The Four Pillars of Holistic Defense

1. Seamless access to legal and non-legal services that meet client needs;

2. Dynamic, interdisciplinary communication;

3. Advocates with an interdisciplinary skill set; and

4. A robust understanding of, and connection to, the community served.

CONGRATULATIONS to our Coloring Contest Winner, Assistant PD Miranda Meador! In addition to publication on the front page of this esteemed newsletter, Miranda has won a couture mask designed by Knit Club’s own Sherlene Cruz.
In December, I will mark my tenth anniversary working for Harris County. For the preceding 17 years, I was a federal public defender. I established and ran offices in Southern Alabama, Northern New York and Vermont. The federal system is structured so that public defenders are overseen by the judiciary, not an executive body like Commissioners Court. The Chief Justice of the U.S. Supreme Court also leads the administrative side of the judiciary. The Chief Justice appoints a Director of the Administrative Office of the U.S. Courts ("AO"), which administers the judges, their staffs, clerks, probation and pretrial officers, as well as federal public defenders. Policy is made by the Judicial Conference and many subordinate committees. Defenders are overseen by the judges appointed to the Defender Services Committee. There is an Office of Defender Services at the AO that does the day-to-day business of that work. Some defenders and private lawyers also assist on the Defender Services Advisory Group (DSAG).

That is a preface to a story about one of the judges that chaired the Defender Services Committee, John Gleeson. When he was appointed to the district bench in the Eastern District of New York (Brooklyn, Queens, Long Island), Gleeson had to choose among committee assignments in descending order. His last choice was Defender Services. He got it.

At the time, it seemed incongruous that the former career federal prosecutor, who convicted mob chieftain John Gotti, would administer defenders. He not only relished the role, but became Chair. During that time, I was elected by my peers as a defender representative on DSAG and worked with him closely. He proved to be an able Chair, a fair judge and a good person.

All four federal districts in New York, including what were mine and his, are under the authority of the U.S. Court of Appeals for the Second Circuit. All circuits have an annual conference of judges. Every other year, the Second Circuit invited guests, including chief public defenders of the circuit. It was always held at The Sagamore, a luxury resort on an island in Lake George in upstate New York.

The U.S. Supreme Court Justice who oversees the Second Circuit was (and is) Justice Ginsberg. She came to the conferences and often brought Justice Scalia. They were great friends and shared a love of opera, even though their legal views were often opposed.

One night of the conference was always a gala dinner. A judge was selected to be the master of ceremonies. Usually, the performance was wooden. One year it was Gleeson, who has excellent timing and can even give the funniest line straight-faced.

Scalia was there that year. He was known as a “textualist.” He believed that the words of the Constitution and the Framers’ intent were the lodestar to judicial interpretation. Somewhere during his speech, Gleeson dead panned, “And tomorrow morning in the Adirondack Room, Justice Scalia will lead a discussion about learning from our friends in foreign jurisdictions.” There was then a loud fabricated groan from the center table of the ballroom. Everyone laughed.

Gleeson later retired from the bench at a fairly young age to take a partnership at a large firm. Recently, he was in the news as the lawyer that DC District Judge Emmertt Sullivan chose to respond to U.S. DOJ’s motion to dismiss charges against former National Security Advisor Michael Flynn—after he had already pleaded guilty and only awaited sentencing. Gleeson’s character and credibility made him the best person for that role. I generally have pretty high standards for judges, but Gleeson met them.
HB 1342 – Professional License Denial

Effective Date: 09-01-19
Author: Rep. Jeff Leach (R), Plano
Relevant Statute: Texas Occupations Code § 53.021

This bill narrows the circumstances in which a licensing authority may suspend or revoke a person’s license to engage in his or her occupation.

Formerly, a person’s license could be suspended or revoked for a criminal conviction that was unrelated to the duties or responsibilities of the person’s occupation. The conviction had to be for an offense committed less than five years before the person applied for the license. The law was not smart on crime, so to speak. People were being prevented from returning to their jobs and thus from being productive members of society. The law made no sense. Why, for example, would we want to prevent a cosmetologist from returning to that line of work because of a drug offense? The person had already been punished by incarceration and/or a fine. Preventing a person from earning a living by doing a job he or she was qualified to perform seemed like “piling on.”

The Legislature recognized that the law benefitted no one and passed this smart-on-crime bill. Now, a person’s occupational license cannot be suspended for conviction of an offense that is unrelated to the duties or responsibilities of the person’s occupation. People are no longer prevented from returning to employment at the occupation they are licensed to perform. The cosmetologist, plumber, electrician, etc., is no longer barred from returning to the work he or she knows best. This is a positive bill that improves a defendant’s post-conviction employment opportunities.
Congratulations to Damon Parrish II for being promoted to Trial Division Team Lead! Additionally, we welcome back Monica Gonzales, who has agreed to return to her role as Trial Division Team Lead after handling Reintegration Court by herself for over a year. Both Damon and Monica bring significant trial and mentoring experience to their roles and we are lucky to have them in positions of leadership.
Chapter & Verse

Well, Dear and Beloved Colleagues, the Code has done it once again. As I sought inspiration, assistance, and comfort in these troubling and terrible times, this next chapter in our seemingly endless journey to the Center of the Law provides a beacon of hope, a swell of pride, and a pang of nostalgia. That’s right. It’s Article 1.12 and 1.13, Right to Jury Trial and Waiver of Jury.

As I’ve told countless, shocked out-of-state lawyers, Texans take their jury trials seriously. We even have a right to a jury trial on traffic tickets. (No one can believe that, by the way. Next time you’re at some out-of-state conference, drop that little nugget on some smarmy New York attorney).

When I think about jury trials, I can’t help but think about Jesus. I know. You don’t think I think about Jesus. But I do, I think about Jesus a lot. Even the devil, they say, can quote scripture.

If you weren’t raised in a southern evangelical household, fervently reading the Bible under the constant spectre of hell, you may not know about Jesus’ jury, so I, dear friend, will tell you. On the night of his arrest, or maybe the morning after, depending on which Gospel you consult, Jesus was brought to the Sanhedrin- the Jewish religious court. The Sanhedrin was composed of 23 jurors, mostly rabbis and rich folks, all men, of course. The reason there were 23 is complex and magical, but basically you had to have a “community” of at least 10 people to convict someone, and a simple majority was not enough (hence there had to be at least 22, but in order to avoid deadlocks, it became 23). Jewish law instructed the court to look for reasons to exonerate and spare the life of a defendant (that sounds pretty great, but if you think about it, our courts are supposed to do that, too, by presuming innocence and listening to mitigation, but what if we put it in those positive words?).

Jesus was accused of a lot of things, mostly heresy for claiming to be the messiah. The sketchy transcripts of the trial that we have, handed down over thousands of years through a lot of politicking, translating, and games of telephone, say that he invoked his yet-to-be-invented right to remain silent, probably because he knew the trial was a sham. “Answerest thou nothing?” The head priest asks him, in a fit of pique.

Finally, after asking Jesus about skeighty-eight million times if he is claiming to be the Son of God, Jesus says, I imagine curtly, “I mean, you’re the one who keeps saying that.” (not a direct quotation). Dang. That’s all they got. The Gospel of Mark says that all of the jurors find Jesus guilty. All of them. That’s a big deal because, unlike in Texas, under Jewish law, if there’s a unanimous verdict, the verdict is supposed to be thrown out because it’s evidence of a conspiracy to convict amongst the jurors. I have thought about filing that motion a million times.

Citing to the Talmud. “Uh, your honor, we’d move to disregard the verdict because it’s clear evidence of a conspiracy.”

They take him to Pontius Pilate, who by most accounts was really just a guy trying to do his job, and tell Pilate, “This guy says he’s king of the Jews! That’s challenging Roman authority! Only Augustus is the real ruler! Execute him!” Pilate sighed, ok. He washed his hands. The thing was done.

I’ve had a lot of clients tell me that Jesus will help them with their case, and one explicitly say that Jesus was his lawyer. I have only once actually blurted out that I was hoping for a better outcome in the client’s case than the one that Jesus got, representing himself.

All this to say, beloved friends, that as sacred as we hold these rights, and as great as a true, unbiased, jury of one’s peers can be, I want you to consider waiving those rights.

With the unsafe, unwieldy, and unjust plan in place to conduct jury selection in a literal arena, I want to encourage you to think about bench trials in appropriate cases. I want our office to call on Kim Ogg and the DAO to do the right thing and stop invoking the State’s “right” to a jury trial universally. The State should be satisfied that an elected judge, representative of the people of Harris County, decided the case. The State should not be trying to maneuver to “win.” The State should only be trying to have evidence heard so justice can be done. Bench trials are the most expedient way to have that evidence heard. We need options, and this needs to be one of them.

It would be easy to put precautions in place for a socially-distanced bench trial within a courtroom. Bench trials are much quicker because you don’t have to deal with scheduling, picking, excusing, calling back, waiting for, and considering members of a jury, and also because there is just less room for histrionics that DA’s often go into with juries.

In my humble and limited experience, I have conducted a few dozen bench trials, largely because I practiced in jurisdictions that are not as enamored of jury trials as Texas. I will tell you that, for the most part, I felt like I got outcomes that were more predictable and more consistent with the law than I did in jury trials. Of course there are judges who you don’t trust and who you wouldn’t try a case to, and those feelings are valid. But I’ve tried cases to at least two judges that were former police officers, and both of them were furious about any kind of police misconduct. I’ve found the same with judges who were former prosecutors- some of them get really mad about Brady violations or prosecutorial misconduct. I have also had the experience that judges are better at being able to separate the law from the emotion of a serious case, and while a jury might be hung up on the gross or creepy details, judges, who have seen worse, are often able to tell if it doesn’t meet all the elements, or at least listen to the argument.

Love Always,

[Signature]

ALLISON MATHIS
Editor-in-Chief
About a year ago, I sent an email to the women in the office asking if anyone wanted to join a knitting group. Since that email, Knit Club has probably had dozens of people come to at least one meeting. There are a core group of regulars. What is interesting is that when we began, only Kim Cleary, Amanda Koons, and I knew how to knit. We have taught almost everyone else who has joined since then. We now meet weekly via Zoom.

Please join us! All genders welcome!

I knit because my New England roots instilled in me a desire to work hard and not waste time. I was taught to be industrious, even in leisure. Knitting allows me to enjoy a hobby, but also produce a myriad of homemade gifts.

I knit to feel the yarn run through my hands.

I knit for the community. Knitting and talking and laughing with Knit Club is usually the highlight of my week.

I also knit to calm myself.

Finally, I knit because I watched my Mom knit. She is 88 and struggles with some health issues now, but she still loves to hear me talk about knitting.

I made this shawl for my Mom. And she knit that sweater for my son almost 20 years ago.
When did you begin your maternity leave (both how far along in your pregnancy were you and what time of year was it)? How did you feel about it? What were some of your concerns about work when you left?

I wasn't the best planner when it came to going on leave, and the pandemic beginning didn't help. I was ordered to stay home by my doctor on March 12. I continued to work until our little guy decided he was coming two weeks early! Since he was early, I hadn't finished my coverage memos yet. Initially, I was set for trial the week I gave birth, so I had been preparing for that. My plan was to do the memos the week he was due. It felt rushed and hurried and chaotic going on leave. I was so concerned about my clients. I hadn't been able to visit them for a few weeks because my doctor had asked me to stop going to the jail around the end of February. I had spoken with most of them on the phone, and they were all so scared hearing about the virus. I tend to visit my clients very often and stay in close contact, so cutting off communication with them two weeks earlier than I had planned and during a pandemic felt like I was abandoning them. Luckily, we have an amazing office and my colleagues stepped up.

Did you feel supported by your office? Confident in coverage of your cases? Did you find yourself thinking about work a lot during your leave?

I felt very supported in my leave. I will ALWAYS worry about my clients, no matter who is covering them. That is just one of my faults as a defense attorney. I sometimes care too much. I had no doubt my colleagues were covering the best they could, but I was worried because I knew everyone in the office was having to learn a new normal with their own clients, court and visits, and was afraid covering my clients on top of all that would be too much. I found myself thinking about my younger clients in jail a lot. I imagine they were scared and confused hearing about everything.

What are some of your concerns about returning to work, both in general and during the pandemic (childcare, figuring out new courtroom procedures, etc.)?

I'm most concerned about the virus. It is spiking everywhere right now. My pediatrician and my own doctor have both told me I am not to return to the building. Debs is so young, he can't fight off a cold very easily, never mind COVID. Childcare is impossible. Our pediatrician has told us we are not to send him to a daycare, and I don't want to. Also, daycares aren't open to newborns right now it seems. They are all too scared about the liability. Our doctor also does not want a nanny in our home because we can't trust that they are being safe. Luckily, my mom has quarantined and can help some, but I don't know what we will do if she gets sick or needs a break. I am glad the courts have moved toward doing nearly everything virtually, and I've been surprised at how efficient some of it is. I like the virtual jail visits, and caring for an infant with no real help, you need to find time to stop and do your timesheet. It's hard enough to remember to do those things in the office every other Thursday, let alone at home on leave.

What was it like to go through the end of your pregnancy and the beginning of motherhood during the pandemic?

It was and is still pretty terrifying. I have not gone anywhere but doctor appointments and our office's BLM protest since March 13, 2020. That is 116 days. The pandemic is very scary now, but we have at least learned a whole lot more about it than we knew when I gave birth. Judge Hidalgo put in place the stay at home order to begin at 1200pm on March 25, 2020. I went into labor at 3:30 am that same day. When we arrived at the hospital, we both had to get our temperatures checked, answer questions, mask up. We were not allowed to touch anything ourselves, not even the buttons in the elevator. I was only allowed to have Rob, my husband, with me in the hospital, and until we got there, I wasn't even sure he would be allowed to be there with me during labor. There were no floral deliveries or food deliveries. The cafeteria was barely open, and you could not sit down there because it was considered a restaurant. We were not allowed to leave our room. If I needed something, I had to get the nurse. I could not have Rob get me ice, etc. It was not the experience I had imagined. When we got home it was just us three. It felt very weird. No family. No friends. Our families met our son for the first time looking at him through a window in our house. Six days after getting home, I had to self-quarantine and be tested for COVID because of a high fever and chills.

My doctor was concerned I might have picked up the virus at the hospital when I gave birth. I had to wear an N95 to feed Debs, and then return to another room, separated from my newborn. Luckily, the test was negative but it took 6 days to get the results. Even now, the only visitors we have are Debs' grandmas, who have both agreed to quarantine strictly when they are away and to wear masks the whole time they are here.

What is your understanding of the financial ramifications of maternity leave? You don't have to go into specifics about your own financial situation, but can you briefly outline the country's leave policy and how it worked for you?

Maternity leave? Ha! First, the country's leave is pretty awful. You get the FMLA leave time, but it is unpaid. That means 3 months unpaid, unless you drain all of your sick, vacation and comp time. If you don't have enough time to cover it, you go unpaid. If you go unpaid for too long, you have to pay the county out of pocket for your benefits like health insurance. Sadly, this is actually pretty standard as far as parental leave in the United States is concerned. One of the most annoying things for me was that I still had to do timesheets! At a time when you're adjusting to a new normal, healing after a major trauma to your body, and caring for an infant with no real help, you need to find time to stop and do your timesheet. It's hard enough to remember to do those things in the office every other Thursday, let alone at home on leave.
Scripting out cross-examination questions is something I have seen a lot of new lawyers do. They think it will make them feel more prepared for trial. While thinking about potential questions and general areas for a cross is necessary, coming up with a strict script of questions that flow into each other can lead to more harm than good. When a witness does not answer a question the way you’ve anticipated, you get flustered and don’t know where to pick back up. Additionally, I have noticed that lawyers with scripts often don’t listen to the witness’ actual answers, but are just waiting to ask the next question on their list.

Instead, I recommend developing several areas of questioning you want to be sure to hit, along with a few specific questions you definitely want to ask. As the prosecutor is questioning the witness, think about what the jury is wondering and ask those questions. Let the witness’ answers lead you into the next logical question. If you don’t understand something, the jury probably doesn’t either. This is your chance to get it cleared up and to look like you are not trying to confuse anyone or be a “slick” lawyer.
By: Mary Acosta
Assistant Public Defender

Mole is a traditional dish in Mexico that is served at import event like wedding, baptism or any other celebration. The traditional version is very long and complicated with a lot of different ingredients. I have a version that is easier and quicker but still has a great complex flavor.

**Ingredients:**
- 2 tablespoons olive oil
- 1 onion, chopped
- 4 cloves of garlic, chopped
- 2 tablespoons chili powder
- 1 teaspoon ground cumin
- ½ teaspoon ground cinnamon
- ½ teaspoon ground chocolate
- 1 can 14.5 ounce can diced tomatoes
- 1 bell pepper, chopped
- 1 3.5 ounce can of chipotle peppers with adobo, chopped
- 1 ½ cups chicken broth
- 2 tablespoons smooth peanut butter
- 2 ounces bittersweet chocolate, chopped
- 5 lbs chicken legs, thighs, and breast
- White rice, for serving

**Directions:**
1) Preheat oven to 350 degrees F.
2) Heat oil in heavy bottomed hot sauté pan over medium high heat, and sear chicken on both sides. Place seared chicken in a casserole dish and set aside.
3) In the same sauté pan add onion and sauté until translucent. Add garlic and spices continue to sauté to toast and develop flavor. Add diced tomatoes, chipotle peppers, bell peppers, broth, peanut butter, and chocolate. Simmer for 20 minutes.
4) Let the mole sauce cool and put it in the blender and blend until smooth.
5) Pour the sauce over the seared chicken pieces.
6) Bake in the oven, uncovered, for 1 hour.
7) Serve with white rice.

**Note:** I have used this same mole sauce to make mole enchiladas. I debone a rotisserie chicken. I soften corn tortilla in the mole sauce. I place chicken in the softened tortilla and roll up and place in a casserole dish. I pour the mole sauce over the enchiladas and bake at 350 F. for 30-40 minutes. I top with diced onions and queso fresco.

I hope you enjoy this recipe as much as my family does!
Sophie (doggo on top) and Rocket (doggo on bottom) are the fur babies of our very own client advocate Guadalupe Tello. Sophie was adopted about 4 years ago and Rocket this past November. They love to take naps under the sun, cuddle together, and sit next to the table to try to guilt Guadalupe into giving them more food. You can usually find them fighting over their favorite fire hydrant toy or snoring peacefully during a puppy nap. Another fine example of the wonderful dogs available for rescue in our local shelters.