



A Report on Stationhouse Representation in Cook County

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Executive Summary

This report has two aims. The first goal is to report on Chicago Appleseed's evaluation of the quality and capacity of the representation being provided by the Public Defender's Police Station Representation Unit (PSRU). First Defense Legal Aid (FDLA) asked for this report to help determine whether, and on what timeline, FDLA can cease providing direct stationhouse representation and allow the PSRU to handle all calls for stationhouse visits. The second goal of this report is to provide recommendations on how FDLA and the Cook County Public Defender's Office can form a successful public-non-profit partnership that effectively maintains the quality of direct representation and uses effective outreach and advocacy efforts to vastly increase the number of Cook County arrestees who call for and receive free legal advice in the police station.

FDLA asked Chicago Appleseed to evaluate the PSRU in 5 key areas and determine whether they were ready to become the sole providers of free stationhouse representation. These areas were (1) PSRU Attorney training and quality of PSRU service delivery; (2) Operator Training, protocols, and phone call routing systems; (3) Long-term funding and sustainability; (4) Data reporting and policy advocacy; (5) Community Outreach and marketing. In addition, FDLA asked Appleseed to determine whether the PSRU had the capacity to cover all of the requests for representation that are made in Cook County.

Chicago Appleseed Fund for Justice interviewed First Defense Legal Aid staff, board members, and volunteers, the Public Defender, Amy Campanelli, and the deputies and line attorneys who staff the Public Defender's Police Station Representation Unit (PSRU) as well as union representatives from the Public Defender Union. Appleseed also conducted interviews with eight private attorneys who have conducted station visits as part of their practice. We also reviewed data from both FDLA and the PSRU regarding their representation of clients between April 16 and October 31, 2018. Overall, Appleseed found that FDLA and the PSRU are largely providing the same, high quality services to a relatively small pool of clients, resulting in untapped talent and staff time in both organizations. The current number of calls for stationhouse representation represents only about 1.3% of arrestees in Chicago

and Cook County. We also found that the PSRU is ready to serve all of this demand immediately. In fact, the staffing levels at the PSRU are currently being underused.

The first two parts of this report detail the information that Appleseed gathered about the PSRU's practices that support our conclusion that the PSRU is ready to take full responsibility for all stationhouse representation in Cook County. Part #1 details our evaluation of the quality of representation provided by the PSRU. Part #2 details our evaluation of the PSRU's capacity, methods of service delivery, and long-term sustainability. Although the PSRU has a small outreach program, ultimately, we concluded that policy advocacy and community outreach would be best performed by FDLA itself, while the PSRU focuses its energy on delivering high quality services.

In Part #3, given our findings, we make 4 key recommendations for FDLA's staff and board in this report:

- (1) **Since FDLA has always asserted that the Public Defender's office is the ideal agency to provide free stationhouse representation, it should transition to a system where all calls for representation are routed directly to the PSRU as soon as possible, ideally by March 1, 2019.** This transfer will require a number of technical steps, most importantly transfer of the ownership, payment, and administration of the 1-844-817-4448 number that rings to the PSRU to the Public Defender's office's full control. FDLA will also need to make decisions about how to transition its use of its 1-800-LAW-REP4 number to ensure that calls to that number for stationhouse representation also automatically go to the PSRU and make a few other logistical changes. In this section we will provide a rough timeline for some of the logistical meetings that will need to take place to make this transition a reality.
- (2) **Establish a new Memorandum of Understanding (MOU) that clearly delineates the role of the PSRU and the role of FDLA in ongoing work.** The MOU between the two organizations is out of date and does not reflect current realities. FDLA and the Public Defender's office need a clear, binding document that lays out how the two organizations will communicate, what data they will share with one another, how FDLA agrees to conduct its outreach and advocacy in partnership with the PSRU.

- (3) **Hire or Designate a Staff Member at FDLA to facilitate this transition and serve as the primary contact for the partnership going forward.** It is no secret that for the past two years while the PSRU and FDLA have operated side-by-side, their relationship has been plagued with communication problems and misunderstandings. A single point person at FDLA will help alleviate some of these communication problems. This coordinator can help establish a new MOU with the Public Defender's office and complete technical changes to facilitate the transition. After March 1st, there will be an ongoing need for FDLA to receive data and updates from the PSRU to pass to their outreach and advocacy teams and restructure its outreach and advocacy to reflect the new role of the PSRU as the 24/7/365 provider of stationhouse representation. It is our recommendation that a single person be the staff person for this effort, in order to improve communication between the two agencies.
- (4) **Expand and restructure FDLA's outreach and advocacy efforts in order to spread awareness of the PSRU's new role and lead the charge in increasing the number of arrestees who successfully use PSRU services and changing legislation and CPD policy regarding stationhouse representation.** As FDLA transitions to no longer providing direct stationhouse representation, we recommend that FDLA turn those resources to aggressively expanding its outreach and community education efforts to reach as many Chicagoans as possible with information about how to contact an attorney when they or a family member are arrested, a description of the PSRU unit and how it operates, and why it is important to call an attorney as soon as possible. FDLA should also use its unique technical expertise to lead efforts crafting and advocating for appropriate legislation, at both the local and state level, that can improve access to lawyers at the stationhouse. In particular, FDLA should focus on state, local, and federal policies and laws that ensure police give arrestees a meaningful opportunity to make phone calls to access counsel from the police station within one hour of arrest.

Part 1: Evaluating the Quality and Capacity of Stationhouse Representation Provided by the PSRU

The first goal of this report is to assure FDLA that the 25 years of work that the organization has put in to make free, high-quality stationhouse representation a reality in Cook County is being left in the best possible hands when the Public Defender begins handling all of the demand for station visits¹. In order to assess the quality of representation and capacity of the PSRU, Chicago Appleseed first interviewed FDLA staff and Board members, interviewed 8 private attorneys who have years of experience providing stationhouse visits to their own clients, and read FDLA's volunteer manual to establish a standard for quality representation. We then conducted extensive interviews with the Public Defender's office, including with line staff at the PSRU, their direct supervisors, administrative and training managers in charge of the unit, and Amy Campanelli herself to determine what the PSRU is doing on a day-to-day basis and what safeguards the office has to ensure that it continues to provide high quality stationhouse representation in perpetuity.

Defining High-Quality Stationhouse Representation

Through interviews with private attorneys and FDLA staff, we determined major core competencies that a lawyer providing stationhouse representation needs to master. Mastering these skills is the key to providing high quality stationhouse representation.

¹ At Chicago Appleseed, Sarah Staudt, our Senior Policy Analyst and Staff Attorney and the main author of this report, conducted the majority of the interviews. Sarah has herself been approved to volunteer at FDLA, and during her 5 years of practice as a criminal defense attorney at Lawndale Christian Legal Center conducted dozens of station visits at a variety of Chicago Police Stations. Sarah is highly familiar with FDLA's standards and with best practices for high quality representation in police stations.

- (1) ***Be able to determine where an arrestee is located and overcome roadblocks from the Chicago Police Department that impede attorneys' ability to locate their client.*** When a friend or family member calls to ask for a lawyer to go to the police station, they often have no idea which police station their loved one was taken to. Stationhouse attorneys agreed on a basic practice to effectively locate their clients. Most started with the front desk sergeant of the precinct closest to the location of arrest, including asking the desk sergeant to physically check lockup for the client rather than relying on a computer readout. If this was unsuccessful, lawyers called CPD's central booking number. If neither works, attorneys described a myriad of different locations that they call to try to locate their client: the "Homan Square" CPD facility, all police stations in the area and sometimes in the city, the US Marshals to check for federal custody, and local hospitals.
- (2) ***Be aware of and able to respond to different types of clients with different needs.*** Attorneys inside and outside of FDLA noted the importance of knowing how the police processed and dealt with juvenile arrestees differently than adult arrestees, and basic information about the best ways to work with a client who is having a mental health crisis or under the influence of drugs. Attorneys also noted the importance of having Spanish-speaking staff on hand.
- (3) ***Reach the client as quickly as possible.*** All of our interviewees noted that getting to the station as quickly as possible is key to effective representation. Once at the station, attorneys also noted that they needed to be persistent with desk sergeants to make sure they are not delayed by intentional CPD delaying techniques like being told someone is "being processed".
- (4) ***Meticulously document every step of the stationhouse visit process and as much information about the arrest as possible.*** Attorneys noted the importance of documenting every name and badge number of every person you speak to over the phone or in person, and the precise times that every call and conversation occurred. Some attorneys had had the experience of needing to testify later in a case when police claim a voluntary statement was made despite a person invoking their rights, or when other aspects of the arrest are at issue at trial. In those cases, contemporaneous, detailed notes allow an attorney to credibly refute contradictory statements by police. When speaking with their

client, respondents noted that they did *not* gather information about the substance of the crime in question with their clients at the police station for fear of being overheard. However, many did ask about the circumstances of the arrest and documented any injuries or police misconduct that was reported. They also insisted that police take pictures of any injuries.

(5) ***Maintain a demeanor that is firm, but polite, in order to get the fastest response from Chicago Police Department Officers.*** With police, they strove to be cordial and polite, but firm. They tried to avoid open confrontation while still making sure they were given access to their clients. When they were with the arrestee, attorneys were compassionate, non-judgmental, and calm, and took extra effort to explain the arrest process and the seriousness of the situation to their clients

(6) ***Build rapport with the client and try to meet basic needs, while managing their expectations about what would happen next.*** Attorneys generally asked about and looked for signs regarding whether a client had been fed, had been allowed to use the bathroom, was warm and well clothed, and was not in need of medical attention. In addition, attorneys paid attention to signs that a client was suffering from a mental health issue or under the influence of drugs and documented what they saw. Attorneys also emphasized that they made no promises about whether the client would be released or charged, or when they would leave the station.

(7) ***Advise the client not to answer questions from the police and teach them how to assert their 5th and 6th amendment rights.*** Particularly with juvenile clients, some practitioners noted that it was important to ask them what the police had already told them about making a statement, so that they could refute any specific misleading statements officers had made. Some attorneys roleplayed with their clients and practiced how to invoke their rights if the police came back later to ask questions.

(8) ***Do your best to document the client's invocation of rights.*** Some used declaration of rights forms like FDLA's and did their best to serve those documents on CPD officers. Others noted that the best proof of invocation was for the client to actually invoke on videotape in an interrogation room, and they would do their best to facilitate that video.

(9) ***Follow up with Loved Ones.*** After visiting with the client, attorneys got back in touch with the client's family, friends, and with whoever had originally called them asking for representation. One respondent noted the particular importance of talking to the parents of juvenile arrestees and making sure that they too understood the importance of their child remaining silent, because parents were sometimes used as unsuspecting pawns in officers' efforts to convince the child to make a statement.

Evaluating the PSRU's Quality of Representation

Through interviews with the PSRU staff and supervisors, former members of the unit, the Public Defender herself and her staff, and review of the PSRU's training and staff manuals, Chicago Appleseed has determined that the PSRU is providing high-quality, consistent, and passionate representation to its clients. The PSRU attorneys are providing the same gold-star level of representation that FDLA has become known for. In fact, the PSRU's placement within the larger Public Defender office allows them to provide even more efficient representation in some regards than FDLA can as a non-profit.

We first set out to assess what PSRU attorneys believed that quality representation was, and how they did their jobs to ensure that their clients were well represented. In short, the attorneys described high-quality work and were passionate about their jobs. They were clearly competent and knowledgeable about locating, reaching, and advising their clients. Their training and staff manual contain advice on the substance of representation that is essentially identical to FDLA's own guidance. The high quality and knowledge displayed by the PSRU members makes sense in part because the unit started with 3 out of its 6 members having already worked with FDLA in some capacity, as staff or volunteers. Those founding members of the unit passed on considerable knowledge, and that has helped make the PSRU a unit that operates very similarly to FDLA.

PSRU attorneys have access to the resources they need to provide excellent representation. They have office space, office-provided cell and land-line phones, and access to county cars and a county ride-share account to use to make sure they can get to police stations efficiently. They also use their own vehicles. When we interviewed

staff, they all had “war stories” about particularly difficult cases where they had had to work especially hard to locate a client. In all cases, the attorneys demonstrated expertise and insight into how to best practice stationhouse representation.

FDLA staff expressed particular concern about a few areas of representation quality which we will try to address below.

The first concern raised by some staff was that the Public Defender’s would experience difficulty with building client rapport because of existing biases against the Public Defender’s office that are present in many communities. Thankfully, this concern has not proven to be a major obstacle to PSRU representation. In fact, the unit members say that their clients are very happy to see them and appreciate the detailed information that they can give as Public Defender’s about exactly what will happen in bond court the next day, including sometimes the name of the lawyer who will represent them. The PSRU also started a very successful donation drive for hoodies and other sweatshirts that they give to arrestees in the often-freezing cold holding cells. This program has been greatly appreciated by their clients, whose outer garments have often been taken by police for evidence or because they are not allowed into the holding cells for safety reasons.

FDLA staff also expressed a concern that the unit would be staffed with lawyers who were either new to the office and inexperienced, or by lawyers who were looking for an “easy” assignment away from the courtroom, who might lack passion for the project. Our interviews did not find this to be an area of concern. The PSRU is one of two assignments that incoming attorneys to the office can choose as their first assignment. However, new Public Defender’s receive training on stationhouse representation before they join the unit, and work with a more experienced shift member when possible to learn the ropes. The position is also available as a “bid-in” position for attorneys with more seniority, and the unit has attracted a few lawyers with substantial Public Defender experience since it opened. These lawyers have been primarily attracted to the unit because of the unorthodox hours. Public Defender work is almost universally a 9-5 job, and some of the more senior attorneys noted that the rotating schedule of the PSRU gave them more flexibility they needed to attend to family needs. Reassuringly, all the unit members we spoke to said they genuinely enjoyed their jobs. Their main complaint was that they were not getting *enough* calls for stationhouse representation, and often got bored on their shifts when no calls

came in. All the attorneys we spoke to said they were energized by working in the PSRU, because they felt satisfied to be able to constantly work with clients who are in dire need of both representation and a human connection in a time of great stress.

Lastly, some FDLA staff were concerned about post-visit follow-up with family members who have called for help for their loved ones, something that FDLA prides itself on. The PSRU also values this follow-up highly. Like FDLA's lawyers, PSRU attorneys sometimes find that simply by showing up at the police station, they convince the police to release their client. According to their data, they are able to walk their clients out of the station about 19% of the time. If they cannot, they track the case's progress through the access they have to the court docket, and they make a follow up call to inform any family members or friends that the arrestee wants them to call, as well as the original caller. When a lawyer's shift ends before a family member has been reached, or while a person's case is still pending without a charge, the next shift's lawyer continues to track the case and follow up as needed.

All in all, our interviews showed that the PSRU attorneys and supervisors are passionate, committed, and qualified. They are ready and able to meet the new challenge of meeting 100% of the demand for stationhouse visits.

Part 2: The PSRU's Capacity, Service Delivery, and Long-Term Sustainability

Appleseed also explored the PSRU's readiness to take over the full call volume of calls for stationhouse representation in Cook County. FDLA has developed and refined its program over many years, and some staff expressed concerns about whether the PSRU was ready to replicate what FDLA has done. Our interviews found that they are. Although the PSRU's practices sometimes differ from FDLA's because of the differences in their staffing structure, and because of their connection to the larger Public Defender's office, they are ready to handle the entirety of the demand for stationhouse representation. We will describe the steps that the PSRU has taken to meet or exceed FDLA's standards for a quality delivery system for stationhouse representation below.

Defining the Key Characteristics of a High-Quality Stationhouse Representation Program

For the past 25 years, FDLA has built a unique program to effectively have a qualified law student or lawyer reach every arrestee who calls their hotline number. When Appleseed was asked to write this report, FDLA staffed noted a number of key areas that they thought were essential for the PSRU to master in order to effectively run a stationhouse representation program that covered the demand for stationhouse visits in all of Cook County.

- (1) ***Be able to cover calls 365 a year, 7 days a week, 24 hours a day without ever needing to turn down a call because of lack of staff.*** FDLA maintains its volunteer lawyer program over holidays and in the wee hours of the morning. It also has backup staff to cover calls when volunteers are not available.
- (2) ***Be able to cover multiple calls that come in at the same time.*** FDLA has backup staff to make sure that every call is staffed, and it has protocols for which calls should be prioritized if attorneys need to cover visits in succession.
- (3) ***Maintain a phone system that is able to handle a large volume of calls that are from people who do not have an immediate need for stationhouse representation and make appropriate referrals.*** FDLA noted that 90% of the calls to their 1-800-LAW-REP4 phone line were for questions unrelated to an immediate need for stationhouse representation, and it has a system to get all callers appropriate referrals.
- (4) ***Provide Appropriate Training for All Lawyers to ensure a high quality of representation.*** FDLA requires all its volunteers to go through a 2-hour training before being deployed, provides them with an extensive volunteer manual, and has staff on-hand at all times to answer questions.
- (5) ***Provide Appropriate Supervision to ensure that Lawyers are maintaining a high quality of service delivery.*** FDLA supervisors collect paperwork from each call and check regularly to make sure that all calls are answered and that no clients fall through the cracks.
- (6) ***Have a successful mechanism to ensure that documentation is retained consistently, and that information about the arrest reaches the client's eventual trial attorney.*** FDLA keeps multiple copies of each declaration of

rights forms and forwards their documentation to the Public Defender's office in cases where an individual is charged.

- (7) ***Have a long-term, sustainable, funding and staffing plan.*** FDLA has always striven to be reliable and consistently provide the same level of services, so that communities can rely on representation.

Evaluating the PSRU's Capacity, Service Delivery, and Long-Term Sustainability

Using FDLA's concerns and interests as a guide, Appleseed explored the PSRU's capacity and mechanisms of service delivery through both interviews with PSRU staff, random tests of the PSRU phone system, and analysis of numerical call data provided by both FDLA and the PSRU. Overall, we have found that the PSRU has the capacity to immediately take on responsibility for all the calls FDLA currently handles in addition to the ones they are currently covering. This capacity holds true both overall and on a day-to-day basis, and the unit has good backup protocols to make sure they can cover more than 2 calls at a time if necessary. The unit has a functional phone protocol and has plans to adopt one with higher capacity if necessary, strong training and supervision standards, and good documentation and communication protocols. Lastly, the Public Defender's office has made a deep commitment to the PSRU's continued existence as a 24/7 unit and has secured its future by including it in the appropriate union contracts.

Overall Capacity

The PSRU has the Capacity to Handle 100% of the Calls for Stationhouse Representation in Cook County, and Can Flexibly Grow as Needed to Match Rising Call Volume in the Future

In order to evaluate the PSRU's capacity to handle all the calls that are currently being split between FDLA and the PSRU, we analyzed call data from both organizations that covered all of the stationhouse representation visits each made between April and October 2018. The numbers provided by both FDLA and the PSRU show that the PSRU has the capacity to take over the full call volume that is currently split between the two organizations. Appleseed found that FDLA and the PSRU are

largely providing the same services to a relatively small pool of clients, resulting in untapped talent and staff time in both organizations.

This client base represents a minute percentage of the total people arrested in Cook County. Although Chicago Police Arrest numbers have not been released for 2018, in 2017, between April and October, Chicago Police made 50,083 arrests². During the same period, FDLA and the PSRU made a total of 644 station visits. Assuming the 2017 and 2018 arrest numbers are roughly similar³, **This means that only about 1.3-1.4% of arrestees in Chicago successfully requested and received a station visit from an attorney from either FDLA or the PSRU. At current staffing levels, with the current back-up policies in place, the PSRU is capable of handling all of these calls for representation.**

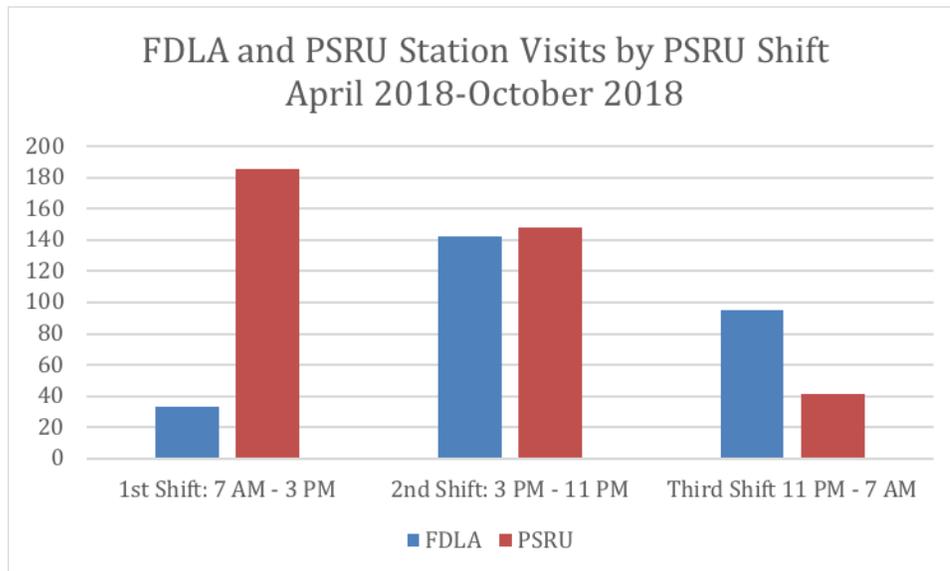
The data shows that the PSRU is well equipped to serve as the sole provider of free stationhouse representation at its current staffing levels. Overall, the PSRU is handling 58% of the requested stationhouse visits in Cook County. Between the two organizations, 644 clients were visited at police stations between April and October 2018; 374 by the PSRU and 270 by FDLA. FDLA's data reveals that it relies primarily on its staff attorneys to actually conduct station visits, rather than its volunteer network; 82% of its station visits were completed by staff attorneys. Neither FDLA staff nor the PSRU staff report being regularly unable to handle the call volume coming into their offices, only occasionally needing to call the other organization for backup.

In terms of the distribution of the timing of calls, the two organizations split which calls they receive. The calls are distributed in the way that one would expect given the memorandum of understanding currently in place that FDLA will only forward calls for representation to 1-800-LAW-REP4 between the hours of 8 AM and 4 PM. The PSRU handles the vast majority of calls before 3 PM, and FDLA handles the majority of the calls at night. The daytime shift, which straddles the hours in which FDLA is forwarding the 1-800 number and those that it is not, is split approximately evenly between the two organizations. However, because PSRU attorneys are paid to

² Chicago Police Department Public Arrest Data 2014-2017 available at: <https://home.chicagopolice.org/online-services/public-arrest-data/>

³ Overall crime complaints in Chicago are down around 8% between 2017 and 2018. Assuming arrest rates follow similar patterns to crime rates, that would result in approximately 4000 fewer arrests this year, which would yield a station representation percentage of approximately 1.4%. Crime Complaint Data available at: <https://home.chicagopolice.org/online-services/crime-statistics/> (Accessed 11/19/18)

staff the overnight hours, FDLA’s efforts in the overnight shift largely duplicate what would already be available if the PSRU took all calls themselves.



Neither organization reports that it is currently operating at or beyond its full capacity, and indeed, the PSRU reports consistently feeling underutilized, especially at night. Although there is some variation of the demand for stationhouse representation from day to day, even the heaviest days for calls do not exceed either organization’s capacity. FDLA has provided day by day data on station visits. Between April and October, FDLA recorded anywhere from 0 to 7 calls per day to their offices for representation⁴. Each organization is able to handle over seven calls per day on its own. The PSRU has protocols for what to do when more than 2 calls come in at once to their unit, as described in the next session.

Capacity to Handle Multiple Simultaneous Calls

The PSRU Has the Capacity to Cover Every Call that Comes In, 24/7/365, without Turning Away Any Clients.

The PSRU’s six attorneys take 8-hour shifts: 1st Shift runs 7 am to 3 pm, 2nd Shift from 3 pm to 11 pm, and 3rd shift from 11 pm to 7 am. Attorneys rotate through these shifts over time, so that no attorney works the same shift permanently. The

⁴ The busiest day, perhaps unsurprisingly, was Halloween night, with 7 calls. Other holiday weekends, including Columbus Day, also showed spikes in call volume.

attorneys work 4 days on, 2 days off, including weekends and holidays. When attorneys take paid time off or other leave, the supervisor of the unit is on call to cover the shift, and if necessary, a second back-up supervisor is also available to fill in. In addition to the supervisor of the unit and a backup supervisor, a final level of coverage is provided by having every Public Defender supervisor countywide take one week per year “on-duty” to keep a cell phone with them at all times to assist with any overflow calls or staffing needs. All new incoming Public Defenders and existing Public Defenders have also been trained to handle calls should the need arise. Since every Public Defender is trained, when calls for representation come in for a police station that has a branch court in the same building, the PSRU Supervisor is able to ask a PD already working in the building to simply go upstairs to meet with the client.

In practice, this means that the PSRU never has a reason to turn away a client because of lack of capacity. FDLA staff has reported that they still occasionally are asked by PSRU attorneys to cover calls. After looking into this issue, Appleseed found that this was really a practice of convenience, not necessity. Over the past two years, FDLA and the PSRU have split calls between them, with FDLA covering most overnight calls and the PSRU covering more daytime calls. The two staffs are aware that the other is staffed 24/7 with staff able to cover a call, and enjoy a good working relationship, so PSRU attorneys sometimes ask for FDLA staff help when they know FDLA staff are free. However, this is *not* because the PSRU attorneys actually lack a structure to cover more than 2 calls at a time. Indeed, the supervisor in the PSRU unit was able to describe several days where the PSRU handled 4-5 calls that came in in quick succession. They called in the on-call supervisor and divided the calls so that one lawyer was able to go to two police stations that were close together in quick succession, just as FDLA volunteers would in the same situation. All in all, the backup system seems to be working well, and we do not have concerns that the PSRU will be overwhelmed with calls if FDLA stops providing direct representation.

The PSRU also has an on-call supervisor at all times who speaks Spanish for Spanish-speaking clients. So far, the PSRU attorneys have not found they have needed to call on that resource often, but it is available if they need it.

Phone Protocols

The PSRU has an Adequate Phone Protocol to Cover Both Calls for Representation and “Off-Topic” Calls for Legal Help

Unlike FDLA’s 1-800 number, the PSRU’s 1-844 number does not have an automated menu and instead rings directly to an attorney on call. Attorneys keep their cell phones on them at all times, including on station visits. The PSRU supervisor noted that roughly 2/3 of the calls that come to their 1-844 number are unrelated to stationhouse representation. When this happens, the PSRU attorneys are able to provide a referral or information about a person’s case on the spot. When they are in the office, they even have access to the internal Public Defender E-Defender service, so that they can give more detailed information to someone calling about a criminal case. They also use the same referral list as FDLA does to refer out calls for non-criminal matters.

Because call volume has been relatively low, with many shifts where PSRU attorneys receive only one or no calls for stationhouse visits, having the in-office attorney handle referrals has proved to be an adequate system to handle off-topic calls. In the rarer situations when both attorneys are out on a call, they simply ask an off-topic caller to wait for a call back when they return to the office. At least thus far, this system has been sufficient to ensure that every call is answered, and every caller is helped.

If call volume were to increase to the point where this system was no longer feasible, however, the Public Defender’s office has the resources to assign part-time or full-time support staff to stay in the office and route calls to the appropriate attorney. The Public Defender’s Office is committed to providing that resource if necessary.

Training and Supervision

The PSRU Has Appropriate Training and Supervision to Ensure High-Quality Representation

As mentioned above, every Public Defender, not just PSRU attorneys, now receives training on how to conduct stationhouse visits as part of their normal onboarding training or as continuing education throughout the year. The training provided to PSRU attorneys was developed by the Public Defender’s office, and closely tracks FDLA’s own training. It covers basic procedures for conducting a station visit, practical advice on locating one’s client and gaining access to them, and paperwork

and documentation procedures. The staff manual that includes the information taught in the training is comprehensive and includes much of what FDLA's own volunteer manual does. It is also updated and recirculated as circumstances change or Chicago Police practices are updated.

Supervision is consistent and hands-on. Peter Perry, the supervisor of the unit, is in daily communication with his staff, checking in with issues, answering questions, and, if necessary, covering calls in the rare cases where the two assigned attorneys are not able to cover multiple calls that come in at once. He also has access to the E-Defender system, which has replaced "call sheets" as the primary place that PSRU attorneys track every call (for stationhouse visitation or otherwise) and what their response to it was. The Supervisor is able to track trends in the data and look for patterns that show that individual attorneys may be in need of training or support.

Documentation and Communication with Trial Counsel

The PSRU Appropriately Handles Documentation and Makes Sure that Documents Reach the Client's Eventual Trial Counsel

In this area, the PSRU actually has a more streamlined system of ensuring documentation and communication with later attorneys than FDLA itself does. PSRU attorneys take notes while on stationhouse visits by hand, but when they return to the office, it is their first order of business to enter those notes electronically. Because they are part of the Public Defender's office, the PSRU record and provide notice to the clients' future attorneys seamlessly. They use the Public Defender's Office's internal case management system, E-Defender, to record relevant data about the station visit, so that the client's future Public Defender is able to immediately access all the details of the station visit. Later in the case, they are easily identifiable and reachable if the trial Public Defender needs additional information about the arrest.

Long-Term Sustainability

The Public Defender's Office Has Made the PSRU a Permanent Part of its Office and is Committed to Ensuring its Long-Term Growth.

When the PSRU was first created, both FDLA staff and Public Defender staff expressed fears that the unit might be a temporary, rather than a permanent, program at the Public Defender's office. Those concerns, though founded at the time, are no longer of major concern to Chicago Appleseed. Amy Campanelli has successfully

integrated the PSRU into the office's culture, training, and union contracts, so that there is little reason to believe that the PSRU will disappear suddenly or without warning.

The first action by the Public Defender to ensure the longevity of the PSRU was to enshrine the Public Defender's office's legal commitment to represent individuals at the stationhouse through Chief Judge executive order. Because of the advocacy by FDLA and the Public Defender's Office, an order from Chief Judge Evans *appoints* the Public Defender to every person who requests a lawyer while in police custody and cannot afford one. This means that it is no longer optional for the Public Defender to provide this representation; they are required by their roles as Cook County Public Defender's to send an attorney for each person they are appointed to.

More practically, Ms. Campanelli has effectively ensured the future of the PSRU by negotiating with the Public Defender's Union to include the PSRU in the most recent collective bargaining agreement, which is set to last until at least 2020. Union representatives and representatives from Ms. Campanelli's office do not expect that the PSRU will be addressed any differently in the next union contract. During the inception of the PSRU, the Union had expressed reservations about the unit, primarily because it had been created suddenly, in the middle of a union contract term, without clear rules for handling salaries for the non-traditional work hours of the PSRU and without clear seniority rules as to which Public Defenders could join the unit. These issues have been resolved. The Union Contract details the hours PSRU attorneys work, and the mechanism for choosing and rotating shifts. In addition, the union contract makes the PSRU a "biddable" position, meaning that more experienced attorneys can ask to be assigned to the unit in the case of a vacancy. Since the new Union Contract went into effect, at least 2 more experienced attorneys have bid for places in the PSRU and received them. This has made the unit about 50% new lawyers to the office and 50% experienced Public Defender's. The experienced Public Defenders who bid in to the unit express a number of reasons for their interest, including the high levels of client contact, the dynamic work environment, and that non-traditional hours are better for their personal and professional lives.

Lastly, Ms. Campanelli has ensured the long-term viability of the PSRU through training. All incoming attorneys to the office are now trained in stationhouse representation during their onboarding training. The PSRU is one of two assignments

that incoming attorneys can pick as their first assignment in the office (the other being the Child Protection Division). Over the past 2 years, the office has also provided training on stationhouse representation to all supervisors and attorneys in the office. This allows the Public Defender's office to be flexible; attorneys and supervisors all have the training allowing them to be assigned to the PSRU as the need arises or as call volume increases. And, of course, now that the PSRU is an official duty of the Public Defender's office, the Public Defender can ask for additional funding to staff the unit.

Part #3: Recommendations for FDLA for Continued Partnership with the Public Defender's Office

Recommendation #1: Transfer Responsibility for All Calls to the PSRU by March 1, 2019

The justification for this recommendation was covered in the first two parts of this report. There are only a few logistical changes that need to be made in order to have the PSRU cover all stationhouse representation calls in Cook County. We would suggest the following timeline to handle those logistics:

1. *As soon as possible*: Inform FDLA staff and volunteers this major transition.
2. *As soon as possible*: Designate a Partnership Coordinator to manage the transition of responsibility for calls and to facilitate communication between the PSRU and FDLA
3. *By January 31, 2019*: FDLA staff communicate with Peter Perry, the PSRU supervisor, to coordinate the transfer of the 1-844 number to Public Defender responsibility and determine with the phone provider what steps are needed to transfer ownership of the phone line.
4. *By February 15, 2019*: Meet with the PSRU supervisor (if necessary) to complete transfer of the 1-844 line.
5. *By February 15, 2019*: Email or otherwise contact major community partners to provide them with the PD's new 844 number and explain what they can expect when they call for stationhouse representation

6. *By March 1, 2019:* Send a proposed MOU to the Public Defender's office for their comments and suggestions and, if necessary, convene a meeting to discuss changes.
7. *By March 1, 2019:* Change call routing on the 1-800-LAW-REP4.
8. *By March 1, 2019:* By March 1, 2019: Establish protocols with the Public Defender's office regarding how they would like FDLA staff to refer calls for stationhouse representation that inadvertently do not get automatically routed to the PSRU.
9. *By April 1, 2019:* Finalize and Sign a New Memorandum of Understanding establishing FDLA and the PSRU's different roles in providing stationhouse representation, providing outreach, and communicating to support one another's work.

Recommendation #2: Establish a New Memorandum of Understanding with the Public Defender's Office

The current MOU signed in January 2017 that governs the relationship between FDLA and the PSRU is significantly out of date. Indeed, it actually predates the creation of a 24/7 stationhouse representation unit. As a result, there has been substantial confusion among Public Defender staff as to what the agreed upon distribution of calls is currently, which, in turn, has led to misunderstandings and distrust. Once all calls are being transferred to the PSRU, this will no longer be an issue. However, to avoid misunderstandings in the future, the two organizations should draft and sign a new memorandum to make sure that there is a shared understanding of how they will work together.

Recommendation #3: Hire or Appoint from Existing Staff a Coordinator for the FDLA/PSRU Partnership

It is no secret that although relationships have improved in recent months between the PSRU and FDLA, there have been a string of miscommunications, some persistent technical issues, and an overall lack of transparency that have caused mistrust between two skilled, devoted organizations who are working towards the same goal. In order for stationhouse representation to improve in the long run in

Chicago, FDLA and the PSRU must create a stable public-nonprofit partnership that uses each organization's strengths to their fullest.

As we described above, the PSRU has some distinct advantages that make it an ideal place to house direct services in a long-term, growing, stationhouse representation project. But FDLA's nature as a long-standing non-profit gives it advantages as well which should be leveraged to make the overall quality of representation better in Chicago, and to make sure that the number of people who use stationhouse representation services ultimately increases. The PSRU has a supervising attorney, but it lacks the ability to create a dedicated, big-picture staff position tasked with (1) Ensuring an efficient and clear transition as the PSRU takes full responsibility for all stationhouse calls, (2) facilitating quick and meaningful communication between the PSRU and FDLA, (3) giving PSRU attorneys full access to the expertise and technical knowledge that FDLA has developed over 25 years of stationhouse representation (4) Combining outreach efforts, and (5) helping FDLA transition to a model of outreach that emphasizes the quality and availability of services provided by the Public Defender's office, rather than by FDLA staff and attorneys.

Going forward, FDLA will need a staff member who is an expert on exactly how the PSRU works, so that FDLA can be an effective ambassador and supporter of their services when it does community outreach. FDLA will receive questions from community members about the specifics of the PSRU's program. They will need the answers to these questions in order to refine their outreach and advocacy efforts. A Partnership Coordinator can help bridge that gap to ultimately amplify messages about stationhouse representation from both sources.

The Partnership Coordinator can also continue to ensure that the expertise that FDLA has built over 25 years of representation work is passed down to attorneys in the PSRU. Chicago is fortunate to have the only non-profit in the country that specializes in stationhouse representation. As the partnership moves forward, the PSRU can hopefully reach out to the partnership coordinator in order to tap in to that experience and problem solve together.

Lastly, within FDLA, the Partnership Coordinator can help transition FDLA's outreach, advertising, training, and advocacy efforts to comprehensively include accurate information about the PSRU. A major source of frustration for PSRU attorneys has been the advertising of FDLA's 1-800 number with no mention of the

Public Defender's own toll-free number, and other FDLA communications that have not clearly described how the PSRU functions. FDLA is understandably used to promoting its own services, as they have been for 25 years. As stationhouse representation transitions to being provided both by public and private attorneys, FDLA will need to transition its messaging, advertisements, and advocacy to reflect that fact.

All in all, having a single person responsible for Public Defender related matters will provide much needed clarity to communications between the two organizations going forward.

Recommendation 4: Vastly Increase Outreach and Advocacy Programming

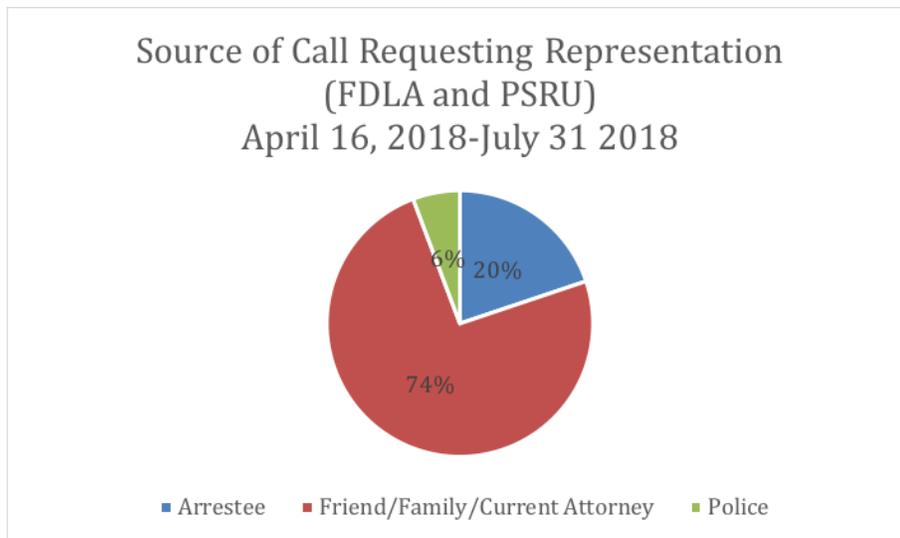
Last but certainly not least, FDLA should see the Public Defender's willingness to provide stationhouse representation to all who need it in Cook County as a tremendous opportunity. When FDLA stops providing direct representation, it will free up resources to do the most urgent part of the effort to get lawyers into police stations: increase the demand for services.

FDLA can first do this by increasing its already excellent community outreach programs. Ideally, all Cook County residents would know that it is both possible, and advisable to call for a free lawyer when you are arrested. FDLA should set ambitious goals for outreach, using its resources to reach new schools, churches, and other community spaces. Since the PSRU can and does also serve suburban Cook County, FDLA could also increase its outreach to the Chicago suburbs.

Community Outreach can only go so far towards increasing the number of calls for stationhouse representation. Currently, the overwhelming majority of calls to both units come from friends and relatives of the arrestee. The PSRU reports higher numbers of calls from arrestees themselves, which makes sense, because it is the PSRU number that is posted in Police Stations. Between April 16 and July 31, **only 52 arrestees successfully reached an attorney from the police station.** All other calls came from the arrestee's friends, family, lawyers who could not respond to the police station themselves, or the police.

The Chicago Police claim that they follow the Illinois Statute and their own General Order that requires that an arrestee be permitted to make a "reasonable" number of phone calls to attorneys or relatives within a "reasonable" amount of time

after arrest⁵. However, there is no statutorily defined definition of what a “reasonable” amount of time is, and practitioners report that the Chicago Police interpret this requirement to mean as much as 72 hours after arrest. More importantly, detectives interpret the “reasonableness” requirement to mean that arrestees can be denied a phone call until *after* police have already attempted to question them. The numbers make clear that very few arrestees are successfully calling a lawyer to represent them.



The Chicago Police Department’s interpretation of the “reasonableness” requirement effectively negates any meaningful right to have counsel present during interrogation. The numbers of calls for representation from arrestees clearly bear out how successful the Chicago Police Department has been in preventing arrestees from contacting lawyers from inside the stationhouse. It is difficult to believe that only 52 people, out of tens of thousands of arrests between April and July of 2018, *asked* the police for access to a phone or for a phone call to call an attorney while arrested. Instead, it is more likely that police are simply denying an unknown number of people’s requests to call an attorney within a few hours of being placed in custody. Although the Chicago Police may be compliant with the request that they post the PSRU number in holding cells, the number itself means nothing if arrestees do not

⁵ See CPD General Order G06-01-04, adopted October 31, 2017, available at <http://directives.chicagopolice.org/directives/data/a7a56e4b-12ccbe26-df812-ccbf-527447d507470630.html?hl=true>

have access to a phone. The pattern of denying arrestees access to counsel is particularly striking against CPD's long and tragic history of eliciting false confessions from unrepresented suspects.

Clearly, the Chicago Police, and likely many suburban departments, need firmer rules in place to ensure a meaningful right to representation for every arrested person in Cook County. Legislation at both the state and local level should be championed and passed to require police to (1) grant access to a phone within 2 hours of arrest, (2) to document, ideally via body-worn camera, exactly when access to the phone was given and who, if anyone, the arrestee called. Failure to follow this procedure should have a material effect on the way courts view the admissibility of any statement that an arrestee makes.

A Chicago city ordinance mandating access to a phone within 2 hours of arrest has been languishing without a sponsor for over 2 years. As the pioneer and leader in the field of stationhouse representation, FDLA should put its resources towards crafting the best, most ambitious ordinance possible and rallying public support around the legislation. Similar legislation at a state level would also affect suburban Cook County and the wider state of Illinois.

Just as they can in their outreach efforts, FDLA can aim high in considering what policy changes to advocate for in the world of stationhouse representation and unlawfully elicited statements. The advent of body-worn cameras allows an opportunity for legislation to require that police videotape many more of their interactions with suspects and turn those videos over to defense attorneys. FDLA attorneys and volunteers have conducted thousands of station visits over the last 20 years and have more information than any other organization about the specific policies and practices police use to effectively deny arrestees their constitutional right to counsel. FDLA is the best positioned organization to take Chicago from a city where only 1.4% of arrestees get access to a lawyer when arrested to one where 100% of arrestees are given a free and open opportunity to consult with counsel when in police custody.

Conclusion

Chicago Appleseed believes that an effective partnership between the PDRU and FDLA working collaboratively with community leaders and community organizations can lead to a substantial increase in the amount of representation in Cook County police stations. We also believe that the PSRU has the potential to provide high quality representation to this growing set of informed and empowered arrestees, and can become a national model for effective, publicly-funded representation in police stations. It is incumbent upon government stakeholders, nonprofit advocates, and community organizations to work together to make this happen. Substantial benefits to individuals, families, communities, and taxpayers will follow.