 6th, just 13 days later. No one made a request for a continuance in the two cases that had just been taken on by the Public Defender's Office.
25. In two other cases, the Public Defender announced ready for trial, unaware that their client had retained a private attorney since applying for their services.
26. Mr. Eidson announced ready for trial in the cases of Curtis Hardrick, a 17-year-old high school junior, and Dexter Dugger, age 21. Mr. Hardrick and Mr. Dugger were two co-defendants represented by the public defender in a four-defendant case. By the end of the morning, the two co-defendants represented by the Public Defender's Office entered guilty pleas and the remaining co-defendants, both represented by private counsel, had their cases continued until the next term. All four defendants faced the same seven counts of felony entering an automobile, were all out on bond and had all received the same bond amount for their charges.
27. I observed Rashawn Clark meet with client Jamario Westbrook after the call of the calendar in which it was announced that Mr. Westbrook would be

entering a plea. Mr. Eidson represented him at his plea. Mr. Eidson told the judge that "I was asked to ask you for discretion on the community service hours."

28. I observed Rashawn Clark meet with Bryant Lee Adams, whose case had been announced ready for trial at the call of the calendar. After meeting with Ms. Clark during the break after the calendar was called, Mr. Eidson represented Mr. Bryant to enter a guilty plea. When asked by the judge if the recommended sentence was what he anticipated, Mr. Eidson said, "That was what was relayed to him and that's what he agreed to, so yes."
29. I observed Rashawn Clark represent Winfred Ray Scott Jr. when he entered his guilty plea. When asked by the judge if the recommended sentence was what she was anticipating, Ms. Clark said, "Yes, and there's also the \$50 application fee."
30. I observed criminal hearings including probation revocation hearings and guilty pleas in Crisp County Superior Court on July 16, 2014. All cases on the calendar were of jailed clients of the Public Defender. At the beginning of the proceedings, the district attorney told the judge that there would be probation revocation hearings in which the defendants were admitting guilt but there would be arguments made about the sentences.

31. In the probation revocation hearing of Ms. Tiffany Crenshaw, the judge asked a number of basic questions about Ms. Crenshaw, including her education level, her work history, and whether an adjudication of guilt would impact her certification as a medical assistant. After each question, Ms. Clark turned to her client and asked for the information and then relayed it to the judge.
32. I observed arraignments in Ben Hill County Juvenile Court on August 28, 2014. Each youth was arraigned alone in the courtroom. Only the family member of the youth was in attendance.
33. At that proceeding, I observed Judge Pack provide different descriptions of the proceeding to each defendant, and different possible outcomes of the proceeding, although all three were appearing at the same stage of their cases, and two were co-defendants.
34. Dahkeyvius Daniels' case was called first. Judge Pack read aloud the charges: battery and disrupting a public school in one case and battery, disrupting a public school and obstruction in another case.
35. Judge Pack explained that the purpose of the proceeding is to go over his rights; it is similar to an arraignment in superior court. She said she will read his charges and ask him to admit or deny them. If he admits to the charges, he can get an order. If he denies the charges, she will set a court

date for a hearing. She then said he has the right to bring witnesses to a hearing and he has the right to cross examine the state's witnesses. She then stated that he has the right to have an attorney.

36. Assistant public defender Steve Czarnota, who was seated next to Daniels throughout the announcement, told Judge Pack that he had met with co-defendants Dahkeyvius Daniels and Willie Walton that morning before court and they both applied to be represented by a public defender. After speaking to Walton first, and then to Daniels, Czarnota heard Daniels tell a different account of events regarding the case they are charged in, and for that reason, he was declaring a conflict of interest in representing both juveniles. He would represent Walton.
37. Judge Pack then asked Daniels, aged 14, if he wanted an attorney. Daniels answered yes. She then asked him if he understood what was meant by a conflict, and he answered yes. Pack then told Daniels she would search for an attorney to appoint him and would send him a notice when she had appointed him an attorney. Daniels then left the courtroom.
38. Judge Pack next arraigned Willie Walton, aged 14. Walton was charged with three misdemeanors arising from an alleged fight in Ben Hill Middle School: simple battery, disrupting a public school, and obstruction of an officer.

39. Judge Pack advised Walton that the purpose of the hearing is to tell him his rights and read him his charges. She stated he had the right to have an attorney represent him, and she was aware that he had applied to the public defender that morning. She said he has the right to remain silent, the right to appeal any final decision of the court; if detained, he had the right to request bail or bond. A disposition in his case could range from detention, probation, community service, to counseling.
40. Walton denied he was guilty of the three charges.
41. Judge Pack then told Walton that she would schedule a hearing on the charges, and advised Walton that he needed to get all his information to the public defender office, including any information about the facts and any witnesses, in time for the public defender to be prepared for his hearing. She then asked if Walton knew where the public defender office was located, and stated that Walton's mother would actually be the one to get the information to the public defender office because Walton is too young to drive a car. Walton and his mother left the room.
42. Quantavious Dykes' case was called third. He and his mother entered the courtroom. Judge Pack asked attorney Jim Walker, a conflict attorney, if he had enough time to speak to Dykes. Walker said yes. She then read the charges against Dykes. He has four cases with seven charges.

43. After reading the charges she asked Dykes if he still wanted counsel. He replied yes. She then asked his mother if she understood that her son had requested counsel. She replied yes.
44. Judge Pack then explained that he was in court for his first appearance and she was going to go over all the charges and ask him to admit or deny them. If he denied any charges, then she would set them down for a hearing date. He would have the opportunity to bring witnesses and cross examine witnesses at a hearing. She then stated that he has the right to an attorney; the right to remain silent is given to him; and any time he is detained he has the right to request bond; he can appeal any final order to make sure it was done properly. She then said there were a variety of things the court could order him to do, including community service, and restitution.
45. Dykes denied the charges. Judge Pack said she would schedule a hearing in the near future and told Dykes to get any information to Mr. Walker.

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 Oct., 2014

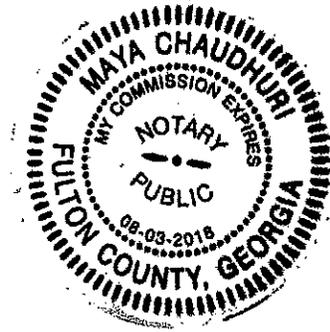
Maury A. Hackett
Signed

Mary Sidney K Herbert
Printed /

Sworn to and subscribed before me

This 2nd day of October, 2014.

Maya Chaudhuri
Notary Public



My Commission expires: 08/03/2018

EXHIBIT 23

AFFIDAVIT OF ERICKA E. SOTO

I, Ericka E. Soto, 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 make this affidavit.
2. My date of birth is July 30, 1989.
3. My husband, Danny Simonds, and I were arrested on December 22, 2013.

We were each charged with two felony counts of aggravated assault. I bonded out the following day, while my husband remained incarcerated until December 31, missing our one-year-old son's first Christmas.

4. Danny wanted to hire a private attorney for both of us because he thought we would get better representation from a paid lawyer instead of a public defender. However, when we arrived in court for our arraignments on April 28, 2014, we learned that my mother-in-law had applied on our behalf to the Public Defender's Office to represent both of us.
5. I first met with a public defender that morning in court. He said his name was Steve Czarnota. When Mr. Czarnota called me to meet with him in a private room outside the courtroom, I asked if Danny could come with me.

Mr. Czarnota said it would be better if Danny and I did not meet with him at the same time. I spoke to Mr. Czarnota for approximately 15 minutes.

6. Steve Czarnota also represented Danny in the same case.
7. During my meeting with Mr. Czarnota, he told me what was going to happen when I got in front of a judge, including what questions I'd get asked. He told me what sentence the District Attorney would offer for my guilty plea: five years probation, 20 hours community service for each count, and a fine. We talked about the facts of my case for two to three minutes but not in detail. When I asked if I could get a more lenient sentence, Mr. Czarnota said he thought there was a chance he could get my probation reduced to three years. He left the room to talk to the District Attorney but returned three to four minutes later and said he couldn't get the prosecutor to change her mind. I decided to plead guilty to the charges even though I had only spoken to a lawyer for fifteen minutes
8. I entered my plea with a man I'd never met before, the one who speaks for everybody when they plea. All he said to me was to wish me good luck after I entered my plea.

9. The judge sentenced me to five years probation, a total of \$1,000 in fines, 40 hours of community service, and a \$50 application fee to the Public Defender's Office. Neither the public defender nor anyone else from that office told me the fee could be waived. I wish it had been. When I pled guilty to the charges, my husband did not have a full-time job and I didn't work at all because I stay at home to look after our son.
10. On June 12, my husband pled guilty with the same public defender.
11. I am the mother of a small child and am pregnant with another. We depend on my husband's single income to pay for food, clothing, diapers, medical care and other household expenses. Now that Danny has also pleaded guilty, we must also pay a combined \$2,600 in fines. That doesn't include monthly probation fees that will raise the overall cost of our sentences much higher. I wish the government lawyer who was assigned to me and my husband, had taken the time to get to know us and what our life is like before rushing us through the court system.

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 23 day of July, 2014

Erica Soto

Signed

Erica Soto

Printed

Sworn to and subscribed before me

This 23rd day of July, 2014.

Ben H. Smith III

Notary Public

My commission expires: April 23, 2014

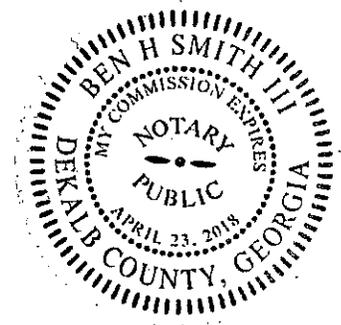


EXHIBIT 24

AFFIDAVIT OF MYKENZIC PHILLIPS

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

1. I was born on March 4, 1997. I am 17 years old.
2. I live in Ben Hill County.
3. I was arrested on April 14, 2014 for burglary and taken to the Ben Hill County Jail.
4. The next day I was shown warrants for two more burglary charges. I appeared before a magistrate and the magistrate denied bond
5. I applied for a public defender at the bond hearing in Magistrate Court.

An hour later a guard took me from my cell to the interview room where I met ^{MP} with a man with long gray hair who said he was from the Public Defender's Office. He did not tell me what his name was. He filled out an application for me and I signed it. We did not talk about anything else. He did not tell me how to contact a public defender. We met for about 15 minutes.

6. I did not hear from the Public Defender's Office for ^{MP} ~~more than~~ ^{nearly a} month. I did not know if they were representing me.

7. A different man came to see me in ^{mid MP} ~~late~~ May, a day before my bond hearing in Superior Court. His name was Steve. I can't remember his last name. Steve

told me the judge was going to deny me bond because of my juvenile criminal history. Steve did not ask me questions about the current charges. Instead, he asked me if I went to church and if I was in high school. I asked Steve if I could get a motion for discovery. Steve said, "You'll get no motion for discovery unless I take the case to trial." The meeting lasted for 20 minutes.

- MP
8. On May ¹³ 23, 2014, I was denied bond by a Superior Court judge. *That was after Steve told him I had a place to live, went to church and always showed up for court.*
9. I did not hear from a public defender again for ~~another month and half~~ *nearly two months* after my bond hearing in Superior Court. I sent three letters to Steve and got no response. Once when a cellmate told me he was going to meet with Steve, I handed him a note to give to ^{the MP} my public defender asking him if I could meet with him too. When my cellmate returned from his interview, he said Steve told him he would visit me "in a few days." *MP about a week.* It took ~~much longer than that.~~
10. Steve visited me at the jail on June 5, 2014. We met for 10 to 15 minutes. Steve told me the District Attorney was offering me 15 years probation, boot camp and community service. He told me this was the best plea deal he could get. I asked him if the plea offer would also take care of other cases I had in juvenile court Steve said he only knew about the three burglary charges in the ~~cases~~ ^{MP} he was handling.
11. I appeared in Superior Court on June 9, 2014 to plead guilty to the burglary charges. I was sentenced to 15 years probation, with 90 to 120 days in boot

camp, 300 hours community service and ordered to pay \$150 in application fees to the Public Defender's Office. That was \$50 for each case. I was also ordered to pay almost \$4,000 in restitution. The judge asked if any of the items that were taken were returned, and the District Attorney responded, "No." That wasn't true. I tried to get the public defender's attention to tell him that most of the items were returned. I called, "Mr. Steve," while Steve was standing in front of the judge. Steve raised his hand as if he was trying to stop me from talking. I did not say anything else. If Steve had let me speak, I would have told him that the police had told me that the jewelry that had been taken had been recovered. I would have also told him that, 40 days after my arrest, I personally took Fitzgerald police officers to the bushes where two stolen guns had been hidden. I saw the police recover the guns. The only things that weren't recovered were tools worth about \$100. Steve must not have asked about the stolen property and what it was worth before I came to court to plead.

12. I don't have a job, so I don't know how I'm going to pay the restitution included in my sentence. If ^{the MP} my public defender had investigated my case he might have figured ^{out MP} that ^{MP} the property had been returned and spared me the \$4,000 restitution. I don't know how much investigation he did. He didn't talk to my family. He didn't talk to witnesses.

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 16 day of July, 2014

Mykenzie Phillips

Signed

Mykenzie Phillips

Printed

Sworn to and subscribed before me

This 16th day of July, 2014.

Ben H. Smith III

Notary Public

My commission expires: April 23, 2018

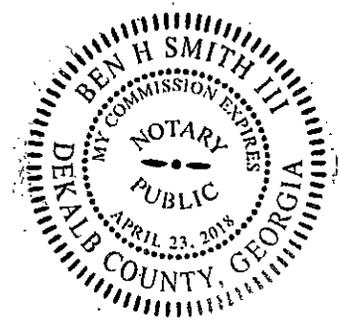


EXHIBIT 25

AFFIDAVIT OF SHANNON D. CASTEEL

I, Shannon D. Casteel, 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 make this affidavit.
2. My date of birth is February 5, 1980.
3. I was arrested in Dooly County on March 14, 2014 on the following charges stemming from a February 25, 2014 traffic stop in Cordele:

driving with a suspended license, driving without headlights, no proof of insurance and obstructing an officer, a misdemeanor. I was incarcerated in the Dooly County Jail until April 10, 2014, at which point I was transferred to the Crisp County Jail. I have been in the Crisp County Jail ever since.
4. I filled out an application for a public defender within a week of arriving at the Crisp County Jail. Several days later, an older white man with white hair who was visiting the jail asked me if I wanted to apply for a public defender. I filled out a second application. The man did not tell me his name, nor did he give me any information on how to contact the Public Defender's Office.

5. Around the first week of May, I filled out a jail inmate request form to meet with a public defender. I did not receive a response. I filled out a second inmate request form a week later. I did not receive a response.
6. On June 2, 2014, three days before I was scheduled to be arraigned in Crisp County Superior Court, Steve Czarnota, an attorney with the Public Defender's Office, met with me at the jail. That meeting lasted between five and 10 minutes. Mr. Czarnota said the District Attorney would be willing to offer me 12 months probation if I pleaded guilty to all of the charges against me. I told Mr. Czarnota that I accepted the prosecution's offer. Mr. Czarnota did not ask me about any details of the case, nor if I wanted to contest any of the charges.
7. On June 5, 2014, I pleaded guilty to the charges. However, when Judge John Pridgen asked District Attorney Denise Fachini to give the terms of the negotiated plea agreement, she said I agreed to be sentenced to 12 months to serve in the county jail. That was not the sentence I had agreed upon when I spoke to Mr. Czarnota at the jail, so I withdrew my plea.
8. Mr. Czarnota spoke to me in an adjacent courtroom where they were holding other jail inmates and apologized for having misinformed me

about the plea offer. When I asked him to explain how it happened, he said, "I misread the paperwork."

9. Ms. Fachini and Mr. Czarnota met with me about an hour later. Ms. Fachini said I could either agree to serve 12 months in jail or she would try to revoke two years of a probation sentence in another case. Ms. Fachini said I had to accept the offer today or she would bring me back to court in a month and have my probation revoked. Mr. Czarnota encouraged me to take the plea in front of Ms. Fachini. I refused and asked Ms. Fachini if she would agree to 12 months, with six months to serve, six months on probation, and a \$1,000 fine. Ms. Fachini agreed to the proposed sentence, and I returned before the judge and restored my guilty plea. Mr. Czarnota did not assist me in any way in negotiating this alternate sentence.
10. Going into arraignments on June 5th, I expected to be released from jail that day. But now I have another three months to serve. I have already lost so much while being in jail. Before I was jailed in March, I received a grant to take business classes. I was taking three business management courses before my arrest. Since being in jail, my ex-girlfriend cashed the check and sold my computer without my permission. I am afraid I will

lose even more in the next three months.

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 16th day of July, 2014

Sharon Jean Carter

Signed

Sharon Jean Carter

Printed

Sworn to and subscribed before me

This 16th day of July, 2014.

Ben H. Smith III

Notary Public

My commission expires: April 23, 2018

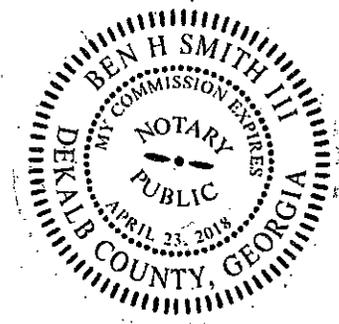


EXHIBIT 26

**STATE OF GEORGIA
PERFORMANCE STANDARDS FOR
CRIMINAL DEFENSE REPRESENTATION
IN INDIGENT CRIMINAL CASES**

Georgia Public Defender Standards Council
Performance Standards Committee
April 16, 2004

Introduction to Performance Standards

The Performance Standards for Criminal Defense Representation in Indigent Criminal Cases are promulgated by the Georgia Public Defender Standards Council pursuant to the statutory mandate of O.C.G.A. 17-12-8. The standards are intended to serve several purposes, first and foremost to encourage public defenders, assistant public defenders and appointed counsel to perform to a high standard of representation and to promote professionalism in the representation of indigent defendants.

The Standards are intended to alert defense counsel to courses of action that may be necessary, advisable, or appropriate, and thereby to assist attorneys in deciding upon the particular actions that must be taken in each case to ensure that the client receives the best representation possible. The Standards are also intended to provide a measure by which the Council can evaluate the performance of individual attorneys and circuit public defender offices, and to assist the Council in training and supervising attorneys.

The language of these Standards is general, implying flexibility of action which is appropriate to the situation. Use of judgment in deciding upon a particular course of action is reflected by the phrases "should consider" and "where appropriate." In those instances where a particular action is absolutely essential to providing quality representation, the Standards use the words "should" or "shall." Even where the Standards use the words "should" or "shall," in certain situations the lawyer's best informed professional judgment and discretion may indicate otherwise.

The Council acknowledges that there is an unending variety of circumstances presented by criminal cases and that this variation in combination with changes in criminal law and procedure requires that attorneys approach each new case with a fresh outlook. Therefore, though the Standards are intended to be comprehensive, they are not exhaustive. Depending upon the type of case and the particular jurisdiction, there may well be additional actions that an attorney should take or should consider taking in order to provide zealous and effective representation.

These Standards are not intended to be used as criteria for the judicial evaluation of alleged misconduct of defense counsel to determine the validity of a conviction. The Standards may or may not

be relevant to such a judicial determination, depending upon all of the circumstances of the individual case.

Performance Standard 1.A Obligations of Defense Counsel

The primary and most fundamental obligation of a criminal defense attorney is to provide zealous and effective representation for their clients at all stages of the criminal process. The defense attorney's duty and responsibility is to promote and protect the best interests of the client. If personal matters make it impossible for the defense counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client. Attorneys also have an obligation to uphold the ethical standards of the State Bar of Georgia and to act in accordance with the Uniform Rules of Court.

Performance Standard 1.B Training and Experience of Defense Counsel

(A) In order to provide quality legal representation, counsel must be familiar with the substantive criminal law and the law of criminal procedure and its application in the State of Georgia. Counsel has a continuing obligation to stay abreast of changes and developments in the law.

(B) Prior to agreeing to undertake representation in a criminal matter, counsel should have sufficient experience or training to provide effective representation.

(C) Attorneys who are being considered for appointment to represent individuals who are charged with capital offenses in which the State is seeking death must meet the criteria set forth in the Unified Appeal Procedures for the trial of Death Penalty Cases as adopted by the Supreme Court of Georgia.

Performance Standard 1.C General Duties of Defense Counsel

(A) Before agreeing to act as counsel or accepting appointment by a court, counsel has an obligation to make sure that counsel has available sufficient time, resources, knowledge and experience to offer effective representation to a defendant in a particular matter. If it later appears that counsel is unable to offer effective representation in the case, counsel should move to withdraw.

(B) Counsel must be alert to all potential and actual conflicts of interest that would impair counsel's ability to represent a client. When appropriate, counsel may be obliged to seek an advisory opinion on any potential conflicts.

(C) Counsel has the obligation to keep the client informed of the progress of the case.

(D) If a conflict develops during the course of representation, counsel has a duty to notify the client and the court in accordance with the Uniform Rules of Court and in accordance with the Disciplinary Rules of the State Bar of Georgia.

(E) When counsel's caseload is so large that counsel is unable to satisfactorily meet these performance standards, counsel shall inform the Circuit Public Defender for counsel's judicial circuit and the court or courts before whom counsel's cases are pending. If the Circuit Public Defender determines that the caseloads for his entire office are so large that counsel is unable to satisfactorily meet these performance standards, the Circuit Public Defender shall inform the court or courts before whom cases are pending and the Director of the Georgia Public Defender Standards Council.

Performance Standard 2.A Obligations of Counsel Regarding Pretrial Release

(A) Counsel or a representative of counsel have an obligation to meet with incarcerated defendants within 72 hours of arrest, and shall take other prompt action necessary to provide quality representation including:

(a) Counsel shall invoke the protections of appropriate constitutional provisions, federal and state laws, statutory provisions, and court rules on behalf of a client, and revoke any waivers of these protections purportedly given by the client, as soon as practicable via a notice of appearance or other pleading filed with the State and court.

(b) Where possible, counsel shall represent an incarcerated client at the USCR Rule 26.1 First Appearance hearing (County of Riverside v. McLaughlin, 500 U.S. 44 (1991)) in order to contest probable cause for a client arrested without an arrest warrant, to seek bail on favorable terms (after taking into consideration the adverse impact, if any, such efforts may have upon exercising the client's right to a full Pretrial Release hearing at a later date), to invoke constitutional and statutory protections on behalf of the client, and otherwise advocate for the interests of the client.

(B) Counsel has an obligation to attempt to secure the pretrial release of the client.

Performance Standard 2.B Counsel's Initial Interview With Client

(A) Preparing for the Initial Interview:

Prior to conducting the initial interview the attorney should, where possible:

(a) be familiar with the elements of the offense(s) and the potential punishment(s), where the

charges against the client are already known; and

(b) obtain copies of any relevant documents which are available, including copies of any charging documents, recommendations and reports made by bail agencies concerning pretrial release, and law enforcement reports that might be available.

In addition, where the Client is incarcerated, the attorney should:

(a) be familiar with the legal criteria for determining pretrial release and the procedures that will be followed in setting those conditions;

(b) be familiar with the different types of pretrial release conditions the court may set and whether private or public agencies are available to act as a custodian for the client's release; and

(c) be familiar with any procedures available for reviewing the trial judge's setting of bail.

(B) Conducting the Interview:

(a) The purpose of the initial interview is to acquire information from the client concerning the case, the client and pre-trial release, and also to provide the client with information concerning the case. Counsel should ensure at this and all successive interviews and proceedings that barriers to communication, such as differences in language or literacy, be overcome. In addition, counsel should obtain from the client all release forms necessary to obtain client's medical, psychological, education, military, prison and other records as may be pertinent.

(b) Counsel shall complete the GPDSC interview form proscribed for use at the initial interview. **Minority Version, add the following:** Information that should be acquired from the client, includes, but is not limited to:

(1) the facts surrounding the charges leading to the client's arrest, to the extent the client knows and is willing to discuss these facts;

(2) the client's version of arrest, with or without warrant; whether client was searched and if anything was seized, with or without warrant or consent; whether client was interrogated and if so, was a statement given; client's physical and mental status at the time the statement was given; whether any exemplars were provided and whether any scientific tests were performed on client's body or body fluids;

(3) the names and custodial status of all co-defendants and the name of counsel for co-defendants (if counsel has been appointed or retained);

(4) the names and locating information of any witnesses to the crime and/or the arrest; regardless of whether these are witnesses for the prosecution or for the defense; the existence of any tangible evidence in the possession of the State (when appropriate, counsel should take steps to insure this evidence is preserved);

(5) the client's ties to the community, including the length of time he or she has lived at the current and former addresses, any prior names or alias used, family relationships, immigration status (if applicable), employment record and history, and social security number;

(6) the client's physical and mental health, educational, vocational and armed services history;

(7) the client's immediate medical needs including the need for detoxification programs and/or substance abuse treatment;

(8) the client's past criminal record, if any, including arrests and convictions for adult and juvenile offenses and prior record of court appearances or failure to appear in court; counsel should also determine whether the client has any pending charges or outstanding warrants from other jurisdictions or agencies and also whether he or she is on probation (including the nature of the probation, such as "first offender") or parole and the client's past or present performance under supervision;

(9) the names of individuals or other sources that counsel can contact to verify the information provided by the client (counsel should obtain the permission of the client before contacting these individuals);

(10) the ability of the client to meet any financial conditions of release (for clients who are incarcerated); and

(11) where appropriate, evidence of the client's competence to stand trial and/or mental state at the time of the offense, including releases from the client for any records for treatment or testing for mental health or mental retardation.

(c) Information to be provided to the client, includes, but is not limited to:

(1) a general overview of the procedural progression of the case, where possible;

(2) an explanation of the charges and the potential penalties;

(3) an explanation of the attorney-client privilege and instructions not to talk to anyone about the facts of the case without first consulting with the attorney; and

(4) the names of any other persons who may be contacting the client on behalf of counsel.

For clients who are incarcerated:

(1) an explanation of the procedures that will be followed in setting the conditions of pretrial release;

(2) an explanation of the type of information that will be requested in any interview that may be conducted by a pretrial release agency and also an explanation that the client should not make statements concerning the offense;

(3) warn the client of the dangers with regard to the search of client's cell and personal belongings while in custody and the fact that telephone calls, mail, and visitations may be monitored by jail officials; and

(C) Counsel must be alert to a potential plea based on client's incompetency, insanity, mental illness or mental retardation. If counsel or the client raise a potential claim based on any of these conditions, counsel should consider seeking an independent psychological evaluation. Counsel should be familiar with the legal criteria for any plea or defense based on the defendant's mental illness or mental retardation, and should become familiar with the procedures related to the evaluation and to subsequent proceedings.

(a) Counsel should be prepared to raise the issue of incompetency during all phases of the proceedings, if counsel's relationship with the client reveals that such a plea is appropriate.

(b) Where appropriate, counsel should advise the client of the potential consequences of the plea of incompetency, the defense of insanity, or a plea of guilty but mentally ill or guilty but mentally retarded. Prior to any proceeding, counsel should consider interviewing any professional who has evaluated the client, should be familiar with all aspects of the evaluation and should seek additional expert advice where appropriate.

(D) If special conditions of release have been imposed (e.g. random drug screening) or other orders restricting the client's conduct have been entered (e.g. a no contact order), the client should be advised of the legal consequences of failure to comply with such conditions.

Performance Standard 2.C Counsel's Duty in Pretrial Release Proceedings

(A) Counsel should be prepared to present to the appropriate judicial officer a statement of the factual circumstances and the legal criteria supporting release and, where appropriate, to make a proposal concerning conditions of release.

(B) Where the client is not able to obtain release under the conditions set by the court, counsel should consider pursuing modification of the conditions of release under the procedures available.

(C) If the court sets conditions of release which require the posting of a monetary bond or the posting of real property as collateral for release, counsel should make sure the client understands the available options and the procedures that must be followed in posting such assets. Where appropriate, counsel should advise the client and others acting in his or her behalf how to properly post such assets.

Performance Standard 3.A Counsel's Duties at Preliminary Hearing

(A) Where the client is entitled to a preliminary hearing, the attorney should take steps to see that the hearing is conducted in a timely fashion unless there are strategic reasons for not doing so.

(B) In preparing for the preliminary hearing, the attorney should become familiar with:

(a) the elements of each of the offenses alleged;

(b) the law of the jurisdiction for establishing probable cause;

(c) factual information which is available concerning probable cause; and

(d) the subpoena process for obtaining compulsory attendance of witnesses at preliminary hearing and the necessary steps to be taken in order to obtain a proper recordation of the proceedings.

Performance Standard 4.A Duty of Counsel To Conduct Investigation

(A) Counsel has a duty to conduct a prompt investigation of each case. Counsel should, regardless of the client's wish to admit guilt, insure that the charges and disposition are factually and legally correct and the client is aware of potential defenses to the charges.

(B) Sources of investigative information may include the following:

(a) Arrest warrant, accusation and/or indictment documents, and copies of all charging documents in the case should be obtained and examined to determine the specific charges that have been brought against the accused. The relevant statutes and precedents should be examined to identify:

(1) the elements of the offense(s) with which the accused is charged;

(2) the defenses, ordinary and affirmative, that may be available;

(3) any lesser included offenses that may be available; and

(4) any defects in the charging documents, constitutional or otherwise, such as statute of limitations or double jeopardy.

(b) Information from the defendant:

If not previously conducted, an in-depth interview of the client should be conducted as soon as possible and appropriate after appointment of counsel. The interview with the client should be used to obtain information as described above under the performance standards applicable to the initial interview of the client. Information relevant to sentencing should also be obtained from the client, when appropriate.

(c) Interviewing witnesses:

Counsel should consider the necessity to interview the potential witnesses, including any complaining witnesses and others adverse to the accused, as well as witnesses favorable to the accused. Interviews of witnesses adverse to the accused should be conducted in a manner that permits counsel to effectively impeach the witness with statements made during the interview.

(d) The police and prosecution reports and documents:

Counsel should make efforts to secure information in the possession of the prosecution or law enforcement authorities, including police reports. Where necessary, counsel should pursue such efforts through formal and informal discovery unless sound tactical reasons exist for not doing so. Counsel should obtain GCIC (NCIC or other states criminal history records) records for the client and for the prosecution witnesses.

(e) Physical evidence:

Where appropriate, counsel should make a prompt request to the police or investigative agency for any physical evidence or expert reports relevant to the offense or sentencing. Counsel should examine any such physical evidence.

(f) The scene of the incident:

Where appropriate, counsel should attempt to view the scene of the alleged offense as soon as possible after counsel is appointed. This should be done under circumstances as similar as possible to those existing at the time of the alleged incident (e.g., weather, time of day, and lighting conditions).

(g) Securing the assistance of experts:

Counsel should secure the assistance of experts where it is necessary or appropriate to:

- (1) the preparation of the defense;
- (2) adequate understanding of the prosecution's case; or
- (3) rebut the prosecution's case.

Performance Standard 4.B Formal and Informal Discovery

(A) Counsel has a duty to pursue as soon as practicable, discovery procedures provided by the rules of the jurisdiction and to pursue such informal discovery methods as may be available to supplement the factual investigation of the case. In considering discovery requests, counsel should take into account that such requests may trigger reciprocal discovery obligations.

(B) Counsel should consider seeking discovery, at a minimum, of the following items:

- (a) potential exculpatory information;
- (b) potential mitigating information;
- (c) the names and addresses of all prosecution witnesses, their prior statements, and criminal record, if any;
- (d) all oral and/or written statements by the accused, and the details of the circumstances under which the statements were made;
- (e) the prior criminal record of the accused and any evidence of other misconduct that the government may intend to use against the accused;

(f) all books, papers, documents, photographs, tangible objects, buildings or places, or copies, descriptions, or other representations, or portions thereof, relevant to the case;

(g) all results or reports of relevant physical or mental examinations, and of scientific tests or experiments, or copies thereof;

(h) statements of co-defendants;

(i) all investigative reports by all law enforcement and other agencies involved in the case; and

(j) all records of evidence collected and retained by law enforcement.

Performance Standard 4.C Development of a Theory of the Case

During investigation and trial preparation, counsel should develop and continually reassess a theory of the case. Counsel, during the investigatory stages of the case preparation must understand and develop strategies for advancing the appropriate defenses on behalf of the client.

Performance Standard 5.A The Duty to File Pretrial Motions

(A) Counsel should consider filing an appropriate motion whenever there exists a good-faith reason to believe that the defendant is entitled to relief which the court has discretion to grant.

(B) The decision to file pretrial motions should be made after considering the applicable law in light of the known circumstances of each case.

(C) Counsel should withdraw or decide not to file a motion only after careful consideration, and only after determining whether the filing of a motion may be necessary to protect the defendant's rights, including later claims of waiver or procedural default.

Performance Standard 5.B Preparing, Filing, and Arguing Pretrial Motions

(A) Motions should be filed in a timely manner, should comport with the formal requirements of the court rules and should succinctly inform the court of the authority relied upon. In filing a pretrial motion, counsel should be aware of the effect it might have upon the defendant's speedy trial rights.

(B) When a hearing on a motion requires the taking of evidence, counsel's preparation for the evidentiary hearing should include:

- (a) investigation, discovery and research relevant to the claim advanced;
- (b) the subpoenaing of all helpful evidence and the subpoenaing and preparation of all helpful witnesses;
- (c) full understanding of the burdens of proof, evidentiary principles and trial court procedures applying to the hearing, including the benefits and potential consequences of having the client testify; and
- (d) familiarity with all applicable procedures for obtaining evidentiary hearings prior to trial.

Performance Standard 5.C Continuing Duty to File Pretrial Motions

Counsel should be prepared to raise during the subsequent proceedings any issue which is appropriately raised pretrial, but could not have been so raised because the facts supporting the motion were unknown or not reasonably available. Further, counsel should be prepared to renew a pretrial motion if new supporting information is disclosed in later proceedings.

Performance Standard 6.A Duty of Counsel in Plea Negotiation Process

- (A) Counsel should explore with the client the possibility and desirability of reaching a negotiated disposition of the charges rather than proceeding to a trial and in doing so should fully explain the rights that would be waived by a decision to enter a plea and not to proceed to trial.
- (B) Counsel should keep the client fully informed of any continued plea discussion and negotiations and promptly convey to the accused any offers made by the prosecution for a negotiated settlement.
- (C) Counsel shall not accept any plea agreement without the client's express authorization.
- (D) The existence of ongoing tentative plea negotiations with the prosecution should not prevent counsel from taking steps necessary to preserve a defense nor should the existence of ongoing plea negotiations prevent or delay counsel's investigation into the facts of the case and preparation of the case for further proceedings, including trial.

Performance Standard 6.B The Process of Plea Negotiations

(A) In order to develop an overall negotiation plan, counsel should be aware of, and make sure the client is aware of:

(a) the maximum term of imprisonment and fine or restitution that may be ordered, and any mandatory punishment or sentencing guideline system;
and counsel should make the client aware that a guilty plea may have adverse impact upon:

(b) the possibility of forfeiture of assets;

(c) other consequences of conviction including but not limited to deportation, the forfeiture of professional licensure, the ineligibility for various government programs including student loans, the prohibition from carrying a firearm, the suspension of a motor vehicle operator's license, the loss of the right to vote, and the loss of the right to hold public office;

(d) any possible and likely sentence enhancements or parole consequences;

(B) In developing a negotiation strategy, counsel should be completely familiar with:

(a) concessions that the client might offer the prosecution as part of a negotiated settlement, including, but not limited to:

(1) not to proceed to trial on merits of the charges;

(2) to decline from asserting or litigating any particular pretrial motions;

(3) an agreement to fulfill specified restitution conditions and/or participation in community work or service programs, or in rehabilitation or other programs; and

(4) providing the prosecution with assistance in prosecuting or investigating the present case or other alleged criminal activity.

(b) benefits the client might obtain from a negotiated settlement, including, but not limited to an agreement:

(1) that the prosecution will not oppose the client's release on bail pending sentencing or appeal;

(2) to dismiss or reduce one or more of the charged offenses either immediately, or upon completion of a deferred prosecution agreement;

(3) that the defendant will not be subject to further investigation or prosecution for uncharged alleged criminal conduct;

(4) that the defendant will receive, with the agreement of the court, a specified sentence or sanction or a sentence or sanction within a specified range;

(5) that the prosecution will take, or refrain from taking, at the time of sentencing and/or in communications with the preparer of the official pre-sentence report, a specified position with respect to the sanction to be imposed on the client by the court;

(6) that the prosecution will not present, at the time of sentencing and/or in communications with the preparer of the official pre-sentence report, certain information; and

(7) that the defendant will receive, or the prosecution will recommend, specific benefits concerning the accused's place and/or manner of confinement and/or release on parole and he information concerning the accused's offense and alleged behavior that may be considered in determining the accused's date of release from incarceration.

(c) the position of any alleged victim with respect to conviction and sentencing. In this regard, counsel should:

(1) consider whether interviewing the alleged victim or victims is appropriate and if so, who is the best person to do so and under what circumstances;

(2) consider to what extent the alleged victim or victims might be involved in the plea negotiations;

(3) be familiar with any rights afforded the alleged victim or victims under the Victim's Rights Act or other applicable law; and

(4) be familiar with the practice of the prosecutor and/or victim-witness advocate working with the prosecutor and to what extent, if any, they defer to the wishes of the alleged victim.

(C) In conducting plea negotiations, counsel should be familiar with:

(a) the various types of pleas that may be agreed to, including a plea of guilty, a plea of nolo contendere, a conditional plea of guilty, First Offender, Conditional Discharge, and a plea in which the defendant is not required to personally acknowledge his or her guilt (North Carolina v. Alford plea) ;

(b) the advantages and disadvantages of each available plea according to the circumstances of the case; and

(c) whether the plea agreement is binding on the court and prison and parole authorities.

(D) In conducting plea negotiations, counsel should attempt to become familiar with the practices and policies of the particular jurisdiction, judge and prosecuting authority, and probation department which may affect the content and likely results of negotiated plea bargains.

Performance Standard 6.C The Decision to Enter a Plea of Guilty

(A) Counsel should inform the client of any tentative negotiated agreement reached with the prosecution, and explain to the client the full content of the agreement, and the advantages and disadvantages of the potential consequences of the agreement.

(B) The decision to enter a plea of guilty rests solely with the client, and counsel should not attempt to unduly influence that decision.

(C) If client is a juvenile, consideration should be given to the request that a guardian be appointed to advise the juvenile if an adult family member is not available to act in a surrogate role.

(D) A negotiated plea should be committed to writing whenever possible.

Performance Standard 6.D Entering the Negotiated Plea before the Court

(A) Prior to the entry of the plea, counsel should:

(a) make certain that the client understands the rights he or she will waive by entering the plea and that the clients decision to waive those rights is knowing, voluntary and intelligent;

(b) make certain that the client receives a full explanation of the conditions and limits of the plea agreement and the maximum punishment, sanctions and collateral consequences the client will be exposed to by entering a plea;

(c) explain to the client the nature of the plea hearing and prepare the client for the role he or she will play in the hearing, including answering questions of the judge and providing a statement concerning the offense; and

(d) make certain that if the plea is a non-negotiated plea, the client is informed that once the plea has been accepted by the court, it may not be withdrawn after the sentence has been pronounced

by the court.

(B) When entering the plea, counsel should make sure that the full content and conditions of the plea agreement are placed on the record before the court.

(C) After entry of the plea, counsel should be prepared to address the issue of release pending sentencing. Where the client has been released pretrial, counsel should be prepared to argue and persuade the court that the client's continued release is warranted and appropriate. Where the client is in custody prior to the entry of the plea, counsel should, where practicable, advocate for and present to the court all reasons warranting the client's release on bail pending sentencing.

Performance Standard 7.A Counsel's Duty of Trial Preparation

(A) The decision to proceed to trial with or without a jury rests solely with the client. Counsel should discuss the relevant strategic considerations of this decision with the client.

(B) Where appropriate, counsel should have the following materials available at the time of trial:

- (a) copies of all relevant documents filed in the case;
- (b) relevant documents prepared by investigators;
- (c) voir dire questions;
- (d) outline or draft of opening statement;
- (e) cross-examination plans for all possible prosecution witnesses;
- (f) direct examination plans for all prospective defense witnesses;
- (g) copies of defense subpoenas;
- (h) prior statements of all prosecution witnesses (e.g., transcripts, police reports) and counsel should have prepared transcripts of any audio or video taped witness statements;
- (i) prior statements of all defense witnesses;
- (j) reports from defense experts;
- (k) a list of all defense exhibits, and the witnesses through whom they will be introduced;

(l) originals and copies of all documentary exhibits;

(m) proposed jury instructions with supporting case citations;

(n) where appropriate, consider and list the evidence necessary to support the defense requests for jury instructions:

(o) copies of all relevant statutes and cases; and

(p) outline or draft of closing argument.

(C) Counsel should be fully informed as to the rules of evidence, court rules, and the law relating to all stages of the trial process, and should be familiar with legal and evidentiary issues that can reasonably be anticipated to arise in the trial.

(D) Counsel should decide if it is beneficial to secure an advance ruling on issues likely to arise at trial (e.g., use of prior convictions to impeach the defendant) and, where appropriate, counsel should prepare motions and memoranda for such advance rulings.

(E) Throughout the trial process counsel should endeavor to establish a proper record for appellate review. Counsel must be familiar with the substantive and procedural law regarding the preservation of legal error for appellate review, and should insure that a sufficient record is made to preserve appropriate and potentially meritorious legal issues for such appellate review unless there are strategic reasons for not doing so.

(F) Where appropriate, counsel should advise the client as to suitable courtroom dress and demeanor. If the client is incarcerated, counsel should be alert to the possible prejudicial effects of the client appearing before the jury in jail or other inappropriate clothing. If necessary, counsel should file pre-trial motions to insure that the client has appropriate clothing and the court personnel follow appropriate procedures so as not to reveal to jurors that the defendant is incarcerated.

(G) Counsel should plan with the client the most convenient system for conferring throughout the trial. Where necessary, counsel should seek a court order to have the client available for conferences.

(H) Throughout preparation and trial, counsel should consider the potential effects that particular actions may have upon sentencing if there is a finding of guilt.

(I) Counsel shall take necessary steps to insure full official recordation of all aspects of the court proceeding.

Performance Standard 7.B Jury Selection

(A) Preparing for Voir Dire

(a) Counsel should be familiar with the procedures by which a jury venire is selected in the particular jurisdiction and should be alert to any potential legal challenges to the composition or selection of the venire.

(b) Counsel should be familiar with the local practices and the individual trial judge's procedures for selecting a jury from a panel of the venire, and should be alert to any potential legal challenges to these procedures.

(c) Prior to jury selection, counsel should seek to obtain a prospective juror list.

(d) Where appropriate, counsel should develop voir dire questions in advance of trial. Counsel should tailor voir dire questions to the specific case. Among the purposes voir dire questions should be designed to serve are the following:

(1) to elicit information about the attitudes of individual jurors, which will inform counsel and defendant about peremptory strikes and challenges for cause;

(2) to convey to the panel certain legal principles which are critical to the defense case;

(3) to preview the case for the jurors so as to lessen the impact of damaging information which is likely to come to their attention during the trial;

(4) to present the client and the defense case in a favorable light, without prematurely disclosing information about the defense case to the prosecutor; and

(5) to establish a relationship with the jury.

(e) Counsel should be familiar with the law concerning mandatory and discretionary voir dire inquiries so as to be able to defend any request to ask particular questions of prospective jurors.

(f) Counsel should be familiar with the law concerning challenges for cause and peremptory strikes. Counsel should also be aware of the law concerning whether peremptory challenges need to be exhausted in order to preserve for appeal any challenges for cause which have been denied.

(g) Where appropriate, counsel should consider whether to seek expert assistance in the jury selection process.

(B) Examination of the Prospective Jurors

(a) Counsel should personally voir dire the panel.

(b) Counsel should take all steps necessary to protect the voir dire record for appeal, including, where appropriate, filing a copy of the proposed voir dire questions or reading proposed questions into the record.

(c) If the voir dire questions may elicit sensitive answers, counsel should consider requesting that questioning be conducted outside the presence of the other jurors and counsel should consider requesting that the court, rather than counsel, conduct the voir dire as to those sensitive questions.

(d) In a group voir dire, counsel should avoid asking questions which may elicit responses which are likely to prejudice other prospective jurors.

(C) Challenging the Jurors for Cause

(a) Counsel should consider challenging for cause all persons about whom a legitimate argument can be made for actual prejudice or bias relevant to the case when it is likely to benefit the client.

Performance Standard 7.C Opening Statement

(A) Prior to delivering an opening statement, counsel should ask for sequestration of witnesses, unless a strategic reason exists for not doing so.

(B) Counsel should be familiar with the law of the jurisdiction and the individual trial judge's rules regarding the permissible content of an opening statement.

(C) Counsel should consider the strategic advantages and disadvantages of disclosure of particular information during opening statement and of deferring the opening statement until the beginning of the defense case.

(D) Counsel's objective in making an opening statement may include the following:

(a) to provide an overview of the defense case;

(b) to identify the weaknesses of the prosecution's case;

(c) to emphasize the prosecution's burden of proof;

(d) to summarize the testimony of witnesses, and the role of each in relationship to the entire case;

(e) to describe the exhibits which will be introduced and the role of each in relationship to the entire case;

(f) to clarify the jurors' responsibilities;

(g) to state the ultimate inferences which counsel wishes the jury to draw; and

(h) to establish counsel's credibility with the jury.

(E) Counsel should consider incorporating the promises of proof the prosecutor makes to the jury during opening statement in the defense summation.

(F) Whenever the prosecutor oversteps the bounds of proper opening statement, counsel should consider objecting, requesting a mistrial, or seeking cautionary instructions, unless tactical considerations suggest otherwise.

Performance Standard 7.D Preparation for Challenging the Prosecution's Case

(A) Counsel should attempt to anticipate weaknesses in the prosecution's proof and consider researching and preparing corresponding motions for judgment of acquittal.

(B) Counsel should consider the advantages and disadvantages of entering into stipulations concerning the prosecution's case.

(C) In preparing for cross-examination, counsel should be familiar with the applicable law and procedures concerning cross-examinations and impeachment of witnesses. In order to develop material for impeachment or to discover documents subject to disclosure, counsel should be prepared to question witnesses as to the existence of prior statements which they may have made or adopted.

(D) In preparing for cross-examination, counsel should:

(a) consider the need to integrate cross-examination, the theory of the defense and closing argument;

(b) consider whether cross-examination of each individual witness is likely to generate helpful information;

- (c) anticipate those witnesses the prosecutor might call in its case-in-chief or in rebuttal;
 - (d) consider a cross-examination plan for each of the anticipated witnesses;
 - (e) be alert to inconsistencies in a witness' testimony;
 - (f) be alert to possible variations in witnesses' testimony;
 - (g) review all prior statements of the witnesses and any prior relevant testimony of the prospective witnesses;
 - (h) have prepared a transcript of all audio or video tape recorded statements made by the witness;
 - (i) where appropriate, review relevant statutes and local police policy and procedure manuals, disciplinary records and department regulations for possible use in cross-examining police witnesses;
 - (j) be alert to issues relating to witness credibility, including bias and motive for testifying; and
 - (k) have prepared, for introduction into evidence, all documents which counsel intends to use during the cross-examination, including certified copies of records such as prior convictions of the witness or prior sworn testimony of the witness.
- (E) Counsel should consider conducting a voir dire examination of potential prosecution witnesses who may not be competent to give particular testimony, including expert witnesses whom the prosecutor may call. Counsel should be aware of the applicable law of the jurisdiction concerning competency of witnesses in general and admission of expert testimony in particular in order to be able to raise appropriate objections.
- (F) Before beginning cross-examination, counsel should ascertain whether the prosecutor has provided copies of all prior statements of the witnesses as required by applicable law. If counsel does not receive prior statements of prosecution witnesses until they have completed direct examination, counsel should request adequate time to review these documents before commencing cross-examination.
- (G) Where appropriate, at the close of the prosecution's case and out of the presence of the jury, counsel should move for a judgment of acquittal on each count charged. Counsel should request, when necessary, that the court immediately rule on the motion, in order that counsel may make an informed decision about whether to present a defense case.

Performance Standard 7.E Presenting the Defendant's Case

(A) Counsel should develop, in consultation with the client, an overall defense strategy. In deciding on defense strategy, counsel should consider whether the client's interests are best served by not putting on a defense case, and instead relying on the prosecution's failure to meet its constitutional burden of proving each element beyond a reasonable doubt. Counsel should also consider the tactical advantage of having final closing argument when making the decision whether to present evidence other than the defendant's testimony.

(B) Counsel should discuss with the client all of the considerations relevant to the client's decision to testify. Counsel should also be familiar with his or her ethical responsibilities that may be applicable if the client insists on testifying untruthfully.

(C) Counsel should be aware of the elements of any affirmative defense and know whether, under the applicable law of the jurisdiction, the client bears a burden of persuasion or a burden of production.

(D) In preparing for presentation of a defense case, counsel should, where appropriate:

- (a) develop a plan for direct examination of each potential defense witness;
- (b) determine the implications that the order of witnesses may have on the defense case;
- (c) determine what facts necessary for the defense case can be elicited through the cross-examination of the prosecution's witnesses;
- (d) consider the possible use of character witnesses;
- (e) consider the need for expert witnesses and what evidence must be submitted to lay the foundation for the expert's testimony;
- (f) review all documentary evidence that must be presented; and
- (g) review all tangible evidence that must be presented.

(E) In developing and presenting the defense case, counsel should consider the implications it may have for a rebuttal by the prosecutor.

(F) Counsel should prepare all witnesses for direct and possible cross-examination. Where appropriate, counsel should also advise witnesses of suitable courtroom dress and demeanor.

(G) Counsel should conduct redirect examination as appropriate.

(H) At the close of the defense case, counsel should renew the motion for a directed verdict of

acquittal on each charged count.

Performance Standard 7.F Preparation of the Closing Argument

(A) Counsel should be familiar with the substantive limits on both prosecution and defense summation.

(B) Counsel should be familiar with the court rules, applicable statutes and law, and the individual judge's practice concerning time limits and objections during closing argument, and provisions for rebuttal argument by the prosecution.

(C) In developing closing argument, counsel should review the proceedings to determine what aspects can be used in support of defense summation and, where appropriate, should consider:

- (a) highlighting weaknesses in the prosecution's case;
- (b) describing favorable inferences to be drawn from the evidence;
- (c) incorporating into the argument:
 - (1) helpful testimony from direct and cross-examinations;
 - (2) verbatim instructions drawn from the jury charge; and
 - (3) responses to anticipated prosecution arguments;
- (d) and the effects of the defense argument on the prosecutor's rebuttal argument.

(D) Whenever the prosecutor exceeds the scope of permissible argument, counsel should consider objecting, requesting mistrial, or seeking cautionary instructions unless tactical considerations suggest otherwise. Such tactical considerations may include, but are not limited to:

- (a) whether counsel believes that the case will result in a favorable verdict for the client;
- (b) the need to preserve the objection for appellate review; or
- (c) the possibility that an objection might enhance the significance of the information in the jury's mind.

Performance Standard 7.G Jury Instructions

- (A) Counsel should be familiar with the Uniform Rules of Court and the individual judge's practices concerning ruling on proposed instructions, charging the jury, use of standard charges and preserving objections to the instructions.
- (B) Counsel should always submit proposed jury instructions in writing.
- (C) Where appropriate, counsel should submit modifications of the standard jury instructions in light of the particular circumstances of the case, including the desirability of seeking a verdict on a lesser included offense. Where possible, counsel should provide citations to case law in support of the proposed instructions.
- (D) Where appropriate, counsel should object to and argue against improper instructions proposed by the prosecution.
- (E) If the court refuses to adopt instructions requested by counsel, or gives instructions over counsel's objection, counsel should take all steps necessary to preserve the record, including, where appropriate, filing a written copy of proposed instructions.
- (F) During delivery of the charge, counsel should be alert to any deviations from the judge's planned instructions, object to deviations unfavorable to the client, and, if necessary request additional or curative instructions.
- (G) If the court proposes giving supplemental instructions to the jury, either upon request of the jurors or upon their failure to reach a verdict, counsel should request that the judge state the proposed charge to counsel before it is delivered to the jury. Counsel should renew or make new objections to any additional instructions given to the jurors after the jurors have begun their deliberations.
- (H) Counsel should reserve the right to make exceptions to the jury instructions above and beyond any specific objections that were made during the trial.

Performance Standard 8.A Obligations of Counsel at Sentencing Hearing

- (A) Among counsel's obligations in the sentencing process are:
 - (a) where a defendant chooses not to proceed to trial, to ensure that a plea agreement is negotiated with consideration of the sentencing, correctional, financial and collateral implications;
 - (b) to ensure the client is not harmed by inaccurate information or information that is not

properly before the court in determining the sentence to be imposed;

(c) to ensure all reasonably available mitigating and favorable information, which is likely to benefit the client, is presented to the court;

(d) to develop a plan which seeks to achieve the least restrictive and burdensome sentencing alternative that is most acceptable to the client, and which can reasonably be obtained based on the facts and circumstances of the offense, the defendant's background, the applicable sentencing provisions, and other information pertinent to the sentencing decision;

(e) to ensure all information presented to the court which may harm the client and which is not shown to be accurate and truthful or is otherwise improper is stricken from the text of the pre-sentence investigation report before distribution of the report; and

(f) to consider the need for and availability of sentencing specialists, and to seek the assistance of such specialists whenever possible and warranted.

Performance Standard 8.B Sentencing Options, Consequences and Procedures

(A) Counsel should be familiar with the sentencing provisions and options applicable to the case, including:

- (a) any sentencing guideline structure;
- (b) deferred sentence, judgment without a finding, and diversionary programs;
- (c) expungement and sealing of records;
- (d) probation or suspension of sentence and permissible conditions of probation;
- (e) the potential of recidivist sentencing;
- (f) fines, associated fees and court costs;
- (g) victim restitution;
- (h) reimbursement of attorneys' fees;
- (i) imprisonment including any mandatory minimum requirements;

- (j) the effects of "guilty but mentally ill" and "not guilty by reason of insanity" pleas; and
- (k) civil forfeiture implications of a guilty plea.

(B) Counsel should be familiar with direct and collateral consequences of the sentence and judgment, including:

- (a) credit for pre-trial detention;
- (b) parole eligibility and applicable parole release ranges (if applicable);
- (c) place of confinement and level of security and classification criteria used by Department of Corrections;
- (d) eligibility for correctional and educational programs;
- (e) availability of drug rehabilitation programs, psychiatric treatment, health care, and other treatment programs;
- (f) deportation and other immigration consequences;
- (g) loss of civil rights;
- (h) impact of a fine or restitution and any resulting civil liability;
- (i) possible revocation of probation, possible revocation of first offender status, or possible revocation of parole status if client is serving a prior sentence on a parole status;
- (k) suspension of a motor vehicle operator's permit;
- (l) prohibition of carrying a firearm; and
- (m) other consequences of conviction including but not limited to, the forfeiture of professional licensure, the ineligibility for various government programs including student loans, registration as a sex offender, loss of public housing and the loss of the right to hold public office.

(C) Counsel should be familiar with the sentencing procedures, including:

- (a) the effect that plea negotiations may have upon the sentencing discretion of the court;
- (b) the availability of an evidentiary hearing and the applicable rules of evidence and burdens of

proof at such a hearing;

- (c) the use of "Victim Impact" evidence at any sentencing hearing;
- (d) the right of the defendant to speak prior to being sentenced;
- (e) any discovery rules and reciprocal discovery rules that apply to sentencing hearings; and
- (f) the use of any sentencing guidelines.

(D) Where the Court uses a pre-sentence report, counsel should be familiar with:

- (a) the practices of the officials who prepare the pre-sentence report and the defendant's rights in that process;
- (b) the access to the pre-sentence report by counsel and the defendant;
- (c) the prosecution's practice in preparing a memorandum on punishment; and
- (d) the use of a sentencing memorandum by the defense.

Performance Standard 8.C Preparation for Sentencing

(A) In preparing for sentencing, counsel should consider the need to:

- (a) inform the client of the applicable sentencing requirements, options, and alternatives, and the likely and possible consequences of the sentencing alternatives;
- (b) maintain regular contact with the client prior to the sentencing hearing, and inform the client of the steps being taken in preparation for sentencing;
- (c) obtain from the client relevant information concerning such subjects as his or her background and personal history, prior criminal record, employment history and skills, education, medical history and condition, and financial status, family obligations, and obtain from the client sources through which the information provided can be corroborated;
- (d) inform the client of his or her right to speak at the sentencing proceeding and assist the client in preparing the statement, if any, to be made to the court, considering the possible consequences that any admission of guilt may have upon an appeal, subsequent retrial or trial on other offenses;

(e) inform the client of the effects that admissions and other statements may have upon an appeal, retrial, parole proceedings, or other judicial proceedings, such as forfeiture or restitution proceedings;

(f) prepare the client to be interviewed by the official preparing the pre-sentence report; and ensure the client has adequate time to examine the pre-sentence report, if one is utilized by the court;

(g) inform the client of the sentence or range of sentences counsel will ask the court to consider; if the client and counsel disagree as to the sentence or sentences to be urged upon the court, counsel shall inform the client of his or her right to speak personally for a particular sentence or sentences;

(h) collect documents and affidavits to support the defense position and, where relevant, prepare witnesses to testify at the sentencing hearing; where necessary, counsel should specifically request the opportunity to present tangible and testimonial evidence; and

(i) inform the client of the operation of the Georgia Sentence Review Panel and the procedures to be followed in submitting any possible sentence to the Panel for review, if applicable.

Performance Standard 8.D The Prosecution's Sentencing Position

(A) Counsel should attempt to determine, unless there is a sound tactical reason for not doing so, whether the prosecution will advocate that a particular type or length of sentence be imposed.

Performance Standard 8.E The Sentencing Process

(A) Counsel should be prepared at the sentencing proceeding to take the steps necessary to advocate fully for the requested sentence and to protect the client's interest.

(B) Counsel should be familiar with the procedures available for obtaining an evidentiary hearing before the court in connection with the imposition of sentence.

(C) In the event there will be disputed facts before the court at sentencing, counsel should consider requesting an evidentiary hearing. Where a sentencing hearing will be held, counsel should ascertain who has the burden of proving a fact unfavorable to the defendant, be prepared to object if the burden is placed on the defense, and be prepared to present evidence, including testimony of witnesses, to contradict erroneous or misleading information unfavorable to the defendant.

(D) Where information favorable to the defendant will be disputed or challenged, counsel should be prepared to present supporting evidence, including testimony of witnesses, to establish the facts favorable to the defendant.

(E) Where the court has the authority to do so, counsel should request specific orders or recommendations from the court concerning the place of confinement, probation or suspension of part or all of the sentence, psychiatric treatment or drug rehabilitation.

(F) Where appropriate, counsel should prepare the client to personally address the court.

Performance Standard 9.A Motion for a New Trial

(A) Counsel should be familiar with the procedures available to request a new trial including the time period for filing such a motion, the effect it has upon the time to file a notice of appeal, and the grounds that can be raised.

(B) When a judgment of guilty has been entered against the defendant after trial, counsel should consider whether it is appropriate to file a motion for a new trial with the trial court. In deciding whether to file such a motion, the factors counsel should consider include:

(a) the likelihood of success of the motion, given the nature of the error or errors that can be raised; and

(b) the effect that such a motion might have upon the defendant's appellate rights, including whether the filing of such a motion is necessary to, or will assist in, preserving the defendant's right to raise on appeal the issues that might be raised in the new trial motion.

Performance Standard 9.B The Defendant's Right to an Appeal

(A) Following conviction at trial, counsel should inform the defendant of his or her right to appeal the judgment of the court and the action that must be taken to perfect an appeal.

(B) Where the defendant takes an appeal, trial counsel should cooperate in providing information to appellate counsel (where new counsel is handling the appeal) concerning the proceedings in the trial court.

Performance Standard 9.C Defendant's Right To Apply to the Sentence Review Panel

(A) Counsel should insure that the Defendant is informed of the of the procedure available (where

applicable) for requesting a review of his or her sentence by the Superior Court Review Panel.

Proposed Additions made by Larry Schneider, DeKalb County Public Defender

Performance Standard 10.A Children Prosecuted as Adults

(A) Counsel representing a child as an adult should be familiar with the law and procedure covering children prosecuted as adults and the law and procedure of the juvenile courts. Counsel should, where possible, have received specialized training in the defense of children in the adult and juvenile courts.

(B) When representing a child who is prosecuted as an adult a transfer to Juvenile Court may be a desirable defense goal; Counsel should consider involving the Juvenile Court in plea Negotiations.

(C) The use of experts in evaluating juvenile sex offenders should be strongly considered. Developing issues of competency, developmental disability, Attention Deficit Disorder and Attention Deficit Hyperactivity Disorder should also be explored.

(D) The Juvenile Courts have, unlike the adult courts, treatment resources for children. Counsel should be familiar with Juvenile Court, Department of Juvenile Justice and DFACS resources and policies regarding treatment programs and funding.

(E) Counsel should, whenever a child is eligible, pursue expungement of the child's criminal record.

EXHIBIT 27

**STATE OF GEORGIA
PERFORMANCE STANDARDS FOR
JUVENILE DEFENSE REPRESENTATION
IN INDIGENT DELINQUENCY AND UNRULY CASES**

Practice in juvenile delinquency cases is unique and challenging, requiring specialized skills and knowledge to assure the best legal representation of clients.

Juvenile Courts have jurisdiction over children up to age 17 who are charged with delinquent acts, alleged unruly or charged with a so-called status offense. However, if a child age 13-17 is charged with one of seven serious offenses, his or her case will be prosecuted in the Superior rather than Juvenile Court.

The purpose of these standards is to provide juvenile defense attorneys with a general guide to appropriate and zealous advocacy on behalf of clients in juvenile court delinquency or unruly proceedings.

Performance Standard 1: Obligations of Juvenile Defense Counsel

The primary and most fundamental obligation of a juvenile defense attorney is to provide zealous and effective representation for his or her client at all stages of the juvenile court proceedings. The defense attorney's duty and responsibility is to promote and protect the child's expressed interest. If personal matters make it impossible for the defense counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client. Attorneys also have an obligation to uphold the ethical standards of the State Bar of Georgia and to act in accordance with the Uniform Juvenile Court Rules.

Performance Standard 2: Training and Experience of Juvenile Defense Counsel

Commentary:

Juvenile delinquency cases should not be taken on without the adequate experience and knowledge necessary to represent the client zealously.

- 2.1 Before practicing in juvenile court, juvenile defense counsel (hereafter "counsel") should be proficient in applicable substantive and procedural Georgia juvenile and criminal law and should have appropriate experience, skills and training necessary to represent children.
 - a. At a minimum counsel should observe at least twenty hours of juvenile court, including every stage of a delinquency proceeding and some observation of deprivation and unruly proceedings. Counsel should obtain formal and informal training in relevant areas of practice, including the

training provided by GPDSC.

- b. It is highly recommended that counsel work with a mentor before taking a case or have a mentor available to consult on a case.

2.2 Counsel should be knowledgeable about and seek ongoing training in the following areas:

- a. pre-dispositional and dispositional services and programs available through the court and probation;
- b. facilities available to serve children: on-site visits may be appropriate;
- c. child and adolescent development;
- d. brain development and the affect of trauma on brain development;
- e. the juvenile justice system;
- f. the child welfare system;
- g. the Department of Juvenile Justice policies and procedures;
- h. the Division of Family and Children's Services policies and procedures;
- i. substance abuse issues;
- j. mental health issues and common childhood diagnoses;
- k. special education laws, rights and remedies;
- l. competency and immaturity laws, issues and defenses;
- m. post dispositional advocacy;
- n. pathways to delinquency;
- o. cultural diversity;
- p. interviewing techniques for children;
- q. working with children and building rapport with the child or adolescent client;
- r. immigration laws and how they can affect a child involved with the juvenile court;
- s. school related issues including school disciplinary procedures and zero tolerance policies;
- t. gangs.

2.3 Counsel should note that local juvenile court practices and procedures may differ.

2.4 Counsel has a continuing obligation to stay abreast of changes and development in the law.

2.5 Before agreeing to act as counsel or accepting appointment by a court, counsel has an obligation to make sure that counsel has available sufficient time, resources, knowledge and experience to offer effective representation to a defendant in a particular matter. If it later appears that counsel is unable to offer effective representation in the case, counsel should move to withdraw.

2.6 Counsel must be alert to all potential and actual conflicts of interest that would impair counsel's ability to represent a client. When appropriate, counsel may be obliged to seek an advisory opinion on any potential conflicts.

- 2.7 If a conflict develops during the course of representation, counsel has a duty to notify the client and the court in accordance with the Uniform Rules of Court and in accordance with the Disciplinary Rules of the State Bar of Georgia.
- 2.8 When counsel's caseload is so large that counsel is unable to satisfactorily meet these performance standards, counsel shall inform the Circuit Public Defender for counsel's judicial circuit and the court or courts before whom counsel's cases are pending. If the Circuit Public Defender determines that the caseloads for his entire office are so large that counsel is unable to satisfactorily meet these performance standards, the Circuit Public Defender shall inform the court or courts before whom cases are pending and the Director of the Georgia Public Defender Standards Council.

Performance Standard 3: The Role of Juvenile Defense Counsel

Commentary:

After counseling the child, if the child's express interest does not accord with the lawyer's judgment, then the lawyer may withdraw or seek the appointment of a guardian ad litem. Every effort should be made to limit the role of the guardian ad litem to the minimum required for him or her to accomplish the purpose for which the appointment was made. In most cases both the guardian and the client should be instructed not to discuss the facts of the case as this discussion may not be privileged. However, the attorney may discuss the facts of the case with the guardian ad litem with discretion.

- 3.1 Counsel's principal duty is to zealously advocate the client's expressed interests rather than for counsel's opinion as to what is in the client's best interests.
 - a. Counsel is bound by and should advocate for the client's definition of his or her interests, and may not substitute counsel's own judgment for the client's, nor should counsel ignore the client's wishes because they are perceived not to be in the client's best interests.
 - c. Counsel should advise the client as to the probable success, and the consequences of, adopting any position, and should give the client all information necessary for the client to make an informed decision.
- 3.2 If a client is incapable of considered judgment on his or her own behalf, counsel may ask for a guardian ad litem to be appointed to represent the client's best interests.
- 3.3 Counsel should remember that the child is the client, not the parent (hereinafter "parent" refers to any parent, guardian, custodial adult or any entity assuming legal responsibility for the child.) The potential for conflict of interest between an accused juvenile and his or her parents should be clearly recognized and acknowledged. Counsel should inform the parent that he or she is counsel for the child, and that in the event of a disagreement between a parent or guardian and

the child, counsel is required to serve exclusively the interests of the child.

- 3.4 In order to effectively advocate for the client and to provide suggestions for appropriate dispositional options, counsel should take a holistic approach to juvenile defense, evaluating all factors which may have contributed to the existing charges

Performance Standard 4: Definition of the Client

- 4.1 The juvenile defender's client is the child. Counsel should explain to the parent that the child is the client and that counsel's principal duty is to represent the child's expressed wishes.
- 4.2 Counsel should remember that, even though the client is a child, all attorney client privileges and obligations attach.

Performance Standard 5: Juvenile Defender's Duty at Appointment

- 5.1 Counsel or a representative of counsel has an obligation to meet with detained clients within 72 hours of arrest.
- 5.2 Many important rights of clients involved in juvenile court proceedings can be protected only by prompt advice and action. Counsel should immediately inform the child of his or her rights and the nature of the attorney client relationship, and should pursue any investigatory or procedural steps necessary to protect the clients' interests. Counsel should invoke the protections of appropriate constitutional provisions, federal and state laws, statutory provisions, and court rules on behalf of a client, and revoke any waivers of these protections purportedly given by the client, as soon as practicable.
- 5.2 Whenever the nature and circumstances of the case permit, counsel should explore the possibility of informal adjustment.
- 5.3 Counsel should ascertain the parent's willingness to take custody of the client upon release (in situations where the child has been detained) and obtain useful social information from the parent, such as: the client's home behavior, school performance, involvement with special education services, past or present part-time employment, prior delinquency record, whether the client is on probation or pending trial in another case, and other information concerning the child's ability to stay out of trouble if released, and the parent's ability to control and discipline the child. Counsel should utilize this information to request and secure release of the client.
- 5.4 The juvenile procedure law expressly equates a juvenile's right to bail with that possessed by an adult under Georgia law. Rule 9.1 of the Uniform Juvenile Court

Rules (UJCR) requires that an application for bail be made by the child's parent or legal guardian.

- 5.5 If the court requires the posting of a bond, counsel should discuss with the client and his or her parent(s) the procedures that must be followed.
- 5.6 Where the client is not able to obtain release under the conditions set by the court, counsel should consider pursuing modification of those conditions.

Performance Standard 6: Counsel's Initial Interview with Client

Commentary:

The initial interview is the first and most crucial opportunity to build rapport with the child client. It is important to initiate face-to-face contact with the client as soon as possible after appointment. This interview, and any subsequent conversations with the client, should be conducted at an age appropriate level.

- 6.1 In preparation for the interview, counsel should:
 - a. schedule the interview to allow for ample time to speak with the client;
 - b. collect any relevant information to bring, including all records and releases;
 - c. be familiar with the elements of the offense(s) and the potential dispositions.

- 6.2 At the interview, counsel should:
 - a. explain to both the client and parent the role of defense counsel. It is important to clarify that counsel represents the legal interests of the child, not the parent. Thoroughly explain the confidential nature of attorney client conversations and the necessity of conducting interviews with the client alone;
 - b. explain the charges and possible dispositions;
 - c. explain the juvenile court process, timelines and the role of all the parties involved, such as judge, prosecutor, probation staff, counsel, client and parent;
 - d. inform the client and parent not to make statements to anyone concerning the offense;
 - e. obtain signed releases by the client and parent for medical and mental health records, school records, DFCS records, employment records, etc. Counsel should advise the client of the potential use of this information and the privileges that attach to this information;
 - f. counsel should obtain information from the client concerning the facts of the arrest and charges, and whether there were any statements made, witnesses, codefendants, and any other relevant information.

- g.** if the client is detained, one focus of the initial interview and investigation will be to obtain information relevant to the determination of pre-adjudication conditions of release. Such information should generally include:

 - i. client's residence and length of time at that residence;
 - ii. client's legal custody (parent, family, state agency) and physical custody (person responsible to supervise client): names, addresses and phone numbers;
 - iii. health (mental and physical) and employment background;
 - iv. client's school placement, status, attendance and special education designation;
 - v. whether the client or his or her family has had previous contact with the juvenile court system, and the nature and status of that contact;
 - vi. possible adults willing to assume responsibility for the child.

Performance Standard 7: Juvenile Defender's Duty at Detention/Probable Cause Hearing

Commentary:

Juvenile Defenders should be aware that juvenile clients have the same Constitutional rights as adult defendants.

- 7.1** Preparation for the hearing:

 - a.** Counsel should be familiar with the elements of each offense alleged.
 - b.** Counsel should prepare the client and parent for the hearing.
 - c.** Counsel should consult with presenting authority (presenting authority includes, but is not limited to, prosecutors, probation officers, Department of Juvenile justice caseworkers and police officers) concerning the facts of the case and the possibility of resolution of the case at this stage.
 - d.** Counsel should consult the Detention Assessment Instrument and be prepared to make arguments against secure detention.
 - e.** Counsel should know the detention facilities, community placements and other services available in the jurisdiction.

- 7.2** During the Hearing;

 - a.** Counsel should be familiar with the subpoena process for obtaining compulsory attendance of witnesses at preliminary hearing and the necessary steps to be taken in order to obtain a proper recordation of the proceedings.
 - b.** Counsel should use the testimony at the hearing as a discovery tool, and elicit as much information as possible with regards to the facts and circumstances of the case.
 - c.** If probable cause is found, counsel should argue for the least restrictive placement for the client pending arraignment.

Performance Standard 8: Juvenile Defender's Duty to Conduct Investigation

- 8.1** Counsel has a duty to conduct a prompt investigation of each case. Counsel should, regardless of the client's wish to admit guilt, ensure that the charges and disposition are factually and legally correct and the client is aware of potential defenses to the charges.
- 8.2** When conducting the investigation counsel should:
- a. Obtain the arrest warrant, petition, and copies of all charging documents in the case to determine the specific charges that have been brought against the child.
 - b. Research relevant statutes and caselaw to identify:
 - i. the elements of the offense(s) with which the child is charged;
 - ii. the defenses, ordinary and affirmative, that may be available;
 - iii. any lesser included offenses that may be available; and
 - iv. any defects in the charging documents, constitutional or otherwise, such as statute of limitations or double jeopardy.
 - c. If not done previously, conduct an in-depth interview of the client as soon as described in Performance Standard Six.
 - c. Attempt to interview all witnesses, favorable or adverse, and obtain any criminal or juvenile history of the witnesses.
 - d. Examine the police reports and any other records, documents and statements obtained through discovery.
 - e. Counsel should ascertain whether any physical evidence exists and should make a prompt request to examine such evidence.
 - f. Counsel should attempt to view the scene of the alleged offense. If possible, this should be done under circumstances as similar as possible to those existing at the time of the alleged incident (e.g., weather, time of day, and lighting conditions).
 - g. Counsel should ascertain whether the assistance of an expert is needed in preparation of the defense case or to understand or rebut the prosecution's case.
 - h. Counsel should, where appropriate, obtain DFCS records of the client and/or any witnesses.

Performance Standard 9: Juvenile Defender's Duty to Conduct Discovery

Commentary:

Formal discovery in juvenile court is governed by OCGA 15-11-75; however, in Georgia discovery varies according to local practice. Counsel should identify the local practice prior to filing a formal request for discovery taking into account that such requests may trigger reciprocal discovery obligations.

- 9.2** Counsel should consider seeking discovery, at a minimum, of the following items:
- a. potential exculpatory information;

- b. potential mitigating information;
- c. the names and addresses of all prosecution witnesses, their prior statements, and criminal or juvenile record, if any;
- d. all oral and/or written statements by the client, and the details of the circumstances under which the statements were made;
- e. the prior juvenile or criminal record of the client and any evidence of other misconduct that the government may intend to use against the client;
- f. all books, papers, documents, photographs, tangible objects, buildings or places, or copies, descriptions, or other representations, or portions thereof, relevant to the case;
- g. all results or reports of relevant physical or mental examinations, and of scientific tests or experiments, or copies thereof;
- h. statements of co-defendants;
- i. all investigative reports by all law enforcement and other agencies involved in the case; and
- j. all records of evidence collected and retained by law enforcement.

Performance Standard 10: Juvenile Defender's Duty in Plea Negotiations

Commentary:

After interviewing the client and developing a thorough knowledge of the law and facts of the case, counsel should explore all alternatives to trial, including the possible resolution of the case through a negotiated plea or admission.

- 10.1 Counsel is responsible for assuring that the juvenile and parent understand the concept of plea bargaining in general, as well as the details of any specific plea offer made to him or her.
- 10.2 Counsel should make it clear to the client that the ultimate decision to enter a plea has to be made by the client. Counsel should investigate and candidly explain to the client the prospective strengths and weaknesses of the case for the prosecution and defense, including the availability of prosecution witnesses, concessions and benefits which are subject to negotiation, and the possible consequences of an adjudication of delinquency. Counsel should also ascertain and advise the client of the court's practices concerning disposition recommendations and withdrawing pleas or admissions.
- 10.3 Counsel's recommendation on the advisability of a plea or admission should be based on a review of the complete circumstances of the case and the client's situation. Such advice should not be based *solely* on the client's acknowledgement of guilt or *solely* on a favorable disposition offer.
- 10.4 The client shall be kept informed of the status of the plea negotiations.
- 10.5 Where counsel believes that the client's desires are not in the client's best interest, counsel may attempt to persuade the client to change

his or her position. If the client remains unpersuaded, however, counsel should assure the client he or she will defend the client vigorously.

- 10.6 Notwithstanding the existence of ongoing plea negotiations with the prosecution, counsel should continue to prepare and investigate the case in the same manner as if it were going to proceed to an adjudicatory hearing on the merits.
- 10.7 Counsel should make sure that the client is carefully prepared to participate in the procedures required and used in the particular court.
- 10.8 Counsel must also be satisfied that the plea is voluntary, that the client understands the nature of the charges, that there is a factual basis for the plea or the admission, that the witnesses are or will be available, and that the client understands the rights being waived.
- 10.9 Counsel must consider whether an admission will compromise the client's or the client's family's public assistance or immigration status. If it does, the client may need to reconsider the decision to plead.
- 10.10 Counsel should be aware of the effect the client's admission will have on any other court proceedings or related issues, such as probation or school suspension.

Performance Standard 11: Preparation for Adjudicatory Hearing

- 11.1 Counsel should develop a theory of the case.
- 11.2 Pretrial Motions:
 - a. Counsel should review all statements, reports and other evidence to determine whether a motion is appropriate.
 - b. Counsel should file motions as soon as possible due to the time constraints of juvenile court, but within three days prior to the adjudicatory hearing. (UJCR 7.9)
 - c. Counsel should be aware of the burdens of proof, evidentiary principles and court procedures applying to the motions hearing.
 - d. Counsel has the continuing duty to file pretrial motions as issues arise or new evidence is discovered.
- 11.3 Counsel should be fully informed as to the rules of evidence, court rules, and the law relating to all stages of the hearing process, and should be familiar with legal and evidentiary issues that can reasonably be anticipated to arise in the adjudicatory hearing.
- 11.4 Counsel should be familiar with the substantive and procedural law regarding the preservation of legal error for appellate review.

- 11.5 Counsel should advise the client as to suitable courtroom dress and demeanor.
- 11.6 Counsel should take all necessary steps to ensure full official recordation of all aspects of the court proceeding.

Performance Standard 12: Juvenile Defender's Duty at Adjudicatory Hearing

- 12.1 Counsel should remember that:
 - a. juveniles have all rights afforded by the United States Constitution and the Constitution of the State of Georgia, except the right to a trial by jury.
 - b. the state has the burden of proving the allegations beyond a reasonable doubt;
 - c. the rules of evidence apply to all juvenile court proceedings;
 - d. the rules of criminal procedure apply to all juvenile court proceedings.
- 12.2 Counsel should be aware that except for certain circumstances, juvenile proceedings are confidential. (See O.C.G.A. §15-11-78 (b)).
- 12.3 Counsel should be aware that a parent or legal guardian must be present during the adjudicatory hearing. This requirement cannot be waived by the child. If a parent is unable or unwilling to participate, a legal guardian can be appointed.
- 12.4 Counsel should use the opening statement as an opportunity to educate the judge as to counsel's theory of the case. Counsel should consider the advantages and disadvantages of the disclosure of information during the opening statement.
- 12.5 During the prosecution's case counsel should:
 - a. be alert to and object to attempts to admit inadmissible evidence or testimony;
 - b. be prepared to cross examine witnesses. Any cross examination should be conducted to advance the defense's theory of the case;
- 12.5 At the conclusion of the prosecution's case, counsel should move for a dismissal of the proceedings and an order of acquittal pursuant to UJRC 11.2.
- 12.6 When presenting the client's case, counsel should:
 - a. consider whether any evidence needs to be presented;
 - b. discuss with your client all the implications of testifying, keeping in mind that the decision whether to testify is solely the client's. Counsel should also be aware of his or her ethical responsibilities if counsel knows that the client will testify untruthfully;
 - c. be prepared for direct examination and redirect of any witnesses;
 - d. be prepared to assert any affirmative defenses;

- 12.7 At the conclusion of the defense case, counsel should renew the motion for dismissal and order of acquittal and renew all earlier relevant objections and motions.
- 12.8 Counsel should use the closing argument to summarize the evidence and testimony as it applies to the theory of the case and remind the judge of the prosecution's burden of proof.

Performance Standard 13 Juvenile Defender's Duty at the Disposition Hearing

Commentary:

The active participation of counsel at disposition is essential. In many cases, counsel's most valuable service to clients will be rendered at this stage of the proceeding. An important part of representation in a juvenile case is planning for disposition.

13.1 Preparation for Hearing:

- a. Counsel should explain to the client and parent the nature of the disposition hearing, the issues involved and the alternatives open to the court. Counsel should also explain fully and candidly the nature, obligations and consequences of any proposed dispositional plan, including the meaning of conditions of probation, the characteristics of any institution to which commitment is possible, and the probable duration of the client's responsibilities under the proposed dispositional plan;
- b. Counsel should be familiar with and consider:
- i. the dispositional alternatives available to the court and any community services that may be useful in the formation of a dispositional plan appropriate to the client's circumstances;
 - ii. the official version of the client's prior record, if any;
 - iii. the position of the probation department with respect to the client;
 - iv. the sentencing recommendation, if any, of the prosecutor;
 - v. using a creative interdisciplinary approach by collaborating with educational advocates, social workers, and civil legal service providers;
 - vi. the collateral consequences attaching to any possible disposition;
 - vii. the disposition practices of the judge;
 - viii. referrals to court clinics or community agencies;
 - ix. any victim impact statement to be presented to the court;
 - x. requesting a continuance for disposition at a later date;
 - xi. securing that assistance of psychiatric, psychological, medical or other expert personnel needed for the purposes of evaluation, consultation or testimony with respect to the formation of a dispositional plan;

- xii. preparing a letter or memorandum to the judge to assist the court in deciding the client's disposition. Because judges may have a strong idea of the dispositions they are likely to impose before they begin the hearing, a thoughtful written presentation of a disposition plan that highlights the client's strengths and the appropriateness of the disposition plan should be delivered to the judge and opposing counsel in advance of the disposition hearing. This letter is an opportunity to anticipate and address any concerns the judge may have about the client and the disposition plan. It also an opportunity to address specifically issues of punishment, deterrence, community safety, and rehabilitation as they relate to the client in this case.

13.2 During the Hearing:

- a. Counsel should insist that proper procedure be followed throughout the disposition stage and that orders entered be based on adequate reliable evidence.
- b. Counsel should subpoena witnesses and present evidence to support counsel's proposed disposition plan.
- c. Counsel should fully cross examine adverse witnesses, and challenge the accuracy, credibility and weight of any reports, written statements or other evidence before the court.
- d. Counsel should consider whether the client should make a statement to the court.

- 13.3** When a dispositional decision has been reached, it is the lawyer's duty to explain the nature, obligations and consequences of the disposition to the client and the client's family and to urge upon the client the need for accepting and cooperating with the dispositional order. If appeal from either the adjudicative or dispositional decree is contemplated, the client should be advised of that possibility, but counsel must advise compliance with the court's decision during the interim.

Performance Standard 14: Juvenile Defender's Continuing Duty to Client

- 14.1** Whether or not the charges against the client have been disposed of, if counsel is aware that the client or the client's family needs and desires community or other medical, psychiatric, psychological, social or legal services, he or she should render all possible assistance in arranging for such services.
- 14.2** If the client is committed to the Department of Juvenile Justice, counsel should attempt to ensure that client is placed in the most appropriate, least restrictive placement available.

Performance Standard 15: Juvenile Defender's Postdispositional Duties

- 15.1 Counsel should be prepared to represent and inform the client with respect to proceedings to review or modify adjudicative or dispositional orders or to pursue any affirmative remedies that may be available to the client under local juvenile court law.
- 15.2 Counsel appointed to represent a client charged with violation of his or her probation should prepare in the same way and with as much care as for an adjudicatory hearing.

Performance Standard 16: Child's Right to an Appeal

Commentary:

Appeals from judgments in juvenile court are handled in the same manner as appeals from superior court.

- 16.1 Counsel should inform the client of his or her right to an appeal, the steps necessary to appeal and the likelihood of success.
- 16.2 Counsel should know the rules of both the Supreme Court and the Court of Appeals concerning the filing of appeals.

Performance Standard 17: Juvenile Defender's Duty during Transfer Hearings under O.C.G.A. 15-11-30.2

Commentary:

A new, inexperienced juvenile defender should not handle a transfer hearing without the supervision or assistance of a more experienced juvenile defender. A transfer hearing, while not a hearing on the merits of the case, could result in the loss of the protections afforded in juvenile court. Therefore, counsel should prepare in the same way and with as much care as for an adjudicatory hearing, in accordance with all previously annotated performance standards.

- 17.1 Counsel should be aware of the statutory findings the court must make before transferring jurisdiction to superior court.
- 17.2 Counsel should be aware of the current statutory and case law governing these findings.
- 17.3 Counsel should be prepared to present evidence and testimony to prevent transfer, including testimony by people who can provide helpful insight into the client's character, such as teachers, counselors, psychologists, community members, probation officers, religious affiliates, employers, or other persons with a positive personal and/or professional view of the defendant.
- 17.4 Counsel should ensure that all transfer hearing proceedings are recorded.
- 17.5 Counsel should preserve all issues for appeal.

- 17.6 Counsel should consider obtaining independent evaluation from a defense expert.
- 17.8 Counsel should investigate possible placements for the client if the case remains in juvenile court.

Performance Standard 18: Juvenile Defender's Duty in Designated Felony Cases, under O.G.C.A. 15-11-63

Commentary:

A new, inexperienced juvenile defender should not handle a designated felony case without the supervision or assistance of a more experienced juvenile defender.

- 18.1 Counsel should be aware of the special statutory provisions governing designated felonies and ensure that the client has been properly charged.
- 18.2 Counsel should inform the client of the consequences of being adjudicated a designated felon.
- 18.3 Counsel should work with the probation department to learn its recommendation and negotiate regarding the contents of its report to the court.
- 18.4 Counsel should use caution in pleading to a designated felony act due to the dispositional consequences.
- 18.5 Counsel should be aware of the statutory provisions regarding restrictive custody and be prepared to argue against restrictive custody.

Performance Standard 19: Juvenile Defender's Duty: Mental Competency

- 19.1 Counsel should be familiar with procedures for a determination of mental incompetence under O.C.G.A. §15-11-150 through §15-11-155.
- 19.2 If at any time the client's behavior or mental ability indicate that the he or she may not be competent, or may be mentally retarded, counsel should make a motion for a competency evaluation.
- 19.3 Counsel should prepare for and participate fully in the competency hearing.
- 19.4 Counsel should be aware that the burden of proof is on the child to prove incompetency and that the standard of proof is a preponderance of the evidence.
- 19.5 If the client is found dependent, counsel should participate, to the extent possible, in the development of the mental competency plan and in any subsequent meetings or hearings regarding the child's mental competency.

Performance Standard 20: Special Considerations

Commentary:

There are related legal issues and unique considerations in the juvenile justice system that do not exist in the criminal justice system. Juvenile defenders should be aware of the following matters:

- 20.1** Venue: Counsel should be aware that venue is proper in either the county where the alleged delinquent offense occurred or in the county of the child's residence. Counsel may make a motion for change of venue based upon tactical considerations.
- 20.2** Time Limits: Counsel should be aware of the time limits applicable in juvenile court.
- 20.3** Confidentiality of Proceedings and Records: Counsel should be aware that, except in certain circumstances, the general public is excluded from all juvenile court proceedings and that juvenile records are not available to the public.
- 20.4** Sealing of Records: Counsel should be aware of and inform the client that an application must be made to the juvenile court to have the client's record sealed.
- 20.5** Unrulies and Status Offenses: Counsel should be aware of the definition of an "unruly child" and "status offender" and know the procedural safeguards applicable to such designations.
- 20.6** Immigration: Counsel should be aware of the collateral effects of a juvenile court proceeding on the client or client's family's immigration status and consult with an expert if necessary.
- 20.7** Special Education: Counsel should be aware of any rights the client may have under special education laws and that any special education records should be presented to the court.

Adopted by the Georgia Public Defender Standards Council on December 10, 2004.

Emmet J. Bondurant

Chairperson

Attested:

Natasha Perdew Silas
Secretary

EXHIBIT 28

Georgia Juvenile Court Criminal Caseload
Calendar Year 2013



County	Delinquency		Unlawful		Termination of Parental Rights		Deprived		Traffic		Special Proceedings		Tort	
	Filed	Open	Filed	Open	Filed	Open	Filed	Open	Filed	Open	Filed	Open	Filed	Open
Appling	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Atkinson	25	21	4	3	0	0	0	0	13	0	0	0	0	0
Bacon	24	18	7	4	0	0	0	0	1	1	0	0	0	0
Baldwin	4	0	0	0	0	0	0	0	0	0	0	0	0	0
Banks	157	140	17	69	75	61	14	N/R	30	39	1	8	0	0
Bartow	35	38	7	8	4	4	17	11	22	22	8	6	54	113
Bartow	253	243	10	18	11	13	4	203	42	36	10	29	30	24
Bartow	282	275	207	232	180	207	27	656	544	697	76	61	52	310
Bartow	338	325	53	45	35	23	5	233	1	0	11	5	2	20
Bartow	78	12	284	11	0	0	0	101	2	3	8	2	0	6
Bartow	1316	1261	503	391	30	184	897	719	23	25	37	28	61	2782
Bartow	47	33	6	3	1	1	4	17	4	3	1	0	0	44
Bartow	4	0	1	0	0	0	0	0	0	0	0	0	0	0
Bartow	4	0	10	236	1	0	0	27	65	0	95	0	0	311
Bartow	65	9	67	2	5	0	291	56	235	2	4	4	304	304
Bartow	131	137	72	53	2	74	1	62	44	63	5	6	0	1
Bartow	254	199	95	N/R	N/R	N/R	115	19	95	N/R	N/R	N/R	N/R	217
Bartow	25	11	1	0	0	0	0	0	0	0	0	1	1	1
Bartow	148	141	314	50	52	76	17	18	4	59	55	49	111	78
Bartow	19	24	10	1	0	0	0	0	1	2	2	3	3	3
Bartow	411	402	29	185	27	26	34	9	132	146	55	21	21	812
Bartow	242	130	144	101	43	15	6	10	112	32	80	34	43	15
Bartow	162	14	45	208	3	2	42	40	115	2	1	12	10	259
Bartow	12	12	3	3	2	2	1	14	11	0	0	0	0	33
Bartow	37	35	4	27	23	4	1	40	1	0	0	0	5	116
Bartow	588	595	259	273	36	30	20	468	406	225	51	46	52	27
Bartow	601	647	1138	346	829	40	23	121	291	205	1425	61	400	24
Bartow	1637	1686	451	161	202	82	11	828	759	231	130	122	84	103
Bartow	43	18	N/R	4	N/R	0	0	N/R	0	0	N/R	N/R	N/R	N/R
Bartow	2567	2021	366	398	282	55	52	11	41	174	829	373	159	55
Bartow	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Bartow	351	36	30	253	83	2	5	2	4	4	15	4	1	15
Bartow	62	30	82	18	5	9	3	28	4	11	14	6	4	6
Bartow	609	760	288	227	145	164	2	11	33	281	363	380	48	30
Bartow	1	1	0	12	10	2	17	6	1	42	32	10	2	1
Bartow	198	173	361	128	115	46	1	30	25	377	26	23	0	0
Bartow	48	42	184	46	41	183	0	0	0	61	19	214	20	59
Bartow	57	51	40	16	16	33	4	1	33	27	12	33	31	7
Bartow	434	35	18	16	16	16	1	4	75	24	24	18	15	3
Bartow	434	378	152	126	20	32	32	12	162	50	171	135	15	78
Bartow	16	16	0	6	5	1	0	0	N/R	N/R	N/R	N/R	N/R	N/R
Bartow	1047	923	124	229	217	12	2	1	99	85	14	50	48	2
Bartow	688	605	83	303	257	46	35	16	18	238	253	85	35	85
Bartow	115	64	51	17	10	7	2	0	5	5	0	0	0	0
Bartow	130	4	4	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Bartow	135	155	29	35	29	7	22	15	7	57	51	16	6	8
Bartow	28	22	2	21	3	6	1	11	10	3	99	113	5	0
Bartow	5	5	0	7	1	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Bartow	75	23	50	43	18	25	4	6	0	0	12	0	0	0
Bartow	438	468	170	114	128	54	8	1	9	130	58	147	286	33
Bartow	429	424	74	164	161	21	43	34	17	645	584	109	162	3
Bartow	271	266	338	109	88	182	10	424	158	145	45	42	27	22
Bartow	76	18	497	1	0	40	0	1	56	0	0	0	2	1
Bartow	3747	3850	3330	841	872	287	57	1143	97	1884	1500	1115	408	412
Bartow	120	42	78	49	17	32	2	1	41	5	36	21	6	15
Bartow	3	3	0	3	3	0	2	1	0	0	0	0	0	0
Bartow	355	370	67	127	135	29	35	24	14	219	268	51	82	81
Bartow	122	103	19	140	140	0	5	4	495	452	493	73	72	1
Bartow	17	17	0	1	0	0	0	0	14	20	29	14	22	1
Bartow	37	13	13	11	11	9	3	1	1	1	1	1	1	1
Bartow	4148	3967	1172	1160	1365	210	67	103	883	658	3700	877	843	224
Bartow	71	52	19	136	136	0	6	2	85	85	0	22	15	9
Bartow	615	N/R	174	168	187	29	120	116	20	375	362	77	207	213
Bartow	N/R	N/R	N/R	3	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Bartow	102	91	11	67	63	4	18	18	0	15	65	31	31	0
Bartow	34	39	31	1	1	11	1	1	20	17	73	35	41	1
Bartow	51	5	48	0	0	0	1	1	0	66	0	0	0	0
Bartow	52	46	5	2	N/R	2	1	1	13	9	4	7	6	1
Bartow	18	18	36	36	17	17	4	8	305	305	1	1	1	1
Bartow	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Bartow	19	13	42	11	2	11	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Bartow	196	207	76	75	77	11	15	132	118	151	12	15	8	36
Bartow	42	45	30	8	5	9	1	5	74	2	2	2	2	2
Bartow	78	70	8	22	16	6	3	0	14	14	0	10	9	1
Bartow	45	5	35	17	3	14	0	0	5	5	0	0	0	0



Georgia Juvenile Court Criminal Caseload
Calendar Year 2013

County	Delinquent			Unruly			Termination of Parental Rights			Deprived			Traffic			Special Proceedings			Total Filed	Total Open	
	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open			
Jenkins	19	68	11	0	4	0	0	0	0	10	8	2	2	0	0	1	0	0	31	78	13
Johnson	33	15	18	7	4	3	1	0	1	21	18	6	3	3	N/R	N/R	N/R	3	58	40	43
Jones	100	106	93	7	17	6	3	5	6	41	32	73	20	20	22	13	N/R	18	184	180	226
Lamar*	75	N/R	N/R	22	N/R	N/R	8	N/R	N/R	37	N/R	N/R	1	N/R	N/R	105	N/R	N/R	248	N/R	N/R
Lanier	42	22	20	22	18	4	4	0	4	23	0	23	1	1	0	1	0	1	99	41	52
Laurens	239	246	7	233	213	15	5	5	1	131	167	9	52	54	1	11	10	1	661	695	34
Lee	97	104	6	18	18	1	1	1	0	29	30	2	25	25	0	11	11	10	181	189	19
Liberty*	317	140	127	216	121	73	3	3	0	26	8	18	56	45	11	4	0	4	622	287	233
Lincoln	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Lora	96	7	29	25	12	13	0	0	0	5	0	5	19	3	16	0	0	0	65	22	63
Lowndes	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Lumpkin	97	65	32	27	20	7	7	4	3	22	18	9	16	15	1	142	90	52	316	212	104
Macon	12	15	2	2	2	0	1	0	1	37	46	0	4	4	0	6	6	0	62	73	3
Madison	109	142	109	24	28	47	7	1	5	22	1	81	6	8	6	19	9	27	187	189	275
Marion	18	11	7	2	0	2	0	0	0	3	2	1	4	0	4	0	0	0	27	13	14
McDuffie	186	158	66	37	38	23	0	0	0	39	22	25	11	12	2	3	2	4	276	232	120
McIntosh	78	75	11	20	25	9	0	0	0	50	29	25	9	25	1	2	2	0	159	156	46
Meriwether	99	101	7	6	6	0	9	8	1	32	33	3	9	6	3	140	131	14	295	285	28
Miller	25	25	0	19	19	0	0	0	0	4	4	0	5	5	0	3	3	0	56	56	0
Mitchell	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Monroe*	242	209	51	30	23	2	5	10	0	100	90	22	19	12	7	2	1	1	398	399	83
Montgomery	17	15	2	5	5	0	0	0	0	0	0	0	0	0	0	5	0	0	27	25	5
Morgan	53	36	27	12	15	3	2	1	2	10	9	1	20	21	3	1	0	0	98	82	86
Murray	119	112	7	60	59	1	33	27	6	49	49	0	41	37	4	171	166	5	473	450	23
Muscogee	2763	3295	979	777	919	422	176	189	116	1105	1158	256	176	189	116	82	70	49	5079	5820	1938
Newton*	507	649	155	223	259	74	19	15	8	621	405	311	37	42	25	151	119	50	1558	1488	623
Oconee*	48	37	6	32	25	7	3	3	0	78	42	36	33	32	1	17	10	7	206	149	57
Oglethorpe	94	1	271	2	0	16	0	0	0	8	0	16	0	0	6	2	0	2	106	1	311
Paulding	665	787	82	197	229	28	41	34	14	316	296	70	60	63	4	26	26	12	1305	1435	210
Peach	72	21	179	10	4	48	8	4	9	161	121	268	21	21	79	0	0	16	272	171	595
Pickens	69	48	52	41	17	70	12	6	6	137	72	146	21	22	6	11	5	12	291	110	392
Pierce	33	28	5	15	15	0	2	2	0	19	6	11	4	3	1	N/R	N/R	73	56	17	37
Pike	107	106	1	N/R	N/R	N/R	N/R	N/R	N/R	94	74	20	N/R	N/R	N/R	N/R	N/R	N/R	201	180	21
Polk	252	223	219	40	40	20	27	16	15	133	109	40	33	37	25	28	32	17	513	447	337
Pulaski	27	22	5	16	16	0	0	0	0	2	2	0	3	3	0	5	4	1	53	47	6
Putnam	118	127	49	35	40	8	1	1	0	44	52	9	4	2	6	1	1	N/R	208	223	72
Quitman	24	19	5	2	2	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	26	21	5
Rabun	31	21	51	21	17	113	0	1	6	69	25	188	9	4	9	4	4	0	134	68	347
Randolph*	117	97	20	6	5	1	2	2	0	13	13	0	1	1	0	0	0	0	199	118	21
Richmond	428	435	544	53	159	387	5	4	9	423	287	1738	108	91	187	116	0	192	1168	976	3058
Rockdale	436	436	93	101	30	13	4	9	4	194	242	60	38	35	25	39	200	5	814	972	200
Schley	10	10	0	0	0	0	2	2	0	15	15	2	2	2	0	4	0	0	35	35	1
Screven*	N/R	N/R	N/R	83	60	36	N/R	N/R	N/R	N/R	N/R	N/R	4	4	0	N/R	N/R	N/R	87	64	35
Seminole	96	90	66	7	5	2	0	0	0	17	1	16	5	0	5	0	0	0	125	96	89
Spalding	535	475	154	136	125	31	21	16	16	571	327	192	19	15	5	56	42	18	1326	1200	416
Stephens	23	20	3	145	145	0	1	1	3	56	56	0	7	4	3	0	0	0	292	226	9
Stewart	5	4	1	2	2	0	0	0	0	6	8	4	3	3	0	4	8	0	20	25	5
Sumter	240	251	9	48	47	2	0	0	0	98	80	18	27	27	0	20	20	0	433	425	29
Talbot*	4	4	N/R	3	3	N/R	3	3	N/R	2	2	N/R	1	1	N/R	1	1	N/R	14	14	0
Talferro	1	2	6	0	0	0	0	0	0	0	0	3	3	2	3	0	0	1	4	4	13
Tattnall	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Taylor	15	15	0	8	7	1	2	2	0	9	9	0	12	12	0	2	2	0	48	47	1
Telfair	18	15	14	12	10	4	0	0	3	4	0	55	0	0	0	1	0	12	35	25	88
Terrell	37	22	15	8	5	1	0	0	0	8	5	3	4	4	0	10	0	10	65	36	29
Thomas	264	339	242	59	111	37	3	2	5	125	135	81	65	270	11	2	4	11	518	861	387
Tift	233	144	89	74	42	32	12	8	4	51	11	40	113	91	22	2	2	1	485	298	188
Toombs	87	90	621	75	78	404	6	3	12	16	14	247	25	25	46	4	7	213	214	1337	
Townes	16	9	7	5	1	4	4	0	4	12	6	6	4	2	2	1	1	0	42	19	23
Treutlen	11	10	13	7	5	2	N/R	N/R	N/R	22	21	1	7	5	3	N/R	N/R	N/R	47	41	19
Troup	595	579	1244	169	174	427	17	20	14	190	196	612	91	91	395	23	14	81	1085	1073	2773
Turner	29	29	5	15	10	3	2	0	0	11	11	0	12	10	2	3	3	0	70	60	10
Twiggs	16	N/R	N/R	21	N/R	N/R	N/R	N/R	N/R	16	N/R	N/R	1	N/R	N/R	2	N/R	N/R	56	0	0
Union	50	56	14	61	49	12	4	0	4	25	11	15	10	10	0	9	0	9	160	106	54
Unson	203	196	7	9	9	0	9	9	0	153	101	62	40	40	0	0	0	0	414	355	69
Walker	61	0	666	26	0	429	4	0	69	60	0	794	5	0	130	5	0	21	161	0	2103
Walton	485	543	88	241	245	44	37	34	9	308	325	21	70	75	1	50	50	20	1192	1272	183
Ware	147	139	611	74	70	256	4	2	8	154	141	377	13	8	80	7	3	75	399	363	1407
Warren	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Washington	88	96	18	46	47	8	N/R	N/R	N/R	7	3	15	6	8	0	2	0	2	145	154	43
Wayne	109	42	67	31	23	8	5	2	3	18	1	17	19	11	8	0	0	0	182	79	103
Webster	3	3	0	1	1	0	0	0	0	0	0	0	1	1	0	1	0	0	6	6	0
Wheeler	7	6	1	3	3	0	0	0	0	1	0	1	0	0	0	2	0	0	13	11	2
White	113	104	60	70	60	31	0	0	3	157	130	283	15	14	4	13	8	22	366	316	405
Whitfield	468	474	162	244	220	64	90	87	21	499	528	88	122	141	21	106	116	45	1529	1564	401
Wilcox	29	19	10	3	3	N/R	2	2	N/R	10	10	N/R	1	1	N/R	N/R	N/R	N/R	45	35	10
Wilkes	17	15	2	3	3	0	0	0	0	19	15	4	6	7	1	0	0	0	47	40	7
Wilkinson	13	16	8	13	15	0	1	2	1	28	36	8	2	1	2	0	1	0	57	71	19
Worth	139	129	156	0	0	0	0	0	0	13	16	34	14	11	12	9	4	7	175	160	209
Total	43,622	43,370	20,737	13,823	13,008	7,869	1,687	1,488	1,167	20,697	16,910	20,1									

EXHIBIT 29



Case Disposition Statistics

Case Close Start Date 01/01/2013
Case Close End Date 11/21/2013
Circuit Group General Public Defender Offices
Case Type Group Juvenile
Exclude Opt-Out Circuits Yes

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Statewide	Total Cases Completed	Admission Percentage	Dismissal Percentage	Contested Adjudicatory Hearing Percentage	Contested Adjudicatory Hearing	Admit Any Charge or Status	Dismissed	Incompetent, Dependency Order	Defendant Deceased	Transferred or Diverted	Transferred In for Disposition Only
Total	8709	63.5%	25.1%	3.4%	298	5529	2132	55	4	613	78
Alapaha	46	84.8%	10.9%	0.0%	0	39	5	0	0	2	0
Alcovy	424	63.9%	17.0%	12.0%	51	271	67	5	0	18	12
Appalachian	123	67.5%	30.9%	0.0%	0	83	34	4	0	2	0
Atlanta	549	10.9%	79.2%	0.0%	0	60	435	0	0	46	8
Atlantic	153	41.8%	23.5%	13.1%	20	64	36	0	0	31	2
Augusta	334	73.7%	4.8%	0.9%	3	246	16	0	1	67	1
Brunswick	151	80.1%	10.6%	4.0%	6	121	16	0	0	8	0
Chattahoochee	494	85.6%	2.4%	1.8%	9	423	12	0	0	48	2
Cherokee	54	66.7%	27.8%	5.6%	3	36	15	0	0	0	0
Clayton	65	90.8%	1.5%	0.0%	0	59	1	0	0	4	1
Conasauga	99	55.6%	36.4%	0.0%	0	55	34	2	0	7	1
Cordele	19	84.2%	10.5%	0.0%	0	16	2	0	0	1	0
Coweta	483	63.4%	26.3%	6.2%	30	306	127	0	0	9	11
Dougherty	49	36.7%	28.6%	34.7%	17	18	14	0	0	0	0
Dublin	79	83.5%	5.1%	6.3%	5	66	4	0	0	4	0

Statewide	Total Cases Completed	Admission Percentage	Dismissal Percentage	Contested Adjudicatory Hearing Percentage	Contested Adjudicatory Hearing	Admit Any Charge or Status	Dismissed	Incompetent, Dependency Order	Defendant Deceased	Transferred or Diverted	Transferred In for Disposition Only
Eastern	735	82.9%	9.7%	5.9%	43	609	69	2	0	10	2
Enotah	57	64.9%	31.6%	0.0%	0	37	18	0	0	2	0
Flint	335	58.5%	19.4%	3.3%	11	196	65	0	0	62	1
Griffin	214	75.7%	16.8%	4.2%	9	162	33	3	0	6	1
Lookout Mountain	175	73.1%	17.7%	4.6%	8	128	31	0	0	7	1
Macon	246	59.8%	22.8%	1.6%	4	147	53	3	0	39	0
Middle	63	84.1%	4.8%	1.6%	1	53	3	0	0	4	2
Mountain	24	87.5%	8.3%	4.2%	1	21	2	0	0	0	0
Northeastern	361	86.4%	11.6%	0.0%	0	312	42	0	0	7	0
Northern	185	70.3%	18.9%	0.5%	1	130	35	0	0	18	1
Ocmulgee	227	73.1%	24.2%	1.3%	3	166	54	1	0	2	1
Oconee	48	85.4%	4.2%	0.0%	0	41	2	0	0	5	0
Ogeechee	113	91.2%	4.4%	0.9%	1	103	5	0	0	3	1
Pataula	10	90.0%	10.0%	0.0%	0	9	1	0	0	0	0
Paulding	146	52.7%	35.6%	0.7%	1	77	52	0	0	13	3
Piedmont	81	63.0%	12.3%	1.2%	1	51	9	1	0	18	1
Rockdale	87	59.8%	26.4%	3.4%	3	52	19	4	0	9	0
Rome	45	60.0%	31.1%	8.9%	4	27	14	0	0	0	0
South Georgia	87	82.8%	9.2%	0.0%	0	72	8	0	0	7	0
Southern	361	84.8%	9.1%	1.4%	5	306	32	1	0	16	1
Southwestern	80	66.3%	12.5%	12.5%	10	53	10	0	0	5	2

Statewide	Total Cases Completed	Admission Percentage	Dismissal Percentage	Contested Adjudicatory Hearing Percentage	Contested Adjudicatory Hearing	Admit Any Charge or Status	Dismissed	Incompetent, Dependency Order	Defendant Deceased	Transferred or Diverted	Transferred In for Disposition Only
Stone Mountain	1122	35.6%	56.7%	1.6%	18	399	608	28	0	48	21
Tallapoosa	51	64.7%	25.5%	9.8%	5	33	13	0	0	0	0
Tifton	161	70.2%	7.5%	3.7%	6	113	12	0	0	30	0
Toombs	173	68.2%	4.0%	5.2%	9	118	7	0	2	37	0
Towaliga	2	100.0%	0.0%	0.0%	0	2	0	0	0	0	0
Waycross	40	60.0%	32.5%	5.0%	2	24	13	0	0	0	1
Western	358	62.8%	29.3%	2.2%	8	225	104	1	1	18	1

EXHIBIT 30



Georgia Juvenile Court Criminal Caseload
Calendar Year 2012

County	Delinquent			Unruly			Termination of Parental Rights			Deprived			Traffic			Special Proceedings			Total		
	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Open	
Jenkins	15	12	20	2	4	2	2	0	2	17	13	9	1	1	0	0	0	0	37	30	33
Johnson	60	22	38	5	5	0	3	0	0	17	1	16	18	8	10	1	0	1	104	36	68
Jones	94	87	7	16	16	0	5	5	0	58	47	11	22	22	0	5	0	0	200	182	18
Lamar*	138	104	34	13	9	4	2	2	0	71	48	23	1	1	0	128	99	29	353	263	90
Lanier	36	21	44	20	10	24	0	0	0	18	19	40	1	2	23	1	0	2	76	52	135
Laurens	367	353	14	67	69	4	25	25	0	166	123	43	61	58	3	0	0	687	674	63	
Lee	88	88	0	17	17	1	0	0	0	52	49	4	22	22	0	17	20	0	197	196	21
Liberty*	343	290	96	244	179	59	N/R	N/R	N/R	21	N/R	N/R	65	61	7	3	N/R	N/R	676	470	161
Lincoln	26	21	5	8	8	N/R	0	N/R	N/R	3	2	1	4	4	N/R	N/R	N/R	0	41	35	6
Long	27	7	86	17	1	16	0	0	0	4	4	1	2	2	0	0	0	50	14	103	
Lowndes	124	110	14	714	567	147	20	13	7	69	40	29	95	87	8	6	4	2	1028	821	207
Lumpkin	140	112	28	43	37	6	3	3	0	33	24	9	8	6	2	133	100	33	360	282	78
Macon	21	23	0	1	1	0	2	2	0	42	40	7	2	2	0	13	14	0	81	82	7
Madison	146	130	145	33	26	49	5	1	6	16	0	74	11	10	8	17	1	24	228	168	306
Marion	3	6	2	2	0	0	0	0	0	8	14	3	3	3	0	0	0	0	16	23	5
McDuffie	137	139	67	32	27	29	0	0	0	77	98	21	20	24	5	2	1	7	268	269	129
McIntosh	15	12	14	18	14	4	N/R	N/R	N/R	40	35	5	8	8	N/R	N/R	N/R	0	81	69	23
Meriwether	109	101	8	6	5	1	9	9	0	49	45	4	13	12	1	134	132	2	320	304	16
Miller	20	18	2	7	7	0	0	0	0	3	2	1	17	13	4	7	7	0	54	47	7
Mitchell	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Monroe*	192	156	36	53	45	8	9	6	3	133	99	34	11	11	0	4	4	0	402	322	81
Montgomery	20	17	3	10	10	0	1	0	1	5	2	3	2	2	0	0	0	0	38	31	7
Morgan	45	44	1	24	14	10	3	3	0	22	20	2	49	40	9	5	3	2	148	124	24
Murray	178	164	14	46	43	3	24	21	3	95	95	0	61	37	4	122	111	11	506	471	35
Muscogee	1422	1659	556	505	542	267	9	8	7	528	552	176	113	122	83	60	75	45	2657	2659	1134
Newton*	791	1057	276	246	268	92	7	8	4	487	455	101	31	26	36	54	18	1616	1862	527	
Oconee*	35	35	0	10	10	0	3	0	0	54	47	30	45	45	0	11	9	2	209	164	48
Oglethorpe	75	62	17	0	N/R	N/R	N/R	N/R	N/R	9	0	9	5	4	1	N/R	N/R	N/R	93	66	27
Paulding	626	622	191	308	328	57	31	30	6	361	398	50	78	86	8	50	46	12	1454	1470	324
Peach	52	18	34	3	6	3	9	8	1	155	131	24	39	25	14	6	1	5	270	189	81
Pickens	122	105	41	63	33	80	8	3	4	93	30	162	23	18	3	13	14	9	322	203	299
Pierce	31	13	16	9	8	1	5	5	0	46	11	35	8	6	2	N/R	N/R	N/R	99	45	54
Pike	97	40	112	4	3	1	2	0	1	114	0	135	1	2	3	0	0	2	218	43	254
Polk	261	267	149	30	49	10	18	27	4	161	174	29	47	44	23	2	7	0	519	568	214
Pulaski	19	18	1	14	14	0	0	0	0	4	4	0	3	3	0	1	1	0	41	40	1
Putnam	70	101	2	22	36	2	0	0	0	35	15	17	13	12	1	1	1	0	141	165	22
Quitman	7	7	N/R	4	4	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	11	11	N/R
Rabun	30	26	42	49	38	109	7	7	8	74	30	115	3	7	4	5	3	2	168	111	280
Randolph*	72	55	17	1	1	0	0	0	0	0	0	0	5	5	0	16	16	0	94	77	17
Richmond	805	807	567	555	402	514	6	5	8	322	211	1689	134	102	181	7	0	16	1825	1527	2975
Rockdale	417	564	54	81	65	14	25	25	15	222	203	34	53	39	13	17	12	11	815	908	141
Schley	2	2	0	2	2	0	0	0	0	21	21	1	2	2	0	2	2	0	29	29	1
Screven*	78	42	25	48	48	11	0	0	0	0	0	0	5	5	0	0	0	0	131	95	36
Seminole	92	10	82	5	0	5	0	0	0	16	2	14	2	0	2	1	1	0	116	13	109
Spalding*	515	540	92	99	97	18	11	7	11	448	448	148	10	17	1	52	61	4	1135	1170	274
Stephens	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Stewart	9	9	0	2	2	0	0	0	0	9	3	6	1	1	0	5	1	4	26	18	10
Sumter	252	264	11	75	75	0	1	1	0	108	104	2	23	26	0	55	53	3	512	523	16
Talbot*	16	16	0	2	2	0	3	0	3	3	0	3	1	1	0	0	0	0	25	19	6
Taliaferro	2	2	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	2	2	N/R	N/R	N/R	N/R	4	4	N/R
Tattnall	N/R	N/R	N/R	25	13	N/R	1	1	0	N/R	N/R	N/R	6	6	0	5	1	4	37	21	4
Taylor	17	17	0	5	5	0	1	1	1	0	13	13	0	6	5	2	1	1	46	43	3
Telfair	24	29	10	3	3	1	0	0	3	12	0	53	2	2	0	2	0	15	43	34	68
Terrell	45	49	77	5	5	9	0	0	0	7	0	18	1	1	0	4	0	42	62	55	146
Thomas	210	193	17	46	34	12	7	9	0	118	102	16	57	41	16	8	4	4	446	383	85
Tift	233	183	50	26	21	5	2	2	0	52	12	42	131	111	26	1	1	1	445	330	124
Toombs	99	98	618	89	94	403	3	2	12	30	26	243	27	30	47	1	0	7	249	250	1330
Towns	10	9	1	5	1	4	5	0	5	16	2	14	7	6	1	7	3	4	50	21	29
Treutlen	26	27	5	6	8	0	2	2	0	12	11	3	8	8	0	N/R	N/R	N/R	54	56	8
Troup	611	570	88	81	81	4	5	1	4	173	175	3	79	81	0	9	12	0	958	920	99
Turner	8	2	1	25	19	6	N/R	N/R	N/R	1	1	0	8	4	4	5	4	1	42	30	12
Twiggs	27	N/R	N/R	20	N/R	N/R	2	N/R	N/R	7	N/R	N/R	6	N/R	N/R	N/R	N/R	N/R	62	0	N/R
Union	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Upson	212	198	14	18	18	0	3	3	0	103	95	78	23	25	0	0	0	355	267	92	
Walker	273	261	225	158	185	98	26	18	17	217	251	147	71	66	51	3	3	4	788	784	542
Walton	519	499	139	232	219	45	16	12	6	276	262	31	45	46	5	48	39	20	1135	1067	246
Ware	133	101	597	90	76	251	2	4	4	125	111	360	6	6	73	11	2	71	357	300	1360
Warren	6	1	11	3	2	7	0	0	0	24	0	14	2	2	0	0	0	0	35	5	32
Washington	60	54	37	31	30	8	N/R	N/R	N/R	12	13	22	13	11	3	4	5	0	120	113	121
Wayne	90	30	60	34	23	11	4	4	0	24	8	16	9	9	0	0	0	0	161	74	87
Webster	8	10	0	2	4	0	0	0	0	2	8	0	3	3	0	0	0	0	15	25	0
Wheeler	9	11	0	1	1	0	0	0	0	2	2	0	3	3	0	6	6	0	21	23	0
White	106	80	51	68	65	21	0	3	3	152	119	255	13	12	5	14	14	18	353	293	353
Whitfield	461	417	164	217	227	39	74	71	19	506	507	121	164	170	31	139	133	60	1561	1525	434
Wilcox	22	22	3	2	1	1	1	1	1	8	8	0	2	2	0	0	0	0	35	34	8
Wilkes	19	13	6	5	4	1	N/R	N/R	N/R	10	5	5	7	7	0	0	0	0	41	29	12
Wilkinson	30	30	12	4	5	2	2	5	2	36	24	17	1	2	1	6	5	1	79	71	35
Worth	152	277	222	8	44	84	0	0	2	29	19	75	15	72	20	4	5	208	416	408	
Total	43,647	44,032	19,494	14,083	13,498	6,923	1,337	1,266	883	19,631	17,088	17,110									



Georgia Juvenile Court Criminal Caseload
Calendar Year 2012

County	Delinquent			Unruly			Termination of Parental Rights			Deprived			Traffic			Special Proceedings			Total		
	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Open	
Appling	N/R*	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	
Atkinson	22	21	1	11	11	0	N/R	N/R	N/R	9	9	0	2	2	N/R	1	1	1	45	34	
Bacon	35	26	9	0	0	0	0	0	0	8	7	1	2	1	1	1	1	50	39	11	
Baker	4	2	2	0	0	0	0	0	0	7	7	0	0	0	0	0	0	13	10	3	
Baldwin	185	167	18	67	51	16	65	42	23	49	0	0	33	24	9	8	7	359	291	68	
Banks	33	38	10	6	5	5	6	6	6	26	22	50	5	13	9	8	20	31	71	145	
Barrow	275	309	48	120	127	14	6	6	6	198	207	119	17	23	4	17	23	26	633	695	217
Bartow	310	296	561	262	233	360	46	55	29	598	522	766	66	65	99	361	288	277	1641	1459	2092
Ben Hill	312	283	461	33	24	90	0	0	10	10	4	215	5	5	10	0	0	17	360	316	808
Berrien	61	26	182	16	8	50	0	0	0	21	13	69	14	13	9	3	N/R	4	115	60	314
Bibb	1599	1661	836	344	367	121	24	15	9	1072	940	621	24	24	40	30	25	57	3093	3032	1684
Bleckley	23	19	4	33	33	0	0	0	0	18	1	17	1	1	0	N/R	N/R	N/R	75	54	21
Brantley	29	15	14	19	11	8	0	0	0	20	4	16	5	1	4	2	2	0	75	33	42
Brooks	5	5	0	109	94	15	0	0	0	18	18	0	4	4	0	8	8	0	144	129	15
Bryan	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Bulloch	289	176	648	N/R	N/R	N/R	1	1	0	46	46	0	4	4	0	22	0	0	362	227	648
Burke	118	103	79	55	49	76	0	0	1	24	7	40	8	6	7	0	0	1	205	165	204
Burts*	186	147	N/R	N/R	N/R	N/R	N/R	N/R	N/R	102	58	N/R	6	4	N/R	N/R	N/R	N/R	294	209	N/R
Calhoun	19	15	4	9	6	3	0	0	0	1	1	0	0	0	1	0	1	30	22	8	
Camden	158	138	308	61	55	77	15	17	5	50	47	46	8	7	51	99	84	140	392	348	627
Candler	23	12	11	5	2	3	0	0	0	9	8	1	4	1	3	1	2	44	24	20	
Carroll	471	455	8	244	242	2	23	21	14	239	223	16	29	29	0	27	27	6	1033	997	46
Catoosa*	440	495	204	140	148	32	21	11	15	129	119	498	115	110	82	24	18	41	869	841	812
Charlton	22	34	12	5	6	1	0	0	0	35	20	17	3	3	0	2	2	0	67	45	30
Chatham	1707	1718	449	265	242	62	44	41	22	485	488	91	221	210	125	112	114	58	2834	2813	827
Chatoohochee*	28	26	0	11	11	0	4	0	0	0	0	0	4	4	0	0	0	0	45	45	0
Chattahoochee	58	43	13	5	0	1	2	2	0	51	50	1	31	8	23	18	15	3	161	120	41
Cherokee	671	604	183	264	239	94	33	25	27	384	338	208	220	222	55	47	40	34	1619	1468	710
Clarke	581	624	1225	305	314	861	35	30	109	332	167	1314	67	49	397	28	19	274	1348	1203	4081
Clay*	18	15	3	3	1	2	0	N/R	N/R	4	4	N/R	2	2	N/R	N/R	N/R	N/R	27	22	5
Clayton	1743	1670	323	193	200	73	21	25	2	1011	916	172	131	142	20	83	98	48	3182	3051	638
Coinc	21	7	14	36	13	23	N/R	N/R	N/R	17	N/R	17	2	1	1	N/R	N/R	N/R	76	21	55
Cobb	2953	2828	123	399	391	8	47	30	17	1184	1028	156	557	531	26	93	80	13	5231	4888	343
Coffee*	297	79	218	3	4	0	1	0	1	44	8	36	97	68	29	3	1	2	445	160	286
Colquitt	88	11	27	2	0	2	5	0	2	10	0	10	35	10	142	13	0	11	103	21	194
Columbia	487	424	60	407	334	71	14	13	1	82	70	12	111	109	2	141	119	30	1242	1069	176
Cook	44	28	16	34	15	19	10	5	5	24	2	19	12	10	5	8	2	6	132	62	70
Coweta*	811	1102	214	211	239	67	7	15	28	323	434	371	236	249	42	33	26	30	1621	2064	752
Crawford	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Crisp	211	161	333	83	83	32	0	0	10	98	25	330	11	11	5	2	0	8	405	280	718
Dade	38	32	132	59	47	175	2	2	4	86	28	180	36	40	59	11	0	60	232	149	610
Dawson	90	35	43	23	23	36	3	1	2	32	34	21	26	28	12	4	5	3	180	177	133
Decatur	225	204	118	32	30	20	5	1	5	41	47	62	13	14	16	10	4	11	306	300	232
DeKalb	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Dodge	70	N/R	N/R	30	N/R	N/R	1	N/R	N/R	6	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	112	N/R	N/R
Dooly	7	5	2	11	11	0	0	0	0	18	10	8	4	4	0	1	0	1	41	30	41
Dougherty	921	1196	452	232	294	100	0	3	5	141	125	64	42	49	14	11	10	27	1347	1577	662
Douglas	792	765	43	341	363	28	45	38	12	295	347	57	44	45	9	20	19	4	1537	1577	153
Early	64	63	1	32	32	0	1	1	0	4	3	1	7	7	0	2	1	1	110	107	3
Echols	11	3	8	19	11	8	0	0	0	5	0	5	1	1	0	0	0	0	36	15	21
Effingham	166	136	26	59	52	6	11	7	4	57	49	3	80	13	7	0	0	0	373	277	46
Elbert	92	96	17	14	14	3	18	21	2	6	7	2	21	26	14	0	0	0	151	164	38
Emmanuel	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Evans	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Fannin	58	25	33	56	30	26	3	2	1	47	16	31	10	0	10	9	2	7	183	75	108
Fayette	487	552	172	174	216	55	2	0	2	119	71	76	281	292	48	24	8	22	1087	1139	375
Floyd	437	433	62	201	190	23	55	39	10	647	631	89	147	143	2	155	155	22	1642	1611	208
Forsyth	360	290	308	127	83	164	10	11	8	214	205	352	144	120	48	28	23	7	883	752	887
Franklin	69	33	429	0	0	39	0	0	1	29	0	295	0	0	3	2	0	18	100	33	785
Fulton	4184	4045	2462	1007	1081	324	107	124	118	1765	1720	1173	358	359	229	205	180	152	7626	7509	4503
Gilmer	106	38	68	103	31	72	1	1	0	53	6	47	17	8	9	0	0	0	280	0	84
Glascock	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Glynn	426	409	17	200	200	24	14	15	3	102	107	7	115	109	7	304	314	21	1062	1094	79
Gordon	135	133	20	147	146	1	16	14	2	428	382	46	101	98	3	7	6	1	854	781	73
Grady	53	55	88	46	49	55	1	1	11	27	29	217	28	24	27	6	5	7	161	162	405
Greene	60	54	6	9	7	2	0	0	0	20	18	2	12	11	1	4	3	1	105	93	12
Gwinnett	4515	5129	1601	1248	1280	318	38	74	98	1021	544	3429	683	650	210	525	518	474	8030	8195	6130
Habersham	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Hall	675	683	247	175	187	42	90	79	16	312	331	48	227	228	54	26	20	17	1505	1528	424
Hancock	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Haralson	110	41	69	127	77	50	11	5	6	148	15	133	21	15	6	0	0	0	417	153	264
Harris	41	40	34	4	4	11	3	2	1	50	41	76	31	38	6	5	3	10	134	128	138
Hart	56	42	14	1	0	0	0	0	0	6	71	1	128	0	0	0	0	0	128	43	148
Heard	32	32	0	3	3	0	3	3	0	10	10	0	23	23	0	2	2	0	73	73	0
Henry*	1463	2262	386	356	502	441	11	38	2	272	539	247	212	208	58	3	2	2	2317	3551	1136
Houston*	1650	1644	363	680	641	100	13	15	5	507	456	153	162	153	26	N/R	N/R	N/R	3012	2909	647
Irwin	30	24	30	5	8	5	N/R	N/R	1	1	0	24	4	7	7	N/R	N/R	N/R	40	39	67
Jackson	141	15																			

EXHIBIT 31

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

	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

	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	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 32



Georgia Juvenile Court Caseload
Calendar Year 2011

County	Delinquent			Unruly			Termination of Parental Rights			Deprived			Traffic			Special Proceedings			Total		
	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open
Appling	202	37	874	28	2	68	6	0	13	22	0	152	1	0	2	1	0	3	260	39	1,112
Atkinson	47	29	34	1	1	0	0	0	0	4	0	4	7	5	3	0	0	0	59	35	41
Bacon	54	45	9	5	4	1	0	0	0	10	4	6	2	2	0	1	1	0	72	56	16
Baker	11	5	12	1	1	N/R ¹	0	0	0	0	0	0	1	N/R	1	0	0	13	6	13	
Baldwin	189	163	26	109	90	19	61	40	21	N/R	N/R	N/R	37	27	10	10	10	0	406	330	76
Banks	37	25	15	16	18	4	1	2	1	19	6	52	14	12	4	33	15	82	120	78	158
Barrow	342	324	18	114	110	4	7	6	1	196	176	20	12	11	1	34	27	7	705	654	51
Bartow	284	268	555	276	249	340	60	52	38	648	496	708	85	80	298	293	305	203	1,641	1,450	2,142
Ben Hill	304	263	437	59	56	82	1	0	10	2	0	210	7	7	10	1	1	17	374	327	786
Berrien	66	41	25	18	9	9	N/R	N/R	N/R	40	13	27	7	6	1	N/R	N/R	N/R	131	69	62
Bibb	1,838	1,850	898	377	401	141	9	N/R	N/R	1,077	1,012	515	34	37	40	45	47	52	3,380	3,347	1,646
Bleckley	76	67	9	7	7	0	1	0	1	1	0	1	0	0	0	0	0	0	85	74	11
Brantley	52	50	2	8	8	0	2	2	0	29	16	13	5	5	0	9	9	0	105	90	15
Brooks	33	79	4	7	6	1	6	6	0	35	32	3	4	4	0	19	18	1	154	145	9
Bryan	108	66	248	35	19	102	0	0	0	15	2	29	41	21	78	3	0	5	203	108	462
Bulloch	288	9	N/R	N/R	N/R	N/R	1	N/R	N/R	86	N/R	N/R	5	4	N/R	26	7	N/R	386	20	0
Burke	62	76	56	24	21	70	0	0	1	33	35	28	3	3	5	0	0	1	122	135	161
Butts	220	132	95	N/R	N/R	N/R	N/R	N/R	N/R	112	52	93	8	4	4	N/R	N/R	N/R	340	188	193
Calhoun*	45	25	20	12	6	5	0	0	0	2	2	0	1	1	0	2	0	2	62	34	28
Camden	168	154	250	49	64	72	6	5	6	36	30	43	7	6	50	100	85	138	366	354	599
Candler	18	8	10	1	2	0	0	0	0	15	5	10	3	0	3	0	0	0	37	15	23
Carroll	585	587	23	197	194	5	19	13	5	169	164	16	33	34	5	29	24	13	1,032	1,016	68
Catoosa	245	N/R	101	101	N/R	23	2	N/R	5	101	N/R	369	2	N/R	37	74	N/R	83	618	616	618
Charlton	39	49	4	3	1	2	1	8	0	33	18	2	2	2	0	1	1	0	79	79	8
Chatham	1,838	1,914	455	234	229	58	42	56	20	507	504	73	250	258	113	107	106	64	2,978	3,047	783
Chattahoochee*	28	27	1	6	4	2	0	0	0	1	1	0	0	0	0	2	1	1	37	33	4
Chattooga	51	41	10	5	5	0	5	6	0	116	104	12	17	10	7	25	17	8	220	163	37
Cherokee	777	779	244	285	280	72	34	19	18	339	314	186	268	270	53	20	10	28	1,723	1,672	601
Clarke*	835	884	1,979	275	242	962	31	16	110	378	256	1,291	124	75	544	41	8	272	1,884	1,481	5,158
Clay*	14	8	6	0	0	0	0	0	0	1	1	0	3	3	0	0	0	0	18	12	6
Clayton	1,916	1,947	317	251	256	76	21	24	3	816	800	109	128	124	14	83	66	43	3,215	3,217	562
Clinch	24	7	17	16	N/R	N/R	N/R	N/R	N/R	5	4	1	2	N/R	2	2	1	1	49	12	37
Cobb	3,117	2,979	138	435	418	17	66	51	15	961	928	33	571	507	64	74	62	12	5,224	4,945	279
Colfax*	258	82	176	10	8	2	1	1	10	40	1	39	66	45	21	1	1	0	376	137	239
Colquitt	190	126	71	44	31	13	17	8	9	126	69	68	46	36	10	76	32	44	499	302	215
Columbia	329	251	200	378	230	313	7	6	3	113	98	20	91	89	2	87	72	19	1,005	746	597
Cook	49	29	20	24	21	3	5	3	2	36	10	26	16	15	1	2	2	N/R	132	80	52
Coweta	430	554	138	405	507	87	7	10	31	227	213	329	159	177	31	34	32	22	1,262	1,493	638
Crawford	24	N/R	N/R	5	N/R	N/R	4	N/R	N/R	121	N/R	N/R	6	N/R	N/R	1	N/R	N/R	163	N/R	N/R
Crisp	228	191	285	87	80	31	0	0	10	115	37	256	29	27	5	1	0	6	460	335	593
Dade	43	26	124	83	54	158	6	0	4	52	14	126	27	19	58	17	2	50	228	115	520
Dawson	76	81	40	24	22	34	0	0	0	28	33	23	27	23	14	3	4	6	158	163	117



Georgia Juvenile Court Caseload
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County	Delinquent			Unruly			Termination of Parental Rights			Deprived			Traffic			Special Proceedings			Total		
	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open
Decatur	169	170	94	25	22	18	1	1	1	79	53	68	19	16	17	3	1	5	296	263	203
DeKalb	4,096	2,477	1,619	2,091	1,372	719	50	8	42	1,177	686	491	278	165	113	248	107	141	7,940	4,815	3,125
Dodge	102	102	0	31	31	0	0	0	0	16	16	0	14	14	0	3	3	0	166	166	0
Dooley	29	29	0	10	10	0	1	1	0	24	7	17	1	1	0	1	0	1	66	48	18
Dougherty	1,144	1,485	484	302	342	146	7	5	7	133	154	32	47	48	21	49	40	25	1,702	2,074	715
Douglas	847	910	38	411	441	29	28	24	6	354	289	158	43	53	11	17	20	3	1,700	1,737	245
Early	41	40	1	17	15	2	0	0	0	5	4	1	10	10	0	2	1	1	75	70	5
Echols	10	4	6	10	0	10	N/R	N/R	N/R	9	3	6	2	2	0	N/R	N/R	N/R	31	9	22
Effingham	182	113	69	37	27	10	2	2	0	67	45	22	140	124	16	0	0	0	428	311	117
Elbert	118	96	22	0	0	0	5	17	3	20	20	0	19	15	4	5	4	1	167	152	30
Emanuel	96	36	73	34	7	27	0	0	0	8	1	7	2	2	0	0	0	0	140	46	107
Evans*	19	16	3	35	34	1	3	0	3	16	11	5	3	3	0	2	2	0	78	66	12
Fannin	95	36	59	13	6	7	N/R	N/R	N/R	56	12	44	29	8	21	3	0	3	196	62	134
Fayette	520	611	185	193	174	76	3	3	0	140	137	36	307	305	59	19	18	7	1,182	1,248	363
Floyd	418	415	45	199	198	15	62	56	21	718	657	169	134	140	1	189	170	47	1,720	1,636	298
Forsyth	375	331	308	162	104	131	16	25	19	198	115	268	121	110	51	10	6	5	882	691	777
Franklin	93	32	379	1	0	39	0	0	1	25	0	266	0	0	3	1	0	16	120	32	704
Fulton	3,985	3,621	2,333	1,085	969	396	138	130	119	1,621	1,420	1,045	403	351	232	192	165	168	7,424	6,656	4,293
Gilmer	111	90	81	78	35	43	2	2	0	54	2	52	12	12	0	0	0	0	257	81	176
Glascock	3	3	0	0	0	0	22	19	3	0	0	0	2	2	0	0	0	0	27	24	3
Glynn	235	276	10	105	108	9	11	19	1	126	138	1	129	149	5	232	235	18	838	925	44
Gordon	147	121	26	71	69	2	7	5	2	487	387	50	105	102	3	5	3	2	772	687	85
Grady	66	67	N/R	41	37	N/R	N/R	N/R	N/R	36	15	N/R	17	12	N/R	N/R	N/R	N/R	160	131	N/R
Greene	53	44	9	7	6	1	0	0	0	27	23	4	13	8	5	0	0	0	100	81	19
Gwinnett	4,875	5,834	1,495	1,276	1,459	257	43	61	128	719	520	2,922	804	813	165	428	319	349	8,145	9,006	5,295
Habersham	202	197	5	77	69	8	0	0	0	65	65	0	20	18	2	0	0	0	364	349	15
Hall	671	862	189	149	194	36	81	80	5	322	314	84	214	215	55	18	28	13	1,455	1,703	382
Hancock*	6	6	0	8	8	0	1	1	0	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	15	15	0
Haralson	78	42	36	263	143	120	2	2	0	89	17	72	18	15	3	0	0	0	450	219	231
Harris	38	34	33	1	1	11	0	1	0	47	31	67	46	38	13	6	7	9	138	112	139
Hart	94	23	81	0	0	0	0	0	0	70	67	3	0	0	0	0	0	0	164	90	84
Heard	32	27	4	8	6	2	1	1	N/R	39	35	3	4	4	N/R	1	1	N/R	85	74	9
Henry*	1,565	1,934	471	373	418	201	12	33	4	284	460	193	182	218	87	2	2	5	2,418	3,063	961
Houston*	2,078	2,193	310	558	555	54	16	18	7	647	691	67	202	196	18	2	6	0	3,503	3,659	456
Irwin	25	15	23	7	3	8	0	0	1	3	0	25	8	5	10	0	0	0	43	23	67
Jackson	225	207	102	47	49	10	14	16	25	93	86	196	12	17	11	120	80	149	511	455	493
Jasper	40	33	29	11	10	6	0	0	0	25	4	43	5	4	2	4	5	5	85	56	85
Jeff Davis*	48	46	2	26	24	2	12	12	0	21	20	1	6	5	1	0	0	0	113	107	6
Jefferson*	59	59	0	15	15	0	1	1	0	12	1	11	3	3	0	0	0	0	90	79	11
Jenkins	23	20	10	0	2	0	1	1	0	8	3	2	1	1	0	0	0	1	33	27	13
Johnson	33	33	0	1	1	0	9	8	1	33	31	2	5	5	0	4	3	1	85	81	4
Jones	39	39	0	63	63	0	3	3	0	59	59	0	24	24	0	0	0	0	188	188	0
Lamar*	88	70	18	12	9	3	2	2	0	37	19	18	2	2	0	11.5	46	69	256	148	108
Lanier	24	13	32	10	3	15	5	2	3	26	14	34	5	5	25	1	1	1	71	38	110
Laurens	378	378	0	113	113	0	15	12	3	169	140	29	69	69	0	54	54	0	798	766	32



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County	Delinquent			Unruly			Termination of Parental Rights			Deprived			Traffic			Special Proceedings			Total		
	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open
Lee	111	115	5	24	23	2	1	4	0	25	28	2	21	21	0	19	17	4	201	208	13
Liberty	192	N/R	N/R	229	N/R	N/R	N/R	N/R	N/R	34	N/R	N/R	45	N/R	N/R	6	N/R	N/R	506	376	130
Lincoln	12	12	N/R	2	2	N/R	1	1	N/R	9	8	1	1	1	N/R	N/R	N/R	25	24	1	
Long	34	34	0	20	20	0	0	0	0	4	4	0	5	5	0	0	0	63	63	0	
Lowndes	116	106	10	924	805	119	21	20	1	78	72	6	121	115	6	13	8	5	1,273	1,126	147
Lumpkin*	184	146	38	51	46	5	5	4	1	34	24	10	22	18	4	129	117	12	425	355	70
Macon	31	30	5	4	4	0	4	4	0	50	47	6	1	1	0	11	9	2	101	95	13
Madison	101	100	120	49	47	43	0	0	4	16	20	69	11	15	7	11	1	17	188	183	260
Marion	16	16	0	5	5	0	N/R	N/R	N/R	2	0	2	7	7	0	N/R	N/R	N/R	30	28	2
McDuffie	163	176	65	36	36	24	0	2	0	185	162	42	16	21	9	15	17	6	415	414	146
McIntosh*	58	81	38	12	21	7	0	0	0	25	10	12	23	17	11	0	78	0	118	207	68
Meriwether	149	127	22	11	9	2	10	10	0	33	38	5	14	17	3	191	178	13	408	379	45
Miller*	20	20	20	5	5	5	2	2	2	5	5	5	6	6	6	6	6	8	44	44	44
Mitchell	125	74	51	68	45	23	0	0	0	51	35	16	7	5	2	4	4	0	255	163	92
Monroe	195	228	16	27	35	0	3	4	0	141	135	12	28	47	0	4	7	0	398	456	28
Montgomery	5	3	13	0	0	0	1	0	0	0	0	5	0	0	0	0	0	0	6	3	18
Morgan*	69	54	27	6	5	3	6	2	12	19	25	16	20	13	10	7	4	5	127	103	73
Murray	179	163	16	43	39	4	33	30	3	74	72	2	48	47	1	142	141	1	519	492	27
Muscogee	1,607	1,755	620	485	579	289	15	27	6	458	490	185	154	147	92	83	90	61	2,812	3,088	1,233
Newton	615	662	273	261	264	94	12	8	5	436	458	69	41	40	18	57	68	15	1,422	1,500	474
Oconee*	96	90	6	39	33	5	2	N/R	2	51	24	27	57	56	1	8	5	3	253	208	45
Oglethorpe	121	1	196	13	0	46	1	0	3	7	0	8	0	0	7	1	0	2	143	1	262
Paulding	702	755	147	262	232	67	7	6	5	332	318	49	82	75	14	38	45	8	1,423	1,431	290
Peach	57	26	122	10	7	40	8	6	6	117	128	200	43	26	66	6	5	16	241	198	450
Pickens	118	91	62	45	31	69	7	7	1	80	27	121	29	28	4	10	7	9	289	191	266
Pierce	57	34	23	20	17	3	8	8	0	9	9	0	5	4	1	N/R	N/R	N/R	99	72	27
Plke	114	95	52	0	0	0	1	0	1	76	0	82	12	11	4	4	0	5	207	106	144
Polk	310	156	210	73	41	35	17	12	16	252	214	38	40	17	25	9	7	2	701	447	326
Pulaski	23	22	1	6	6	0	0	0	0	12	12	0	2	2	0	9	9	N/R	52	51	1
Putnam	104	99	6	20	19	2	0	0	2	47	24	24	19	18	2	0	0	1	190	162	36
Quitman	5	5	0	1	1	0	0	0	0	0	0	0	1	1	0	0	0	0	7	7	0
Rabun	45	36	84	21	18	128	3	0	4	60	27	134	8	4	15	2	0	2	139	85	367
Randolph*	125	113	12	10	6	4	0	0	0	8	8	0	19	19	0	12	12	0	174	158	16
Richmond	801	648	576	84	17	363	4	5	7	295	192	1,574	147	162	154	8	2	22	1,339	1,026	2,696
Rockdale	702	509	61	123	80	32	12	8	0	233	200	34	61	39	8	30	278	6	1,161	1,114	141
Schley	8	8	0	1	1	0	0	1	0	5	4	1	2	4	0	3	3	1	19	21	2
Screven	51	28	25	56	33	21	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R	107	61	46
Seminole	121	14	107	8	2	6	1	0	1	21	1	20	6	1	5	1	0	1	158	18	140
Spalding*	551	590	113	95	97	17	11	11	7	439	415	148	32	31	8	61	52	14	1,189	1,156	307
Stephens	116	111	5	72	62	10	1	1	0	56	56	0	5	5	0	0	0	0	250	235	15
Stewart	18	20	0	2	2	0	2	0	2	0	0	0	1	1	0	6	6	0	29	29	2
Sumter	387	419	24	101	103	0	2	2	0	102	108	0	34	32	3	30	29	3	656	693	30
Talbot*	19	18	1	4	4	0	2	2	0	7	4	3	2	2	0	0	0	0	34	30	4
Taliaferro	1	1	N/R	0	0	N/R	0	0	N/R	13	5	8	9	8	1	N/R	N/R	N/R	23	14	9
Tattnall	62	51	15	47	48	13	N/R	N/R	N/R	10	15	3	4	4	0	2	0	5	125	118	36



Georgia Juvenile Court Caseload
Calendar Year 2011

County	Delinquent			Unruly			Termination of Parental Rights			Deprived			Traffic			Special Proceedings			Total		
	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open	Filed	Disposed	Open
Taylor	7	7	0	2	2	0	0	0	0	10	9	1	5	5	0	0	14	0	24	37	1
Telfair	26	25	10	15	16	1	0	0	3	11	0	40	0	0	6	0	14	58	41	68	
Terrell*	68	51	74	5	4	8	0	0	0	5	N/R	11	0	0	81	3	38	81	58	131	
Thomas	291	281	418	73	62	153	4	5	7	100	108	78	67	75	253	7	6	11	542	537	920
Tift	254	189	65	43	30	13	6	N/R	N/R	57	8	49	104	70	38	3	2	1	467	299	166
Toombs	121	84	433	93	85	359	0	2	9	34	17	181	23	12	45	0	0	5	271	200	1,032
Towns	3	1	2	13	8	5	6	6	N/R	49	35	14	3	3	0	0	0	0	74	53	21
Treutlen	10	6	4	8	6	2	N/R	N/R	N/R	20	14	6	9	7	2	N/R	N/R	N/R	47	33	14
Troup	558	526	32	116	112	4	7	7	0	183	179	4	78	77	1	14	13	1	956	914	42
Turner*	27	21	6	11	3	8	0	0	0	8	8	0	20	3	17	2	2	0	68	37	31
Twiggs	13	4	9	41	30	11	N/R	N/R	N/R	7	2	5	5	4	1	6	3	3	72	43	29
Union*	22	12	10	32	19	13	0	0	0	35	19	36	11	8	3	N/R	N/R	N/R	120	58	62
Upson	224	221	3	20	20	0	11	11	0	130	116	14	24	24	0	17	17	0	426	409	17
Walker	210	267	199	146	190	76	1	17	8	317	307	175	73	88	47	0	4	747	869	509	
Walton	512	513	98	234	237	31	20	25	2	217	232	20	76	78	6	38	35	12	1,097	1,120	169
Ware	191	191	N/R	60	50	N/R	8	3	N/R	113	101	N/R	13	13	N/R	3	1	N/R	386	359	N/R
Warren	19	23	7	3	1	5	0	0	0	24	3	6	5	4	1	0	0	0	51	31	19
Washington	92	78	14	25	17	8	1	0	1	12	6	6	9	8	1	3	2	1	142	111	31
Wayne	153	65	68	25	10	15	1	0	1	11	1	8	4	3	2	0	0	0	194	79	94
Webster	5	3	2	4	2	2	0	0	0	19	13	6	2	2	0	0	0	0	30	20	10
Webster	15	15	0	8	8	0	2	2	0	2	1	1	0	0	0	1	1	0	28	27	1
White	52	81	25	54	72	18	5	5	6	177	89	225	18	36	4	27	25	16	333	308	294
Whitfield	551	517	117	200	203	46	61	75	16	548	514	123	196	203	34	135	160	55	1,691	1,672	391
Wilcox	30	27	2	0	0	0	4	0	4	11	11	0	2	2	0	0	0	0	47	40	6
Wilkes	25	23	2	4	4	0	1	1	0	13	8	5	8	7	1	7	6	1	58	49	9
Wilkinson	37	37	14	11	11	3	6	19	7	20	26	12	2	1	2	2	3	2	78	97	40
Worth	142	124	624	46	36	197	0	0	4	28	32	205	12	13	162	1	0	11	229	205	1,203
Total	51,499	48,612	22,096	16,668	14,896	7,628	1,353	1,281	891	20,889	17,505	15,572	7,704	7,075	3,592	4,284	3,791	2,650	102,321	94,152	52,519

*Denotes counties reporting by number of charges. Otherwise counties reported by number of cases.
 †N/R, Not Reported
 The amounts in the total columns may differ from the sum of the case type columns due to incomplete information.

EXHIBIT 33

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

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	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	1,449	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
Talapoosa	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
Clark, 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

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2014, a copy of the foregoing Amended Complaint is being delivered by electronic mail and United States First Class Mail to:

Stefan Ritter, Esq.
Kim Beal, Esq.
Office of the Attorney General
40 Capitol Square, SW
Atlanta, GA 30334
sritter@law.ga.gov
kbeal@law.ga.gov

John C. Jones, Esq.
248 Roswell Street
Marietta, GA 30060
jcjones1234@bellsouth.net

Derrick Bingham, Esq.
Owen, Gleaton, Egan, Jones &
Sweeney, LLP
1180 Peachtree Street, N.E.,
Ste. 3000
Atlanta, GA 30309
Bingham@OG-Law.com

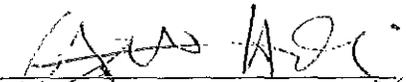
G. Russell Wright, Esq.
Crisp County Courthouse
Probate Court
510 North 7th Street, Ste. 101
Cordele, GA 31015
attorney@sowega.net

Toni Sawyer, Esq.
Law Office of Toni Sawyer,
P.C.
311 W. Central Avenue
Post Office Box 690
Fitzgerald, GA 31750
sawyerlaw@windstream.net

Robert Sherrell
Jay, Sherrell, Smith & Braddy, P.C.
PO Box 308
Fitzgerald, GA 31750
Res11@windstream.net

William NeSmith, III
P. O. Box 295
Americus, GA 31709
WNeSmith@sumtercountyga.us
William W. Calhoun
Calhoun Law Group, LLC
P.O. Box 70153
Albany, GA 31708
bill@calhoun-law.com

Michael Bowers, Esq.
James Hollis, Esq.
Balch & Bingham
30 Ivan Allen, Jr. Blvd., NW
Ste. 700
Atlanta, GA 30308
mbowers@balch.com
jhollis@balch.com


Atteeyah Hollie