



THE LAW OFFICE
OF LUIS BAEZ, PLLC

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Houston Chronicle
Attn: Editor-in-Chief
4747 Southwest Freeway
Houston, Texas 77027

Op-Ed: In 2024, Can the Chronicle Chill with the "Let's-Blame-Defense-Attorneys-for-the-Failures-of-Our-Criminal-Justice-System" Articles?

Back in my 8th grade year at Beverly Hills Intermediate School (somewhere halfway between the William P. Hobby Airport and Almeda Mall in south Houston), my English teacher assigned our class to read 1960's "To Kill a Mockingbird" by Harper Lee. Looking back on it, the experience of reading that book—in combination with the fact that my late-father was a deputy with the Harris County Sheriff's Office and later an officer with the Houston Police Department—is likely a significant part of what's led me to do criminal defense work today.

In the story, Atticus Finch (masterfully played by Gregory Peck in the film version) is a prominent attorney in Alabama during the Great Depression. While raising two small children, Atticus is appointed by a local judge to represent a black man (falsely) accused of raping a white woman. He does so despite pressure from the local community and its uninvited scrutiny. As part of a conversation with his young daughter Scout, who finds herself learning about prejudice for the first time thanks to all of the turmoil, he tells her that you "never really understand a person until you consider things from his point of view . . . until you climb into his skin and walk around in it."

Should the Chronicle find itself on the verge of publishing—yet another—article "investigating" criminal defense attorneys in the new year, I hope that it takes a moment to consider those words before doing so. Although I speak only for myself, I know that I was not the only local defense attorney to wake up on December 26th, see a new Chronicle article (patronizingly titled "Here's what to expect if you've been appointed a criminal defense lawyer in Harris County"), and think to themselves: "seriously?"

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For starters, there is no difference between the expectations and standards (both legal and ethical) that govern a criminal defense attorney appointed on a case or one that is privately retained. And, if you think there is a difference, would it not be fair to say articles like this are part of the reason why? I can't put a number on the amount of times I've seen talented and experienced defense attorneys get fired by their clients a week or so into the case just because they were court appointed only to then turn around and "retain" someone with little to no trial experience. Could it be that an open secret among defense attorneys in Texas is that court-appointed attorneys also take retained cases and vice-versa? Maybe. But readers wouldn't know of this distinction without a difference if they relied solely on the Chronicle for its input on the criminal justice system in 2023.

In fairness to the Chronicle and the December 26th article, it does objectively discuss some of the factors that are a part of handling a criminal case in Harris County. One example is when it mentions that the "holdover area is not a good place to have a[] . . . conversation." But readers ought to also know that for a criminal defendant in custody and their defense attorney, there is no such thing as a "good place" to have a conversation.

If you're lucky, you *might* have a visitation booth wider than a broom closet. You *might* not have to pay for parking just to see a client. You *might* have a booth with a window clean enough to see your client's face. You *might* have a booth where the phone works so you don't have to yell at your client for the entirety of the conversation just for them to be able to hear you. Forget about passing and reviewing documents back and forth together these days. Ever since a local defense attorney was accused of smuggling drugs into the Harris County Jail, the window seals in the booths are sealed off by makeshift 2" x 4's and superglue. During one of my recent visits, I noticed that someone tastefully anointed the one in front of me as the "Ron Lewis Attorney Booth" in ink. It's also hard to have a productive meeting with your client when the both of you are sitting there knowing that—in 2023 alone—almost 30 people have died in custody in the same jail.

In other sections of the article, readers are given fair guidance on getting updates and information from defense attorneys on their cases. But, again, readers ought to have also been prompted to ask: "Why is my defense lawyer put in the position where it seems like nothing is happening in my case in the first place?" This would have been a great section to showcase (or at least reference) some of the work the Chronicle has already done to highlight some of the possible answers. July 13th, 2021's "As killings tied to defendants out on bond rise in Houston, crime data reveals a crisis in courts" mention of the "sluggishness of the justice system" and "backlog" is relevant context. So is March 23rd, 2022's "Kim Ogg accuses Commissioners Coury of 'defunding' DA's office, asks for \$6M more." Isn't the image of the Harris County District Attorney begging for more money to hire additional prosecutors and staff enough of an acknowledgement that there is not enough manpower in the Criminal Justice Center to timely get discovery to defense attorneys or effectively prosecute a case?



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I am not writing to suggest that the Chronicle (or any other publication) is not allowed to report on the criminal justice system without contemporaneously presenting every stakeholder's position or commentary. Given the state of the criminal justice at-large these days, that would not be practical. But when the December 26th article was published after the Chronicle previously published articles (as part of an "investigation") titled "Harris County spent \$60 million on court-appointed lawyers with big caseloads. Critics call it a waste;" "\$1 million from taxpayers to 1 private attorney in 1 year: A look inside Harris County courts;" "Houston leaders demand reform over attorney's giant salaries, caseloads: 'Whole damn thing's broken;'" "Here's how much the 10 top-paid court-appointed attorneys in Harris County made last year;" "Harris County on track to exceed budget for court-appointed lawyers by \$35 million;" "Shoddy work from lawyers, judges, jeopardizes justice in death penalty cases, study reveals;" and "Harris County leaders blast local judges, attorneys as audit finds court appointment costs soared," the coverage starts to feel a little one-sided. . .

If Chronicle readers want to get an idea of what things look like from another side of things in the Criminal Justice Center as of fall 2023, they would have to look elsewhere. In an article published in "Houston Landing" in October, staff writer Clare Amari provided a (depressing) glimpse into the life of the county's overworked and underpaid prosecutors. Titled "She's a dedicated Harris County prosecutor. An 'unsustainable' caseload tests her limits," the article covers the day-to-day of a young felony prosecutor and her "never-ending load of about 1,200 cases." If Chronicle reporting suggesting that an attorney can only "reasonably handle 128 felonies . . . a year" is to be believed, how should Houstonians feel about its prosecutors routinely being asked to handle 1,200?

When I worked as a prosecutor at the Montgomery County District Attorney's Office (while living in Houston), I remember showing the office and local courts to a then-Harris County prosecutor who was looking to escape for greener pastures. When asked about what led to the decision to consider working for another district attorney's office, they said that the caseload and work environment was "soul-crushing." Frankly, that is an apt description for the criminal justice system as a whole. Based on my training and experience, I get the impression that law enforcement, prosecutors, defense attorneys, judges, (actual) victims, defendants (guilty and innocent), interest groups, and the public wrestle with these "soul-crushing" conditions on a day-to-day basis. Everyone is working as much as they can with the (unevenly distributed) resources they have to try and achieve what justice looks like to them. Still "soul-crushing" for sure, but somewhat hopeful at least.

One group of criminal justice stakeholders that I do not get the same impression from (and who are also worthy candidates of a Chronicle "investigation") are our local, state, and federal politicians. Based on the reporting by the Houston Landing, PFM (a consulting firm) was contracted by the Commissioner's Court to publish in expensive b-school-based jargon what everybody already knew: the "current caseload and workload of each HCDA prosecutor are unsustainable."



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Shocker. Will a future Chronicle "investigation" uncover what it is that makes our local leaders comfortable with these conditions on a daily basis? Do they hold some magical insight to making the system work as currently funded and structured only waiting for the perfect time to announce it to the city? Probably not. But the inaction and ongoing kicking of the can down the road says it all: for ideological or political reasons, no one wants to spend the money it would take to fix the system.

The Chronicle headlines on amounts paid to attorneys are clearly worded to elicit feelings—and clicks—of anger and disgust. But should it not be more enraging and disgusting that, after all that money is spent, the system is still in the state that it is in? In how many different ways do we tip-toe around a headline that should just read: "City Leaders finally admit: 'We just do not want to spend the money on it.'" Constant reports of prosecutors crying in their office, overloaded courts, swamped attorneys, and frustrated defendants (and other stakeholders) are all just costs of doing business. And therein lies the rub. Isn't an unwillingness to spend the money where it is needed the cause of all our major societal problems today?

NPR reported that "Teacher shortages are only getting worse - even in Houston" as recently as this past November (despite recent Houston ISD raises) due in part to low pay, which causes the quality of education to suffer, which sets people behind, then forces them into an economic system where federal leaders ignore calls to raise the insultingly low minimum wage of \$7.25 per hour (while leaving the working class hung out to dry on a litany of other fronts). Then, through a combination of poor, individual decision making and governmental indifference, they are escorted straight into (and often times, back into) the courts of the Criminal Justice Center?

All the meanwhile, they watch their supposed top law enforcement officer—the State Attorney General—stand in (a sham) trial of his own doing while their Governor adds to the already overcrowded plates of local assistant district attorneys even more by making them responsible for enforcing federal immigration laws. (Hint: Many of them already do. A number of local District Attorneys refuse to offer probation or diversion programs for noncitizens as a matter of office policy).

Wait, what was this writing about again? Crime. Politics. Courts. Cases. Cops. Robbers. Clicks. Justice. Money. With its recent reporting, the Chronicle has peeked through a crack in the door to the criminal justice system. I just hope that in 2024, it "climb[s] in[] . . . and walk[s] around in it."

Best regards,

Luis S Baez

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