
EXAMINATION OF THE QUALITY & CAPACITY OF **STATIONHOUSE REPRESENTATION IN CHICAGO AND COOK COUNTY**

CHICAGO APPLESEED & CHICAGO COUNCIL OF LAWYERS—AUGUST 2020

ABSTRACT

Stationhouse representation is legal representation at the time of arrest, pre-bond. In Cook County, free stationhouse representation is exclusively provided by the Public Defender's Police Station Representation Unit (PSRU). Prior to March 2019, First Defense Legal Aid, a nonprofit founded for the purpose of providing free lawyers to arrestees in Cook County, provided the majority of representation. Starting in 2018, First Defense Legal Aid (FDLA) began sharing the responsibilities with the PSRU. In 2018, Chicago Appleseed undertook a comprehensive evaluation of the PSRU, concluding that the PSRU's stationhouse representation was high-quality based on five metrics, and that the services of PSRU were adequate to be the sole provider of stationhouse representation in Cook County.

In this evaluation, Chicago Appleseed made another crucial finding: only 1.3% of all arrested individuals in Cook County, on average, accessed free stationhouse representation services from either the PSRU or FDLA. This report summarizes the findings on quality on the PSRU's services, looks at the small number of calls to PSRU or FDLA, and makes key policy recommendations for improving accessibility and increasing the number of calls from police stations to ensure widespread representation for arrested people.

TABLE OF CONTENTS

ABSTRACT..... 1

INTRODUCTION..... 3

FINDING 1 3

FINDING 2 3

FINDING 3 4

RECOMMENDATION..... 4

INTRODUCTION

At the request of FDLA, Chicago Appleseed evaluated the PSRU in five key areas to determine whether the Public Defender's program would be sustainable as the sole provider of free stationhouse representation.¹ These areas included: (1) attorney training and quality of service delivery; (2) operator training, protocols, and phone call routing systems; (3) long-term funding and sustainability; (4) data reporting and policy advocacy; and (5) community outreach and marketing. In addition, FDLA asked Chicago Appleseed to determine whether the PSRU had the capacity to cover all of the requests for representation that are made in Cook County police stations.

Chicago Appleseed interviewed FDLA staff, board members, and volunteers; the Public Defender, Amy Campanelli; the deputies and line attorneys who staff the PSRU; and union representatives from the Cook County Public Defender Association. Chicago Appleseed also interviewed eight private attorneys who have conducted police station visits as part of their practice.

This qualitative information was analyzed in conjunction with quantitative data from both FDLA and PSRU regarding their representation of clients between April 16 and October 31, 2018.

FINDING 1:

PUBLIC DEFENDER'S PSRU PROVIDES QUALITY STATIONHOUSE REPRESENTATION TO THE PEOPLE OF COOK COUNTY.

Chicago Appleseed found that FDLA and PSRU were largely providing the same high-quality services to a relatively small pool of clients. The PSRU met or exceeded FDLA's service in all five metrics and had the contemporaneous capacity to operate so that all arrestees (or their friends/families) who called would receive PSRU service without dropping calls or creating a backlog.

Based on these findings, we made several key determinations about the quality of service the PSRU provides. PSRU consistently provides high-quality, passionate stationhouse representation

to their clients. PSRU attorneys are able to overcome police-related roadblocks, specifically with CPD, to determine where a detainee is located; are capable of responding to a variety of client needs while managing expectations about the process; advise clients to remain silent and on how to evoke their 5th or 6th Amendment rights; and document the process appropriately for effective follow-up throughout the case.

We recommended that the PSRU was ready to take over as sole provider of free stationhouse representation Cook County and, as of March 2019, it has.

FINDING 2:

ARRESTED PEOPLE ARE NOT MAKING CALLS TO OBTAIN REPRESENTATION FROM THE PD.

In our 2018 evaluation, Chicago Appleseed determined that PSRU had the structure in place to support a higher volume of phone calls - that they were able to take on the calls fielded by FDLA as well as an overall expansion - and that only about 1.3% of arrestees in Chicago and Cook

County were represented at the stationhouse by *either* PSRU or FDLA.

In 2017, between April and October, Chicago Police made 50,083 arrests. During the same period, FDLA and PSRU made a total of 644

¹ See "A Report on Stationhouse Representation in Cook County" by Chicago Appleseed (2019), accessible at <http://www.chicagoappleseed.org/wp-content/uploads/2019/09/A-Report-on-Stationhouse-Representation-in-Cook-County.pdf>

STATIONHOUSE REPRESENTATION IN COOK COUNTY

station visits. Because the PSRU trains every Public Defender at the office to maintain their strong phone system, the office has the capacity to handle calls beyond that 1.3%. The PSRU is a permanent fixture of the Public Defender's office with the resources to grow, should the need expand.

Currently, the number of detainees who receive representation before bond at the stationhouse is just a drop in the bucket. This is a major representation gap at this crucial point in the criminal justice process; stationhouse representation is important so detained people can feel safe to not speak with the police by

invoking their 5th and 6th Amendment rights. Access to a lawyer at the police station lowers the likelihood of false confessions by mitigating the factors that contribute to false confessions: lack of invocation of Constitutional rights and lack of familiarity with interrogation techniques. False confessions account for nearly 40% of wrongful convictions in Cook County compared to less than 20% nationally.

Chicago Appleseed's evaluation of the PSRU revealed a real disconnect between high-quality free stationhouse representation services and the ability of detainees to actually access those services.

FINDING 3:

PEOPLE CANNOT CALL PUBLIC DEFENDER IF THEY DO NOT HAVE PHONE ACCESS AT THE POLICE STATION.

In addition to outreach - including visible postings inside police stations to inform arrested individuals of the PSRU services - detainees need to be able to access a phone. The Illinois Code of Criminal Procedure requires that arrested individuals have the right to communicate with an attorney by making a reasonable number of telephone calls within a reasonable time after arrival in the place of custody.

However, data from the Public Defender's office shows that between April and June 2020, 33% of 1,468 defendants surveyed recounted that police never offered them access to a phone. Of those who were offered access to a phone, this occurred following an average wait time of 4.2-hours after being taken into custody.

RECOMMENDATION:

LEGISLATIVE CHANGE WOULD ENSURE BETTER ACCESS TO REPRESENTATION FOR ARRESTED PEOPLE.

Chicago Appleseed is in support of Illinois House Bill 4796 (sponsored by Rep. Justin Slaughter) to amend the Code of Criminal Procedure to explicitly provide that every person has the right to a phone call within one-hour of arrival at the place of custody and before questioning occurs. This bill explicitly delineates a wait time instead of leaving the interpretation of "reasonable" up to the police and courts, promoting certainty and likely broadening access to stationhouse representation.

Currently, the Chicago Police Department's interpretation of the ambiguous "reasonable" requirement effectively negates any meaningful right to representation during interrogation. The

small proportion of phone calls made to PSRU and FLDA represent only the number of *successful* requests for access to a phone.

Under the amended rule under H.B. 4796, detained individuals must be given access to a phone to make at least three phone calls; the ability to retrieve phone numbers contained in their cell phone; and, if the jurisdiction of custody has a stationhouse representation unit, that number must be prominently displayed. The bill's metrics for defining standards creates an accountability mechanism for helping to ensure that displaying the phone number is more than merely decorative.