



Law Office of the  
**COOK COUNTY PUBLIC DEFENDER**

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### **Opening remarks to Finance Committee regarding FY2017 Budget**

Good morning. Chairman Daley, Commissioners, and to the entire Board, thank you for giving me the time to appear before you this morning to make a few opening remarks and answer any questions you may have concerning the budget for the Public Defender during Fiscal Year 2017.

The mission of the Public Defender is to protect the fundamental rights, liberties, and dignity of each person whose case has been entrusted to my Office by providing the finest legal representation. As you can see from slide 1, the President's budget recommendation for my office is approximately \$66 million, plus fringe costs. The recommendation is to cut staffing for my office from 693 to 675 positions.

There are substantial financial benefits to both counties and the State when public defense systems are properly funded. Public defenders who are competent, who are effective, who have manageable workloads, and who have professional independence make certain that the rights guaranteed by the Federal and Illinois Constitutions are protected and ensure that no one's liberty is taken unless proven guilty.

Public defenders lower costly incarceration rates by being present at first court appearances and advocating for pretrial release. We also advocate for reduced sentences based on the facts of the case, and for alternative sentencing options that avoid incarceration and provide treatment. Just as important, public defenders test the State's case through trial, preventing costly wrongful convictions.

As Public Defender James Doherty wrote in 1957, still true today, public defenders are the guardians of the presumption of innocence, due process, and fair trials.

As a result, a properly funded public defender saves more money than it costs. But a poorly funded public defender costs more money in lengthier jail stays, slower trials, reversals on appeal due to trial errors, and hefty litigation expenses.

That is why, first and foremost, I ask that you support the revenue stream proposed by President Preckwinkle. Without it, as slide 2 illustrates, my Office would be decimated. Despite the well-publicized rise in shooting deaths and violent offenses, my Office would

be reduced to a level lower than it has been in more than 20 years. I would be unable to serve the indigent of Cook County at the level they deserve. I would be unable to staff all the various divisions of my Office, and in order to provide effective assistance of counsel to the rest of my clients, I would have to close two divisions.

In technology heavy industries, it may be possible to provide more service with less staff. ATM machines have replaced bank tellers, and robots have replaced auto workers. But when it comes to legal defense, people's lives and liberties are at stake. Trained, professional lawyers are needed to protect client's individual rights, and for that there is no alternative or shortcut.

You have in front of you slides 3, 4, and 5, which reflect the distribution of my attorneys, investigators, and support staff throughout the Office. We defend our adult clients against charges involving murder, and every conceivable felony and misdemeanor. In Juvenile Court, we defend those under age 18 charged with delinquent conduct, as well as parents who are accused of abusing or neglecting their children. We have a multiple defendant division and child protection conflict division, where we defend the second charged defendant or second parent. We have a legal resources division that handles appeals and post-conviction cases. We have specialized divisions that provide assistance on forensic issues and technology matters. There are specialty courts that we staff, that serve to defend those with mental illnesses, substance abuse, sex trafficking victims, and veterans. I have a mitigation division composed of trained professionals who provide sentencing advocacy on behalf of our clients. And we have an investigation division, who work in the field interviewing, visiting crime scenes, and doing the background leg work that is necessary to adequately defend a criminal case.

We are spread throughout the County, as Slide 6 shows through the organizational chart of my office. My staff represents clients at the George Leighton Criminal Courthouse, Juvenile Court, Domestic Violence Court, Traffic Court, five suburban courthouses, and 10 branch courts located in five different police stations. Every location has hundreds and thousands of indigent persons passing through, navigating the maze of the criminal court system.

I wish we had fewer cases, but we don't. Slide 7 reflects the monthly caseload in my First Municipal District, which handles misdemeanors from Chicago only. In total, we represented and disposed of 48,000 cases over the last 12 months. Slide 8 shows the monthly caseload of felonies from the Criminal Courthouse at 26<sup>th</sup> Street. In 11 months, we disposed of 10,992 felonies. We handle an average of 857 misdemeanors per attorney per year, and 346 felony cases per attorney per year. These are just four points of data, that don't even include the misdemeanors or felonies that we handle in the suburbs, or the cases that arise at Juvenile Court or other divisions. As a comparison, on slide 9, you can see that

the American Bar Association defines effective representation by public defenders as handling no more than 150 felonies or 400 misdemeanors per attorney per year. You also have before you the lower caseloads for public defenders in Houston in Harris County, Seattle in King County, and Atlanta in Fulton County.

The volume of cases that we have, and the personal nature of the service we provide, is why the retention of trained staff is so important. And by staff, I mean attorneys, investigators, and support staff. Attorneys provide representation in court, but they cannot also be on the street investigating, photographing, interviewing, and transporting witnesses. They cannot also be preparing motions and subpoenas, answering the phones, and assisting the many people who visit our offices daily. Representing a client in a criminal case, or a child protection case, is a team effort. And I want everyone to know, I am extremely proud of the team that makes up my office. They care about our clients, they are knowledgeable, and they are effective.

Slide 10 notes what we have done this past year. One of my priorities when I started as the Public Defender was professional development for every member of my staff. In 2016 alone, we have offered 160 training seminars, including a three-day training this past August that attracted 300 attendees. Those 160 seminars had 1665 attendees, which averages to 2.5 training sessions for every person in my office. We have offered training sessions on everything from building trial skills, to examining fingerprint and ballistics cases, to litigating DNA cases, to tackling gang evidence. We have also had seminars on understanding employment law, word processing for the legal professional, as well as management and leadership skills.

My staff is not only trained, but they carry our mission and message of indigent defense to our communities. Community outreach, as I told you last year at this time, is another important initiative of mine. So far this year, we have been involved in at least 68 separate and distinct community outreach programs. We have talked with students from Excel Academy in Roseland, Morgan Park High School, Evanston Township High School, Thornton Fractional North High School, Westinghouse High School, and Olive Harvey College. My attorneys staffed the largest expungement summit held this year in June, as well as other, smaller expungement summits around the county.

We have spoken about our work through panel discussions at churches, leadership councils, bar associations, and law schools. My staff has served as coaches for high school mock trial teams. One of my attorneys participated in Building Blocks, a civic engagement initiative aimed at breaking down barriers between public safety stakeholders and community residents. After our office picnic, we donated food to the Pacific Garden Mission. As an office, we come together not merely for our clients in court, but for the neighborhoods in which they live.

Two more of my priorities are mental health treatment and bond court reform. Bond court is the first contact with the criminal court system for someone who is arrested. It is the place where a sensitive and full inquiry into the charge, the likelihood the person will return to court, and the financial ability of the person to post bail should be made. Sadly, bond court has become an assembly line where hearings take 30 seconds or less. Persons are held in custody on unattainable bonds for non-violent offenses. We staff bond court and strive for a full and fair hearing for every client. To understand the dynamics of bond court, I have added support staff to gather statistics. I have retrained the attorneys, and provided a higher level of supervision to the process.

We have seen success through collaboration among all the stakeholders, and through use of a new risk assessment tool to reduce the jail population. There is still much more work to be done.

In addition, it is at the initial screening for bond court that the opportunity arises to check for mental illness and decide whether services can be offered. It is there, at this first contact, that we can make a difference and divert those into treatment who need help.

To that end, I worked with Civic Consulting Alliance on a business plan to create, when funds are available, a mental health resource unit for my Office. It will evaluate clients for fitness and sanity, put together a plan for the Court that looks at treatment and rehabilitation as an alternative to incarceration, and help my attorneys decide whether and when to retain psychological or psychiatric experts. When the day comes that this unit is realized, it will be the fruition of a much needed and requested service that will help all our clients in the future.

We have also advocated for legislation that protects our children and provides necessary changes to our sentencing laws that will reduce mass incarceration and return discretion to the judiciary. I personally testified before the Senate Committee in favor of Senate Bill 2370, asking that all children under age 18 have a lawyer during custodial interrogation. I personally met with Senate President Cullerton to discuss this important step forward in protecting the rights of children. The law that eventually passed requires counsel upon interrogation for children under the age of 15 who are charged with a homicide or a sex offense. It recognizes that children are different and need protection, not condemnation. In 2017, I will need to have lawyers available at the police stations throughout the County to represent and advise these children.

Other new developments are also putting additional demands on my Office. Starting November 5<sup>th</sup>, Cook County will have weekend detention hearings at Juvenile Court, so that juveniles will not have to languish in custody over the weekend before they see a

judge. Next Spring, a restorative justice court is opening in North Lawndale. I anticipate this will be the start of more restorative and community courts around the County.

And just over one month ago, the White House Council of Advisors on Science and Technology released its report to President Obama that much of forensic science as we know it – including ballistics, fingerprint analysis, and DNA – may be questionable and unreliable. This report calls into question every case that relies on forensic evidence. I must and will be vigilant in confronting this evidence in court.

With legislation, forensics, and demands ever evolving, my goals for the coming year remain ambitious, as shown in Slide 11. I have already started discussions with Dr. Shannon and his staff to collaborate on creating a Mental Health Resource Unit. We will increase awareness of mentally ill clients and how to help them. I am pushing to continue the reformation of bond court, where full and fair hearings result in fair and just bonds. This will reduce the number of people who waste away in the jail while their cases march forward. In the Spring of 2017, I look forward to abandoning a paper-based case management system, and embracing eDefender, our new cloud-based case management system. I am working with Judge Colleen Sheehan and other forward thinkers on creating restorative justice hubs and community courts, as an alternative to arrest and criminal court involvement. And as part of my client-centered approach, I plan to increase the holistic nature of client representation, such as helping clients overcome their life issues that brought them into the criminal court system. My end goal is preventing future criminal court involvement.

My mission, my initiatives, and my priorities are all focused on helping my clients. To do my job properly, I need the best funded public defender office that is possible. As Slide 12 reflects, to ensure manageable caseloads and effective representation of clients, other public defender offices have dealt with the issue by instituting caseload caps. We are edging closer to unmanageable caseloads that could affect the quality of representation. That is why passing revenue for the County, to ensure proper funding of my Office, is essential.

I recognize that we have to make sacrifices to meet the budget target. I am working, through my grant manager and with the President and her staff, on obtaining grant money. But while I understand that sacrifices must be made, given economic realities, I will not take shortcuts. There are no shortcuts to effective legal representation. As a result, I encourage you to work with the President to find all possible new revenue in order to fully fund the Public Defender.

I want to end by referring back to the clip you heard earlier concerning Angel Almatar. Here was a petite Muslim woman, perhaps 100 pounds, who was tackled by three police

officers as she climbed the steps to the El train at State and Lake streets in Chicago. She had finished food shopping for Ramadan and was heading home. She was thrown to the ground, her hijab ripped off, and her food taken. The entire event was captured on video. Her only crime was that she was a Muslim woman who was viewed with suspicion. She was charged with reckless conduct and resisting arrest. Two private attorneys represented her, but then withdrew. My attorneys defended her. At trial, when asked what type of religious sensitivity training he received, one of the officers said only that he received terrorism training. She was acquitted. We won because she was innocent, but also because my staff had the proper training, resources, sensitivity, and connection with the community to understand how to defend her properly.

Liberty and due process are among our most precious rights. The public defender protects those rights. I ask that you ensure the proper revenue stream for an appropriately funded and constitutionally mandated public defender office. If you do that, I guarantee we will do the rest. Thank you for allowing me to speak, and I am ready to answer any questions that you may have.