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**TONI PRECKWINKLE**  
**PRESIDENT**

September 12, 2013

Hon. Thomas L. Kilbride  
Chief Justice of the Supreme Court of Illinois  
1819 4th Avenue  
Rock Island, IL 61201

Dear Chief Justice Kilbride:

As you are well aware, Cook County possesses the largest county single site jail and unified court system in the country. While I do not direct either the Sheriff or the Chief Judge as to the operation of either institution, as President of the Cook County Board of Commissioners, I am accountable to the public when failures and delays in our County's system of justice result in a strain on our resources. I am also a named party to litigation filed by the U.S. Department of Justice regarding conditions, particularly overcrowding, at the Cook County Jail, a systemic problem that is correlated with court processing times. In 2010, the United States District Court entered an Agreed Decree in that case, for the "purpose [of] protect[ing] the constitutional rights of the inmates detained at the Facility." Pursuant to the terms of that Order, all of the defendants are obligated to "take all actions necessary to comply" with its provisions.

I must primarily rely upon my criminal justice system stakeholder partners to uphold their respective duties to ensure the effective and efficient administration of justice and the fair application of the law. Their record in that regard is decidedly mixed. During my tenure, I have been disheartened to discover that our County's administration of justice is not in accordance with the standards the residents of the State of Illinois both deserve and are entitled to under the law. In many aspects, Cook County is far behind many of our sister counties in the administration of court services. As discussed in more detail below, there are numerous and systemic problems facing Cook County's court system, all of which combine to perpetuate



court delays, lengthy and costly stays in detention, and reduced confidence in Cook County's system of justice.

I write today to call your attention to these problems, and specifically to ask that the Supreme Court take steps to ensure short and long-term solutions to the administration of justice in Cook County. First, in the short-term, I ask this Court to assign a judge from outside Cook County to assist in the processing of delayed criminal cases, including those already identified as more than two years old. An additional judge from outside the Cook County Circuit Court would enable long-delayed cases to find resolution and could provide invaluable assistance in identifying reasons for delays in these cases. Second, to help craft longer-term solutions, this Court should convene a Reform Commission, headed by a member of the Supreme Court, to authorize and oversee an externally performed audit of the Cook County Courts and to seek data on pre-trial services, trial processing, and probation for release to the public, to better understand where Cook County's system of justice must be brought in line with our neighboring counties and other jurisdictions.

The problems facing our County's criminal justice system are in need of urgent attention, and will require the persistent efforts of all stakeholders. Today I ask the Supreme Court to take important steps to improve the fair application of the law in Cook County by addressing those problems.

## **I. Case Processing Times**

The first and foremost problem in the administration of criminal justice in Cook County is the unacceptably long case processing times. The delays in the various County criminal courts are well documented. For example, as reported recently in the Chicago Tribune, more than 300 Cook County Jail inmates have been waiting at least *five* years for their cases to conclude.<sup>1</sup> These persons, of course, have not been convicted, but rather are spending years in jail awaiting trial or other disposition. And it is not only these egregious cases that undermine the County's administration of justice and burden the taxpayers. Between 2007 and 2011, the average number of days inmates spent in the Cook County Jail has dramatically increased, resulting in an average of 1.246 more inmates in the daily population.<sup>2</sup> This, in turn, greatly affects the costs associated with maintaining the facility. While a "supplemental court call" currently exists, the assignment of 5 new judges to the Criminal Division

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<sup>1</sup> Editorial: "Judge Tim Evans, Be An Enforcer." Chicago Tribune, Aug. 28, 2013, *available at* <http://www.chicagotribune.com/news/opinion/editorials/ct-edit-evans-20130829.0.6474380.story>.

<sup>2</sup> See Olson, D.E., Tahier, S. (2012). Population Dynamics and the Characteristics of Inmates in the Cook County. Chicago, Illinois, Cook County Sheriff's Reentry Council at 8. *available at* [http://ecommons.luc.edu/cgi/viewcontent.cgi?article=1000&context=criminaljustice\\_facpubs](http://ecommons.luc.edu/cgi/viewcontent.cgi?article=1000&context=criminaljustice_facpubs).

has not alleviated the situation of court delays and court processing. An appointed judge from outside the Circuit Court of Cook County would be an important step in the direction of further analyzing and effectively addressing the backlog of cases.

Professor Donald Stamen of Loyola University Chicago, in a soon to be released research paper, has identified increasing delays in less serious felony cases. The numbers of such cases which are resolved in the first sixty days and in the first six months from the date of filing of charges (two points in time which were measured) have steadily and significantly declined.

While there is more than sufficient data to conclude that there *is* very serious a problem with case processing delays in Cook County, more information is needed to fully understand specifically *why* those delays occur, and *how* they can be addressed. In addition, it is important for the public to know exactly how court delays contribute the problem. Since the beginning of my administration my staff has repeatedly requested data from the Office of the Chief Judge regarding case processing. There were numerous attempts made from our Justice Advisory Council as well as our Performance Management team to secure this information. The Tribune reports that Chief Judge Evans says he has developed a more transparent system to track which judges manage their caseloads efficiently, and that he released to the paper records that show significant differences in the case clearance rates of his judges.<sup>3</sup> This courtroom-specific data, and other data collected by the Cook County courts through the CourTools program,<sup>4</sup> ought to be publicly released not only to ensure accountability, but to better understand the extent of the problem and to enable stakeholders to identify areas of needed improvement.

## II. Pre-Trial Services

Another concern is the Cook County Probation Department's failure to adequately comply with the Pretrial Services Act.<sup>5</sup> As you know, the Act was established to help minimize unnecessary pretrial detention and provide supervision for those released in advance of trial. As such, the Act enumerates the duties and responsibilities of the probation department. The Adult Probation Department, currently under an Acting Director, must interview and assemble verified information and data concerning the background of an arrested person to assist the court in determining the terms of pre-trial release.

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<sup>3</sup> Editorial: Judge Tim Evans, be an enforcer, Chicago Tribune, Aug. 28, 2013, *available at* <http://www.chicagotribune.com/news/opinion/editorials/ct-edit-evans-20130829,0,6474380.story>.

<sup>4</sup> See <http://www.courttools.org/>.

<sup>5</sup> 725 ILCS 185.

In an effort to assist in the execution of pretrial services, my administration has worked to provide the appropriate conditions to engage in these services. We invested capital dollars in building out an improved interview space to afford a private setting, as the law requires. Despite the physical improvements of the space, the Probation Department continues to fail to provide their services in accordance with the Act. For example, the department refuses to interview those arrestees who are already on probation at the time of the arrest. Accordingly, a new arrestee who has previously been placed on probation is not afforded the opportunity to avail themselves of pre-trial services. This results in a large segment of arrestees remaining in custody without the benefit of a pretrial intervention.

The Pretrial Services Act also requires that the information gathered in the pretrial information be verified. Based upon ongoing observation of the program, I am aware that information provided by the arrestee is not verified. Therefore the information provided to the court to make a determination on release is merely unsubstantiated self-reporting, and is typically given little weight by the bond court judges. The verification of data and information is crucial to providing the judge a fair and complete assessment of the arrestee's eligibility for pretrial release. Furthermore, Pretrial Services does not bring additional information to the attention of judges as a case moves forward. According to the statute, pretrial supervision should be continuous.

Chief Judge Evans should provide information regarding pretrial assessments and how those assessments are effective for making ultimate bond determinations. This information will not interfere in individual cases or individualized bond determinations, but will allow stakeholders to utilize data driven analysis to guide the systemic problem in the underutilization of pre-trial services and ability to access release on either electronic monitoring or on bond.

### **III. Probation**

Compared to other Illinois counties, defendants in Cook County are much less likely to be sentenced to probation. The usage of probation as an alternative sentence in Cook County Circuit Court is low and decreasing. Throughout the period from 2002-2011, 55% of all convicted felons in Cook were sentenced to prison compared to 40% outside of Cook County. And Cook County has seen yearly drops in probation usage from 2003-2011.

The underutilization of probation by Cook County judges places an excessive burden on the state by increasing prison populations. Judges within Cook County are reluctant to sentence a defendant to a term of probation. There is an ongoing perception within Cook County that the probation department lacks credibility within the Court system. There have been numerous documented instances in

which defendants on probation were not being properly monitored by their probation officers, and were later arrested for more serious crimes. Cook County judges know that there are serious disparities among the quality of probation officers, and the lack of uniformity in the delivery and monitoring of probation services. These disparities and lack of proper supervision and oversight are of great concern for the public safety of our residents.

Chief Judge Evans should release data on the utilization of probation, contact between probation officers and individuals in the program, and outcomes, in order to determine the effectiveness of our County's probation department. This data will ensure accountability and further every stakeholder's goal of ensuring best practices in public safety.

#### **IV. Next Steps**

Other jurisdictions' state supreme courts have established reform initiatives and played an active role in implementing large scale reforms and efforts for accountability. For example, in New York City, the Supreme Court appointed a State Supreme Court Justice from another borough to begin to address backlogged cases in the Bronx.<sup>6</sup> Additionally, in Pennsylvania, The Pennsylvania Supreme Court established the First Judicial District Reform Initiative following a series of articles published by The Philadelphia Inquirer in December 2009 that portrayed the Philadelphia criminal justice system as being in "disarray".<sup>7</sup> I ask that this Court continue its role in ensuring the fair administration of justice in Cook County by taking specific steps.

To address the issues above, and to ensure that all available information is produced and provided to the stakeholders and public, the Supreme Court should appoint an external judge to begin to process long-delayed cases and alleviate the backlog of matters in the County. The current efforts to deal with delayed cases, such as "supplemental call," have not proven to be effective. An external appointment will not only allow cases to move forward in a more fair and efficient manner, but will help identify reasons for current delays.

Because bringing in an outside judge to address backlogs is only a short-term fix, the Supreme Court should also convene a Reform Commission, headed by a Justice of the Supreme Court, to authorize and oversee an externally performed audit of the

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<sup>6</sup> Ray Rivera, *Bronx Courts Trim Big Backlog, With Outside Judge at the Helm*. N.Y. Times (Jul. 29, 2013), available at <http://www.nytimes.com/2013/07/30/nyregion/bronx-courts-trim-big-backlog-with-outside-judge-at-the-helm.html?pagewanted=all>.

<sup>7</sup> *The Reform Initiative: First Judicial District Criminal Courts Commonwealth of Pennsylvania Interim Report* at 1.

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Cook County Courts and to seek data on the pre-trial, trial, and probation systems for release to the public, including courtroom-specific data and other data collected by the Cook County courts through the CourTools program. An audit and the ensuing public release of indicators such as the effectiveness of pre-trial services, court processing times, and the utilization of probation would enable all of the stakeholders in the County's administration of justice, will identify areas where systemic reform is needed, and hold all stakeholders in the justice system accountable.

Each player in the Cook County Justice system can do more to improve the administration of justice in our community, and each stakeholder must ensure that we are striving to meet the standards required of us. I hope the Supreme Court will ensure that the Cook County Judiciary is doing its utmost to administer justice fairly and efficiently.

I thank each of you for your time and consideration in this matter.

Sincerely,



Toni Preckwinkle  
President