

## Challenges Faced by the Clayton County, Georgia Public Defender's Office

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### Abstract

While the *Sixth Amendment* to the U.S. Constitution guarantees indigent defendant's legal representation in state and federal courts, public defenders' offices are challenged by the lack of resources to represent an endless flow of clients, attract and retain talented counsel, enlist the help of expert witnesses, as well as deliver the best quality defense. This study addresses the daily strain of defending clients who are not always the most cooperative in helping their own defense, but it also reveals the struggles and challenges faced by an urban southern public defender's office and what changes need to be implemented to improve the public defender system. In the end, this study finds that public defender programs need adequate funding to fully deliver a quality legal defense.

**Keywords:** public defender, indigent, legal rights, Sixth amendment, triage, *Gideon*

### 1. Introduction

When suspects are arrested for committing a crime, they are held accountable and criminally responsible for their actions. Consequently, they must prepare a defense to prove their innocence since they face losing their freedom, or life depending on the gravity of their criminality. In the U.S., it is commonly understood that when the criminally accused are charged with a crime, they need the assistance of an attorney. It is also recognized that the need for an attorney is especially critical when defendants are poor and cannot defray the cost of a legal representative (Owens, Accetta, Charles, & Shoemaker, 2014; Donziger, 1996). When this is the case, an attorney is typically provided by the government. Experts argue that the U.S. Supreme Courts' mandate from a 1960s case created a response that resulted in efforts to assist indigent offenders with legal counseling, and the public defenders' system is one of those efforts (Owens et al., 2014). In fact, Langton and Farole (2007), report the practice of having legal representation for indigent offenders is so pervasive that public defender offices are located in 49 states, and the District of Columbia. The benefit of having an attorney not only extends to helping the defendant prepare a defense, but it also helps him or her not to self-incriminate. Despite this, some experts believe that because of the complexity of the criminal law and criminal procedures, defendants facing criminal charges need the assistance of counsel to protect their legal interest in every stage of the criminal justice process (Fagin, 2015; Bazelon, 2007). Therefore, in all felony cases, suspects enjoy the right of being represented in criminal trial by a defense attorney. However, this has not always been clearly established.

While some argue that the right to an attorney is fundamental to the American criminal justice system, and is simply a benefit of being a U.S citizen, legal scholars argue that suspects, especially those who are indigent have a legal right found in the *Sixth Amendment* of the U.S. Constitution that affords them legal representation in criminal matters (Owens et al., 2014). Despite the fact that the Constitution was ratified in 1788, it would be more than a century later before anyone could have their *Sixth Amendment* right recognized in either federal, or state court. This is interesting because many experts believe that the *Sixth Amendment* right to an attorney is critical since it attaches, as soon as suspects appear in court to be arraigned (Rutledge, 2006; Peoples, 2003). Therefore, this paper is divided into four parts. Part

One presents five pertinent cases that established the *Sixth Amendment* right to legal representation. Part Two discusses the emergence of the public defenders' office in the United States. Part Three provides the methodology used in this research investigation. Part Four presents a discussion. In the end, we argue that while public defender offices are charged with a clear mandate, the challenges they face makes it exceedingly difficult for them to function in an effective manner which may have an adversely impact on many of their clients.

## 2. The Impact of Several Pertinent Cases in Establishing the *Sixth Amendment* Right to Legal Representation

There were five significant cases decided by the U.S. Supreme Court that established the entitlement to an attorney in capital and criminal cases on the federal and state levels (see *Powell v. Alabama*, *Johnson v. Zerbst*, *Betts v. Brady*, *Gideon v. Wainwright*, and *Argersinger v. Hamlin*). First, in *Powell v. Alabama* (1931), nine poor illiterate black males (ranging in age from 13 to 21) referred to as the *Scottsboro Boys* were rushed to trial for the capital offense of raping two white girls under suspicious circumstances. On the day of the trial, the presiding judge assigned a lawyer to represent them. In the one day trial, eight of the nine men were convicted and sentenced to death. The case was appealed to the U.S. Supreme Court. The verdict in this case shocked the country and received national attention sparking several defense attorney organizations to intervene and help the eight convicted men. In *Powell v. Alabama*, the Court overturned the convictions holding that the men constitutional right to an attorney had been violated since they were not allowed the assistance of counsel in their own defense until the day of the trial. The Court viewed the failure of the trial court to allow the men reasonable time to prepare the case and to consult with their attorney as a due process violation. Moreover, unreliable and incompetent evidence was admitted in the trial that would have been excluded from other courts. In the end, the Court held that an indigent is entitled to free counsel in capital cases. This case established the first precedent for the right to an attorney in capital cases.

Second, in *Johnson v. Zerbst*, decided six years after *Powell*, the Court extended the *Sixth Amendment* right to an attorney to all federal defendants. In 1934, *Johnson*, a Marine was arrested and charged with possessing and passing counterfeit money. He was denied an attorney and was convicted and sentenced to federal prison. He appealed the conviction to the U.S. Supreme Court, and it reversed the conviction establishing that federal defendants' have a right to an attorney. However, this entitlement to a lawyer did not extend to state courts, nor did the *Powell* ruling since it only applied to capital offenses.

Third, in 1963, the U.S. Supreme Court reversed its decision in *Betts v. Brady* (1942). *Betts* was indicted for robbery and requested the assistance of an attorney. A judge denied his request and informed him that it was not the practice in his county to provide indigents with legal representation except in cases of capital offenses. *Betts* was subsequently found guilty and sentenced to prison. He appealed to the Court arguing that his *Sixth Amendment* right to an attorney guaranteed by the *Fourteenth Amendment* had been denied. In speaking for the Court, Justice Roberts delivered its opinion stating that the *Sixth Amendment* of the U.S. Constitution only applied to federal cases, and the due process clause of the *Fourteenth Amendment* did not incorporate or extend the guarantees of the *Sixth Amendment* to states. The *Betts* decision allowed indigents accused of felonies in state court to be without the constitutional right of appointed counsel unless a "special" circumstance was found in the case. For example, the Court allowed self-representation unless the defendant suffered from either mental incompetence or illiteracy. The *Betts* decision adversely impacted thousands of indigent defendants for two decades since they were required to proceed in trial without the assistance of a counsel. Consequently, they were typically convicted and received a prison sentence. In cases where a conviction was appealed, the Court cited its *Betts* decision, but looked for special circumstances if it reversed a conviction (Peoples, 2003). However, this would change under *Gideon v. Wainwright*.

Fourth, in 1960, *Gideon* was arrested for committing a felony after breaking into a poolroom. Because he was indigent, he requested a lawyer to represent him. His request was denied by a judge who stated that because of precedence and customs, *Gideon* could only receive a lawyer if his crime warranted the death penalty. He represented himself, and was convicted, and sentenced to prison. He appealed the case to the U.S. Supreme Court, and it overturned the conviction. In speaking for the Court, Justice Black held:

The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble idea cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.

After *Gideon*, it became mandatory that judges in state courts appoint free counsel to indigent defendants accused of committing a felony. The Court stated in part that, "it was a fundamental right, essential to a fair trial." Moreover, *Gideon* provided that all indigents in felony cases be afforded an attorney to represent their legal interest. *Gideon* had immediate and significant impact on the criminal justice system since the decision was made retroactive requiring every

official throughout the nation to examine its prison records to identify those who had been convicted of a felony without the assistance of an attorney. This required that thousands of cases either be retried or inmates released (Peoples, 2003). Furthermore, since *Gideon*, states, counties, and jurisdictions have created means of providing legal representation to defendants who are unable to afford private attorneys typically in one of three methods: a public defenders' office, assigned counsel system, or through a contract system in which private attorneys contractually agree to accept a specific number of indigent cases (Langton and Farole, 2007). Despite the impact of *Gideon*, the decision did not bring the language of the *Sixth Amendment* full circle. Legal scholars believe that *Argersinger v. Hamlin* accomplished the latter. Unlike the previous cases that focused on the need of an attorney in felony cases, *Argersinger* posed the question of whether the *Sixth Amendment* attaches in misdemeanor cases.

Fifth, in 1969, *Argersinger* was arrested and charged with carrying a concealed weapon, an offense punishable by six months in jail, a fine, or both. He was not allowed to have an attorney since *Gideon* only applied to felony cases. He was convicted and sentenced to ninety-days in jail. On appeal to the U.S. Supreme Court, he argued that he had been denied his *Sixth Amendment* right to an attorney. The Court overturned his conviction. In speaking for the Court, Justice Douglas stated:

The right of an indigent defendant in a criminal trial to the assistance of counsel, which is guaranteed by the *Sixth Amendment* as made applicable to the States by the Fourteenth, is not governed by the classification of the offense or by whether or not a jury trial is required. No accused may be deprived of his liberty as the result of any criminal prosecution, whether felony or misdemeanor, in which he was denied the assistance of counsel.

In *Argersinger*, the Court reasoned that an indigent offender is entitled to legal representation when faced with a sentence that involves any amount of jail or prison time. Thus, *Gideon* is extended and includes misdemeanor offenses. Therefore, the U.S. Supreme Court held that no sentence involving the loss of freedom can be imposed with a denial of legal representation. It merits repeating again, although the *Sixth Amendment* was ratified in the U.S. Constitution in 1788, the right to exercise the right was not granted until much later. For example, the right to be represented by attorney in felony cases was granted in 1963, and in misdemeanor cases in 1972.

### 3. Emergence of the Public Defenders' Office in the United States

In 1853, long before the aforementioned cases, the Indiana State Supreme Court recognized the right to an attorney in *Webb v. Baird*, but took the matter a set further. It held that indigent defendants have a right to an attorney at the expense of the tax paying public. The court held that this belief was not part of the constitutional or statutory law, but rather, it was part of "the principles of a civilized society." More specifically, the Indiana State Supreme Court stated:

It is not to be thought of in a civilized society or community for a moment that any citizen put in jeopardy of life or liberty should be debarred of counsel because he is too poor to employ such aid.

In *Webb*, the Indiana State Supreme Court also stated that "No court could be expected to respect itself to sit and hear such a trial. The defense of the poor in such cases is a duty which will at once be conceded as essential to the accused, to court and to the public." This decision was not only historic, but also progressive, since it led to the creation of legal representation for indigent offenders (Koplow, 2007). Oddly, this ruling served as an impetus to other states since during the 20th century, most began to rely on volunteer *pro bono* efforts of lawyers to assist the poor when they were accused of committing serious crime. To the point, as early as 1896, several private programs such as the *New York Legal Aid Society* provided counsel to impoverished immigrants. However, the first public defender office was established in Los Angeles, California in 1914. Afterwards, other programs eventually surfaced in other cities and states. Historians note that when public defender offices began to emerge, they were not likely to be found outside of city areas.

Reports reveal that the first real attempts to standardize the practice of indigent defense services occurred in the early 1970s with efforts from the *President's National Advisory Commission on Criminal Justice Standards and Goals*. Later in 1976, the U.S. Justice Department convened the *National Study Commission on Defense Services* which produced a comprehensive guideline for legal defense systems in the U.S. Moreover, that same year, the *National Legal Aid and Defender Association* published professional guidelines for providing indigent defense services. However, in 2002, the *American Bar Association (ABA)*, reduced the guidelines to ten principles. They are referred to as, *The Public Defense Delivery System*. They are widely regarded as acceptable requirements for providing adequate legal defense (see Farole and Langton, 2010; Also see Langton and Farole, 2007).

The ABA provides that the ten principles include: (1) the public defense functions, including the selection, funding, and payment of defense counsel, is independent, (2) where the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar, (3) clients are screened for

eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel, (4) defense counsel is provided sufficient time and a confidential space within which to meet with the client, (5) defense counsel's workload is controlled to permit the rendering of quality representation, (6) defense counsel's ability, training, and experience match the complexity of the case, (7) the same attorney continuously represents the client until completion of the case, (8) there is parity between defense counsel and the prosecution with respect to resources, and defense counsel is included as an equal partner in the justice system, (9) defense counsel is provided with and required to attend continuing legal education, and (10) defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted guidelines (*American Bar Association*, 1992; *National Legal Aid and Defender Association*, 1995; *National Study Commission on Defense Services*, 1976; Meador, 1973).

### 3.1 Public Defenders' Offices and Their Role

As indicated earlier, because many criminal offenders are poor, public defenders' offices are located throughout the United States. DeFrances and Litras (2000), argue that court appointed lawyers for indigent defendants represent a critical part of the American justice system. Similarly, Herberman and Kyckelhahn (2014), report the need is so extensive that an estimated \$2.3 billion is spent by state government on indigent criminal defense programs nationally. Notwithstanding, public defender offices function independently of political influence and are typically funded by the government (Owens et al., 2014). To ensure that they operate in an independent manner, they are overseen by a nonpartisan board such as an advisory board or commission (Langton and Farole, 2007). Board members may be selected by the Governor, the states supreme court, legislature, or even members of the state bar association. Each state typically has its own protocol in place for advisory board membership selection. The public defenders' office is charged with screening potential clients to determine if they are eligible to receive legal services or assistance. This means that there are formal criteria in place that must be met before an offender can receive services and programs that are designed for the poor. In fact, each state has guidelines for determining indigency. For example, in most states, eligibility is not solely determined by whether a defendant can post bail after arrest, but rather, it could also be determined by whether the defendant has assets, or the defendants' own assessment of whether he or she can obtain legal representation. Other requirements can include the defendants' income level and a sworn or unsworn statement from the defendant declaring indigency. Even when these factors are examined, they are subject to review by the court (Langton and Farole, 2007). However, in most cases, it is either a judge or public defender who is responsible for screening for indigency status (Farole and Langton, 2010). It is important to note that public defender programs can charge indigent defendants a fee under circumstances when defraying a fee does not present a financial hardship.

### 3.2 Georgia's Public Defenders Offices

The *Georgia Public Defenders Standard Council* is an independent agency located within the executive branch of the state government of Georgia. There are 49 public defenders' offices in the state of Georgia. The office mission is threefold: First, to ensure that clients who are represented by the circuit public defender office receives zealous, adequate, effective, timely and ethical legal representation that is guaranteed by the constitution of the state of Georgia, the U.S. Constitution, and the mandates of the *Georgia Indigent Defense Act* of 2003. Second, it seeks to provide all legal services in a cost-effective manner. Third, it seeks to conduct legal representation in a manner that helps the criminal justice system operates effectively and efficiently to achieve justice (*Georgia Indigent Defense Act* of 2003).

## 4. Methodology

This study was conducted in December 2014 in Clayton County, Georgia. Census data from 2010 revealed that there were 259, 424 people living in Clayton County, Georgia. As of 2013, the population increased to 264, 220 residents. This study primarily involved interviews with the Director of the Clayton County Public Defenders' Office. Experts argue that the purpose of the interview is to engage in conversations for the purpose of collecting data (Hagan, 2014; Lanier and Briggs, 2014; Kraska and Neuman, 2012). Consequently, data were collected during several interview sessions. The interview instrument used was composed of unstructured questions. Unlike structured items, unstructured questions allow the respondent to provide details and arguably more accurate data since the method allows the person being interviewed to provide his or her own responses or answers. Unstructured interviews require using an open-ended format. With permission from the respondent, the interviews were electronically recorded.

### 4.1 Measures

The instrument used was designed with a sixfold purpose. First, it was created to measure: (1) challenges faced by the public defenders' office, (2) commonalities that clients share, (3) detecting and addressing employee burnout, (4) misconceptions about the public defenders' office, (5) the most difficult kinds of cases to defend, and (6) coordinated efforts with companies to provide employment opportunities for client. Moreover, there were twenty-four items used in the interview. They include questions such as: (1) what is your name and your current position? (2) How long have you

held that position? (3) What is the primary goal of your office? (4) How many other attorneys represent your office? (5) How many cases is each attorney assigned? (6) Does the caseload challenge your office resources, and how so? (7) How many clients do you estimate are represented by your office each year? (8) In the past 10 years, has there been an increase in certain demographics that your office represents, and what are they? (9) What do you consider a successful case? (10) What is a common theme that you notice about your clients? (11) Do your clients ever make it more difficult to represent them, and in what way? (12) What do you believe is the biggest challenge to your office? (13) What do you feel is needed to make your office more effective? (14) What would you like the public to know about your office? (15) What is the biggest misconception about your office? (16) How can the public assist your office? (17) What makes an effective public defender? (18) Is employee burnout common and why? (19) What can be done to alleviate the stress of doing this job? (20) What is the most difficult case or client to defend? (21) How does a suspect qualify for your office services? (22) Does having access to public transportation creates a problem for your clients? (23) Does your office and other companies work to provide employment opportunities for your clients?, and (24) What type of committees do you serve on that helps your clients?

#### 4.2 Sample

Samples are used in research investigations to approximate the population that they are drawn from. In social scientific research, experts argue that probability samples, especially those that are based on randomization are the most desirable. However, they are not required to engage the research process (Hagan, 2014; Maxfield and Babbie, 2011; Lanier and Briggs, 2014, and Champion, 1993). In some investigations, researchers often use nonprobability sampling techniques that are typically based on their needs, professional judgments, and access to subjects that may fit the research question. In this investigation, a purposive sampling technique is used. This sampling strategy represents a selection of an appropriate sample based on the researcher's skill, judgment, needs, or expert opinion (see Hagan, 2014, p116). While these samples can be used for research studies, they lack the generalizability and inferential power of studies that rely on probability samples. Nevertheless, nonprobability samples are accurate about the individual investigation they are used for, but do not allow researchers to infer or make general statements that go beyond their respective study.

In this investigation, several interviews were conducted with the *Director of the Public Defenders' Office in Clayton County, Georgia*. The Director is an attorney with over thirty-years of legal experience. More specifically, she has 30 years of experience at practicing state and federal defense law. Furthermore, she has been the *Circuit Public Defender* for 10 years. After the interviews were conducted, we used several people to transcribe these data to ensure that validity was not compromised. Experts argue that this is the best way to ensure the accuracy of interview data (Hagan, 2014; Lanier and Briggs, 2014; Maxfield and Babbie, 2011; and Champion, 1993). Listed below are a few questions and responses taken from the interviews:

**Interviewer:** Does the caseload challenge your office resources? If so, how?

**Respondent:** Yes, it does. The resources are challenged because representation of criminal felony cases range from murder, armed robbery, child molestation, theft by taking, rape, robbery, to paper crimes that would be fraudulent, financial transactions, identity fraud, and the like, so, each case requires a different treatment. I have a limited budget for expert witnesses, but it takes a lot to find an expert that would be compassionate to the cause and perhaps tailor their fee to the amount of money that we have available to hire experts. This is not an issue for the DA's office since it typically has many resources.

**Interviewer:** What do you consider a successful case? From the point of view of someone who defends clients?

**Respondent:** A successful case is one when you get the best outcome that you could have gotten under the circumstances. So, a successful case is not always receiving a not guilty verdict. A successful case is where you got a seventeen year old kid who goes into a department store and shoplifts and you get that person into a pretrial diversion program whereas if he or she finish all the requirements of that program, they will have the opportunity to have the record expunged, and there will be no evidence that they ever got arrested.

**Interviewer:** What is a common theme that you notice about your clients?

**Respondent:** One commonality is that they believe public defenders don't care about them, that public defenders are agents of the state, and that they are not interested in their welfare. At the initial meeting with a client, there is the issue of trust. I think that a lawyers' skill and passion has to first focus on that. The attorney has to focus on the client since they do not believe that you care and think you're only there to plead them out.

**Interviewer:** Okay, what do you believe is the biggest challenge to your office?

**Respondent:** There are a lot of challenges that include an increase in the number of women and young Latino clients, but the biggest by far is funding. When I talk about funding, I'm talking about a top priority which is the salaries for my staff. That includes: lawyers, administrative assistants, and private investigators. Of the employees in my office, the public defenders should have pay parity with the DA's office, and we don't. A lot of my attorneys pay has been frozen through the State of Georgia. So, they're at the same rate that they were five years ago. My job is to get those resources in order to help them do a better job and to become more effective lawyers.

**Interviewer:** What's the most difficult case or client to defend?

**Respondent:** We have clients who go to the library and read a case and think that they should not be in jail because they have discovered some loophole or shade of gray in the law, so they sometimes will write to us about their revelation. They sometimes write to the DA and even judges. There are some judges who feel obligated because of the rule of ex parte communications, to send a copy to the DA's office and a copy to us. This complicates our job. We also noticed that while clients are in jail, the sheriff's department has started collecting evidence against them. Before we're listed as the official attorney, they might approach clients in jail and try to convince them that they are their friends by asking them to give a statement or place them in cells with informants who befriend them and before you know it, they start telling what happened and then all of a sudden, we've got nowhere to go (see Appendix A for the complete interview transcript).

## 5. Findings

This research revealed several significant findings. With respect to our question regarding the primary goal of your office, we learn that this public defenders' office sought to offer clients the best legal representation it could with its limited resources. When asked, how many other attorneys represent your office, we were informed that there were a total of seventeen. When asked, how many cases are each attorney assigned, we were informed that the number was 250. When asked, does the caseload challenge your office resources, and how so, we were told that the sheer volume and variety of cases, makes it extremely difficult and challenging to offer the best quality defense, especially when it comes to matching the states resources in high profile cases (e.g., murder and child molestation), or trying cases that require hiring experts to challenge the states expert witnesses. Moreover, because of the noncompetitive salaries that public defenders receive compared to their counterparts in the DAs office, the failure to receive a pay increase in the last few years has impacted the attrition rate in the public defenders' office. With regard to how many clients you estimate are represented by your office each year? We were informed that there were 6,200. When asked in the past 10 years, has there been an increase in certain demographics that your office represents, and what are they? We were informed that now more women are arrested and accused of felonies than ever before. In the past, women would have been referred to other agencies. Moreover, her office has also seen an increase in the number of young offenders' as well as more Latino clients. This is believed to be due in part to the changing demographics of the county. When asked, what do you consider a successful case? We were told that a success case is one where you get the best outcome considering the circumstances. It is not always receiving a simple not guilty verdict. It could be getting a client diverted or placed into a pretrial program that will allow him or her to have a record expunged after successfully completing the program. When asked about what is a common theme that you notice about your clients? We were told that many clients believe that public defenders do not really care about their wellbeing. Therefore, they must work to build trust with the client when they initially meet.

When asked, do your clients ever make it more difficult to represent them, and in what way? We were told that some clients believe (probably as a product of television) that they know more about the law than their public defender. They make it very difficult to defend them when they take it upon themselves to write to judges about the facts of their case who then share the information with prosecutors. Another example occurs when clients unknowingly discuss their case with police informants while in custody instead of waiting to converse with their lawyer about legal strategy. When we asked, what do you believe is the biggest challenge to your office? We were informed that it was trying to procure funding for salaries for lawyers, investigators, and administrative assistants. It is also difficult to get them pay parity with the DAs office. Another challenge is to keep everyone in the office happy, especially since the state of Georgia has frozen attorneys pay. It is believed that keeping the staff happy can minimize the stress of the job and translate into better services rendered to clients. When we asked, what do you feel is needed to make your office more effective? We were told more resources. When asked, what would you like the public to know about your office? We were told that it should know that the public defenders' office is good because of the volume and variety of cases it handles (including every kind of criminal case and felony imaginable). We were informed that this office is sometimes consulted by private

attorneys asking for strategy and advice. With respect to what is the biggest misconception about your office, we were informed that the biggest misconception that they face is that since they provide free services to indigent clients that they cannot be good. When asked how can the public assist your office? We were told that she did not know. With regard to what makes an effective public defender, we told that in her office, it is an attorney who understands her system of triage (fully discussed in the interview transcript), and is willing to work as a member of the team. It is someone who knows that the pay is not very good, but who has heart and the compassion for the cause.

When asked is employee burnout common, and why? We were told that it was not in her office because she has learned the warning signs and discuss the issue at staff meetings. When asked, what can be done to alleviate the stress of doing this job? We were told that the more lawyers you have, the less number of cases assigned to lawyers, and they can focus on fewer cases. When asked, what is the most difficult case or client to defend? We were informed that those who believe they know the law or those who keep coming up with ideas and strategies after watching television. When asked, how do suspects qualify for your office services? We were told that the eligibility standards were set up by the state of Georgia and that each potential client must complete an application, but the same poverty standards are used for someone who qualifies for welfare benefits. When asked, does having access to public transportation creates a problem for your clients? We were told that the county has struggled with this issue over the past eight years which has caused chaos in the courts. It also presents problems with consulting with the attorneys. When asked if your office and other companies work to provide employment opportunities for your clients? We were informed that her office and the drug courts work with corporations and companies that hire convicted felons and those who are part of drug treatment programs. When asked what committees do you serve on that helps your clients? We were informed that she was on several and most of them had to do with accountability courts, including the drug court.

## 6. Discussion

When comparing the responsibilities and resources of a public defender's office with the number of public defenders and caseloads nationwide, a clear picture of the challenges these offices face when they attempt to deliver quality services. In 2007, there were 957 public defender offices employing 15,000 lawyers (Farole, 2010). For the same year, there were more than 5.5 million cases referred for public defender services (Farole, 2010). Using these numbers, there were approximately 372 cases per lawyer or 5,822 per office. This varies depending on the geographical areas that offices are responsible. The number of persons who need these services each year is even greater, as some are assigned a court-appointed lawyer, or they are assigned a lawyer who is contracted to provide services. There are also Tribal and federally-funded public defender programs (Farole, 2010). State-funded public defender programs are also categorized as either state-based or county-based, as is case for the Clayton County office. Some of the cases referred to county and state public defenders may not meet the criteria required to receive services. Within the ABA's Ten Principles of a Public Defense Delivery System, it is implied that screening clients for eligibility is the responsibility of the court. However, this task often falls upon the public defender office, such as the Georgia Clayton County office which often utilizes an investigator to help make that determination.

Many challenges to providing quality defense for indigent clients, as revealed by the Clayton County office may conflict with the ABA's ten principles. For example, one of the principles asserts "defense counsel's workload is controlled to permit the rendering of quality representation" (ABA, 2002). However, for 2007, only 20% of county-funded public defender offices had an official policy regarding workload (Farole, 2010). Furthermore, only 29% of those offices receiving more than 5,000 case referrals annually had such a policy. The National Legal Aid and Defender Association's (NALDA) Standards for the Defense policy require that no lawyer should have more than 150 felony cases per year (2011), yet the Clayton County office received 6,200 cases in 2014 and each attorney handled roughly 250 cases for an average of 150-299 active cases per attorney at any given time. The Clayton County office employed 17 attorneys, but exceeded the NALDA standards, as well as the national 2007 median of cases per attorney for county-based offices which was 100 (Farole, 2010). Even though public defender offices have the right to appeal to the court that the caseload presents a barrier to providing adequate services, the court may or may not accept the assertions (NALDA, 2011).

ABA standards provide that there should be parity between public defender and prosecution counsel regarding resources, including salary. Nevertheless, this has not been the case for public defender offices nationally that receive 5,000 or more case referrals annually. For example, in 2007, only 12% of county-based public defense offices reported having a sufficient number of lawyers to meet the standard (Farole, 2010). Conversely, 60% of offices receiving less than 1,000 cases annually reported having sufficient resources, but only 27% nation-wide (Farole, 2010). In the currently study, the Clayton County office reported that limited resources, especially for salaries, was the greatest challenge to providing the best defense. This also put strain on the office in meeting at least two other ABA (2002) and NALDA (2011) standards, namely: (1) that the same attorney continuously represents the client until the case is closed, and (2) the defense counsel is provided with and required to attend continuing legal education. With salaries having been frozen by the State of

Georgia, the Clayton County office has seen lawyers experience burnout and consider leaving public defense to work for private firms or the prosecution. This is troubling because if a lawyer resigns, the clients will need to be reassigned, and therefore, not have the same attorney throughout the process. Also, with having to continuously fight for resources, not only for hiring attorneys, but also for investigators and administrative assistants, where does the money come from to defray the costs for required continuing education? This may compromise the office ability to provide better quality services.

Another challenge for the public defender office in Clayton County is the fact that there has been an increase in three categories of offenders: the young, women, and Latinos. These categories, along with the steady flow of African-American males have increased the workload, but the emerging populations may require particular expertise and additional resources because of their circumstances related either to age, gender, and/or culture. In fact, one NALDA (2011), standard is that the public defender should be “sensitive to all of the problems of his client community.” While the Clayton County office is active in community programs, such as drug court and mental health court, much more may be needed.

While the Clayton County public defenders’ office faces many challenges, one source of non-funded support that it benefits from is an internship workforce. The interns, as described by the Clayton County office, are pulled from law schools and criminal justice programs. Interestingly, it would like to have interns from psychology, as well as social work to better serve clients. We agree with the Director, in that, social work interns would be ideal for assisting clients to mediate a myriad of barriers to successful community living such as employment, housing, federal benefit reinstatement, disability issues, and mental health concerns.

The Clayton County office, along with national statistics (Farole, 2010), provide a picture of a struggling public defender labor force that carries the immense burden of providing adequate and compassionate services to millions of clients annually. Many public defenders are under-paid compared to their counterparts in the DA’s office. Moreover, most public defenders’ offices perceive themselves as under-staffed. In fact, according to ABA standards (2002), and the NALDA (2011), a large portion of the nation’s public defender offices are indeed lacking sufficient resources to perform the job they are constitutionally charged with.

It is each state’s obligation to afford its public defenders with resources that are adequate enough to provide quality legal representation to their clients. So, when this aspect of the justice system fails the clients it was created to protect, where should blame be placed? Is the government at fault for not allocating enough monies to states, or are states purposely not allocating sufficient funds toward this purpose since many in society believe that offenders arrested for crimes are guilty until proven innocent? And what power, if any, do counties have to acquire more public defender resources? Even when public defender offices hire compassionate and skilled attorneys, strain, burnout, and the lack of resources may affect the quality of defense and invariably determine whether they will leave or stay. The answers for fixing an ailing system are complex and may never be fully known. However, public defender offices must be provided the resources needed to meet the challenges that they face on a daily basis. While this study has revealed many challenges faced by the Clayton County Public Defenders’ Office, we believe that because of the limitations of our data, especially our nonprobability sampling technique (focused solely on Clayton County, Georgia), generalizations or inferences cannot be made about public defenders’ offices nationally. However, we argue with certainty that these are the challenges that are faced by the Clayton County Public Defender’s office and arguably others that are similarly situated.

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## Appendix A

**Interviewer:** My name is Dr. Anderson

What is your name and current position?

**Respondent:** Christine Van Dross

**Interviewer:** What is your current position?

**Respondent:** I'm the Circuit Public Defender for Clayton County, Georgia

**Interviewer:** Okay. How long have you held this position?

**Respondent:** For 10 years.

**Interviewer:** Okay. What area does your office represent?

**Respondent:** We represent criminal defendants and juvenile delinquency cases.

**Interviewer:** For which area of the city?

**Respondent:** For the entire county of Clayton.

**Interviewer:** What is the primary goal of your office?

**Respondent:** It's to provide effective representation in criminal matters, felonies, felony probation violation, and juvenile court cases for people who do not, or cannot afford to hire their own attorneys.

**Interviewer:** How many other attorneys represent your office?

**Respondent:** Hired by me and my office, we have 17 assistant public defenders.

**Interviewer:** How many cases are each attorney assigned?

**Respondent:** Well it depends on the number of cases that are generated in our office. But, the average number of cases in the superior court would be about 150 to 299 cases at any one time.

**Interviewer:** Okay. Does the caseload challenge your office resources? If so, how?

**Respondent:** Yes, it does. The resources are challenged because representation of criminal felony cases, for example, would range from murder, armed robbery, child molestation, theft by taking, rape, robbery, to what I call paper crimes that would be fraudulent, financial transactions, identity fraud, and the like, so, each case type requires a different treatment, for example, in child molestation cases, almost always you're going to need an expert to challenge the State's experts. I have a budget for expert witnesses, but it takes a lot to find an expert that would be compassionate to the cause and perhaps tailor their fee to the amount of money that we have available to hire that expert.

**Interviewer:** Okay. You mentioned that hiring an expert is one thing that challenges the resources and the budget. Is there another example that you could give that requires an abundance of resources?

**Respondent:** Of course, murder cases. Murder cases are very important and most murder cases are what's called high profile cases and so you, not only do you have the police department and all of their resources in making the case, then you have the DA's office and all their resources in prosecuting the case and then you have the media that will oftentimes never hear from the client and only hear about the gore and the victim's side of the story. So, the defendant's side of the story never gets told until the trial.

**Interviewer:** Okay. How many clients do you estimate are represented by your office each year?

**Respondent:** It's hard to put a number on it, but, if you can basically take the 17 lawyers that I have and if you divide that by about 6,200 cases, I think it will figure out to about 250 cases per year. But, the stats don't always tell the story because of all those cases that and I'm going to speak on, specifically about felony cases, because they're easier and they set kind of an example for even juvenile court cases, but every case starts at the magistrate court level and there are many cases that we get in and we either resolve it at the preliminary hearing stage, be it by dismissal, be it by, alternative courts and programs like pre-trial intervention, drug courts, mental health courts and those kinds of things, but they're still counted as a case. So, at any point in the process, a case can be disposed of. But it's still counted as a case. The other factor that is prevalent in all cases, all public defender cases in the state of Georgia is the recent Supreme Court ruling and that ruling had to do with cases where there is a conflict of interest and the best example to explain that would be where you have three co-defendants charged with the same crime. Prior to that ruling, I, as circuit public defender could make a decision as to whether or not as between the three people if our office could handle two and conflict one outside of our office, but the Supreme Court said basically that an indigent defendant is entitled to conflict free attorneyship and that the rules that were in place prior thereto allowed us circuit public defenders to look at the evidence, look at the police report, see where everybody is and maybe we would take two and conflict one out. We can't do that anymore so that's why it affects the number of cases we actually handle because as soon as I see that there's a possible conflict, then I will conflict it out to a metro conflict division which is a part of our central office, and so we'll do the paperwork, and if there's three defendants, two of them will go to conflicts, we'll take one and so it has really effectively reduced our caseload.

**Interviewer:** Okay, out of curiosity, you mentioned a recent Supreme Court case. Do you know the name of the case?

**Respondent:** It's actually a Supreme Court order. It arose out of a question that was asked of the State Bar of Georgia. And the question would be basically, can a Public Defenders Office represent more than one co-defendant in the same case? And the Supreme Court of Georgia took about three years to render a decision on this. So, it wasn't so much a case that was in court, it was a ruling and it sets the tone for the Bar regulations as to what attorneys should do when representing more than one co-defendant. Now, having said that, there are ways to be in compliance, and we still take two or three or three or four and those ways are this: For example, a waiver by the client, an intelligent waiver by the client. And, why would we want to do that? Well because the process of requesting conflict attorney would make, for example, let's say we chose to keep Client A. That case could go forward maybe we could get a dismissal on that. And probably on the other one but then there's this appearance of conflict. So, that person may have to wait two or three weeks in jail to get a conflict attorney to do the same thing that we could have done. So, in certain situations we might waive that type of thing. The same instance where both defendants have been offered a pre-trial intervention, you know, and so they're out of the system, you know they agree, and it just doesn't make sense that we would choose one over the other and one gets out two weeks earlier, and the other one, because we got to get a conflict of interest, free lawyer.

**Interviewer:** Okay, good. Another question, in the past ten years has there been an increase in certain demographics in the clients your office represents? Have you noticed a change in demographics with regard to gender, age, race, ethnicity, in the past ten years?

**Respondent:** Yes. More women are being arrested and accused of felonies. We only handle felonies. Now, we do misdemeanors if it's connected to a felony case. More women are being arrested than probably ever before.

**Interviewer:** Could it be that they're likely to commit the kind of crimes that women are typically not involved in?

**Respondent:** The same kind that men would commit, but in almost 85 to 90 percent of the time, their codefendant is a male. It's not like they are generally the ring leader or the head person.

**Interviewer:** So, let me understand this clearly. You're saying that they rarely operate alone.

**Respondent:** I wouldn't use the word rarely, but most of the time, its' in conjunction with a male. There are certain crimes that women are being charged with and it used to be that these were not so much prosecuted, but addressed through agencies like DFCS, the Department of Family and Children's Services, some kind of

pretrial, those would be the cases, where, for example, a mother would allegedly leave her child or children at home alone, or the mother would be at home asleep in the bed and the child would get up, unlock the door, and you see this two year old baby walking the streets. Those were kind of neglect cases that might have been handled through administrative courts, and now they're criminal. They are criminal first and if you can weed it out, then it might become administrative.

**Interviewer:** Do you know why, now they're taking severe action to make them criminal instead of administrative?

**Respondent:** Yes, because it's starting to happen more often, number one, and, number two, I think a lot of it has to do with the economy. A lot of it has to do with a single mother having a job and no babysitter at night, and having to choose between going to work and getting money to keep the family in an apartment, or stay at home and not working. So, those are hard choices. There have been cases where people have brought their children to work, left them in the car while they were at work. Or, they would leave them at home and maybe have a friend who turns out to be unreliable to check on them and something would happen and the mother would be arrested. The crime, paper crimes, credit transactions, fraud and those kinds of things, a lot of women are doing it and a lot of men are doing it, but there's an upsurge of women getting involved, even independently, in those type activities and they're usually activities to generate money, not to buy fancy clothes or cars, but just to maintain.

**Interviewer:** Okay. With regard to race and ethnicity, any differences in the past ten years with the type of client your office is dealing with?

**Respondent:** The demographics in Clayton County is changing.

**Interviewer:** Is Atlanta in Clayton County?

**Respondent:** No

**Interviewer:** Okay

**Respondent:** Clayton County is right off of Atlanta and is the area you know, the airport, part of the airport is in Clayton County. It's a county, stand-alone county, and we have a lot of Hispanics that have moved to Clayton County so it's probably at this point. It's a predominantly Black with a significant percentage of Hispanic and a dwindling amount of Caucasians in the county.

**Interviewer:** Okay. Do you see an increase in older offenders or is it pretty much stable since the past ten years?

**Respondent:** No, I see a significance of younger juveniles. There was a time in my day where juveniles would get jobs at Macy's and the malls. Now, those jobs are being taken by the adults who need a job.

**Interviewer:** What do you consider a successful case? From the point of view of someone who defends clients?

**Respondent:** A successful case is a case when you get the best outcome that you could have gotten under the circumstances. So, that a successful case is not always just a not guilty verdict. A successful case is when you take a lemon and you turn it in to lemonade. A successful case is when you got a seventeen year old kid who goes into Macy's department store and shoplifts and you get that person into a pretrial diversion program whereas if they finish all the requirements of that program, they will have the opportunity to have their record expunged and there will be no evidence that they ever got arrested.

**Interviewer:** Okay, so that's an example of a successful case or outcome. I have another question. What is a common theme that you notice about your clients? What commonality do they tend to share?

**Respondent:** One commonality is that (they believe) public defenders don't care about them, that public

defenders are just agents of the state and that they are not interested in their welfare.

**Interviewer:** Do your clients really believe that about public defenders?

**Respondent:** Yes

**Interviewer:** Okay, another question is, do your clients ever make it more difficult to represent them?

**Respondent:** Yes

**Interviewer:** How so, and in what way?

**Respondent:** One, when coming out of the gate, there's a trust factor and I think that the skill and the passion in meeting the client has to focus on that. The attorney has to focus on the client does not really believe that you care about him or her. That the client thinks that all you're there for is to plead them out to whatever. So, when I was an Assistant Public Defender, I'd go out to see my client, even when I was a private attorney doing defense work, the first part of our conversation would really just be about me and the client. I would talk about who they are as a client. Do you have any children? If you say that to a woman in prison, I mean, the tears would come and she would just start crying and that's where you want to get. You want to get to that emotion to let them know that you care more about where they are right now. And I would tell them about myself, mostly about my professional self, i.e. I've been practicing criminal defense law for so many years and we'll have that conversation, and it's just my style, but every lawyer and I don't require every lawyer that have to use the same style that I have. Somewhere in that conversation after the tears, I'm gonna get a belly laugh because I think I'm funny so I'm gonna say something, for example, if you go and look at a client, let's say it's a female client and they are charged with drug possession. You could look at that person and tell that in their day, they were a beautiful person, a physically beautiful person, which you could tell either by, if its meth, you could tell by gums that are just beet red or the rotten teeth. But they're still a remnant of who they were. And I might come in and say "wow" you have the most beautiful blue eyes and that would just, because they hadn't gotten those compliments they used to get before they started using drugs. And it's almost like a ray of hope. So, I will do something even with a guy. I will look at or feel something and say something like hey you look like you use to be an athlete. You played basketball. Just something to get us going then we start talking about the business of the case. For example, where it needs to go and what witnesses you have.

**Interviewer:** Okay, what do you believe is the biggest challenge to your office?

**Respondent:** The biggest challenge, there's a lot of challenges, but the biggest I would say is funding. And when I talk about funding, I'm talking about one top priority is salaries for my staff. And that includes: the lawyers, the administrative assistants, and the investigators. Now, when you talk about the lawyers, not anybody can be a public defender. Number one, you have to have compassion and passion to do the job. But, at least, public defenders should have pay parity with the DA's office. And we don't. A lot of my attorneys pay has been frozen through the State of Georgia. So, they're at the same rate that they were five years ago. And everything else is going up. And it's stressful... The work could be a stressful job. One of my primary jobs is to keep the staff happy so they can better service the clients. I fight for our budget to allow for experts. I fight for any kind of materials that would help us do our job more effectively and battle the other side. You know, it's like a David and Goliath fight. So, my job is to get those resources in to help them to be a better or more effective lawyer.

**Interviewer:** So, what you are saying is that your office work would be more effective if you had more monetary resources?

**Respondent:** Yes, especially on par with the prosecution.

**Interviewer:** Okay, what would you like the general public to know about your office or if you could send a message to public about your office, what would it be?

**Respondent:** Well, I think it would be good if the public knew this analogy that I always make. In our state,

we have Grady Hospital. That's the public hospital. Now, take any state or county, you have the public hospital, and people tend to think, I don't want to go to the public hospital because they don't care. But, I always say that if I get burned send me to Grady because they have the best burn unit. If I get shot, or stabbed, send me to Grady because that emergency room has the best doctors that know how to triage, how to take care, how to sew up those injuries and that kind of thing. Well that's the public defender. We have handled every kind of criminal case and felony imaginable. We do it over, and over, and over again. And what they don't know is that there are, and I'm not going to disparage the others because I love the private Bar, but a lot of times when they pay a private attorney \$15 to \$20,000, I wonder. We have an open door policy. Private attorneys have come to my office and asked me or us for advice. I'll put together a think group and will give advice. They often ask, how is this judge? We tell them their rules and how they're gonna basically rule on certain issues, what issues to argue. We tell them what prosecutors to expect, if you get this one, we could tell them because we work with them every day. So we are better equipped, but it's the perception that you're getting something free, that it can't be good. And we're good.

**Interviewer:** Okay, you may have addressed my next question, but what is the biggest misconception about your office?

**Respondent:** That since we provide services that are free to the indigent public that it can't be good.

**Interviewer:** Okay, how can the public assist your office?

**Respondent:** (Long pause) I don't know, I really don't have an answer for that.

**Interviewer:** Okay, what makes an effective public defender?

**Respondent:** An effective public defender in my office is one who understands the system that I set up. I built that office from day one. I was the first employee, and I hired an administrative assistant to put together the office, and it took me a year to do that. And the concept is based upon teams and what I call triage. So, for example, we have four superior court judges, and so each team consists of let's say we have judge A, B, C, and D. Judge A will have, when I started off two attorneys, one investigator and one paralegal in each one. But since the caseload has increased, most of the courtrooms have three assistant public defenders, one investigator, and one paralegal. A paralegal could research legal issues and write memos. An investigator investigates the case so that because of the volume of cases, the lawyer, and the number of times that the lawyer has to be in court, the lawyer cannot hold the client's hand. But, when the client has needs, and calls, the lawyer may be in court. The receptionist or whoever answers the phone may have to address the clients' needs when he or she says "I want to see my lawyer" and the person who's answering the phone is trained to say okay, let me see who your lawyers, and can you tell me what it is that you need your lawyer to do. The client may say just generally, "I've got some witnesses that I need him to know about." So, the person that answers the phone is trained to say that I am going to request that the investigator, and that would be Investigator Johnson, come out and talk to you and you can give him all those names, numbers, addresses, and whatever you need. So, that lets the client know that you're working on the case. You don't always see the President and that's the triage, and even the paralegals will say, I've got something legal or the client says, "I've been to the library and I know that they can't hold me for such and such and such. They're trained to say okay, can you put that in inmate mail, send it to us and we'll look at it". Now, the paralegal can't give legal advice, but he or she can work it up and say "this is the question" through a memo, "this is the question that the client has. This is my research "and the lawyer does the final work, and sends that out to the client. The client just wants to know that in the hundreds of cases that the lawyer has, that the lawyer hasn't forgotten about him or her.

**Interviewer:** Okay, so if they buy into this approach, does it make them effective?

**Respondent:** It makes them effective because there's always somebody or some entity working on that person's case. While you're at trial in a murder case that may take seven days, or ten days, you've got somebody, a triage team whose job it is to work it up. And that's why I call it triage because the team works the case up. The attorney makes the final decision as to whether this is not good or this is good. I'll take this or like this, and then they can go to the client and say okay here. I got a strategy".

**Interviewer:** Okay, good. Is employee burnout common and why?

**Respondent:** Attorney burnout is not as common in my office because I have learned to see the signs.

**Interviewer:** Okay.

**Respondent:** I discuss this in staff meetings. We get complaints all the time from the clients, and it's gotten to the point where I can open up a letter and read the first paragraph and even if they have not mentioned the lawyer's name or anything and I can in almost 99.9 percent of the time say, "Oh, this is attorney so and so." If it's him or her, the complaint could range from a lack of visitation to the client feeling that the lawyer thinks he or she is better than me. This kind of thing, I always know when I get to the bottom of the letter, or when I go on the computer and see who is assigned to what client. There are lawyers who are absolutely void of bedside manner. But, some of them, if I got in trouble, I would call on them in as they say, "in a New York minute."

**Interviewer:** Okay, what can be done to alleviate the stress of doing the job?

**Respondent:** The more lawyers you have, the less number of cases, you have. The less cases you have, I think the better you are in devoting more time to the case. I always say that a public defender may be a good public defender, but make a bad private attorney. And a private attorney could be a good private attorney and make a bad public defender.

**Interviewer:** What does that mean?

**Respondent:** Okay, what it means is that a public defender by the nature of the beast you have to know how to multi task and triage. Because if you think that you can do it all yourself, then it just won't happen. And you have to understand that you're gonna have a lot of cases. And when that public defender decides, "Hey, I haven't gotten a raise in this office in five years," (and I can't blame him) so I am going out in private practice because I can do this. And then they go out in private practice and experience the billing and chasing money. Once you put your name on a case and you've only gotten \$2,000 but you charged \$10,000, you then know you can't get the rest of the money and that compassion kicks in that you have at the public defender's office because we don't do billing. We don't do that kind of thing in the public and we just work until it's over. And vice-versa, when I have hired a private attorney, some of them don't work out because they can't fathom the number of cases. You can decide how many cases you get in private practice. So, it's not an automatic transfer over. The main thing you have to have in being a public defender is the heart, the compassion for what the cause is.

**Interviewer:** Okay, good. What's the most difficult case or client to defend?

**Respondent:** The kind of client who truly believes that they know as much or more about the law than the lawyer.

**Interviewer:** Do you all actually encounter people who think that they know more about the law than people trained in law?

**Respondent:** It's increasing. I mean we live in a do it yourself world now. Everybody and the law is more accessible. You see these shows on TV, all the court shows, that's the trend. But, what the court TV shows teach a defendant is that you don't have to respect the judge. And you hear them because there's no buffer, there's no lawyer to say, "Hey no, don't answer unless..." We have people, clients who go to the library and read a case and think "I shouldn't be here because of this case" and doesn't understand that there are cases that are overruled there are such and such and such. And they write, not only to us about their revelation, but they write to the DA. If they write to the judge, there are some judges, most of the judges feel obligated, because of the rule of ex parte communications, to send a copy to the DA's office and a copy to us. And hear the client saying "Here's what happened. I didn't do this, but this is what happened, and it's all that incriminating stuff that they know when the police ask not to say, but for some reason, they can write it with some legal argument and think that this is going to be the end all or be all. But that's when the triage comes in to place. There should be simple things that a lawyer can do to help the client such as when you're in jail do not .... We noticed that while clients are in jail, the sheriff's department has started collecting evidence against them. Before we're

listed as the official attorney, they might approach clients in jail and try to convince them that they're their friends and all of a sudden take their statements or place them in cells with informants who befriend them and they start telling what happen and then all of a sudden we've got nowhere to go.

**Interviewer:** Okay, how does the suspect qualify for your office services?

**Respondent:** The eligibility standards are set by the State of Georgia and we have an application and every defendant has to fill out the application. In Clayton, we send investigators, I have five investigators, so that an investigator goes out every morning. Prior to that, we get a list that is faxed to our office every morning from the Magistrates' court and it indicates everybody that was arrested the night before and the cut-off is maybe about 3 or 4 o'clock in the morning. And so the investigators go out and visit those people and ask them, it they need the services of a public defender? Some of them say "no or my momma or I'm gonna hire a private attorney. Most of them say yes so we do the application to qualify them and then if they qualify under the State standards, it's said that it's the same poverty standards that is used for someone who might apply for welfare benefits. The same standards.

**Interviewer:** Okay, are you connected to an association or with any companies? If you so in what capacity? Do you place clients? How does that work?

**Respondent:** No, we're not associated with any companies.

**Interviewer:** Okay, are you on any committees, and if you are, how does that relate to your job?

**Respondent:** I'm on a number of committees in various capacities. And most of them have to do with Accountability Courts.

**Interviewer:** Okay

**Respondent:** That would be your drug court

**Interviewer:** Okay

**Respondent:** We have a mental health treatment court.

**Interviewer:** Okay

**Respondent:** It's not full blown, but it's developing. You have what's called the SOC which stands for System of Care and that's part of a very large grant from the Robert Wood Johnson Institute. Its' focus is on black male juveniles and it's designed to again to use the word triage, to put triage services into a juvenile's home to try to prevent that juvenile from going in the direction that it looks like they're going into. And it's backed by data and statistics.

**Interviewer:** To the best of your knowledge, are these courts meeting with success?

**Respondent:** Well, in Clayton County, we're in our infancy stage, but in the training of Accountability Courts, they are data driven. We are taught to know that success is a long-term thing, that there are gonna be hiccups in a person's rehabilitation or in the process of changing a mindset that might have existed from a child. So, we understand that and most of these programs are not your 30-day detox things. This is a program that stretches out to 18 months of intensive and then followed by aftercare of probably up to 12 months so we're talking about 3 years so with these new programs success is a kind of a fluid situation.

**Interviewer:** Do you all provide any employment opportunities for people in the various programs?

**Respondent:** Yes, that's part of the program. For example, the drug court has identified corporations and businesses that will accept people who are convicted felons and who are in drug court treatment because they are made aware that the people that are in drug court programs are surveilled and tested almost randomly at



least 3 or 4 times a week, so they can be assured that when they're on their job, they're clean and so they're trustworthy. We are still having a problem with housing, but we've been working with parking complexes to kind of corner off an area and at first, people were saying we don't want these "druggies." But, what they realize is that the level of surveillance of probation officers driving around and marshals in police departments driving around, they feel more secure because they get more of a police presence than the average citizens. So, it's a growing. It's a mindset change that has to take place.

**Interviewer:** Are you saying that your office is part of this?

**Respondent:** Well, I'm part of the development. I've helped to develop some of these accountability courts and I have remained either on the board or the steering committee at various levels. But my, assistant public defenders, I assign them to do their part in drug court or in whatever court that is required.

**Interviewer:** Okay, I have one more question (Not able to ask it)

**Respondent:** Which is more work for them then what they actually signed on and that's why. That, and it's it is more work, but it's that rewarding part of it where you have a deeper relationship, but it's almost like a different job than when we started this whole program.

**Interviewer:** Okay, now I would imagine this is where that compassion and that passion kicks in.

**Respondent:** Yes, but the money still, I mean it's really not fair. It's really not so, yes you take the compassion, you say I've got 150 cases and now you want me to go to participate in that, and I think that the money, the federal dollars that are being put in to accountability courts it's not for salaries, it's not for hiring more people. I would love to have an employee who just does all the accountability courts. Let the other ones go in to the court and they can refer. They get the client that "Oh man, this person would be perfect for the drug court, or for the mental health. Get them to that lawyer." So they put a lot of money in. But they're in drug testing, they're in police surveillance, they're in prosecution, but nothing in defense.

**Interviewer:** Okay, and is this one of the major problems you see with this entire initiative?

**Respondent:** Yes

**Interviewer:** Okay, one last question. With regard to contact with the client, do they ever have difficulty in coming to your office? Are there transportation issues with regard to them having contact with the lawyers?

**Respondent:** Yes, there is always. The majority of the defendants who don't or can't make bond and they're in jail so they can't come. And then, a unique situation that we have in Clayton County, Georgia is that we haven't had public transportation in eight years now. There are no buses, there are no trains. People who do get out on bond, we find that they bond forfeit because they can't make it to court. We find that when they do make it to court, a loved one, friend, or family member drives them to court and either can't wait or tries to wait and this causes a big strain on all parties because, you know if the lawyer.. you got three lawyers in that courtroom, and let's say each one of them has 30 clients at an arraignment, Well, they have to wait. So, I mean that's just it, it's gotten to the point where the judge has to instruct that if it's not your case, you have to wait outside and only the defendants can because otherwise the defendants who have cases can't get inside and can't hear when their name is called so when you look at that hallway, it's chaos . . .it's chaos. And everybody's got their tempers high, flare. "I gotta go" "My mama can't wait" "My ride . . ." and such and such and it's just, that makes it just pure chaos.

**Interviewer:** Okay, so let me understand this carefully. This could be alleviated if there was some public transportation.

**Respondent:** Not alleviated, it would make it better because only the defendant would have to come or take public transportation. We're a metro Atlanta county and it is just really unheard of that we do not, or we no longer have public transportation, but to the credit of the administration that's in office now, plans are in the negotiation process to bring back. We citizens of Clayton County had to agree to a one percent increase in the

sales tax in order to fund it. But it's worth it.

**Interviewer:** Is there anything else you would like to comment on with regard to the public defenders' office?

**Respondent:** Yes, I would be remised if I did not mention the valuable resource of having internships with the public defenders' office. I would say that in my opinion we have one of the best run internship programs in the nation. We have interns that come from all of the fifty states and they're third year law students that we certify to practice law, second year and first year law students, we pull from the paralegal schools, we pull from schools of criminal justice. I would like to get into schools of social work and psychology, especially Ph.Ds. That is really my goal because of what they do. We train them, they get experience and we are able to be another part of that contact that the client needs and desires, especially a client who is incarcerated and charged with an offense that he or she could never make a bond for that might need some social work, mental health, things like if that person was on any kind of social security or disability. Once you are in jail those benefits are cut off, and you may ask why and how do they know? The trend here in Georgia and I do not know if it is in other states that they check the websites to see who is in jail and once they find out, the benefits are cut off even if that person had an apartment and could get their rent paid off or get a family member to pay their rent. While they're in jail it gets cut off so even if the person is either released on bonded or let's say we reach a resolution of a case and they were released on probation, they have lost their apartment, all their furniture was put out in the streets and they are essentially homeless. With the interns, I'd like to get people in social work that can help to work in conjunction with us when we start reaching the resolution to start reapplying while they're in jail for their benefits to come back. The application process is not going to be processed by the particular agencies until that person is out of jail, but at least the forms can be filled out so that person would have less time to maybe have to stay with a family member to get their benefits back before moving again. The interns, they are all excited. It is a vital part of the operations. It's a vital part of the triage system that we need to effectively represent our clients.

**Interviewer:** Is there anything else you want to add?

**Respondent:** No, sir

**Interviewer:** Thank you, this completes the interview.

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