



COOK COUNTY STATE'S ATTORNEY

TRANSITION REPORT

KIM FOXX

12/05/2016



Friends,

Eighteen months ago, we began a journey to reform the Cook County State's Attorney's Office to make it more effective, efficient and equitable in the administration of justice. As the next phase in that journey, I am pleased to share with you the report of my Transition Team, which will guide my efforts as your next Cook County State's Attorney.

This report outlines my vision for transforming the Cook County State's Attorney's Office into a fairer, more forward-thinking agency focused on restoring the public trust, promoting transparency and being proactive in making all of our communities safer. It details the key policy objectives and Day One priorities for my incoming administration as well as steps in my plan of action to address them.

Improving public safety in every corner of our County is my top priority. In order to achieve that I know that we must repair and rebuild the relationship between the Cook County State's Attorney's office and the community. This report is my first official effort on that front.

Please consider this report your invitation to a continuing conversation about criminal justice reform in Cook County. I hope you are both encouraged by what you read and inspired to join me in this important work.

I want to thank the members of my stellar Transition Team for lending their wide-ranging expertise to this report. Thank you, as well, to all of the community leaders, law enforcement and criminal justice experts, elected officials, and concerned citizens who joined the chorus for change. Your insights and support have been invaluable throughout this transition process.

Most importantly, I want to thank the people of Cook County for electing me to serve. I look forward to engaging with you in the weeks and months ahead. Together, we will set a path that will make the State's Attorney's Office more responsive to the people we serve, and more effective in protecting public safety and justice in Cook County.

A handwritten signature in black ink, appearing to read 'Kim Foxx', written in a cursive style.

KIM FOXX

Cook County State's Attorney

THE TRANSITION TEAM

Upon her election as Cook County State's Attorney, Kim Foxx appointed a team of leaders from community and nonprofit organizations, criminal justice system stakeholders, and the legal community to develop recommendations on key policy priorities to address challenges and opportunities faced by the Office.

Transition Team Members:

CO-CHAIRS

Kamala Harris, Attorney General and Senator-elect, State of California

Ron Sullivan, Director, Criminal Justice Institute, Harvard University

MEMBERS

Lawrence Benito, Executive Director, Illinois Coalition for Immigrant and Refugee Rights

Dorothy Capers, National Express

Hon. David Coar (Ret.)

Victor Dickson, CEO, Safer Foundation

Elizabeth Dozier, CEO, ChicaGO Beyond

Arne Duncan, Managing Partner, Emerson Collective

Diane Geraghty, Director, Civitas ChildLaw Center, Loyola University School of Law

Mark Ishaug, CEO, Thresholds

Candice Jones, Senior Advisor, Emerson Collective

Marc Kadish, Professor Emeritus,

Diane Latiker, Founder and CEO, Kids Off the Block

Lori Lightfoot, Partner, Mayer Brown

Jens Ludwig, Director, University of Chicago Crime Lab

Joy McCormack, Founder, Chicago Survivors

Kaethe Morris Hoffer, Executive Director, Chicago Alliance Against Sexual Exploitation

Malcolm Rich, Executive Director, Appleseed Fund for Justice

Pam Rodriguez, CEO, TASC

Jesse Ruiz, Partner, Drinker Biddle

Shari Runner, CEO, Chicago Urban League

Johnnie Savory, Rainbow PUSH Coalition

Randolph Stone, Director, Criminal and Juvenile Justice Project, Mandel Legal Aid Clinic

Charise Valente, General Counsel, Chicago Police Department

Paula Wolff, Director, Illinois Justice Project

Sandra Wortham, The Law Offices of Sandra Wortham

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Civic Consulting Alliance

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The University of Chicago Crime Lab

The Team also thanks the following individuals and organizations for their input:

Joseph Clary, Bryce Colquitt, Karen Covy, Manuel Flores, Fiorest Gregg, Jesse Lava, Katelyn Johnson, Jamie Kalven, Mike Kreloff, Miriam Krinsky, Amy Kurson, Don Mizerk, Barry Nekritz, Marilyn Pagan-Banks, Robert Peters, Brian Sleet, Sandy Stein, Tom Sullivan, Tanya Watkins, Andrea Zopp.

INTRODUCTION



The Office of the Cook County State’s Attorney (“the Office”) is the second-largest prosecutor’s office in the United States. With close to 900 attorneys and over 1200 total employees, the Office represents the 5.2 million residents of Cook County in criminal prosecutions and civil matters, in courthouses around the County.

This election took place at a critical moment for criminal justice in Cook County. Too many neighborhoods are plagued by unacceptably high levels of violence that take a tremendous toll on victims, families, and communities. At the same time, trust in the justice system is eroded, particularly in communities of color that have disproportionately borne the detrimental effects of mass incarceration and “tough on crime” policies of past decades. For too long, these two issues have been treated as mutually exclusive. Kim Foxx recognizes that working with the community—especially those most impacted by crime—increases public safety.

Kim Foxx was elected on a platform of reform that focused on several key issues that have particular significance for criminal prosecution: rebuilding trust in the criminal justice system through transparency and accountability; the need to spend taxpayer dollars smartly by focusing resources on the most serious offenses while developing and expanding lower-cost alternative programs focused on rehabilitation and reducing recidivism; and ensuring that the office of the Cook County State’s Attorney is, at all times, focused on justice, in whatever form that takes in a particular case.

At the center of Kim Foxx’s vision for a revitalized State’s Attorney’s Office is a core belief: that the job of the Office of the Cook County State’s Attorney is to promote public safety, and that **public safety is best achieved by an Office that operates not with a “win at all costs” mentality, but rather with integrity, discretion, accountability, collaboration, and fairness.**

State's Attorney Foxx appointed a transition team of respected leaders representing various stakeholder groups from across the County and across the justice system, and asked them to develop recommendations for addressing her top priorities:

- **developing smart strategies to prevent and address violent crime;**
- **promoting accountability and integrity within the Office;**
- **cultivating trust through relationships with community and increased transparency;**
- **supporting alternative programs that reduce recidivism through rehabilitation;**
- **streamlining the operations of the Criminal Bureau to empower prosecutors and reduce case backlogs;**
- **focusing on juveniles and emerging adults through developmentally-appropriate programs; and**
- **safeguarding the interests of the residents of Cook County through the activities of the Civil Actions Bureau.**

Through all of these priorities, the common thread is a **commitment to addressing our most urgent challenge: promoting public safety.** It is only by restoring trust in the office, reducing recidivism, supporting rehabilitation, improving cooperation, and increasing efficiency that the Office will be able to truly achieve the public safety gains that this moment demands.

The Transition Team has identified key recommendations in these key policy areas, and identified first steps that State's Attorney Foxx and her team can take towards addressing these recommendations as they take office. The Transition Team recognizes, however, that these steps are just that—incremental steps towards the important work that lies ahead for the Office. This report is not designed to be a comprehensive list of needed reforms; rather it is an articulation of the values and principles that should guide the work of the Office. By identifying key issue areas and concrete steps to take towards implementation, this report represents the beginning of what will be an ongoing process towards building a trusted, professional, and effective prosecutor's office that serves all the residents of Cook County.



PROCESS

The Transition Team is comprised of thought leaders from across the County representing various parts of the justice and legal system. Between election night and State's Attorney Foxx's swearing in, the Transition Team met and divided into working groups to address each of the key priority areas, reviewing background research, talking to stakeholders, and considering current programs and efforts. The resulting recommendations provide guidance to the State's Attorney and the Office. They also represent the start of a longer conversation: the Transition Team will continue to work with the Office of the State's Attorney in the coming year to further develop these recommendations and plans for implementation.

RECOMMENDATIONS



ACCOUNTABILITY AND INTEGRITY

The Challenge:

At the core of the Office of the Cook County State's Attorney is a mission to promote public safety and pursue justice. In order for the criminal justice system to be effective in achieving this mission, it must be trusted and viewed as legitimate by the communities it serves. Unfortunately, Cook County has become notorious for wrongful convictions, and residents are suspicious of the Office of the State's Attorney, questioning how it determines which cases to prosecute. Rebuilding trust and legitimacy of the office is essential to effective prosecution of crimes. The Office must: acknowledge and confront racial disparities in the justice system; adopt policies that promote thoughtful review of cases and convictions; share its work with the public; adopt practices designed to increase the diversity of its attorneys; and develop systems to effectively train, supervise, review, and promote attorneys.

Key Recommendations:

- **Articulate a mission and vision for the Office** that places the focus on justice, rather than winning cases, and align the work of the Office—including internal and external communications, training, policies, and hiring and promotion practices—to reflect that mission and vision.
- **Acknowledge the existence of racial inequalities in the justice system**, and the disproportionate impact that certain criminal justice policies have had on communities of color; and commit to understanding, evaluating, and transparently reporting on those impacts, and on the Office's efforts to address them.
- Evaluate and modify as needed the **system for investigation and prosecution of police misconduct**, including the creation of protocols governing the investigation of officer-involved shootings and the potential use of special prosecutors for police misconduct investigations to avoid concerns about conflict of interest and promote the appearance of propriety.

- **Review the conviction integrity functions** within the Office, and make necessary adjustments to ensure that the Cook County State’s Attorney’s Office operates a state-of-the-art, highly-trained and externally-reviewed conviction integrity process.
- Develop intentional policies designed to **increase the diversity of the Office**, with a particular focus on building a pipeline for diverse supervisors, bureau chiefs, and executive staff.

FIRST STEPS:

- **Create an ethics officer function** within the Office to, among other things, develop and publish internal manuals on ethical behavior, create and administer training programs to address key ethics areas, and to investigate, track, and remediate ethical violations.
- **Designate a Chief Diversity Officer** within the Office, and articulate a plan for the development and implementation of an objective and transparent system for attorney hiring, evaluation, promotion, and firing.
- Meet with law enforcement agencies, as well as the Chief Administrator of Chicago’s new Civilian Office of Police Accountability to discuss the **processes and protocols that will govern parallel investigations of incidents of alleged officer misconduct.**



ENGAGEMENT AND TRANSPARENCY

The Challenge:

The criminal justice system doesn't operate in a vacuum. Communities across the County care deeply about the work of the Office of the State's Attorney, and its perceived fairness, or lack thereof. For too many communities, the work of the Office is a mystery, and profound distrust of the system is exacerbated by, and contributes to, low clearance rates for some of our most violent crimes. To serve the interests of justice and promote public safety, the State's Attorney must work to improve transparency; and establish a culture of trust and communication between residents and the Office that will reduce crime and increase clearance rates.

Recommendations (continued)

Key Recommendations:

- **Understand and acknowledge the importance of connection to community** and respectful relationships with all the various stakeholders in the justice system—including victims, witnesses, family members, and those accused of crimes—and adopt practices that specifically prioritize and cultivate that respect.
- **Develop and implement strategies for the office to regularly engage and communicate with communities around the County**, including through community forums, annual reports, and partnerships with other criminal justice stakeholders.
- **Lead collaborative, system-wide efforts with other justice system partners** to address challenges in the justice system and develop thoughtful, evidence-informed mechanisms for addressing those challenges.
- **Design ways for various stakeholders to communicate with the Office**, to ensure that communication between the office and communities is a two-way street.
- **Improve data collection and transparency in the Office**, to provide employees, parties, academic institutions, the media, and Cook County residents with access to information on key issues related to prosecution, diversion, racial and gender impacts of enforcement efforts, and other critical issues.

FIRST STEPS:

- **Create an internal data analysis function** in the Office and hire at least one person with subject-matter expertise in data analytics and transparency to work with the Office's policy experts to help the Office analyze and understand trends and patterns in order to chart a way forward, as well as to design data transparency protocols and methods for communicating data both within the office and to the public.
- **Conduct a series of community forums** across the County to introduce the new administration to the community, hear about concerns from residents, and begin to identify long-term strategies for improved community relations.
- **Convene a series of conversations with victim and witness advocates**, including traditionally underrepresented victims of crime, to identify strategies for improving services and support for all victims and witnesses, and to collaborate to help increase clearance rates for cases.
- Assess the current implementation of implicit bias and procedural justice training for prosecutors, and **develop a plan to ensure that all attorneys in the office are trained in issues relating to implicit bias and racial disparity**.

SMART STRATEGIES TO PROMOTE PUBLIC SAFETY

The Challenge:

It is one of the great tragedies of our current system that as it stands, many communities, particularly communities of color, are simultaneously ravaged by violent crime and plagued by destabilizing over-incarceration of nonviolent offenders. The State's Attorney's Office must be the fair and unbiased arbiter of justice, focusing its most intensive resources on aggressively pursuing prosecution of violent crime, and diverting non-violent offenders with mental illness, drug addiction, or other needs to the appropriate treatments that will further promote public safety by addressing the underlying causes of their misconduct.

Key Recommendations:

- **Cultivate partnerships between the State's Attorney's Office and other key justice system stakeholders** to develop prosecution and prevention strategies, including identification and prosecution of high risk and violent individuals, and to coordinate alternative efforts like diversion and deferred prosecution programs for lower risk offenders and those who need treatment.
- **Develop and disseminate a strategic plan to address gun violence and gun offenders**, including support for violence prevention strategies, enforcement efforts to address supply-side gun market issues, and developing intensive evidence- and data-informed prosecution of gun cases.
- **Evaluate and expand successful alternatives to traditional prosecution**, including community courts, specialty courts, and diversion programs, and track effects of those efforts on recidivism and on jail and prison populations.
- **Align internal operations and employee performance metrics to reflect priorities beyond conviction rates**, including diversion and alternative prosecutions, and reward and promote employees who use risk screening tools and exercise sound judgment and discretion in pursuing alternatives to traditional prosecution for appropriate candidates.



FIRST STEPS:

- Conduct an **internal review of data on violent crime and gun-related prosecutions**, to identify patterns and begin to inform a strategy for addressing the small number of offenders who are driving a disproportionate share of violent crime.
 - Convene a roundtable of experienced prosecutors, and local, state, and federal law enforcement partners to discuss **opportunities for collaboration around prosecution of violent crimes**, particularly supply-side strategies aimed at disrupting the illegal gun market.
 - Conduct an internal **audit and review of existing diversion, treatment, and alternative court programs**, identifying opportunities for expansion as well as areas where additional evaluation is needed.
 - **Assess current practices around cash bail**, and propose reforms that will ensure that non-violent offenders are not being detained pre-trial based solely on inability to pay.
 - Form a working group of line attorneys and supervisors to **review employee evaluation and promotion practices**, and solicit input on how to adjust those practices to encompass a different definition of success and reward the sound judgment and discretion of skilled prosecutors.
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Recommendations (continued)

CRIMINAL CASE MANAGEMENT AND OPERATIONS

The Challenge:

Victims, defendants, Office employees, and taxpayers deserve a system that demonstrates a high level of professionalism, attracts and retains excellent attorneys, and operates under a set of clear procedures that allow for efficient and professional case processing. Case backlogs in the Criminal Bureau can delay closure for victims and deprive those accused of crime of their rights to a speedy trial. Too often, this problem is exacerbated by practices that fail to draw on the expertise and judgment of individual line attorneys to promote fairness and efficiency. The State's Attorney must evaluate and retool practices and procedures within the criminal division to re-prioritize the way the Office handles cases. The Bureau will also hire, train, and develop top-quality attorneys; and drastically reduce case backlogs to save taxpayers money and protect the rights of the accused as well as victims.

Key Recommendations:

- **Provide comprehensive and consistent training necessary to restore discretion to prosecutors at key decision points**, including plea bargaining and bond decisions, and ensure that training addresses risk screening, available diversion and alternative court resources, and any potential collateral consequences of various options particularly regarding immigration status.
- **Develop an improved case management and reporting system** to assist prosecutors, reduce duplicative paperwork, and address case backlogs
- **Evaluate the felony review process** with the goals of ensuring that the process is fairly and equitably administered, and ensuring that attorneys on the felony review unit receive adequate training and are supported by experienced attorneys.



FIRST STEPS:

- **Review guidelines and training regarding plea bargaining process**, evaluate data regarding offenses for which there is currently no discretion to offer plea bargains, and identify possible points for additional prosecutor discretion or input.
- **Evaluate adherence to the Public Safety Assessment tool in bond court**, and the outcomes resulting from the tool's use, to determine whether additional training or adjustments are needed.
- **Audit case management technology** and convene focus groups of attorneys, staff, and outside stakeholders to **begin to identify key components of an upgraded case management system**.
- **Conduct an overview of the felony review process**, including interviews with law enforcement stakeholders and anonymous internal review of felony review process from senior attorneys who have completed a felony review rotation, to identify “pain points” and begin to surface possible adjustments to the process.



JUVENILES AND EMERGING ADULTS

The Challenge:

Cook County is the home of the country's first Juvenile Court, and in recent years has been a leader in many important reforms to the juvenile justice system, including changes to automatic transfer and juvenile life without parole laws. State's Attorney Foxx is uniquely positioned to continue to advance the conversation about responsible and effective juvenile justice reform through policy reforms, public discourse, and legislative efforts.

Brain science tells us that juveniles and emerging adults are developmentally different than adults, with cognitive skills that process risk and decision-making differently in

ways that have profound implications for the justice system. At the same time, a growing body of research demonstrates that any period of incarceration for a juvenile increases his or her likelihood of reoffending, and that juveniles detained in Juvenile Temporary Detention Center are significantly more likely to be involved in a shooting after they are released from detention.

To serve both the interests of justice and public safety, the Juvenile Bureau must strive to assess and address juvenile delinquency cases in a manner that considers adolescent brain development, coordinates with other systems including the child welfare system, and pursues justice through developmentally-appropriate programs that aim to rehabilitate youth.

Recommendations (continued)

Key Recommendations:

- **Articulate and disseminate a vision for the Juvenile Bureau** that educates and holds attorneys accountable to a system that seeks to address delinquency in ways that are fair, just, and truly aimed at rehabilitating young people.
- **Build an expansive and effective diversion system for juveniles and emerging adults** to expand the use of intensive interventions and services that are significantly more effective at addressing delinquency and preventing recidivism than detention.
- **Improve internal and inter-agency communication and collaboration in order to support “dually-involved youth”—those who have contact with both the delinquency and child protection systems.**
- **Use the tools of the Office to address the school to prison pipeline.** The Office can serve a key role in supporting school districts and education officials in efforts to reform school discipline policies and practices to promote the use of restorative justice and diversion for school-based incidents. The County-wide reach of the Office should be used to help improve information-gathering and sharing about the scope of the school-to-prison pipeline challenges currently facing the County, and can serve as a gatekeeper, developing tools to filter cases so that only those who need justice system intervention are elevated from the school level.

FIRST STEPS:

- **Create written principles** and guidelines that express the mission and vision of the Office as it pertains to juveniles and emerging adults, with a focus on justice and rehabilitation, not simply conviction.
- **Collect, analyze, and share data about school-based offenses** that end up in the justice system, to provide a baseline for future conversations.
- **Conduct an internal audit of the juveniles who come into contact with the Office,** and of available diversion programs, including costs and effectiveness, to identify successes, gaps, and areas for future evaluation.
- **Assess any current training for attorneys on adolescent development,** and develop a plan to ensure that all attorneys in the Juvenile Bureau are trained on brain development and its relevance for the justice system.
- **Begin a random sample case review** of cases within the juvenile system, to better understand what cases are being pursued, identify challenges, and help address any unintended consequences or incentives that may exist within the system and preserve resources for those individuals that present the greatest risk to public safety.

PROTECTING THE INTERESTS OF THE COUNTY AND ITS RESIDENTS THROUGH THE WORK OF THE CIVIL ACTIONS BUREAU

In addition to criminal prosecutions and related programs that promote public safety, the Office of the Cook County State’s Attorney must thoughtfully and proactively work through its Civil Division to protect the interests of the County, in civil matters, and to advocate for County residents through proactive civil litigation.

Key Recommendations:

- Empower and encourage Bureau attorneys to **proactively develop and pursue civil cases that advocate for the interests of County residents** and potentially raise revenue for the County, including on topics such as wage theft and consumer fraud.
- Cultivate collaboration between the Office and its client, Cook County, to **develop protocols and practices to assess risk, evaluate potential conflicts, and reduce exposure** when the County is sued.



FIRST STEPS:

- **Audit current spending and staffing levels in the Civil Actions Bureau**, to determine what resources are needed to take a more active posture in proactively pursuing civil litigation.
- Convene a roundtable of attorneys and County staff to **review a sample of recent cases** in which the County was sued,

including both settlements and cases that proceeded to trial, and when the County faces other liability claims, including worker’s compensation claims, to begin discussions of possible protocols to improve collaboration and reduce exposure.

CONCLUSION

Kim Foxx was elected State's Attorney by demonstrating a commitment change and willingness to collaborate across parts of the justice system to promote public safety and protect and achieve meaningful change for the people of Cook County. The recommendations in this report represent a statement of vision and purpose, and a starting point for a long series of collaborative efforts to build trust with community, spend taxpayer dollars wisely, and, above all, ensure that the work of the Office of the Cook County State's Attorney is, always, in the interest of justice and to promote public safety.



“Human progress is neither automatic nor inevitable... Every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concern of dedicated individuals.”

—Dr. Martin Luther King, Jr.



69 W. WASHINGTON, SUITE 3200
CHICAGO, ILLINOIS 60602
(312) 603-1880
