



# The Time Is Now: Responding to the Public Defense Crisis in Illinois

*Gideon v. Wainwright* guarantees the right to counsel in criminal cases. In Illinois, the State has delegated its constitutional obligation to the counties. The unacceptable result is a disparate public defense delivery system, dependent on local resources.

**The Illinois Supreme Court seeks a permanent and sustainable statewide response to this public defense crisis through the creation of a statewide Office of Public Defense Trial Support (OPDTS) supported by the Administrative Office of the Illinois Courts (AOIC).**

OPDTS will have two priorities over the next two fiscal years:

- administer the Public Defender Fund to continue the fiscal support provided in FY25.
- work with local stakeholders to develop comprehensive plans that detail how fully resourced public defense services will be provided in that jurisdiction. These plans will be the basis for future budgeting and standards governing the use of tax dollars.

At the end of the two-year period, the OPDTS will report the results of the planning process for further legislative action to establish the stand alone agency and create the governing board.

## Long Term Goals:

**Level the playing field.** Prosecutors are able to access law enforcement investigation expertise, ISP forensic scientists, and special prosecutors from both the Attorney General and State's Attorneys Appellate Prosecutor's offices. Defenders have no such resources, no such support, and frequently no budget with which to retain them. While prosecutors choose which cases to bring, defenders cannot choose their clients and they have a constitutional duty to provide effective assistance of counsel, an impossible task without appropriate resources.

**Establish independence.** For the first time in Illinois history, this statewide response will give public defenders financial and resource independence. The OPDTS will have a governing board that will oversee the operations of this agency and set standards for compensation, caseload, and representation that will apply to private contract attorneys, full-time public defenders, and part-time PDs.

**Increase the resources of the current county-based system.**

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This proposal is based on the work of the *Illinois Judicial Conference's Criminal Indigent Defense Task Force*. Most task force members were current or former public defenders at the trial or appellate level. Chief Circuit Judges were represented as well as the private bar.

## Public Defenders Speak:

The Task Force surveyed public defenders who offered their views:

▶ "With just shy of 1200 active cases . . . ABA guidelines suggest there should be 6 attorneys in my office, but I'm the only one."

▶ "Anything would help. We pay our own office supplies."

▶ "I could desperately use an investigator. A social worker would be amazing, but it feels like a pipe dream."

▶ "One of my full-time investigators could make more at Farm 'n Fleet. Not a joke."