



OFFICE OF THE PRESIDENT
BOARD OF COMMISSIONERS OF COOK COUNTY
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TODD H. STROGER
PRESIDENT

April 3, 2008

PERSONAL & CONFIDENTIAL

VIA PERSONAL HAND DELIVERY

Edwin A. Burnette, Esq.
Cook County Public Defender
George W. Dunne Admin. Bldg.
69 West Washington
Suite 1600
Chicago, Illinois 60602

Re: Notice of Hearing Before the Board of Commissioners

Dear Public Defender Burnette:

Please allow this correspondence to serve as Notice of a Hearing before the Cook County Board of Commissioners scheduled for Wednesday, April 9, 2008, at 10:00 a.m. in the Cook County Board Room, Room 567 of the County Building, located at 118 North Clark Street, Chicago, Illinois 60602. This Notice is issued pursuant to 55 ILCS 5/3-4004.2(c). Further, please find enclosed a copy of a proposed resolution which is relevant to the Hearing before the Board of Commissioners. Should you have any questions, please do not hesitate to contact me at the number listed below. Thank you.

Very truly yours,

By: Richard Velázquez
Special Counsel to the President
Direct: (312) 603-8943
rvelazquez@cookcountygov.com

Encl.

Cc.: President Todd H. Stroger
Lance C. Tyson, Chief of Staff
Cook County Board of Commissioners



PROPOSED RESOLUTION

Sponsored by:

**THE HONORABLE
COUNTY COMMISSIONERS:**

**ANTHONY J. PERAICA, WILLIAM M. BEAVERS, GREGG GOSLIN, MARIO
J. MORENO, PETER SILVESTRI, JOAN P. MURPHY, DEBORAH SIMS,
ROBERT STEELE, ELIZABETH ANN DOODY GORMAN**

**RESOLUTION CONCERNING
REMOVAL OF THE PUBLIC DEFENDER**

WHEREAS, the office of the public defender is an office created by state statute, all as set forth in Article 3, Division 3-4 of the Counties Code, 55 ILCS 5/1-1001, et seq. ("Illinois Law");

WHEREAS, Illinois Law sets forth the purpose of the public defender and the declaration of the General Assembly of the State of Illinois wherein the General Assembly recognizes the People of the State of Illinois' fundamental right to *quality* legal representation in criminal and related proceedings;

WHEREAS, Illinois Law also provides the process for appointment, the terms of employment, the oath of office, the duties, the compensation, a provision for appointment of assistants, provisions for office quarters and expenses and record keeping of the Public Defender in Cook County;

WHEREAS, the President of the Cook County Board of Commissioners (the "President") and the Cook County Board of Commissioners clearly recognized the intent of the General Assembly to provide *quality* legal representation to the indigent by seeking to reduce Edwin A. Burnette's (hereinafter referred to as the "Public Defender") caseload by creating twenty-eight (28) new positions in the 2008 Budget;

WHEREAS, notwithstanding the President's and the Cook County Board of Commissioner's willingness to create twenty-eight (28) new positions to further ensure *quality* legal representation of the indigent, during the Public Defender's tenure, there were thirty-four (34) inmates of Cook County Jail (persons held in custody who have not been *convicted* of a crime) who waited for trial for over five (5) years at an approximate cost to the Cook County taxpayers of \$5,584,500 (\$90 per day for 34 inmates for 5 years), while the Public Defender continues to fail to ensure that all assistant public defenders work a full forty (40) hour work week, (See, Evaluation of the Juvenile Justice Division of the law office of the Cook County Public Defender attached hereto as Exhibit A on page 10 and hereinafter referred to as the "Northwestern Report");

WHEREAS, Illinois Law provides the process for removing the Cook County Public Defender and is set forth below:

The public defender once approved by the Board shall serve for 6 years and *may be removed by the President* only for good cause or dereliction of duty after notice and a hearing before the Board.

55 ILCS 5/3-4004.2(c) (emphasis added);

WHEREAS, Black's Law Dictionary defines *dereliction in the performance of duties* as:

[W]illful or negligent failure to perform assigned duties; culpable inefficiency in performing assigned duties.

West Group, Black's Law Dictionary 454 (7th ed. 2001);

WHEREAS, the President, being the duly elected officer, has determined that there is good cause to remove the Public Defender;

WHEREAS, the Public Defender has willfully or negligently failed to perform the following assigned duties as the Cook County Public Defender in that:

1. The Public Defender failed to notify the administration of the Chicago Community Group's ongoing report concerning the Criminal Courts; and the Public Defender, as cited in the Northwestern Report, failed to ensure that all employees of his office performed a full forty (40) hour week of work in exchange for their compensation; specifically, the Northwestern Report stated there existed a problem in his office concerning the early departure of assistants after court (See, Exhibit A, page 10);
2. The Public Defender has failed to timely process promotions of employees within his office resulting in an unnecessary and unreasonable delay in the hiring of entry-level employees. The following are examples of such failures:
 - On or about October 25, 2007, the Public Defender was provided with lists of applicants for the promotional position of public defender III and IV. The Public Defender has approximately fifteen (15) of these positions vacant. Filling these positions would allow the Public Defender to create vacancies for public defender I positions, and hire attorneys to reduce caseloads. As of March 31, 2008, the Public Defender has failed to fill all such positions except three (3).
 - In or about July, 2007, the Public Defender requested that five (5) public defender I positions be reclassified to clerical positions within

his office, further reducing his ability to hire attorneys to reduce caseloads. This request was processed on or about July 17, 2007.

- Beginning on or about November 29, 2007, the Public Defender was advised that supervisory positions could not be posted until job descriptions for those positions were completed by his office and reviewed by the Bureau of Human Resources. Despite repeated communications, these descriptions were not completed until mid-March, 2008. At about that same time, the Public Defender requested that these positions not be posted, thereby placing the entire process in indefinite limbo.

Such failures have led this Public Defender to have a caseload greater than the national standard. (See, Exhibit B attached hereto the American Council of Chief Defenders Statement on Caseloads and Workloads, August 24, 2007);

3. The Public Defender failed to ensure that all non-union employees complied with the President's executive order concerning the five (5) furlough day mandate, which contributed to additional financial burden to Cook County, and such savings should have been reprogrammed back into services to the poor;
4. The Public Defender did not adequately handle the disciplinary issue of an employee under his supervision who is alleged have committed a crime in the workplace and alleged to have been in possession of illegal and illicit drugs in the workplace; (See, Exhibit C attached hereto Pot Delivered to Public Defender's Office Gets Clerk, November 28, 2007);
5. The Public Defender has failed to identify Shakman Exempt positions as required under the provisions of the Supplemental Relief Order and Consent Decree established in the 69 C 2145 and titled *Shakman, et al v. The Democratic Organization, et al.*; and;
6. The Public Defender misled the Cook County Board of Commissioners by seeking the appointment of a Special State's Attorney to provide "analysis, interpretation and advice" (See, Exhibit D attached hereto Petition for Appointment of a Special State's Attorney) and the Public Defender exceeded such authority granted to him by this Board of Commissioners by suing the President thereby causing a potential financial liability to the Cook County taxpayers to pay attorney fees to the Public Defender's attorney and the President's attorney. (See, Exhibit E attached hereto Public Defender's Complaint and See also, Exhibit F attached hereto Motion to Dismiss Pursuant to Section 2-619);

WHEREAS, the President, after affording the Public Defender the right to a hearing before the Cook County Board of Commissioners, should remove the Public Defender as the Public Defender of Cook County if there exists good cause for such removal; and

NOW, THEREFORE, BE IT RESOLVED, by the Cook County Board of Commissioners that the above-stated recitals and whereas clauses are incorporated herein by reference.

BE IT FURTHER RESOLVED, by the Cook County Board of Commissioners that this Board of Commissioners hereby finds that a hearing occurred to discuss whether the Public Defender was in fact derelict in his duty and whether there is good cause for removal.

BE IT FURTHER RESOLVED, by the Cook County Board of Commissioners that this Board of Commissioners hereby supports the President's removal of the Public Defender as the Public Defender of Cook County in accordance with 55 ILCS 5/3-4004.2(c) for reasons set forth in this Resolution and at his hearing before the President and this Board of Commissioners and further finds that his removal and the appointment of another individual will best provide an environment where the taxpayers of Cook County have greater confidence that resources allotted to the Cook County Public Defender are administered so as to best fulfill his statutory duty to provide *quality* legal representation to the indigent of Cook County.