



**OFFICE OF THE STATE'S ATTORNEY**

COOK COUNTY, ILLINOIS

CIVIL ACTIONS BUREAU

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November 12, 2013

Mark Solock  
Chief of Staff  
Law Office of the Public Defender  
George W. Dunne Cook County Administration Building  
69 W. Washington St., Suite 1600  
Chicago, Illinois 60602

***CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION***

**Re: 13-348: County Payment of PD Client Bonds Ethics Issue**

Dear Mr. Solock:

You have asked this Office to advise the Public Defender whether Section 110-13 of the Code of Criminal Procedure and/or any rule of professional conduct pertaining to conflict of interest may be violated if the County adopts a proposal to create a County Revolving Bond Loan Fund to finance the payment of cash bail bond deposits for some of the Public Defender's clients. *See*, 725 ILCS 5/110-13; Ill. Sup. Ct. R. Prof'l Conduct, R. 1.7.

Initially, we note that pursuant to Cook County Resolution 10-R-106, the Judicial Advisory Committee was directed to conduct a "feasibility study for establishing a Revolving Bond Loan Fund." *See*, "Judicial Advisory Council Feasibility Study Re: A Revolving Bond Loan Fund Concept," prepared October 29, 2010. Further, a proposed resolution, "Examining the Feasibility of Establishing a Revolving Bond Loan Fund for Cook County Jail Detainees, is set forth on the Agenda for the November 13<sup>th</sup> meeting of the County Board as Agenda Item No. 13-2161.

Section 110-13 of the Code of Criminal Procedure prohibits certain persons, including the Public Defender, from furnishing bail, providing as follows:

No attorney at law practicing in this State and no official authorized to admit another to bail or to accept bail shall furnish any part of any security for bail in any criminal action or any proceeding nor shall any such person act as surety for any accused admitted to bail.

725 ILCS 5/110-13. Relevant to the proposed creation of a County Revolving Bond Loan Fund, this section would bar the Public Defender, State's Attorney, the Sheriff, the Circuit Court Clerk

and the Chief Judge (as well as their assistants or deputies) from administering the proposed fund, because these officers could be viewed as improperly furnishing a part of the bail.

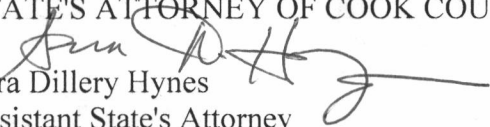
The County is an entity that is separate from the Public Defender, who may only be removed by the County Board for cause and who has been statutorily granted the power to hire and fire persons to serve as assistant public defenders and staff members and to manage his office. Thus, the prohibition of Section 110-13 would not be applicable to a Bond Fund established by the County that did not require the participation of the Public Defender or the above listed judicial and county officers in the program. *See*, 55 ILCS 5/3-4004.2, 3-4008.1; *Burnette v. Stroger*, 389 Ill. App. 3d 321, 331-32 (1<sup>st</sup> Dist. 2009).

Further, provided the Public Defender had no role in the furnishing of the bail, it is likely that no conflict of interest would be created by the County "loaning" bond funds to an indigent defendant whom the public defender had been appointed to represent. *See*, Ill. Sup. Ct. R. Prof'l Conduct, R. 1.7 (Conflict of Interest: Current Clients), R. 1.8 (Conflict of Interest: Current Clients: Specific Rules), R. 1.9 (Duties to Former Clients), R. 1.10 (Imputation of Conflicts of Interest: General Rule), and R. 1.11 (Special Conflicts of Interest for Former and Current Government Officers and Employees).

If this Office can be of further assistance to you in this matter please contact us.

Yours truly,

ANITA ALVAREZ  
STATE'S ATTORNEY OF COOK COUNTY

  
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cc: Kent S. Ray, Supervisor, Municipal Litigation