

# Overworked, underpaid and backs against the wall: area public defenders face uphill battle



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Wade Brown and Thomas Beutler were both arrested and booked into the Sarasota County Jail in 2022 for different reasons, but their paths crossed after finding out they were in the same situation.

Both men spent the better part of 2022 waiting to hear from their public defender, only to be met with what felt like silence.

They have raised concerns about the lack of communication and how it affects their cases.

It's an issue that's been festering for decades: Public defender offices across Florida and the country are plagued with challenges like low pay, high caseloads, and a growing number of vacancies that seem harder to fill.

“What will eventually happen is that individuals who are entitled to a Sixth Amendment right to counsel will be receiving inadequate representation and our judicial system will be in question in terms of its ability to actually deliver justice in general,” said professor Judith Scully, of Stetson University’s College of Law.

Brown was arrested in June 2022 on felony charges of aggravated assault, false imprisonment and tampering with a witness, among other charges. Brown said he’d only spoken with Assistant Public Defender Mark Adams three times in the seven months he was in jail before his case was moved to County Court when the prosecutor dropped his charges to misdemeanors. He now has a different public defender.

Beutler was arrested on charges of drug possession, resisting arrest without violence, burglarizing an unoccupied dwelling and violating his probation. He said he’s only spoken to Adams once in the 10 months he’s been on Beutler’s case. In that 10-minute conversation, Beutler asked to receive paperwork and a list of court dates. He never got what he requested.

He’s worried about how well-prepared Adams is for his case as the trial nears.

“This has been very hard mentally for me ... and everything is out of my control, leaving me to feel hopeless, angry, and afraid for my future,” Beutler said in a message through Smart Communications, a website that allows inmates to communicate with the outside world.

## **Public defender's office responds**

Complaints like those raised by Brown and Beutler aren’t uncommon, 12th Judicial Circuit Public Defender Larry Eger said.

“The number one complaint that we have control over is they feel that there's insufficient communication,” Eger said.

Some clients demand more attention than others. Eger urges attorneys in his office to communicate with their clients whenever there is an update or any new information. He said attorneys should be reaching out to speak with clients 48 hours after receiving the file, but that could still be three to five days after they're arrested.

Despite this, it isn't possible for assistant public defenders to call every single one of their clients on a weekly basis and spend 10 minutes talking about their cases.

“I mean, you can call your clients every day, but if you're not doing the research, and you're not preparing the case, you're not doing your client a service,” Eger said.

Adams said he's spoken with both defendants — he spoke to Brown 20 days after his arrest and he spoke with Beutler in June, before he bonded out of jail and then ended up back in the facility. Adams, who currently has 240 cases, said he'll be talking with Beutler before his April 5 docket sounding.

The first time Adams usually speaks with his clients is before case management and then before their next court dates, he said.

While defendants generally want more communication, Adams added there's not much information he can give before he receives discovery or in some cases an offer, which is normally what some defendants want to know about. He also calls defendants according to priority when trial dates approach or those who have been in jail the longest.

Most of his days are spent preparing — researching, setting up depositions, and putting together a defense. In response to the concern about not being prepared, Adams said he reviews case files prior to the trial date to have it fresh on his mind.

Scully said a lack of funding poses a huge barrier to adequate defense for low-income defendants, many of whom qualify as indigent and rely on public defenders for representation.

“I want to be really clear that many public defenders are heroic in their efforts to protect their clients,” Scully said. “But they are burdened with so many cases and so few resources that it becomes almost impossible for them to thoroughly investigate their cases and it becomes really difficult for them to even get to know their clients.”

In 1971, the National Advisory Commission on Criminal Justice Standards and Goals was established to create national criminal justice standards to prevent and reduce crime. The guidelines included a limit on caseloads for attorneys: Caseloads shouldn’t exceed more than 150 felony cases per attorney per year and no more than 400 misdemeanor cases per attorney per year.

In Manatee County, the highest caseload among misdemeanor attorneys is 231 cases and the lowest is 191 cases, and in Sarasota County, the highest is 171 cases and the lowest is 130 cases, Eger said. He added that the highest felony caseload is 208 cases and the lowest is 145 cases in Sarasota County, while in Manatee County, the highest is 169 cases and the lowest is 96 cases.

“We cannot have a system that pays lip service to equal justice without actually providing the resources for that reality to occur,” Scully said.

**High turnover rates, high rent among the reasons public defender offices struggle**



In late January, Florida Public Defender Association President and Miami-Dade Public Defender Carlos J. Martinez appeared before the House Criminal Justice subcommittee to ask for another across-the-board pay increase from the Legislature.

“The challenge that we are all having is that we can't bring enough attorneys in because of the high rents and all the other costs of living,” Martinez said. “And the other aspect of it is because of the turnover, people are leaving and leaving earlier than they used to. Because of that, the caseloads have gone up, the open caseloads. So, the attorneys that stay behind are having more cases and more pressure on getting the work done.”

During the last legislative session, the subcommittee approved a \$10,000 across-the-board pay increase, and while Martinez said he's thankful, another pay increase is vital to attract and keep assistant public defenders among the growing rent prices and competitive pay from private firms. This year, Martinez requested a \$15,000 pay increase across the board.

The current average starting salary in the 12th Judicial Circuit for assistant public defenders is about \$60,000, Eger said. If the pay increase is approved, the average starting salary would be \$75,000.

Stacy Scott, Florida Public Defender Association Vice President and Eighth Judicial Circuit Public Defender, said there's been a chronic underfunding of the criminal justice system for a long time, but current circumstances have evolved faster than funding in recent years. Inflation, a competitive job market and rent prices are among some of the reasons behind the crisis.

Historically, funding for public defender offices and state attorney offices have increased, but it hasn't kept pace with what the job market requires for public defenders to recruit, train and retain attorneys, Scott said.

Across Florida, there are 250 vacancies among the 20 public defender's offices, Martinez said. On top of those vacancies, public defenders were assigned more than 521,000 new cases in the last fiscal year, according to an article by the Florida Bar Association.

There are 45 attorneys and four vacancies in the 12th Judicial Circuit, which covers Sarasota, Manatee and DeSoto counties, Eger said. He added his office was assigned just south of 20,000 cases last year, including misdemeanors, felonies and juvenile cases.

The turnover rate in the 12th Judicial Circuit almost doubled from 12% in 2020-21 to 23% in 2021-22, according to a report by the Florida Public Defender Association.

Eger said in his office, the turnover rates were related to people retiring or moving out of state, including all the attorneys in his office qualified to be put on a death penalty case.

A newer problem Martinez said he's come across is fewer applicants accepting a job offer. In December, Martinez made 34 offers to attorneys to start in August 2023. Just 10 accepted the job, creating a 71% rejection rate for offers.

The main reasons for the rejections were the low salary and high rent prices, Martinez said.

Eger echoed the same sentiment, saying he used to have a steady flow of resumes coming in and now, it's been weeks since he's received a resume or inquiry about the open positions.

## **Where does that leave defendants?**



If these issues continue to fester, Scully said the entire judicial system could come into question about its ability to deliver justice.

“How can we possibly say that the legal system is engaged in the endeavor of pursuing justice when people in need of representation are not receiving adequate representation?” Scully said. “That's going to put the entire legal system in question and it will be difficult for anyone to trust our legal system.”

Scully added that more individuals could also begin to plead guilty, even if they aren't guilty of the crime, simply to avoid being stuck in a slow-churning system.

On the other side, state attorney's offices also need to have the resources and staff they need to function efficiently, Eger said, because if the State can't get discovery to the defense counsel in a timely manner, attorneys don't have the time to prepare for the case and case resolution becomes slower.

The domino effect is that people stay locked in jail longer, thus increasing the jail population which increases the cost of keeping defendants behind bars which burdens the taxpayer. Both time and money are paid trying to get the cases through the system, and if a mistake happens and the case has to be appealed, then there are appellate costs added.

Scott added that the victims are also affected as it takes longer for them to get a resolution and start their healing process.

On March 1, Brown pleaded no contest to misdemeanor charges of first-degree battery and violating a condition of pretrial release, according to court records. He was released on probation and must complete a certified batterer's intervention program.

Beutler's case has been slated to go to trial in mid-April, leaving him to sit locked behind bars, worrying for more than a month about what the outcome might be.

"I do want to really emphasize that many public defenders are fierce advocates deserving great respect," Scully said. "They are in the courtroom fighting for their clients every day, and they really deserve the support of the public and the government so that they can do their jobs heroically."

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