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JUSTICE DELAYED

A HAMSTRUNG WNC COURT SYSTEM STRUGGLES TO CATCH UP

WHEN IT'S CHILLY IT'S TIME FOR CHILI

MAKE IT WITH 'THE BEST MEAT IN TOWN'



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WHEN THE LEVEE BREAKS

How a pandemic, a surging population and a striking lack of resources is steering WNC toward a judicial crisis



BY KYLE PERROTTI
NEWS EDITOR

Some catastrophes happen in the blink of an eye, while others develop so slowly they're imperceptible, like a crack in a levee propagating below the waterline.

As the judicial system in Western North Carolina approaches what many are calling a crisis, it seems less and less likely anything substantial will be done in time to avoid depriving those exposed to the court system their constitutionally guaranteed right to due process.

Courts in Western North Carolina were already becoming overburdened prior to COVID-19, due to an overall influx of people, a new drug crisis and a lack of resources. As legislators fail to act and attorneys continue to struggle, especially when representing indigent defendants, the trajectory doesn't look good.

While some have pointed to Haywood County's pretrial release program — which has become a point of frustration among citizens and law enforcement officers who encounter the same offenders with increasing frequency — none of the 40 defense attorneys, judges or clerks interviewed for this story, nor the District Attorney, said that was the cause of the slowdown in the judicial system.

It's simply a lack of action, a lack of shared interest.

ON THE PRECIPICE

Rady Large was born and raised in Sylva and has spent most of his career practicing

law in Western North Carolina. While he spent some time working as a prosecutor under District Attorney Ashley Hornsby Welch, he's now a defense attorney. When asked about the state of the judicial system in the region, he didn't mince words.

"I think we are on the precipice of a constitutional crisis," he said.

Large considers the biggest issue to be the lack of lawyers on the court-appointed list, which is made up of attorneys who will work for meager state-mandated pay to represent defendants without enough resources to hire their own counsel.

He said the nature of the potential constitutional crisis involves the risk of people sitting in jail who shouldn't be just because they don't have representation. For example, Large argued, if one of the few attorneys on the court-appointed list is assigned seven cases in one day, which isn't uncommon, it's impossible to get to all of them and give each case its due. This is made even more difficult by the limited number of visitation rooms in some local jails.

"Eventually, you're going to see that attorney burn out," Large said. "They're gonna be like, 'wow, I'm working out of my briefcase and my car. I'm trying to make rent. I'm trying to pay off student loans.'"

As the crisis of attrition took hold over the last few years, the domino effect began, and those remaining on the court appointed list became more overburdened, leaving periods in recent months where some court appointed lists had zero attorneys. Throughout the reporting of this story, lists typically fluctuated between zero and four people while attor-

neys said in previous years they'd often be in double digits.

"There's going to eventually be a void, and people will sit in jail without seeing their attorney," Large said "And there's no cavalry coming."

Large's concerns were echoed by Roy Wijewickrama, who was elected to the bench as a District Court judge in 2010 and was appointed as the 30th Judicial District Chief District Court Judge in early 2021.

"I think there's a shortage of lawyers here," Wijewickrama said.

Many in the system have also clamored for an increase in the number of judges to allow for more court sessions. Right now, some emergency judges are serving, such as recently retired Chief District Court Judge Richard Walker, but that's not a viable long-term solution. Some have called for the 30th Judicial District — made up of Haywood, Jackson, Swain, Macon, Graham, Clay and Cherokee counties — to be split to minimize judges' travel times while also ensuring more judges in the western counties come from those western counties.

Currently, all but one who currently hold a seat on the bench are from Haywood County.

Large said he understands that it's easy for people to be unsympathetic toward criminal defendants but thinks it's paramount that they respect the Constitution.

"You want to have a criminal defense attorney over there making sure that the state does their job right and follows the law," he said.

But that very right to defense counsel may be in jeopardy.

"When everyone is overworked, everyone is burnt out," Large said. "That's when bad things happen."

A 'PERFECT STORM'

In March of 2020, as COVID-19 took hold, North Carolina Supreme Court Chief Justice Cheri Beasley issued an order halting almost all court system operations in the state. Over a year later, after defeating Beasley, newly elected Chief Justice Paul Newby issued his own order opening courts back up with certain precautions.

When the courts were shut down, a large backlog of criminal cases developed, and as people with pending charges were released from jail to avoid overcrowding, some accumulated a serious number of drug-related charges.

The court shutdown came at a particularly tough time for the 30th Judicial District as the region experienced a large influx of new residents and visitors, a trend that's only expected to continue. Complicating things further was the explosion in the use of fentanyl, a powerful and addictive opioid that has overburdened medical and legal systems everywhere.

On April 26 of this year, a PowerPoint presentation produced by the North Carolina Administrative Office of the Courts (AOC) compared trends in Western North Carolina with those seen statewide. While the number of pending felony and district court criminal cases rose 16% and 1%, respectively, some WNC counties saw a shocking boom, including Cherokee County, which saw a 55% and

20% rise in those same numbers. Clay County saw a 57% rise in pending felony cases and a 30% rise in DWI cases. Some counties, such as Haywood and Jackson, saw numbers that appear better than the statewide figures, but those far-western counties have fallen behind more than their counterparts.

District Court Judge Kristina Earwood called COVID, the drug crisis and the region's demographic shifts a "perfect storm," discussing not only court slowdowns but also how the pandemic exacerbated mental health issues, leading to more drug-related criminal cases, as well as more family law cases.

"There's been an explosion of DSS and custody cases," Earwood said. "For two years, nobody saw these kids. There were no doctors, coaches or teachers to make the reports."

"We probably have more kids in foster care than we've ever had," she added.

Large noted that COVID restrictions also made it tougher to visit clients in jail, even though jail staffs did "everything they could."

"Also, court-appointed defense attorneys weren't exactly listed as essential workers," he said. "But we were required to do that. Just because there's a pandemic doesn't mean that our clients don't have the constitutional rights."

Danya Van Hook, who served as a District Court judge from 2009-2011 and then bar president for Haywood and Jackson counties from 2016-2020, acknowledged that the wheels of justice turn slowly by nature, but she still has her concerns.

"There were enormous delays due to COVID because we could only hear 25 to 100 cases per day," she said. "Regular dockets are 400 criminal cases per day."

District Court Judge Monica Leslie agreed that things are backed up, noting that domestic cases are running 12 to 18 months before they're heard.

"We're not happy with it, but there's only so many of us to do it," she said. "We've been working our tails off to alleviate the backlog, but there's not enough time and personnel to alleviate it as quickly as we'd like."

NEGLECTING THE INDIGENT

As more people living below the poverty line are exposed to the justice system, ensuring everyone has representation has become a growing concern, especially as attorneys show less willingness to do court-appointed work. The state's going rate for court-appointed work stagnated until recently receiving a slight bump up to \$65-85 per hour for most cases, still about half of what federal court-appointed attorneys make. Considering the high cost of running a practice, including rent, utilities, staff, materials, and student loans, that simply isn't enough for many lawyers.

Superior Court Judge Brad Letts, the Senior Resident Superior Court Judge for Haywood and Jackson counties (District 30B), has appealed to attorneys regularly over the last few years to take on court-appointed work. He has also written to Indigent Defense Services, the state agency tasked with ensuring everyone receives representation. In a December 2021 letter from the

Committee on Indigent Appointments for the Superior Court Judicial District 30B — made up of Letts, Wijewickrama and other stakeholders — to IDS Executive Director Mary Pollard, the group noted that things are only getting worse. At the time that letter was written, there were no attorneys on the court-appointed list for high-level felonies in Haywood.

A meeting of the bar representing the attorneys of Haywood and Jackson counties was held Feb. 4 of this year in the Haywood County Justice Center jury assembly room. Thirteen attorneys were present, and the topic of discussion was how to handle the problems with the court-appointed lists.

Following that meeting, on March 7, Letts wrote a letter to IDS Executive Director Mary Pollard formally requesting a public defender

"At what point am I letting the quality of the product slip because I'm stretching myself too thin?"

— Attorney Rich Cassady

office whose sole job would be to provide representation to indigent defendants. In that letter, Letts references the February meeting, writing that a consensus was reached calling for a public defender office.

"Our local bar has made numerous efforts and, without exception, valiantly done all which could be reasonably asked of them to assist ... Haywood and Jackson Counties continue to lack sufficient attorneys on the court-appointed lists and in turn regularly encounter barriers in maintaining a timely and efficient system for providing sufficient and effective legal representation and related services to indigent defendants," the letter reads.

"When considering the past issues which have arisen, the present need for court-appointed counsel, and the overwhelmingly positive support expressed by those in District 30B for a public defender office, I believe the request is well-reasoned and warranted by the reality which now exists in the courtrooms of Haywood and Jackson Counties," the letter continues.

In a written statement to The Smoky Mountain News, Letts reiterated that feeling.

"At the current time we simply lack enough attorneys to accept court appointed cases," Letts' statement reads. "Due solely to this lack of attorneys able to accept appointment in criminal cases I believe a public defender office is needed in District 30B for Haywood and Jackson Counties."

Attorney Leo Phillips, who has an office in Cherokee County but practices across the district, talked about his frustrations with the workload he takes on from the court appointed list.

"You can't effectively handle this many cases, especially with the prosecutors not giving reasonable plea offers," he said.

Rich Cassady out of Macon County said he got off the list because he "could only be in one place at a time."



A look inside Graham County's filing room, which is woefully small considering the increasing number of court cases. Kyle Perrotti photo

"At what point am I letting the quality of the product slip because I'm stretching myself too thin?" he said.

Another attorney who's strongly advocated for a public defender office is Jay Pavey, who practices on the court-appointed lists for all felonies out of Jackson County.

"I'm getting inundated with a huge number of cases," he said last month. "Of the 67 people incarcerated in Jackson County, 22 were mine."

Pavey agreed with some of the urgent statements others made to SMN.

"I think it's accurate that it's the worst it's been," he said.

He talked about a client of his who had been sitting in jail for 10 months without an indictment.

"If they drop the charges on this guy, he's wasted 10 months of his life in jail," Pavey said.

Pavey said a public defender office is needed, especially given the growth of Haywood and Jackson counties, and added that an email chain he'd seen between several attorneys made it clear that most were in favor of it.

"Having a group of dedicated professionals working together, quality of defense would rise," he said.

Some judges expressed their support for a public defender office, including Wijewickrama, who said it would alleviate many of the burdens facing the district.

"You have a committed staff on salary that are permanently working in the court system and are focused solely on indigent representation," he said.

Earwood herself was on the court-appointed list as a defense attorney before becoming a judge. She said that when a situation arises where there's no one on the court-appointed list to step up, she has to "beg, borrow and plead" to get someone representation.

Judge Leslie agreed.

"Without a doubt, a public defender office would help," she said. "We are desperate at this point. There's only one attorney on the A-E [the highest-level felonies] list, so every trafficking case, he'll get appointed one defendant, and we'll have to beg people to represent the codefendants."



Graham County Clerk of Superior Court Tammy Holloway points out where the grand jury has been assembling to deliberate in a construction area. Kyle Perrotti photo

JUDICIAL, CONTINUED FROM 7

HELP ON THE HORIZON

In April, Pollard gave a two-hour presentation during a “continuing legal education” session held at Wells Events Center in Waynesville, where she spoke to a “full room.” She believes people were genuinely enthused by the possibility of a public defender office.

“I think the message was well-received,” she said.

Pollard was frank about where she stands on the need for help in Haywood and Jackson counties. She believes a public defender office for 30B would be beneficial, considering the “shortage of counsel.”

In 2008, a public defender office was established in District 29B, which includes Transylvania, Henderson and Polk counties. Beth Stang, who has worked in that office since it opened, was appointed Chief Public Defender in 2020. She said one advantage of working as a state employee at a public defender office is the benefits, such as retirement and paid vacation, and the fact that overhead and staffing headaches are entirely avoided.

“We can focus on our work,” Stang said.

A concern among some on court-appointed lists around Western North Carolina is that a public defender office would pick up cases they’d otherwise take. Stang pointed out that there are still limitations on their workload, and in many cases, such as drug trafficking conspiracies, there are enough codefendants that not all can be represented by the office due to conflicts of interest.

Stang takes pride in her office’s capabilities. She said a key to success for a public defender office is hiring the proper attorneys

and developing chemistry.

“It’s important that we have the right group of people committed to the work ... If you’re coming into work every day, and you’re happy to work around the people you do, it can go a long way,” she said.

Pollard also discussed the process to appoint a public defender. First, the bar convenes and nominates two or three individuals. Next, AOC comes up with a nomination. Finally, the Senior Resident Superior Court, Judge Letts in this case, appoints someone.

At best, the legislature could approve a public defender office for 30B in 2023. Some attorneys believe it would still be up to a couple of years after that before the office is operational, but Pollard said it could be as early as the beginning of 2024.

“Some relief will come relatively quickly,” she said. “The heaviest lift is just getting the General Assembly interested.”

Pollard said there are a couple of ways for the legislature to consider a public defender office. One is for a representative to propose it; the other is a formal process by which IDS submits a budget expansion request.

“I’m inclined to propose it,” Pollard said.

Public defenders have a dedicated staff that can roughly mirror the district attorney’s, although the appointed chief public defender gets control over staffing and the office’s budget. Pollard said sometimes, for any number of reasons, the staff could be bigger or smaller than that of a District Attorney’s office.

According to an email chain between members of the bar, the committee intended to send a letter to regional legislators advocating for a public defender office to be approved in June of next year. An email from Van Hook in that chain notes that the timeline is “aspirational.”

All legislators who represent Western North Carolina said they’d be interested in

looking into a public defender office, and Sen. Kevin Corbin, R-Macon, said there might be a realistic possibility that could happen.

“I do think we can get a public defender office in 2023,” Corbin said.

SPLITTING THE DISTRICT

Most attorneys and judges in WNC seem to agree that splitting the 30th Judicial District and adding judges would alleviate the burden on the system.

In early 2021, a meeting attended by judges, legislators and District Attorney Ashley Hornsby Welch was held. While neither the judges nor Welch would discuss what was talked about, the legislators provided some details.

“[The judges] expressed to us the fact that they’re overworked,” Corbin said.

“I got the impression that judges all wanted the district split,” Rep. Karl Gillespie, R-Macon, said.

Following the meeting, Rep. Mike Clampitt, R-Swain, proposed House Bill 405, which would have put Cherokee, Graham, Clay and Macon Counties into their own dis-

“The information that came out of that meeting helped me decide that it would be in the best interest of all the citizens of my area to split the district.”

– Rep. Mike Clampitt, R-Swain

trict court district, and Haywood, Jackson and Swain into another, while also adding two more judges in the new western district, and another Assistant District Attorney. The Superior Court district was split in a similar manner decades ago. Clampitt said the numbers at the time of the meeting indicated that counties couldn’t hold enough court to keep up with the caseloads. Considering most courthouses have extra courtrooms, more judges would mean more court sessions.

“Western North Carolina is just so large and diverse, and we were having a backlog of cases,” Clampitt said. “The information that came out of that meeting helped me decide that it would be in the best interest of all the citizens of my area to split the district.”

If it had been signed into law, House Bill 405 would have cost the state \$554,000 while also authorizing \$759,000 in recurring funds for the following year.

Clampitt said he thought there was enough regional support for the bill. The judges who spoke with SMN seemed to generally favor splitting the district, and an April 2021 article in *The Mountaineer* quoted Welch as hinting toward that same fact.

“We believe comment about such a split is best left to the judges themselves, since they have initiated the action and sought passage

of a public defender office in the General Assembly,” Welch said in that article.

Large noted that splitting the district makes sense to him, and he felt he wasn’t alone.

“All I know is that the overwhelming members of the bar that I talked to thought that it was a good idea,” he said.

A key benefit to splitting the district many pointed out was that it’d ensure there are judges who come from those western counties. Perhaps no one understands the difference between Haywood and Jackson counties and the western counties better than Judge Tessa Sellers, of Clay County, the only district court judge who isn’t from Haywood. She pointed out that there are plenty of other duties judges must fulfill besides just holding court, some of which include being available on nights and weekends. Because she’s the only judge in the west, she is the de facto person to handle such situations.

“I don’t mind doing that. It comes with the territory, but it’s a bigger workload when I’m the only judge,” Sellers said.

House Bill 405 would have put Swain County in District 30B to ensure the inclusion of the entire Qualla Boundary, a change that also would have been made to the corresponding Superior Court districts. This was important because most alleged crimes committed on tribal land involving non-tribal members must be handled in state court.

A resolution submitted by Principal Chief Richard Sneed to Wijewickrama and AOC Director Andrew Heath noted the tribe’s support for House Bill 405 and alleged that residents “do not have meaningful access to justice because of how the District Court districts, the Superior Court districts and the prosecutorial districts are divided and how the judges in those districts are assigned to hear cases.”

“The way in which the districts are currently divided is outdated, inefficient and deprives residents of the western counties meaningful access to justice,” it reads.

One issue at hand when considering a district split was the long travel times judges regularly have to endure, given its large area and rugged terrain. Judges traveling from Haywood to western counties drive up to two hours.

AOC uses a workload formula developed by the National Center for State Courts to determine how many judges are needed in each district. While the formula calls for 266.5 judges in the state, 282 are authorized. The 30th district needs 6.4 judges and six are authorized. While similar numbers are seen in other districts, it’s worth noting the formula is based on a 30-minute commute. In the 1st Judicial District, which is about as large as 30 and spans the marshy northern areas of the Outer Banks, the number of judges needed is 3.7, yet five are authorized.

THE SAGA OF HOUSE BILL 405

While many believe House Bill 405 had strong support among regional legislators

and attorneys, it died in a judiciary committee without even being heard.

Since then, there have been rumors that Welch — who has her main office in Macon County — didn't want the district split since it could lead to a split of the prosecutorial district down the road. Clappitt alluded to that fact and even mentioned a potential compromise during his interview.

"I reviewed with [Welch] the plan that I had with the bill information and assured her there was no jeopardy to her prosecutorial district," he said.

If that was a concern, it perhaps wouldn't have been unfounded. Large, who served as an assistant district attorney under Welch, said he thinks splitting the judicial district would naturally lead to splitting the prosecutorial district. He didn't seem to think that was necessarily a bad idea.

"That's a big chunk of land," he said. "There was one day when I was an ADA that I had to start my day in Haywood; then I had to go to the courthouse in Sylva, then Bryson City, then Robbinsville, then Cherokee, then Clay, and then I finished in Macon. I couldn't do that in one day. The geography just makes it so difficult."

Former Chief District Court Judge Danny Davis said he'd heard secondhand that Welch had expressed concern over the bill, although he never heard anything directly from her. The same goes for Cassady, who said there would be more political pressure on Welch if the district was split, noting that she is less popular in the western counties.

"If it were a four-county district, she would routinely have an opponent [in the Republican primary]," he said.

Phillips said he would run against Welch without hesitation if the prosecutorial district was split. After admitting he almost ran this go-round, he reconsidered and said he plans on running in 2026 either way.

"If I'm still alive and kicking, I would probably run," he said.

Phillips said he gets most of his work as a paid employee of the Eastern Band of Cherokee Indians (EBCI) serving as an advocate for children in family safety custody, a job he has come to love.

"If they offered me a full-time job, I'd say that's what I'm doing," he said.

Unlike others interviewed by SMN who discussed only rumors, Phillips said he had a conversation with Welch herself in which she said she wouldn't support splitting the district.

"She told me flat out she couldn't support it," he said, adding that reasons she gave him were purely political.

Phillips said it was tough to witness what he believes has been Welch's poor performance as an administrator, especially considering her renowned abilities as a prosecutor, as well as a strong friendship they've maintained throughout the years.

"I helped her raise money ... and I'm really disappointed," he said.

Cherokee County attorney Zeyland McKinney, who has practiced law since 1983, said he considered running for DA this year but ultimately chose not to. Like Phillips,

McKinney hasn't been happy in the DA's office, claiming Welch micromanages prosecutors and ties their hands.

"It doesn't make for a good system," he said.

McKinney believes the district should now be split.

"Splitting the district might enable Ms. Welch to do a better job as DA than she's doing now," he said. "I don't think there's anything she's doing well."

That sentiment was explained by Sybil Mann, who now works for the EBCI Attorney General's office but worked six years under Welch's predecessor, Mike Bonfoey.

"What I hear from attorneys in the 30th is that there's a lack of discretion given to ADAs," she said.

Mann noted that the discretion she had as a prosecutor to negotiate plea arrangements in cases she prosecuted is what made the system work for everyone.

"If you don't trust your people to do that, it slows down District Court quite a bit," she added.

Mann said if political motivations were keeping Welch from splitting the district, it wouldn't be the first time something like that has happened. She noted that when former District Attorney Charlie Hipps was running for his second term, there was a challenger from Cherokee County who could have possibly won based on his strength in the western counties. Mann said Hipps advocated for splitting the district at that time since it

"There has been this perception since that meeting, that I had that kind of power, and I don't. If I do, I'm not aware of it."

— District Attorney Ashley Welch

would ensure he could maintain his electoral strongholds in Haywood and Jackson counties without having to worry about the western counties.

Phillips admitted that COVID created problems but also pointed a finger at Welch's office, saying he believes not enough plea arrangements are made and that some defendants languish in jail far too long before their cases are resolved.

"They're good people, and I like them," he said of the staff who work under Welch. "But you can't even get the prosecutor to sit down with you for a plea arrangement."

Welch takes extreme exception to allegations coming from some attorneys regarding her perceived role in House Bill 405's demise, as well as their claims that her office has been tough to work with. She noted that when she'd heard certain attorneys were "grumbling" about plea offers getting held up, she met with them.

"I said, 'OK, tell me what's going on, because if I'm not told, then I may not necessarily know,'" Welch recalled, adding that she thinks those negative perceptions about her have been "worked out" in Haywood and



It wasn't clear where District Attorney Ashley Welch stands on splitting the district, but she said she firmly supports adding more judges and opening a public defender office for Haywood and Jackson. *Quintin Ellison photo*

Jackson county.

Nonetheless, Welch has been bothered by many of the claims she's heard.

"Everybody loves a good story, and everybody likes drama," she said. "I have been a little disappointed."

Some attorneys spoke of potential consequences the DA's office could inflict if they spoke out — consequences that could hamper their abilities to defend their clients.

"If I were to find out that I had prosecutors that were doing things like withholding discovery or being harder on their plea offers and treating some lawyers differently than others, they'd be fired," Welch said.

Welch wouldn't say what was discussed at the meeting with the judges and legislators.

"Part of my role is to keep the public's trust of the judicial system and keep it above board," she said. "I think if I were to discuss that meeting that was intended to be more informational than public that it may have this negative impact that I don't particularly want to bring."

However, she firmly denied exerting any undue influence over the process.

"There has been this perception since that meeting, that I had that kind of power, and I don't," she said. "If I do, I'm not aware of it."

"I didn't talk to anybody in Raleigh about [House Bill 405]," she added.

Legislators backed that claim.

"Ashley did not lobby me one way or the other," Corbin said.

"I have heard that story, and I don't know why that got started, because she has not lobbied me for or against it," Gillespie said.

Van Hook said that while she's in favor of splitting the district, she also believes that in the legal community everyone has an agenda and rumors gain traction quick. She acknowledged that she'd heard the rumor regarding Welch's lobbying against the bill but also made it clear she didn't believe it.

"Nobody has proof that she actually did

that," she said. "It's just an assumption."

Welch wouldn't go on the record with her opinion about splitting the judicial district but did admit that she wouldn't want the prosecutorial district split, saying that because funding for DA's offices is set by statute and based on population, splitting her district would hurt the less populated western counties.

The only people who really know what happened to the bill are legislators, many of whom pointed at Republican leadership — namely House Speaker Tim Moore — as being the person who wanted the bill to die in committee. Corbin said he was told by Gillespie that Moore told him firsthand they weren't going to allocate resources toward splitting any judicial districts, no matter the need.

Moore did not respond to multiple inquiries by SMN over multiple weeks.

"There was not enough support from leadership," Corbin said.

Rep. Sarah Stevens, R-Surry, who is an attorney herself, chairs House Judiciary Committee 2, where the bill died. She agreed that Moore came down and said no districts were getting split, adding that even sponsoring the bill was basically frivolous.

"Several of Mike's bills involving criminal and civil penalties were not ready for prime-time," she said.

Stevens added that even if the bill had made it out of the Judiciary Committee, it would still not likely go too far, considering it'd have to be heard by the House Appropriations Committee.

"It truly came down to dollars and cents," she said.

Corbin is hopeful that at least new judges will be added next year. Gillespie agreed, adding that he also still isn't opposed to splitting the district.

"What I am opposed to is not doing anything," he said.

ADDITIONAL PROBLEMS

Even if more judges are added and a public defender office is established in 30B, there are other concerns that need to be addressed, including a shortage of clerks across the district.

Haywood County Clerk of Superior Court Hunter Plemmons said that while he has enough staff to support several courts each day, according to an AOC formula like the one used to determine the appropriate number of judges, he should still have two more clerks.

"We're able to keep up with it, but it's a struggle, especially if someone is out or sick," Plemmons said.

In addition, by the end of the year it's likely that Haywood County will get its drug court running. While it'll have its own administrator and docket, the program won't come with any more judges or clerks. In fact, the court sessions will ultimately take away from sessions that would be held in western counties.

"We're going to lose courts," Sellers said. Things are even worse for clerks in those western counties. Take for example Cherokee County, where Roger Gibson is the Clerk of Superior Court. While Gibson said COVID created a terrible backlog, AOC allowed his office to have some part-time help to get through the heavy workload. But that doesn't exactly mean things are going as well as they could.

"We've had three courts going at times because we have three courtrooms," he said. "But we are still stretched thin in our office."

Gibson has eight employees total. Considering two clerks are needed in any criminal court, that means any unforeseen absences can hamstring everything.

"At the end of the day, we've carried the burden," Gibson said. "But can we satisfy and meet the ends of the public the way we should? No, because we don't have the staff."

In Graham County, Clerk of Superior Court Tammy Holloway said her employees also wear a lot of hats. And while she could certainly use another clerk, there'd be other problems to deal with if she got one.

"I'd have nowhere to put them," she said. As the justice system grows, so too must the facilities, and Graham County is working toward building a new courthouse. Holloway said the commissioners have taken steps toward breaking ground, and Corbin secured \$5 million from the state for that project, but there doesn't seem to be any solid timeline.

While several people interviewed mentioned a new courthouse and jail may be on the way for Graham County, County Manager Jason Marino was unable to be reached for comment.

Either way, for now, Graham County is stuck with what it's got — an old building with poor ventilation that has one courtroom and a filing room that's far too small for the increasing number of records. The facility is so small and outdated that grand juries have to assemble in a building across the street that is currently undergoing renovations. The people determining whether members of their community should be charged in Superior Court are deliberating in a construction zone. The very spot they sat and dis-

ussed whether probable cause existed for a litany of felonies was dusty and dilapidated, the site of a future coffee shop that still appeared to be a long way off.

In 2017, 30A Senior Resident Superior Court Judge William Coward issued an order mandating that trials can be moved to Cherokee County if necessary. That includes providing transportation for jurors, including one deputy on each bus for security. All expenses, including meals for jurors and the defendant, are to be paid by Graham County.

The order clearly calls out the issues with the Graham County Courthouse. It notes that the courthouse may not be adequate to provide for a "modern trial" with expected provi-

"At the end of the day, we've carried the burden. But can we satisfy and meet the ends of the public the way we should? No, because we don't have the staff."

— Roger Gibson, Cherokee County Clerk of Court

sions for security and due process. It also states that the building isn't entirely secure since it has multiple entrances that aren't always monitored.

"The courthouse is not secure in relation to the modern-day threats of violence," the order reads.

Another issue is that jurors are required to be separated from everyone else who may be in the courtroom throughout the trial. But in Graham County, they have nowhere to go during breaks, except for hallways shared with witnesses, victims and even defendants. The order also calls the jury deliberation room "inadequate," noting it can barely fit 12 people.

"The jury room is not sound-proof," the order reads. "While in the jury deliberation room, the jurors can be heard talking by those present in the courtroom, the jurors can hear what's going on in the courtroom when they are sequestered from the courtroom during trial."

Holloway said that's accurate. "We've even heard them shouting at each other and arguing," she said.

To make matters worse, the Graham County Jail conditions are abhorrent. SMN was allowed to walk through the small facility, which was built to hold eight inmates but frequently ends up with up to 30. On the day SMN visited, the female inmates were laying on thin mattresses strewn about the hallway of the "drunk tank." Throughout, inmates were crowded in a facility that was clearly unsanitary and unsafe.

A LACK OF RESOURCES

While there are plenty of issues and plenty of things that can be fixed, at the end of the day, at the heart of almost every problem is a

lack of resources at the state level, a fact that may have been the only thing people interviewed by SMN for this story agree on.

"I think Western North Carolina has been neglected to a certain point with a lot of benefits that other towns and other cities in the state get," Clampitt said.

Welch said she believes there is a lack of overall resources in the judicial district, from her staff to the number of judges. Concerns about inadequate resources have also arisen when discussing the potential district split.

"Splitting a district, whether it be district or a prosecutorial district, it's very expensive," she said.

But Welch doesn't think that's necessarily rare for areas outside of North Carolina's metropolises.

"When I go to DAs' conferences and I talk to elected DAs from rural areas, we all sort of feel the same in terms of needing more resources and the strain on the court system," she said.

Even Rep. Stevens has concerns regarding a lack of overall judicial resources.

"I have expressed that concern a couple times," she said. "Judiciary took a few hits in 2008-09 and it doesn't seem to have recovered. We have all this noise about financing schools ... that's 60% of the budget, but you end up having less to spend on the judiciary."

Stevens said that lack of resources factors heavily into conversations about adding judges and splitting districts.

"We're not looking at a lot of expansion in the budget," she said.

Western Carolina University Political

Science Professor Chris Cooper agreed with Stevens' characterization that the judicial system takes a lower priority.

"This is not a new complaint," he said. "The funding issue is just not a salient issue for voters. It does make for a better government, but it doesn't make for better bumper stickers."

Cooper also discussed how the courts have been politicized but noted that's nothing entirely new.

"There's too much power to be exercised for political will to not be involved," he said. "If politics is about moving levers of power to gain influence, then what better place than judiciary? Sometimes it's naked and transparent like partisan judicial elections, and sometimes it rears its head behind the scenes."

Most attorneys weren't certain exactly what a "worst-case scenario" may look like should the system reach the point of crisis. While IDS could contract with attorneys outside of the district who may not normally practice here to handle court-appointed cases, it seems that reaching the inflection point would most likely lead to overcrowding of jails and even dismissed charges — justice averted for victims and justice delayed for defendants.

For that reason, Large said action is needed now before the levee breaks and the only thing left is damage control and triage.

"We're in an adversarial system, and it's like that for a reason," he said. "But we need to address this stuff. The constitutional crisis is looming. It's on our doorstep."



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Are courthouse politics gumming up the system?

When I came back to The Smoky Mountain News after six months away from journalism, one of my first trips was to the Haywood County Courthouse.

During my time working for The Mountaineer, a Haywood County community newspaper, crime and courts became my favorite beat. I made many friends in the courthouse, including attorneys, clerks, judges, bailiffs and even a few frequent defendants. When I returned after being absent several months, one of the first things I heard — on separate occasions from separate people — was the sad state the judicial system is in.

While the story I wrote in this week's edition does plenty to explain the nature of that problem and some of the solutions, what it may not exactly capture is just how badly the system is hamstrung due to internal politics. Many spoke of issues between judges, prosecutors and defense attorneys that have hurt the system just as much as anything. However, when it

came to on-the-record statements about the root of those problems, most hedged or declined to comment altogether.



Kyle Perrotti

News Editor

In a sense, to call out the toxic politics within the system would possibly require implicating their own participation in that system.

But after speaking with 45 people — including judges, attorneys, prosecutors, clerks, law enforcement officers and academics — it was clear that the key question of how politics is hurting the system wouldn't be answered in any way that could be included in this week's story. So, we went with what we had — a story that from the outside probably looks close to complete.

But those inside will know.

Readers can be certain this won't be the last story they'll see on this topic, as it is evolving, and solutions may be a few years off. We might even find that simply by publishing this week's cover story, it'll shake things up enough that more people we'd never considered reaching out to would talk to us. We can hope that as more reporting comes out, more people will be willing to illuminate the dark corners of this issue.

In the meantime, reporting this week's cover story has been an eye opener. Many readers fancy themselves as being folks who'll never have to go through the justice system. But no one knows when, by matter of happenstance, they'll find themselves in a courtroom as a defendant or a victim. We hope anyone in that position will find the system upholds their constitutional rights and that justice is served. After all is said and done, that's what's most important.

(Kyle Perrotti can be reached at kyle.p@smokymountainnews.com)

Time to end single-use plastics

To the Editor:

The Western North Carolina Climate Action Coalition and the Outdoor Mission Community wish to express our sincere thanks to the residents of Haywood County for their support of our reusable bag giveaway called Bring Your Own Bag (BYOB) Haywood that took place in honor of Earth Day on April 22.

Months before the event, more than 40 local volunteers worked diligently on sewing bags from donated cloth plus feed and seed bags. The mayors and town boards of both Canton and Waynesville signed proclamations in support of BYOBag Haywood and called for a reduction in the use of all single-use plastic in honor of Earth Day.

Over 1,400 reusable bags were distributed to residents at 12 locations in Waynesville, Canton, and Clyde in order to draw attention to the growing number of single-use plastic bags used in our county and how they affect our health and environment.

Single-use plastic bags like the ones supplied at grocery stores are used for an average of 12 minutes, and a typical family goes through about 1,500 bags every year. As the average grocery store in Haywood County serves about 2,000 families, that adds up to 1-2 million bags per store per year. These bags break down into small particles called microplastics that are in the water we drink, the food we eat, and the air we breathe. Recent studies show that microplastics are in human tissue and blood, increasing the risk of cancers, infertility problems, and inflammation.

We wish to extend thanks to the participating businesses and organizations in Canton and Clyde: both Food Lion stores, Tractor Supply Co, Pigeon River Mercantile, and the town of Canton's Chestnut Park grand opening, and in Waynesville: GO Grocery,

LETTERS

Haywood Community College, Haywood Historic Farmer's Market, Hometown Hardware, Mast General Store, PetSmart and Staples.

Additional reusable bags were generously provided by Food Lion Canton, Ingles Markets, and Staples.

Thanks also to supporting businesses and organizations: Ace Hardware (Waynesville); Big Brothers, Big Sisters; Creation Care Alliance of WNC; First United Methodist Church (Waynesville); Grace Church in the Mountains (Waynesville); Haywood Waterways Association; Haywood Parks and Recreation, Haywood County Arts Council, HIGHTS, and Junaluska Feed Store.

The BYOBag Haywood Earth Day event also included a Community Partner Showcase at Haywood Community College and a clean-up of Allen's Creek in partnership with Haywood Waterways Association that yielded 34 large bags of plastic, styrofoam and other trash in an hour and a half. BYOBag Haywood was also one of three featured

Western North Carolina projects which focused on the problem of single-use plastic bags presented at the Creation Care Alliance of Western NC Vigil on April 24 at First Baptist Church in Asheville.

We are deeply grateful to everyone who participated, supported and volunteered in the BYOBag Haywood event. It was so encouraging to talk to people who were also concerned about the problem of single-use plastics in Haywood County and welcomed the idea of taking a reusable bag with them every time they shopped. The work continues, but with your help, we can preserve the health and beauty of this place we call home.

Kathy Odvody
Outdoor Mission Community Board
Chair & BYOBag Haywood Project Director

Betsy Wall
Western North Carolina Climate Action
Coalition Steering Committee Chair

Madison Cawthorn has got to go

To the Editor:

A recently released video shows Maddy and friends having fun and filming some foolish, immature pranks. I have no problem with that; he was young, foolish and immature. Who among us did not do foolish things when we were young?

The big problem is, though not quite as young, he is still just as foolish and immature. These are not qualities I want in my congressional representative. What are his assets? A pretty face and the ability to attract media attention. Again, not qualities I look for in my congressional representative.

He can wrap himself in the U. S. flag as much as he likes, but he still stinks. Baddy Maddy's got to go!

Joanne Strop
Waynesville

Park fee proposal deserves support

To the Editor:

In response to the Swain County commissioners' opposition to the Great Smoky Mountains National Park parking fee proposal, I have several points. Most importantly, let's agree that the national park provides a precious asset, both locally and nationally, and is well worth supporting.

But the commissioners, our elected officials, responded within 24 hours of its announcement to oppose the parking fee proposal without any input from their constituents. It appears a knee-jerk response based on past wrongs.

What percentage of Swain County residents are descended from folks who sold their land to make the Park? According to the Park Service presentation, only about 15 percent of the land came from about 1,200 individual

landowners, some here and some in Tennessee. Swain County now has over 14,000 residents (2020 census). The other 85 percent came from lumber companies. Whoever the previous owners, it's in the past, nearly 100 years ago. The best way to positively affect the current situation is to let go of the past, let go of the grudges, let go of feeling victimized, and work on what is now and how to move forward. All the Swain County land that lies within the Park brings in many visitors and tourists dollars, paying local taxes and providing jobs, and Swain County is not being asked to provide any money in return to take care of the Park.

Like the substantial number of local residents who aren't from here, I speak as a person who moved here about eight years ago. By far most of the people I meet who live here aren't from here but moved here as I did, in part for the lifestyle — including the national park. I have talked to hikers and other folks who moved here from elsewhere and have gotten positive responses to the parking fee proposal. The amount seems minimal; the proposed annual fee is less than taking the family out to a local restaurant. Like me, many others also support the Park as members of Friends of the Smokies and Great Smoky Mountain Association. I hike in the park regularly and have hiked all the trails (900-miler). I'm in the park a lot. It's beautiful! I also notice the overcrowded parking lots, the occasional non-working or dirty restrooms, the lines at the visitor center counter to ask the rangers questions, the trash along U.S. 441/Newfound Gap Road, the occasional trail that needs maintenance or has bridges out, the "deferred maintenance," the bear or elk traffic jams with no Ranger to guide the vehicles, the littered picnic area in Deep Creek.

I agree that more money is needed to maintain the Park. Parking or other user fees all stay in the Park to preserve it. How many have listened to the Park's justification for the fees? This link lays out the park visitation and the financial details — The People's Park - Great Smoky Mountains National Park (U.S.