



Law Office of the
COOK COUNTY PUBLIC DEFENDER

69 W WASHINGTON • 16TH FLOOR • CHICAGO, IL 60602 • (312) 603-0600

Amy P. Campanelli • Public Defender

July 11, 2019

Tanya Anthony
Budget Director
118 North Clark Street, Room 1100
Chicago, Illinois 60602

Re: FY2019 mid-year budget report

Dear Director Anthony:

I am submitting this document as our executive budget summary, detailing the budget status of the Law Office of the Cook County Public Defender (“Office”) at this juncture during FY2019, and our expectations for FY2020.

This summary will provide background by first explaining our function, as well as our statutory and constitutional obligations. It will then paint a picture of our current financial situation, followed by our proposed budget submission for FY2020. In sum, the Office is currently within its appropriation for FY2019, and will end the year within the appropriation. However, for FY2020, we will work with the Commissioners, the President’s office, and Budget Department to seek additional funding above the target to address pressing issues as well as to fund cost-saving initiatives.

Constitutional and statutory obligations

The Sixth Amendment provides, “In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence.” In 1963, the Supreme Court of the United States held that the Sixth Amendment was a fundamental right, and was obligatory on the states. As a result, state trial courts were required to provide counsel to anyone charged with a felony. *Gideon v. Wainwright*, 372 U.S. 335 (1963). The obligation to provide counsel for those charged with misdemeanors was recognized by the Supreme Court in *Argersinger v. Hamlin*, 407 U.S. 25 (1972). Similarly, the Supreme Court held that counsel must be provided, free of charge, to juveniles (*In re Gault*, 387 U.S. 1 (1967)), and to parents facing the loss of their children to the state (*Santosky v. Kramer*, 455 U.S. 745 (1982)).

Illinois’ statutes mirror these constitutional rulings in both the Public Defender and Appointed Counsel Act (55 ILCS 3-4000 et seq.), the Criminal Code of Procedure, and the Juvenile Court Act. By statute:

The Public Defender, as directed by the court, shall act as attorney, without fee, before any court within any county for all persons who are held in custody or who are charged with the commission of any criminal offense, and who the court finds are unable to employ counsel.

The Public Defender shall be the attorney, without fee, when so appointed by the court under Section 1-20 of the Juvenile Court Act or Section 1-5 of the Juvenile Court Act of 1987 or [705 ILCS 405/1-20 or 705 ILCS 405/1-5] by any court under Section 5(b) of the Parental Notice of Abortion Act of 1983 for any party who the court finds is financially unable to employ counsel.

55 ILCS 3-4006.

The Criminal Code of Procedure (725 ILCS 5/113-3) provides that:

- (a) Every person charged with an offense shall be allowed counsel before pleading to the charge. . . .
- (b) In all cases, except where the penalty is a fine only, if the court determines that the defendant is indigent and desires counsel, the Public Defender shall be appointed as counsel.

Section 1-5 of the Juvenile Court Act (705 ILCS 405/1-5) provides that:

- (1) At the request of any party financially unable to employ counsel, with the exception of a foster parent permitted to intervene under this Section, the court shall appoint the Public Defender or such other counsel as the case may require.

This provision applies to both juveniles charged as delinquents and to parents facing the loss of their children to the State of Illinois.

Returning to our constitutional mandate, it has been held that any counsel who is provided, free of charge, must give effective representation. *Strickland v. Washington*, 466 U.S. 668 (1984). Effective representation requires an attorney trained in the field of criminal defense.

The mission of our Office reflects these legal obligations: “To protect the fundamental rights, liberties and dignity of each person whose case has been entrusted to us by providing the finest legal representation.”

Workload obligations

The Office is required to staff all criminal, traffic, juvenile, and child protection courtrooms and court calls. The Office is comprised of 685 budgeted employees, of whom 506 are assistant public defenders (“APDs”). The APDs staff approximately 150 courtrooms, which are located at 12 different sites in the County (five suburban courthouses, four Chicago courthouses, and six courtrooms placed in three different Chicago police stations).

In addition to the above, the Office has other divisions that are needed to fulfill our required obligations but that span the County. These include, for example, Homicide Task Force (representing all persons charged with homicide), Forensic Science Division (providing assistance in cases involving scientific issues), Multiple Defendant Division (where we are appointed to the second client in a case), Legal Resources Division (handling appeals and post-

conviction cases), and the Police Station Representation Unit (providing representation to anyone in custody who requests counsel) which was created in April 2018.

Based on the statistics gathered thus far during the year, the Office projects that for FY2019, it will be appointed to clients charged with more than 18,000 felonies, 75,000 misdemeanors, 2,700 juvenile justice cases, 1,100 child protection cases, and more than 190 homicide cases. These appointments would be in addition to the approximate 124,000 client cases pending at the start of FY2019.

In addition, based on a business case that was presented last year to the President and the County Board, we received funding to create a Mental Health Unit. We are in the process of interviewing and hiring a psychologist and social workers, and recruiting graduate students, who will help us screen clients for mental health issues and allow us to make a more intelligent referral for expert mental health evaluations concerning fitness and sanity. As the Mental Health Unit is rolled out, we expect to see savings in our expenditures for mental health experts.

Budget status for FY2019

The FY2019 budget appropriation came to \$77,330,895, funding 685 positions, of which 506 are attorneys, 116 are support staff, and 63 are investigators. We are on target to spend within the FY2019 allocation.

Budget summary for FY2020

Adhering to the email we received on June 25, 2019, here are our answers to the various questions asked.

I. Highlights of 2019 – Review of Goals and Objectives

FY2019 Goal #1 was to enhance the Public Defender's Police Station Representation Unit by increasing public awareness of the unit through outreach and building a network of community partners, with a target more than doubling police station visits in 2019 to 1,200 and a goal of attaining maximum number of calls for counsel to represent those in custody.

The status of the goal is on-target. In March 2019, responses to calls for counsel fully transitioned from First Defense Legal Aid to the Public Defender. The key performance indicator is the number of calls received and police station visits made monthly by the Public Defender. In the months leading up to the transition, the average number of visits made each month were 52. For March through May 2019, the average number of visits made were 117 each month. Forecasting for an entire year, the Public Defender is on pace to make 1,400 visits for clients in custody in a 12-month period.

Per the Policy Roadmap, the goal of ensuring safe and thriving communities is to create safe communities and an equitable and fair justice system for all residents. An essential foundation for an equitable and fair system is trust in the police, the courts, and the entire process. By providing counsel who will protect the rights of those in custody, the Public Defender is fulfilling the Policy Roadmap goals and objectives.

FY2019 Goal #2 was to develop a Mental Health Unit by creating a plan for hiring a psychologist and social workers, and for forming partnerships with professional schools of psychology and Cook County Health. The Mental Health Unit would identify clients in need and assess mental health issues; would assist in reducing expert witness spending; would help decrease length of stay in jail for clients by more accurately identifying all mental health issues; and would provide an efficient and expeditious disposition of cases with mental health issues.

The County Board approved funding for the Mental Health Unit, but posting and hiring could not start until after the first quarter of FY2019. A posting for both a psychologist and social workers just closed.

Key performance indicators will be the number of clients identified as having mental health issues, the amount of money spent on expert mental health professionals, and the length of time to dispose of cases involving clients with mental health issues.

As stated under Goal #1, the goal of ensuring safe and thriving communities is to create safe communities and an equitable and fair justice system for all residents. The appropriate identification of mental health issues with proper referrals and treatment falls squarely within the Policy Roadmap's goals and objectives.

II. Comparison of YTD budget (as of 5/30/2019) vs expense projections with explanations for major variances and corrective action steps

Operating Expenses	FY 2019 YTD Budget	FY2019 YTD Actuals	\$ Variance	% Variance
Personnel	35,809,545.77	34,105,345.10	1,564,400.05	5.2%
Contractual Services	709,154.93	961,320.05	(252,165.12)	-35.6%
Supplies and Materials	250,785.39	260,507.44	(9,722.05)	-3.9%
Operations and Maintenance	518,492.80	514,226.35	4,226.45	0.8%
Capital Expenditures	N/A	N/A	N/A	N/A
Rental and Leasing	81,958.44	99,578.00	(17,619.56)	-21.5%
Contingencies and Special Purposes	(5,000.00)	0	(5,000.0)	100%
Total	37,364,937.33	35,940,976.94	1,423,960.39	3.8%

- Personnel: As the table above, provided by Budget, shows, as of May 30, 2019, we were below anticipated personnel expenditures. We entered FY2019 with approximately 61 vacancies. Currently, we have approximately 66 vacancies. This was and is due to hiring delays and attrition. The majority of our vacancies are for assistant public defenders. We have posted for hiring, but the time involved in the process resulted in the variance.
- Contractual services: The Public Defender is committed to staying within FY2019 appropriations in every budgeted line. The appropriation for FY2019 was approximately

\$2 million. The expenditures in these lines include expert witnesses, court reporting, and service contracts. The above table reflects our expenditures six months into the year; we are on track to stay within our allocation for contractual services.

- Supplies and materials: Our budget for the year for these lines is \$368,848. Various supplies, such as books, were purchased at the beginning of the year to replenish our supply rooms. We are on track and committed to staying within our budget.
- Rental and leasing: This budget line was pre-populated by Budget for FY2019. The actual spend in the table above is the budgeted amount for the entire year.

III. Comparison of YTD budget (as of 5/20/2019) vs revenue projections (if applicable) with explanations for major variances and corrective action steps

Revenue	FY 2019 YTD Budget	FY2019 YTD Actuals	\$ Variance	% Variance
Revenue Source #1	65,628.00	65,628.00	N/A	N/A

This section is not applicable to the Public Defender.

IV. Year-End Projections (How do you believe you will end the year?)

Revenue	FY 2019 Adopted Budget	FY2019 Year End Estimate	\$ Variance	% Variance
Revenue Source #1	131,257.00	131,256.84	N/A	N/A

	FY 2019 Adopted Budget	FY2019 Year End Estimate	\$ Variance	% Variance
Operating Expenses				
Personnel	73,987,125.00	73,798,794.27	\$188,330.73	0.3%
Contractual Services	2,078,585.00	2,081,366.00	(2,781.00)	-0.1%
Supplies and Materials	368,848.00	368,841.00	\$7.00	0.0%
Operations and Maintenance	816,759.00	817,882.00	(\$1,123.00)	-0.1%
Capital Expenditures	N/A	N/A	N/A	N/A
Rental and Leasing	99,578.00	99,578.00	N/A	N/A
Contingencies and Special Purposes	(20,000)	(19,998.02)	(1.98)	0.0%
Total	77,330,895.00	77,146,642.00	184,253.00	0.2%

The Public Defender is committed to staying within FY2019 appropriations in every budgeted line. Due to hiring delays and attrition, we anticipate that we will be significantly under our budgeted personnel lines.

V. Challenges/Opportunities to be addressed in FY2020 budget

The public safety community has come to recognize that more is needed from the criminal justice process than arrest, trial, and incarceration. Solving the criminal justice issues of Cook County requires looking at those who are accused as more than the sum of the charges against them. For criminal defense organizations, such as the Public Defender, helping clients involves more than simply representation in court; it involves seeing our clients in the community, helping with treatment and services where needed, and helping with housing, employment and other issues where needed. Public defense work involves holistically representing the person in all aspects of his or her life.

In addition, the continuing evolution of technology and science has increased the complexity of criminal defense. Forensic issues have come into place in more and more cases as testing becomes more accurate and discriminating with ever smaller samples of recovered evidence. The explosion in video, via dashboard cameras, body-worn cameras, POD cameras, cell phone video, and storefront security cameras, has required a greater use of resources in order to examine them. It is common to receive as evidence a disk containing 24 or 48 hours of continuous video footage from a police station detention room; the video must be viewed and transcribed.

In that light, both opportunities and challenges face the Public Defender in the FY2020 budget. First, with respect to opportunities, the Public Defender continues to see efficiencies and a positive effect from its Police Station Representation Unit (PSR unit), which was rolled out in April 2018. Based on the most recent statistics, the PSR unit is making an average of 117 visits per month to represent persons in custody throughout Cook County. Having an attorney present at the initial stage of custody provides greater confidence in law enforcement and the criminal court system. Approximately 20 percent of those visited by the Public Defender are never charged. The efficiencies and fiscal savings from having legal representation beginning at the point of arrest is obvious – fewer improperly charged cases, fewer lawsuits and allegations of coercion while in custody, and better allocation of resources to those clients who are charged and need more attention.

Similarly, the Board appropriated funds for the Public Defender to start a Mental Health Unit in FY2019. Having a psychologist and trained social workers on staff to evaluate clients and determine who truly needs a more thorough examination by experts concerning sanity and fitness will focus the allocation of resources and reserve spending of expert witness monies for those truly in need.

In addition to opportunities, however, challenges remain. As noted above, the Public Defender is below its appropriated spending for personnel due to attrition and delays in filling vacancies. In the FY2020 budget, the Public Defender will ask to fund a position for Diversity Recruitment Manager, who will work with schools and communities to encourage a talented and diverse workforce to apply as assistant public defenders, investigators, paralegals, mitigators, and social workers. Reducing the pool of vacancies while increasing diversity is essential to providing effective representation for our clients.

For the past few years, the Justice Advisory Council has assisted in funding the Public Defender's use of caseworkers from the Safer Foundation, an organization dedicated to helping court-involved persons secure and maintain employment. Safer Foundation caseworkers provide crucial assistance daily at Central Bond Court. In December 2018, the Board approved a three-year contract between the Public Defender and Safer; the services for FY2020 will cost just over \$449,000. The burden for paying Safer for the services under the contract has now solely shifted to the Public Defender. We look forward to working with JAC on new initiatives. Additional funds will be needed to fulfill the contractual obligation to Safer and ensure informed bond hearings in Cook County.

The intersection of criminal and immigration law is increasing in frequency daily. Public Defender clients have been arrested by Immigration and Customs Enforcement (ICE) as they leave the courtroom. ICE has sought to question clients in jail as they awaited their bond hearings. New York City and San Francisco both have public defense units that provide detention representation. The Public Defender is investigating the ability to provide immigration detention defense, which will help many of our clients. We are seeking grant funding but also may need assistance from the Board.

The Office of the Chief Judge for Cook County has announced that it plans to open additional Restorative Justice courts. Restorative justice and community-based courts are part of the evolution in treating the underlying causes of criminal conduct. If these new courts are realized during FY2020, additional personnel will be needed to staff these community-based courts.

In another challenge involving technology, the Public Defender has been contacted by Axon, the company that which services *evidence.com*. The Chicago Police Department, as well as a large number of suburban districts, uses *evidence.com* to deliver police reports and other discovery in criminal cases. Instead of reports being tendered in paper, they are deposited in the account of the recipient, who can then access them at the click of a mouse. The State has an account with *evidence.com*. The Public Defender will need to open an account, at a cost of approximately \$90,000.

To accommodate the demands created by clients' mental health issues, bond court, technology, forensics, community courts, and immigration issues, training will be crucial. Without training, the knowledge base to provide proper representation will be missing. The exact training needs will be provided in the FY2020 budget submission.

To overcome these challenges and provide the appropriate representation for clients, the Public Defender will be seeking additional staff for FY2020, including attorneys, investigators, paralegals, mitigators, social workers, an additional technology administrator, and two additional attorney managers to assist with providing training and defending child protection cases. In the budget submission for FY2020, the Public Defender will consider any and all fiscal impact and seek efficiencies wherever possible.

Conclusion

Our budget request is consistent with our core mission and function. Our clientele are indigent people who are accused of crimes or who face the loss of their children to the State. The essential need for our clients is proper legal representation. Proper legal representation includes helping clients exit the criminal court system, obtain needed help, and become contributing members of society.

In conclusion, we are prepared to work with the Commissioners, the President's office, and Budget Department to get our Office to a funding level where the indigent accused, who are the most vulnerable citizens of Cook County, are properly served.

Very truly yours,

Amy P. Campanelli
Public Defender of Cook County
69 West Washington Street
Suite 1600
Chicago, Illinois 60602