

Judiciary & Circuit Clerk Committee
Tentative Minutes
March 10, 2020

1. Call Meeting to Order: Chairman McKinney called the meeting to order at 9:00 a.m. Present: Bowers, Corbitt, Droege and Sulser. Others: Judge Robert Hanson. Absent: Circuit Clerk Kim Stahl.
2. Approval of Minutes - February 11, 2020: Motion by Bowers to approve the minutes as presented, 2nd by Sulser. Motion carried.
3. Closed Session: None
4. Public Comment: None
5. Judiciary
 - Monthly Bills: Motion by Bowers to approve the bills totaling \$10,636.08, 2nd by Corbitt. Motion carried.
 - Department Update: Judge Hanson distributed a proposal to re-establish a Public Defender's office in Ogle County. There was an office in the 1970-80s. He has a meeting with Chairman Finrock and Finance Chairman Sparrow later today. It would comply with State Statute and be more efficient for not just the Judges, but Probation and State's Attorney offices as well.
6. Circuit Clerk
 - Monthly Bills: Motion by Bowers to approve the bills totaling \$210.15, 2nd by Corbitt. Motion carried. Corbitt questioned line 3361-DUI Education Fee under Revenues.
 - Department Update: None
7. New Business: None
8. Adjournment: With no further business, Chairman McKinney adjourned the meeting. Time: 9:37 a.m.

Respectfully submitted,
Tiffany O'Brien

**PROPOSAL FOR REESTABLISHMENT OF PUBLIC DEFENDER'S OFFICE
IN OGLE COUNTY FOR FISCAL YEAR DECEMBER 1, 2020**

I. STATUTE

A. 55 ILCS 5/3-4001 provides as follows:

Public defenders in counties over 35,000. In each county of the State containing 35,000 or more inhabitants there is created the office of public defender and the person to be appointed to such office shall be known as the public defender. No person shall be eligible to or hold such office unless he is duly licensed as an attorney in this State.

B. 55 ILCS 5/3-4009 provides as follows:

Office quarters; expenses. The County Board shall provide suitable office quarters for the use of the public defender, and shall pay out of the county treasury for necessary office, travel and other expenses incurred in the defense of cases. In counties of less than 500,000 population, such payment shall be made after the circuit court of the county approves such expenses as being necessary and proper. In cases where two or more adjoining counties have joined to form a common office of public defender, the expenses incurred under this Section shall be paid as provided for in a joint resolution of various county boards involved.

II. HISTORY OF THE OFFICE OF PUBLIC DEFENDER IN OGLE COUNTY

A. In the 1970s Ogle County had a full-time public defender and a staffed public defender's office within the courthouse. John Evans served as public defender in the 1970s. The last public defender was Fran Pendergast, who left the office in the early 1980s. Upon his resignation, Ogle County decided to go with a contractual relationship, which has been in place since that time. For years it has been questionable as to whether our current system is allowable under the aforementioned statute. A 1995 Attorney General Opinion (1995 WL 441628 (Ill.A.G.)) seemed to allow a part-time public defender provided that one person was properly appointed as the Chief Public Defender for the County. However, that opinion expressly indicated the creation of a system of independent public defenders in a county is inconsistent with the statutory scheme, which contemplates a single public defender who would have the duty to appoint assistant public defenders and employ such clerks and other employees as necessary for the transaction of business. This has not been the practice in Ogle County.

III. NUMBER OF CASES CURRENTLY BEING COVERED BY OUR CONTRACTUAL PUBLIC DEFENDERS

- A. Attached as Exhibit A is the Ogle County Public Defender caseloads for the fiscal years 2018 and 2019. During the time period from December 1, 2017 to November 3, 2018, there were a total of 211 felonies filed and 333 misdemeanors. During the time period from December 1, 2018 to November 30, 2019 there were 248 felonies filed and 162 misdemeanors filed in Ogle County. As evidenced by the attachment, the contractual public defenders having been handling the majority of these cases.
- B. We are the largest county within the Circuit. We handle approximately the same number of felonies as Stephenson County. We handle more felonies than Lee County and substantially more than Carroll County and Jo Daviess County.

IV. PUBLIC DEFENDER OFFICES IN OTHER COUNTIES WITHIN THE CIRCUIT

- A. Stephenson County. Stephenson County has a full-time public defender, a full-time deputy public defender and two full time assistants. The Public Defender's Office is within the courthouse and is staffed with a full-time Office Administrator and a full-time Receptionist. The approximate budgets for Stephenson County Public Defender's Office without including benefits are as follows:
 - 1. 2017 - \$471,000.00
 - 2. 2018 - \$416,000.00
 - 3. 2019 - \$424,000.00
- B. Lee County. Lee County handles fewer felony cases and fewer misdemeanor and serious traffic cases, such as DUIs than Ogle County. Lee County has a staffed Public Defender's Office with a full-time office manager within the Lee County Courthouse. The staff employee is employed by the county. The Public Defender is Robert Thompson who was hired on a part-time basis and allowed to have a private practice. I believe he has two part-time assistants that are paid on a contractual basis and two conflict overflow attorneys hired on a contractual basis.
- C. Carroll and Jo Daviess. These two counties are under 35,000 in population and thus under the statute are not required to appoint a full-time public defender. However, each has appointed a part-time public defender.

V. OGLE COUNTY PUBLIC DEFENDER SYSTEM PRESENTLY

- A. There are three contractual part-time public defenders. They serve from December 1st through November 30th. Each year we execute a new contract. These contractual public defenders are part of the I.M.R.F. program as a result of a lawsuit filed by a former contractual public defender in the 1980s, which resulted in a finding by the Circuit Court that the county should be contributing to their I.M.R.F. They receive no other benefits. The current annual contractual payment for each public defender is \$66,167.00. The overall total is \$198,501.00. An estimate of the current I.M.R.F. contributions would be approximately \$21,000.00 for a total cost of approximately \$219,500.00. There are no additional funds paid to the public defender's office for office administration, supplies, travel, seminars or any other expenses. The contractual part-time public defenders are allowed to have a private practice.

VI. CURRENT ISSUES WITH CONTRACTUAL PART-TIME PUBLIC DEFENDERS

- A. It has at times been extremely difficult to secure qualified people to apply on a contractual basis. Each year the judges are concerned whether we will have three qualified attorneys to handle indigent criminal cases. We have had contractual public defenders quit after a couple of months, which required the judges to scramble to find a replacement. Often public defenders are needed on an emergency basis, especially in juvenile shelter care hearings and it can be difficult to track down. At times, there are significant delays in getting a public defender to court for those types of hearings requiring the whole judicial system to wait.
- B. There is an inherent delay in notifying the defendant as to the name and address of their public defender. All of this is processed through the judges' Administrative Assistant. Notification is mailed to the defendant. The judges are focused on access to justice and the sooner an indigent defendant knows his attorney, the sooner he or she can discuss the case. Additionally, when a defendant requests a change of public defender the court must hear that request, make a determination and written notification of a new public defender is then sent out. Because the contractual public defenders are allowed to have a private practice this leads to conflicts at times, which also causes the need for the judge to appoint a different public defender and sometimes a private attorney.
- C. Finally, we have had issues concerning the public defender's vacations, which causes a delay in the progress of cases in that there is no one to step in and handle the vacationing public defender's cases.

VII. PROPOSED PUBLIC DEFENDER BUDGET

- A. The Ogle County Judges are proposing a full-time public defenders office with a full-time public defender, full-time deputy public defender and two full-time assistant public defenders. These would be full-time employees prohibited from having a private law practice. We are proposing the office be staffed by one administrative assistant. A proposed budget is attached hereto as Exhibit B. The difference in what is currently being paid and what is proposed to be paid would be reduced by two significant factors. First, the County is entitled to reimbursed by the State for 66.66% of the public defender's salary. Currently, that payment is \$44,107.00 per year. With a full-time public defender the contribution to the county would be \$104,256.00, which would be a net increase to the county of approximately \$60,150.00. Secondly, we believe the judicial budget for court appointed attorneys could be reduced by approximately \$20,000.00 given the expanded coverage the public defender's office would provide.
- B. I have attached as Exhibit C the 2020 Public Defender's budget for Knox County (population 53,000) for comparison purposes.

VIII. ADVANTAGES OF A FULL-TIME PUBLIC DEFENDER

- A. All of the judges believe we need a full-time public defender's office. We believe it is required by statute and is consistent with the Supreme Court's emphasis on access to justice for all individuals.
1. The advantages for the judges and for the county would be as follows:
 - a. Upon the appointment of a public defender by the court the defendant could immediately discuss the case with a public defender, which may lead to a quicker resolution.
 - b. By having one location within the judicial center, it will be easier to use the interpreter with Spanish speaking defendants.
 - c. It will shorten the delay in any emergency shelter care hearings in juvenile court. A public defender would be in the building and immediately available for hearing.
 - d. We would require the public defender's office to handle all post conviction petitions, which we currently pay out of the judicial budget for court appointed attorneys.

- e. We would require the public defender's office to handle juvenile abuse appeals, we currently pay out of the judicial court appointed attorneys budget.
- f. We would require the public defender's office to handle all sexually dangerous person cases and all sexually violent person cases, which again are currently paid out of the judicial court appointed attorneys budget.
- g. We believe a full-time public defender's office with full-time employees would provide a more efficient focus on Ogle County cases only. Attention to the cases will be quicker, resulting in shorter delays, quicker court appearances and time to trial or plea.
- h. If there is a conflict with a public defender the Court would not have to send out a new appointment, rather the defendant would be sent immediately to the public defender's office and the public defender would appoint a new public defender.

B. The State's Attorney's Office and the Probation Department are also in favor of a full-time public defender's office within the Ogle County Judicial Center.

- 1. For the State's Attorney's Office there would be the following advantages:
 - a. Ease of delivery of discovery including; CDs, DVDs, non-digital material.
 - b. Potential pleas at arraignment - public defenders currently do not appear at an arraignments but now would be available at an arraignment and available for pleas at the first court appearance.
 - c. Easier and more efficient discussion of plea agreements with the public defender.
 - d. On a jail video, if the defendant indicated that they were interested in a plea they could be walked over immediately and the public defender could appear immediately and present the plea.
 - e. Public defenders would be available for emergency juvenile cases. This will result in little, if any, delay for all parties involved.

- f. There would be one contact rather than the current system which requires postal delivery to three different sites for providing the public defenders all necessary information.
 - 2. For the Probation Department, a full-time public defender's office would offer the following advantages:
 - a. Ease of communication between the public defender and the probation officer.
 - b. The efficiency of delivery of bond reports for video arraignments in that they could be delivered to one location within the judicial center.
 - c. More efficient exchange of petition to revoke information and status information.
 - d. If during a probation meeting a defendant decides he needs to discuss an issue with his attorney, he or she can immediately go to the public defender's office.
- C. For Court Security the advantages of a full-time public defender would be the following:
 - 1. Ease of directing defendants to one location instead of determining which attorney has been assigned to a particular defendant and which courtroom they are assigned to appear in.
 - 2. Creating more secured public areas with less defendants loitering in the hallways on both floors waiting to find their public defender.
- D. In summary, the judges believe the establishment of a public defender's office within the Ogle County Judicial Center will provide an improvement of access to justice for criminal defendants and juvenile respondents which will result in a more efficient disposition of cases.

IX. LOCATION

- A. There is a public defender's office on the third floor of the judicial center. It is not staffed, minimally furnished and rarely used. There is a public defender's conference room across the hall. There is a large room further down the hall which consists of primarily shelves with a minimal amount of documents stored,

which could be converted to an office. Finally, there is a large office on the third floor, which was originally designed to be chambers for a fifth judge. This office has been used for the judges' law clerk and for a CASA representative. This room could also be used by the Public Defender as an office. The judges believe there is space available on the third floor for the public defender's office.

X. CONCLUSION

- A. The judges of Ogle County request you seriously consider this proposal. It provides for consistency with the Public Defenders Statute and more importantly will provide more efficiency and a higher degree of accessibility to justice for indigent defendants and juvenile court respondents.

Thank you for your consideration.

Judge Robert T. Hanson
Judge John (Ben) Roe
Judge John C. Redington
Judge Clayton L. Lindsey

Exhibit A

Ogle County Public Defender Caseload 12/1/18-11/30/19

Felony	177
Misdemeanor	162
Juvenile	105
Traffic	467
Ordinance/Civil Law/Conservation Violations	55
Driving Under the Influence	38
<u>TOTAL</u>	<u>1004</u>

Ogle County Public Defender Caseload 12/1/17-11/30/18

Felony	151
Misdemeanor	203
Juvenile	64
Traffic	592
Ordinance/Civil Law/Conservation Violations	44
Driving Under the Influence	50
<u>TOTAL</u>	<u>1104</u>

PROPOSED PD BUDGET

Public Defender	\$156,400.00
Deputy PD	\$70,000
Asst PD	\$35,000
Asst PD	\$35,000
SALARY TOTAL	\$296,000

Benefits	
IMRF	\$31,150
SS	\$23,500
Insurance	\$48,000
BENEFITS TOTAL	\$102,650

ATTORNEYS' TOTAL	\$398,650
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Administrative Assistant	\$25,000
IMRF	\$2,625
SS	\$1,950
Insurance	\$12,000
STAFF TOTAL	\$41,575

PERSONNEL TOTAL	\$440,225
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Exhibit B
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Office Supplies	\$7,500
Office Equipment	\$3,000
Office Equipment Maintenance	\$1,000
Library, Books and Materials	\$2,500
Office Expenses - ARDC, Seminars and Training, Travel Expenses	\$5,000

OFFICE EXPENSES TOTAL **\$19,000**

FULL BUDGET TOTAL **\$459,000**

2020 Budget History

Exhibit C
Page 1 Knox County

BUDGET STEP: 7 - Adopted

Selected Fund: 001

Selected Dept: 075

Account #	Description	2016 YTD Actual	2017 YTD Actual	2018 Final Budget	2018 YTD Actual	2019 Current Budget	2019 Current Actual	2020 Step Adopted
REVENUE								
Fund: 001 COUNTY FUNDS								
Department: 075 PUBLIC DEFENDER								
001-075-420001-20	PUBIC DEFENDER FE	\$37,279	\$21,275	\$25,000	\$12,662	\$25,000	\$11,544	\$25,000
001-075-490302-20	SALARIES REIMB - P	\$124,859	\$99,895	\$101,265	\$99,895	\$104,492	\$103,540	\$104,236
	Total Sub-Dept 20:	\$162,149	\$121,171	\$126,265	\$112,558	\$129,492	\$115,084	\$129,236
	Dept. 075 TOTAL REVENUE :	\$162,149	\$121,171	\$126,265	\$112,558	\$129,492	\$115,084	\$129,236
	Fund 001 TOTAL REVENUE :	\$162,149	\$121,171	\$126,265	\$112,558	\$129,492	\$115,084	\$129,236
	TOTAL REVENUE:	\$162,149	\$121,171	\$126,265	\$112,558	\$129,492	\$115,084	\$129,236

EXPENSE

Fund: 001 COUNTY FUNDS

Department: 075 PUBLIC DEFENDER								
001-075-510175-42	PUBLIC DEFENDER S	\$141,532	\$149,857	\$151,226	\$151,226	\$154,454	\$154,454	\$155,371
001-075-510200-42	PERMANENT - PD	\$209,613	\$209,780	\$218,429	\$218,429	\$217,023	\$216,299	\$222,133
001-075-510470-42	TEMPORARY SECRE	\$0	\$0	\$0	\$0	\$500	\$0	\$500
001-075-560160-42	RESERVE ATTORNEY	\$81,764	\$65,788	\$62,400	\$53,757	\$62,576	\$43,953	\$57,576
001-075-560175-42	COURT REPORTING	\$5,558	\$354	\$1,500	\$1,300	\$3,800	\$2,037	\$3,000
001-075-560200-42	EXPERT/INV/TESTIN	\$23,011	\$16,412	\$33,500	\$31,322	\$25,000	\$24,979	\$25,000
001-075-580200-42	DUES & SUBSCRIPTI	\$7,241	\$6,339	\$7,160	\$7,150	\$7,450	\$7,436	\$7,200
001-075-580400-42	MAINTENANCE OF E	\$0	\$110	\$0	\$0	\$150	\$0	\$500

Account #	Description	2016	2017	2018	2018	2019	2019	2020
		YTD Actual	YTD Actual	Final Budget	YTD Actual	Current Budget	Current Actual	Step Adopted
001-075-580550-42	COPIER RENTAL/MAI	\$4,421	\$4,423	\$4,200	\$4,182	\$4,800	\$4,544	\$4,800
001-075-580550-42	TRAIN EXP-PUBLIC D	\$289	\$574	\$340	\$240	\$2,000	\$1,752	\$1,500
001-075-590000-42	CONTRACTUAL SERV	\$120,000	\$120,000	\$121,200	\$121,200	\$123,624	\$123,624	\$123,624
001-075-570000-42	BOOKS-PUBLIC DEFE	\$876	\$1,943	\$800	\$682	\$2,000	\$1,461	\$1,500
001-075-575000-42	OFFICE SUPPLY-PUB	\$9,154	\$7,936	\$10,000	\$9,784	\$10,000	\$9,989	\$10,000
001-075-750500-42	COMPUTER HARDWA	\$1,978	\$0	\$2,200	\$1,824	\$4,400	\$2,442	\$4,700
<i>Total Sub-Dept 42:</i>		\$605,437	\$583,516	\$612,955	\$601,093	\$617,777	\$592,970	\$618,504
<i>Dept. 075 TOTAL EXPENSE:</i>		\$605,437	\$583,516	\$612,955	\$601,093	\$617,777	\$592,970	\$618,504
<i>Fund 001 TOTAL EXPENSE:</i>		\$605,437	\$583,516	\$612,955	\$601,093	\$617,777	\$592,970	\$618,504
<i>TOTAL EXPENSE:</i>		\$605,437	\$583,516	\$612,955	\$601,093	\$617,777	\$592,970	\$618,504

BUDGET STEP: 7 - Adopted

Selected Fund: 001 Selected Dept: 075

<i>Grand Total Revenue:</i>	\$162,149	\$121,171	\$128,265	\$112,558	\$129,492	\$115,084	\$129,236
<i>Grand Total Expense:</i>	\$605,437	\$583,516	\$612,955	\$601,093	\$617,777	\$592,970	\$618,504
<i>Grand Total Difference:</i>	(\$443,288)	(\$462,345)	(\$486,690)	(\$488,536)	(\$488,285)	(\$477,886)	(\$489,268)