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Kristen Callahan
Chloe Roane
Lexi Acello

January 14, 2022

Mr. Gregg Parrish
Arkansas Public Defender Commission
101 East Capital Avenue, Suite 201
Little Rock, AR 72201

Re: Attorney Case Load

Dear Gregg,

After receiving the opinion from the Office of Ethics Counsel concerning public defender case loads and your subsequent emails about our caseloads, I am writing to provide more specific information. Our attorneys have expressed concern for many years about their growing caseloads and responsibilities, but the situation has escalated during the pandemic. A few months before the pandemic began, Washington County Quorum Court paid for the National Center for State Courts to do a Criminal Justice System Assessment. A copy of this report is attached. Much of the research and information given in their report also applies to all criminal court systems within the state as the problems and concerns discussed are common.

The assessment discusses the need to ensure appropriate public defender caseload ratios, compensation parity, and treatment of public defenders in comparison to prosecutors (p 97). As the study discusses, "A lack of parity in pay between prosecution and public defense creates a revolving door for public defense, as attorneys look to do similar work for higher pay often with more resources." (p 98). During the last year, we have suffered the loss of five attorneys. They left to go to the prosecutor's office, DHS, and legal aid. The reason that they all stated for leaving was for more money, a better caseload, and less stress. Losing these attorneys has

placed our office in a continuous state of fluctuation. In order to efficiently represent the clients, the leaving attorney's cases must be reassigned to other attorneys in the office. Once a new attorney is hired, it takes time and experience for the new attorney to become familiar with our processes. It makes the whole criminal justice system less efficient. If there was more parity between our office and the prosecutor's office of the same experience and education level, it would provide for greater longevity and stability in our office.

Our Quorum Court has worked hard to provide additional attorneys for our office and this year has now set their starting salaries at \$62,500, which is the same starting salary as the county provides for the prosecutor's office. Each time that I meet with the Quorum Court to discuss our budget and our positions, they always express frustration that the state doesn't rise to meet the needs of our office. Our county's population in 2000 was 158,873, and in 2020 the population is 245,871. With this large increase in population and similar increase in crime, the county has worked to provide extra attorney positions, since the state hasn't done so. Even with this county's support, our numbers and the demands on our time is extremely concerning.

We have a total of 17 attorneys, with 5 provided for by the county. Two attorneys spend their hours full time in two different juvenile courts. They often began their days at 4 am when the information is sent to them by the detention center of the juveniles arrested over night who will then have a detention hearing that morning. They must often be prepared on many of these cases for a trial within a week. This involves meeting with the juvenile and their family, reading the reports, and doing their research and investigation. They each have a case load of around 350 juveniles.

We have one attorney who works full time covering the district court cases. She often spends more than 30 hours a week in court, covering 6 different courts, which leaves very little time to meet with clients and read discovery. Her case load is around 880 misdemeanor charges.

One attorney covers drug court full time. She has approximately 320 clients in the program. Approximately 50 are absconding, so she has 270 active clients. She spends about 16 hours in court a week. She stays busy communicating with clients about problems that affect their recovery like warrants, new felony charges, residential treatment, referrals for family law issues, representing them on sanctions, assisting the team effort of resource acquisition, assisting clients entry to the program, screening all people going into the jail for drug court, sealing records, and communicating with the team.

The remaining attorneys then cover circuit court in Washington and Madison County. There are two circuit court judges handling a large case load. One of the juvenile judges also hears the juvenile cases where they are charged as an adult, so we have regular appearances in her court, also. The attorneys in circuit court have the following number of felonies currently:

Leana Houston	350 felonies, 15 Y felonies, 4 capital
Blake Chancellor	526 felonies, 30 Y felonies
Michael Roberson	442 felonies, 36 class Y felonies
Daniel Field	399 felonies, 21 Y felonies
Sandy Cordi	429 felonies, 19 Y felonies, 1 capital case
Candice Smith	342 felonies, 12 felonies
Kevin Lammers	514 felony cases, 27 Y felonies
Nestor Briceno	328 felonies, 4 Y felonies

Kristin Callahan	369 felony cases, 12 Y felonies
Chloe Roane, just started	261 felony cases
Lexi Acello, just started	102 felony cases
Nancy Pryor (starts Tuesday)	284 felony cases

There are 325 cases sitting on my desk waiting to be assigned now. This also does not include the number of cases that these attorneys have already handled over the last year. It is only a present count which fluctuates on a weekly basis. It doesn't include the mental commitments and Adult Protective Services cases that the public defenders are also solely responsible for handling that often arise on short notice and must be dealt with immediately. For the Y felony cases and the capital cases, the public defender assigned to those cases must work on them with particularly extreme detail as state law requires a sentence of 10-40 years or life in prison and potentially death in capital cases if they are found guilty. State law also requires that we appoint at least two attorneys who are certified for capital cases in all capital cases, a significant burden for our only two attorneys who are currently capital certified.

With Judge Taylor and Madison County cases, we are in those courts all day several times a month. For Judge Lindsay, we are in his court almost every day until noon or later. We used to could schedule appointments starting at 11. We now can only schedule appointments with clients in the afternoons on certain days. Because we don't have enough time to schedule everyone, they are often double booked or scheduled in 15 minute increments. We also handle all of the mental commitments and adult protective service cases. Three afternoons a week, we have to meet with the in custody clients over zoom to complete their arraignment paperwork for court. Three mornings a week, three or four attorneys are assigned to meet with people in the jail who have been arrested to prepare their bond arguments for their 8.1 hearings. These same mornings, other attorneys and staff work with the out of custody clients to prepare for their arraignments. One attorney then stands in court these three mornings for the 8.1 hearings and arraignments. With the circuit court cases, the requirements for 8.1 and arraignment proceedings, and hearings set for mental and aps cases, we often don't even have enough bodies to send to the different places. We often start at 7:30 am and struggle to cover all of the appearances.

Meeting with jail clients has always taken a great deal of time, because we have to wait for the jail to bring them to the visiting rooms which can often take an hour or more. With the covid protocols to protect the jail population, it is now more time consuming. We have to meet with our clients on zoom with appointments set up through the jail. Only 12 appointments are allowed per day, and it must be shared with DHS, the federal public defenders, and others. Our attorneys are now working their jail appointments from 7 am – 7 pm. Additionally, all court pleadings must be reviewed and signed through the use of zoom, which is very time consuming.

Over the next month, we have over 40 cases set for a jury trial. I have attached our spread sheet of the jury trial calendar. We don't know which ones will be tried first, so we are expected by the judge to be ready for all of them. Obviously, the time needed to prepare for a trial is significantly higher than the daily maintenance of a client's file. With the exploding daily maintenance of these files, finding the time to adequately prepare for a jury trial is much more difficult. Many cases set for trial requires at least two attorneys.

We have also worked with our jail, the prosecutors, and the judges to organize a Failure to Appear amnesty clinic. This was done in hopes of helping people who had missed court because

of illness, lack of transportation, or forgetting their court dates. It helped them to resolve their cases or get them back on the docket. For the one we did on January 6, 2022, over 70 people came for help. Those are people who would have otherwise been arrested on a FTA warrant and served a minimum of 60 days on a \$50,000 bond while waiting for their court date before a judge. It took weeks of planning this with the community, and all of the attorneys spent a long day at the clinic helping people. This was done while we also had circuit court cases on the docket for the day. Community officials estimate that our work on this day saved the county over 1.1 million dollars in not having to house these people in the jail.

Our attorneys are all deeply committed to representing our client, and we have serious concerns about our ability to uphold our ethical duties to these clients. The ABA recommends that, when lack of funding results in under-staffing, the public defenders should take drastic steps, including refusing to accept appointments, requesting that new appointments be stopped, and requesting to be allowed to withdraw from cases and discontinue representation. We do not want to resort to these extreme alternatives as a solution for our county. We want to provide thorough and efficient services to our clients. However, we cannot continue to do so without help. We have worked very hard to adjust to the ever increasing workload as our county rapidly grows, but we have reached a breaking point as evidenced by our caseload. I am looking to you for direction and help in this matter. I look forward to hearing further from you, and I appreciate your guidance

Sincerely,

A handwritten signature in blue ink that reads "Leana Houston". The signature is fluid and cursive, with the first name "Leana" and last name "Houston" clearly distinguishable.

Leana Houston
Attorney at Law