



## **Annual Program Report for 2015**

# **THE COLLABORATION FOR JUSTICE**

*Seeking Fair and Effective Courts for All People*

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### **About the Collaboration for Justice**

Chicago Appleseed Fund for Justice is a social impact research and advocacy organization that identifies community injustices, conducts research necessary to develop proposed solutions and advocates for their implementation. Chicago Appleseed is an affiliate of the Appleseed National Network of Social Justice Centers.

Chicago Council of Lawyers is the public interest reform bar association which for more than 40 years has been advocating for a fair and effective administration of justice.

Together, the two organizations constitute the Collaboration for Justice (Collaboration), focusing on judicial reform in Cook County. The Chicago Council of Lawyers works independently of Chicago Appleseed in its efforts to evaluate judges for the purpose of educating voters.

The Collaboration works through Joint Program Advisory Committees which oversee our projects. Members of the Program Advisory Committees also assist in conducting projects, identifying systemic issues, considering ways to use national and local research in developing proposed solutions for Cook County, and preparing policy and editorial statements. There are Advisory Committees on Criminal Justice Reform, the Administration of Justice, Child Support and Family Law Reform, and Immigration Court Reform.

For more information about the Committees or the Collaboration for Justice, please contact Executive Director, Malcolm Rich, at [malcolmrich@chicagoappleseed.org](mailto:malcolmrich@chicagoappleseed.org) or call 312-988-6552. To view or download copies of Collaboration reports and policy statements, please visit [www.chicagoappleseed.org](http://www.chicagoappleseed.org), or contact Executive Director, Malcolm Rich

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## **A Selection of The Collaboration's 2015 Accomplishments**

### **Criminal Justice**

The Collaboration for Justice aims for safe and cost-effective alternatives to incarceration. We accomplish these aims through research, advocacy, legislative proposals, technical assistance, and project management. Over the past year, we identified injustices affecting vulnerable populations by conducting court watching, and researching Cook County court practices and structures by collecting data through evaluations and interviews with lawyers, judges, government officials, community organizations, and other stakeholders.

Once the data has been collected and the research is complete, we can accurately identify judicial inefficiencies and harmful practices in need of reform. We combine this knowledge of the local court system with our knowledge of the best, evidence-based practices which are successfully used by judiciaries throughout the country. This breadth of knowledge allows us to develop proposals specifically tailored to the individual needs of the Cook County courts. By working with county officials and other key stakeholders on problem-solving measures, we provide Cook County with manageable reform plans, technical assistance, and the broad based support necessary to bring about meaningful change. Together we strive to bring the highest standards of justice to Cook County courts.

### **Access to Community Treatment Court Project**

Chicago Appleseed, along with its partners, created an evidence-based problem-solving court that diverts drug-dependent individuals charged with non-violent crimes from the Illinois Department of Corrections (Prison) and Cook County Jail into community-based treatment and support services.

The model, a specialized form of probation called the Access to Community Treatment (ACT) Court, is demonstrating ways to address substance abuse, unstable housing, lack of prosocial relationships, and other risk factors that are known to drive crime. Chicago Appleseed provides project management, policy development and research assistance to the ACT Court.

An ACT Court participant who was promoted to the final phase of the program told ACT Court Judge Mary Colleen Roberts, "Thank you for the program. It's gotten my life together." Later in the court call, another participant excitedly told Judge Roberts that he had recently reconnected with his children after a 31-year estrangement.

On September 3rd, the Access to Community Treatment Court achieved a major milestone, celebrating its first graduation for individuals who have successfully completed the problem-solving court program.

16 individuals were recognized for their efforts. Several graduates shared powerful remarks about their experience before, during, and after the ACT Court program.

R, one of the program's first participants, said, "All my life, it seems, I've been going to jail for the use of drugs. I thought drugs were my best friend. I'm 54 years old, but I've been going to jail since I was 12. The drugs kept me occupied and comforted." She then went

on to describe how getting sober had enabled her to be a positive presence in her neighborhood.

Several graduates shared ways they are now giving back to their communities. One woman has been reunited with her children and grandchildren, another was recently promoted to manager of a restaurant where she began working during her probation; others are group leaders and speakers in peer support meetings.

Nearly all of the graduates remarked that, prior to completing the ACT Court program, they had been embroiled in a cycle of committing crimes to support their drug use, leading to arrest, incarceration, and re-entry into challenging communities. All ACT Court participants have been convicted of at least three nonviolent felonies, and have also been to prison at least once—a requirement ensures that the program targets individuals at high risk of incarceration. As an Adult Redeploy Illinois justice reinvestment program, the ACT Court must divert prison-bound individuals into community-based services.

Despite their best efforts, and a deep desire to change, graduates explained, they had not been able to break that cycle. They attributed their current success to the structure and support of the ACT Court, which lasts a minimum of twelve months and combines linkage with community-based services and accountability in the form of frequent judicial contact.

Chicago Appleseed has been instrumental in planning, implementing, and managing the ACT Court for over two years.

### **Ensuring the Public Defense of Indigent Defendants in Cook County**

In 2013, the Collaboration discovered that judges overseeing preliminary hearings throughout Cook County were denying defendants court-appointed Public Defenders without conducting constitutionally required indigency hearings. The Collaboration prepared and submitted a legal memorandum to Cook County Circuit Court Chief Judge Timothy Evans detailing the illegality of this practice. On September 23, 2013, DNAINFO CHICAGO credited us for the General Administrative Order issued by Chief Judge Evans aimed at correcting this problem.

In August 2015, The Criminal Justice Advisory Committee, a joint group of the Chicago Appleseed Fund for Justice and the Chicago Council of Lawyers, released a policy statement, *Ensuring the Public Defense of Indigent Criminal Defendants in Cook County*, on whether criminal defendants in Chicago's felony preliminary hearing courtrooms receive the public defense required by the Sixth Amendment to the U.S. Constitution and by Illinois law.

The report follows two years of working with stakeholders to correct problems identified by the Criminal Justice Advisory Committee that resulted in denial of a public defense for persons entitled to one. While additional work remains, there are early and clear indications that our reform efforts, along with Cook County judges' receptivity to change, have increased access to a public defense for indigent criminal defendants and improved adherence with Constitutional and statutory requirements. We continue to work with the Office of the Chief Judge to further improve the process and to monitor the impact of the General Administrative Order.

## **Chicago Needs to Report More Comprehensive Data About How It Processes Misconduct Complaints Against Police Officers**

The Chicago Council of Lawyers, Chicago Appleseed, and the Chicago Lawyer Chapter of the American Constitution sponsored on June 16, 2015 a Police Accountability Forum featuring presentations from Scott Ando, Chief Administrator of the Chicago Independent Police Review Authority, and Ralph Price, General Counsel of the Chicago Police Department. As a follow-up to this Forum, Gordon Waldron, on behalf of the Chicago Council of Lawyers, has prepared an editorial position statement, [\*Chicago Needs to Report More Comprehensive Data About How it Possesses Misconduct Complaints Against Police Officers.\*](#)

## **Pilot Drug Field-Testing Legislation**

In 2013, Chicago Appleseed identified that for every year in Cook County 5,000 individuals charged with nonviolent drug offenses are having those charges dismissed at their preliminary hearings for lack of probable cause—but only after spending an average of 25 days in jail. This is an egregious waste, both in terms of the human cost to those men and women detained and the financial cost to taxpayers. Every other county in Illinois and every large urban jurisdiction throughout the country process these same types of cases in a fraction of the time.

To tackle this problem, Chicago Appleseed partnered at the outset with the Community Renewal Society (CRS) to develop legislation. On August 21, 2015, HB356, a bill establishing a pilot drug field-testing program was enacted, having passed both houses of the Illinois legislature and being signed by Governor Rauner. The bill, chiefly sponsored by Representative Zalewski in the House and Senator Harmon in the Senate, was developed in collaboration with Chicago Appleseed Fund for Justice, the Community Renewal Society and Reclaim Campaign, and the Cook State's Attorney's Office, with support from Cook County Board President Preckwinkle, the Public Defender's Office, and many more.

The field testing bill creates a one-year \$30,000 pilot program that would bring field-testing to Cook County for marijuana, cocaine and heroin. The field tests are simple and cheap: Police put the suspicious substance in a vial of chemicals that costs about \$1.25 per unit then pull the substance back out and see if it has changed color.

One newspaper editorial's support of the bill compared the ease to using a home pregnancy test. Field tests are slightly less accurate than a full lab analysis but have been deemed sufficient by courts all over Illinois and the country to be sufficient for a probable cause hearing. For those moving on to the trial stage, full lab analysis would still be conducted.

The state's attorney's office has assured advocates that if the Chicago police can implement field-testing of drugs, they can bring the cases more quickly and shorten the waiting period for determining probable cause.

In addition to saving tax dollars, this legislation will help prevent the great human cost of jailing thousands of individuals a year, without probable cause or proper review, for nearly a month and profoundly disrupting their lives and futures.

We applaud Senator Harmon and Representative Zalewski, the Community Renewal Society, the county board president's office, the state's attorney's office, the public

defender's office and the Chicago Police Department for collaborating and being supportive of this important initiative.

### **Administration of Justice**

The Collaboration for Justice promotes social justice and government accountability with an emphasis on making Cook County courts more fair, efficient, and effective. The Administration of Justice Committee focuses on issues related to the policies and procedures used by the Cook County Courts to administer justice, including judicial disqualification and recusal, voter education and engagement, Supreme Court Rule 23 regarding unpublished appellate decisions, court management data that should be collected and utilized, use of shackling in Juvenile Court proceedings, utilizing a judicial performance commission approach to evaluate state court judges, and public confidence in an elected judiciary.

In August 2015 we submitted to Chief Judge Timothy Evans the results of our research and a proposed approach to ensure access to justice and to uphold the due process rights of individuals by advocating for the use of court recording devices in courtrooms that do not have court reporters —[\*Upholding due process rights of indigent and pro se litigants by providing court recording equipment in Cook County.\*](#)

Many courtrooms in Cook County currently operate without court reporters while the number of pro se litigants appearing in these court rooms has steadily increased. For many pro se litigants, hiring a privately-paid court reporter is cost prohibitive which creates an access to justice problem because no appropriate record for exercising appellate rights exists. Although there are alternative ways to preserve a record, many pro se litigants are unaware of these options or do not understand the specific rules required to take advantage these options, and their appellate rights are effectively forfeited as a consequence. A cost-effective solution to this problem is the use of automated court-recording equipment. This practice has been adopted in states across the nation, as well as in some Cook County courts. However, more recording devices are needed to fill the gaps in those courtrooms where reporters are unavailable.

Our policy brief prepared by pro bono attorneys at DLA Piper first outlines the constitutional and state-law issues at stake when a courtroom without a court reporter also lacks recording equipment. Second, it describes the specific problems this causes in Cook County and the work that Chicago Appleseed has done to discover the access to justice issues that exist in our community. Finally, it describes a proposal to the Illinois Supreme Court to fund court recording devices in Cook County courtrooms.

### **Amicus Curiae Briefs**

Chicago Appleseed takes advantage of every opportunity presented to us to advocate for judicial reform through amicus briefs. In November 2011, Chicago Appleseed submitted an amicus brief written by its pro bono attorneys to the Illinois Supreme Court in the matter of *Avery v. State Farm*. Chicago Appleseed seized this important opportunity to address the Illinois Supreme Court because judicial integrity issues were at the heart of the case. We recognize that the standards and procedures of judicial recusal, particularly in the context of campaign spending, have a direct impact on the public's confidence in the integrity of the judiciary.

In September 2012, Chicago Appleseed, in collaboration with the Illinois Campaign for Political Reform and the Campaign Legal Center, filed a friend-of-the-court brief in *Illinois Liberty PAC v. Madigan*, in support of Illinois' campaign contribution limits. Chicago Appleseed firmly stated that the contribution limits are constitutional and necessary to maintain fairness in elections. After an appeal, a second brief was filed in October 2012.

On December 23, 2014, the Collaboration signed onto the amicus brief submitted in *Williams-Yulee vs. Florida Bar* before the U.S. Supreme Court. In the brief, we and our partner organizations maintained that the "judiciary's legitimacy depends almost entirely on its reputation for fairness and the public's confidence in its impartiality and independence." The Court's decision will affect Illinois law because our judicial canon is similar to the one at stake in *Williams-Yulee* which prohibits judicial candidates from personally soliciting or accepting campaign contributions.

In August 2015, Chicago Appleseed joined an amicus brief in *Sanchez v Torres*, in the Appellate Court of Illinois. We joined with Loyola University Civitas ChildLaw Center, the Chicago Metropolitan Battered Women's Network, the Sargent Shriver National Center on Poverty Law, the John Marshall Law School Domestic Violence Clinical Advocacy Program, Chicago Volunteer Legal Services and LifeSpan Center for Legal Services & Advocacy in signing the brief. The brief was prepared by the Domestic Violence Legal Empowerment and Appeals Project of the George Washington University Law School and attorneys at Morgan, Lewis & Bockius LLP.

At issue in the case is a Circuit Court action contrary to a provision of the Illinois Domestic Violence Act (IDVA), providing for a mandatory order of protection upon a factual showing of abuse. [750 ILCS 60/214\(a\)](#). After two factual hearings, the court found petitioner's allegations of abuse to be credible and yet denied her request for an order of protection, pursuant to the IDVA, issuing a restraining order instead.

The brief makes the argument that this is an impermissible exercise of discretion where the statute states that "[i]f the court finds that petitioner has been abused by a family or household member . . . , an order of protection prohibiting the abuse . . . shall issue." [750 ILCS 60/214\(a\)](#).

## **Children and Family Law**

The Collaboration's work in the Domestic Relations court is designed to improve outcomes, particularly for pro se litigants and their children. Through evidence-based research, outreach to parents on the intricacies of the court process, and efforts to connect families in need with essential services, the Collaboration works to make impactful reform to the courts. Most recently, the Collaboration has been working to improve the child support adjudication system. Specifically, we undertook a re-assessment of Cook County's bifurcated child support courts.

In 2013, with pro bono assistance, Chicago Appleseed embarked on an evaluation of the Domestic Relations Division, which houses a Divorce Court for child support matters involving marital children and a Parentage Court for child support matters involving nonmarital children. We presented the final report, *Constitutionality Analysis of Cook County Parentage Court* (Constitutionality Report), in December 2013, to the Domestic Relations Task Force. The Task Force, including representatives from the Collaboration, was convened by Presiding Judge Grace Dickler to examine the court conditions litigants and attorneys experience in Parentage Court.

The Constitutionality Report concluded that, despite many improvements over the last 20 years, the Domestic Relations Division remains a court on the brink of constitutional inequity. We made a key determination: that a unified Domestic Relations Court would better serve families. Additionally, the report encouraged the court to improve signage, adapt its current processes to different needs, and adopt a community courts, court-based services model.

After reviewing our report and recommendations, Judge Dickler asked Chicago Appleseed to continue our research work as a member of the Domestic Relations Task Force. Since then, Chicago Appleseed and the family law specialists who serve on the Collaboration for Justice Child Support Advisory Committee have worked with the Task Force to design a pilot courtroom.

The pilot courtroom will embody a triage court process and early intervention system to reduce the current delays and wait times children expecting child support payments experience. Consultants from the National Center on State Courts and pro bono attorneys have contributed expertise and research to the design of the pilot courtroom. As a result of these collective efforts, Chicago Appleseed received a grant from the Chicago Foundation for Women in support of the project.

The pilot courtroom design has been approved by Cook County Circuit Court Chief Judge and we are working on finalizing the policies, procedures, and an evaluation process necessary to launch the Consolidated Child Support Pilot Courtroom in early 2016.

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The Appleseed fund for Justice is an influential and important contributor to our Parentage Court Committee. Appleseed has launched a number of research initiatives essential to our evaluation of the current structure of the Domestic Relations Division. Their extensive experience in instituting system wide reform makes them a unique member of our taskforce. The Appleseed Fund for Justice has been an invaluable resource in our mutual quest to ensure that that our courts treat fairly and equally both marital and non-marital children.

Presiding Judge Grace Dickler

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## **Immigration Court Reform**

The immigration court system is an integral part of the American justice system. Immigration court is a subset of the Executive Office for Immigration Review (EOIR), whose primary aim is to decide whether to remove or grant residence to immigrants who are charged by the Department of Homeland Security (OHS) with violating immigration law. This process needs to be fair, efficient and effective. Chicago Appleseed is committed to improving systems, policies, and practices of immigration courts and working toward reforms that protect the legal rights and basic human rights of immigrants. Chicago Appleseed, working in collaboration with the Appleseed Network, the Chicago Council of Lawyers, and other well-respected organizations, has identified relatively inexpensive ways to improve these courts that will yield millions of dollars in savings while increasing due process protections for hundreds of thousands of individuals.

These collaborative efforts resulted in the report, *Assembly Line Injustice*. Issued in 2009, the report is based on interviews with experts who have actual day-to-day experience in Immigration Courts, setting it apart from previous evaluations. The second report, the 2012 *Reimagining the Immigration Court Assembly Line*, scores the Court's response to recommendations in the first report.

In the 2012 report, Chicago Appleseed identified some progress since the 2009 report was released. For example, the number of immigration judges increased by 22 percent, political influence in the selection of immigration judges abated and EOIR released its Ethics and Professionalism Guide for Immigration Judges. But even though some progress was achieved, the report noted that numerous problems remained. It emphasized problems with conducting proceedings with videoconferencing, the inability of immigrants to acquire their own records, the lack of prosecutorial discretion, and the fact that 80 percent of immigration detainees still lacked legal representation. We continue to work on solutions to address these and other issues.

We continue to work with a collaborative Working Group of Chicago-area organizations, and with the members of the Appleseed Network to improve day to day policies and procedures of the immigration courts, and to increase legal representation.



## THE COLLABORATION FOR JUSTICE

*Seeking Fair and Effective Courts for All People*

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