

NEW DIRECTIONS FOR THE OFFICE OF THE CLERK OF THE COOK COUNTY CIRCUIT COURT

Recommendations
for Planning and
Transitioning to
New Leadership

Chicago Appleseed – Chicago Council of Lawyers – Civic Federation
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INTRODUCTION

The Circuit Court of Cook County is the largest of the 24 judicial circuits in Illinois and the second largest unified court system in the United States. The Clerk of the Circuit Court of Cook County is responsible for most of the administrative functions of the Circuit Court, including:

- Maintaining case files and dockets;
- Supporting judges in their courtrooms;
- Processing payment of court costs, fines and fees;
- Providing information (online and in person) to self-represented litigants and the public on navigating the court system;
- Publishing standard forms for the use of attorneys and litigants and providing access to Illinois Supreme Court standardized forms where they exist;
- Maintaining data on court operations, case filings, case outcomes, and costs; and
- Managing a staff of some 1,400 employees spread across several dozen courthouses, records units, and other facilities.

The Clerk of the Circuit Court answers to a number of constituencies: judges, attorneys, litigants, jurors, researchers, and the public.

For the past two decades, the office has lagged in technology, customer service, efficiency, and transparency, among other shortcomings. There has not always been sufficient cooperation or

coordination between the Circuit Court Clerk's Office and the judges whom it supports. The COVID-19 pandemic, which has shown the Clerk's Office to be unprepared for responding to the need for rapid retooling for remote court hearings and service to the public, also has highlighted the need for significant changes and improvements.

With a new Clerk of the Circuit Court scheduled to take office on December 1, 2020 – for the first time in 20 years – the change in leadership presents an opportunity for reform and modernization of the Cook County Court Clerk's Office. In the months leading up to the March 2020 Illinois Primary election, the candidates for Clerk of the Circuit Court of Cook County raised numerous issues for improvement of the Clerk's Office in interviews and candidate forums, including two forums hosted by Chicago Appleseed, the Chicago Council of Lawyers, (with the American Constitution Society - Chicago) and by the Civic Federation in January and February of 2020, respectively. The three organizations partnered on this paper to provide recommendations for the next Clerk of the Circuit Court based on issues identified through campaign debates and interviews with groups familiar with the Cook County Courts.

The Civic Federation, Chicago Appleseed, and the Chicago Council of Lawyers present the following recommendations for evaluation and improvement of the Clerk's Office's operations to the candidates running for Clerk of the Circuit Court of Cook County in the November 2020 general election.¹

¹ *Special thank you to Alexandra Block, Annie McGowan, and Sarah Wolff for the research and compilation of this report.*

EXECUTIVE SUMMARY

The next Clerk of the Circuit Court should reimagine the Clerk's Office's purpose to be public-facing, fundamentally community-oriented, and accountable. This report contains suggestions to meet those goals.

In the past, the role of the Clerk of the Circuit Court was conceived largely as a document repository for the Cook County Circuit Court. While maintaining case files is still a key function of the job, it is only the beginning. Now is the time to make those files – and the statistical data that is or could be generated from those files – widely available to the public via usable online docketing and case management systems, as well as FOIA-level transparency for data requests from the public and researchers. The Clerk's Office and the data to which it has access can play an important role in examining the performance of the Cook County court system. The Clerk of the Circuit Court also manages income of approximately \$80 million in various court fees, fines, and costs, which requires a 21st century system of both accounting and accountability for those funds.

Towards those ends, we suggest the following reforms be prioritized within the Clerk's first 30 days, first 180 days, and first year in office. While we understand this is an ambitious timeline for the new Circuit Clerk to implement, we hope that by publishing this report well ahead of the date the incoming Clerk of the Circuit Court is scheduled to take office, the incoming Clerk will have ample time to begin planning for the operational changes that will be necessary for efficiency, effectiveness, and equity for people interacting with the Circuit Clerk's Office.

FIRST 30 DAYS:

- Initiate an office-wide audit, including a desk audit to review staffing levels, office functions, and needed efficiencies.
- Draft an updated mission statement.
- Initiate plans to create the following new positions:
 - FOIA Officer
 - Chief Accessibility Officer
 - Chief Public Service Officer
- Establish an emergency and remote operations plan for the Clerk's employees to ensure continuity in the event of further COVID-19-related or other emergency courthouse closures.

FIRST YEAR:

- Release a comprehensive, data-rich Annual Report regarding Clerk's Office operations and collection and disbursement of funds.
- Support and assist in installing a court recording system in every courtroom in Cook County and provide public access to digital recordings.
- Reorganize the office, its priorities, and its staffing levels in various divisions as recommended by the office-wide audit.
- Advocate for a change in Illinois Statute to make the Clerk of the Circuit Court of Cook County subject to FOIA.

FIRST 180 DAYS:

- Undertake a comprehensive review of technology systems, including the Clerk's website, e-filing system, and case management system.
- Undertake a comprehensive financial audit and review of Special Purpose Funds.
- Review and revise performance metrics for the office.
- Create an Office of Data Management to ensure transparency and availability of data concerning court performance, Clerk's Office operations, and financial management.
- Comply with Shakman conditions to achieve substantial compliance with Consent Decree requirements and eliminate patronage-based employment decisions.
- Finalize negotiation of a new collective bargaining agreement for office staff.
- Assist the courts in enhancing their capacity to hold remote court hearings.
- Establish stronger Inspector General oversight by referring all complaints to the Cook County Independent Inspector General.



RECOMMENDATIONS

OVERALL MANAGEMENT

1. Conduct a Complete Office Audit to Identify Areas for Savings, Efficiency Improvements and Resource Repurposing

The first thing the Clerk of the Circuit Court of Cook County should do upon taking office is to conduct a complete operational audit that examines all programs, functions, staffing levels, operations and expenditures and workforce and training needs. The purpose of the audit will be to review how the Office is currently structured and staffed in order to assess the efficiency of current operations and identify areas where restructuring is needed and savings can be accomplished. Taking this action immediately upon entering office is a critical first step to identifying wasteful or unnecessary spending, and reallocating resources to fund new and needed positions. The audit would enable the Clerk to right-size staffing levels based on updated job descriptions and workloads and replace obsolete positions or functions with needed positions (some of these needed positions are discussed further in the recommendations below).

The audit should evaluate the technology systems currently being used by the Office of the Circuit Court Clerk, any need for improvements and training, and the appropriate allocation of personnel to handle technology systems effectively. The assessment should also account for legislative mandates (e.g., automatic expungement of marijuana cases and juvenile records) and ensure the Clerk's Office has the appropriate capacity to handle new requirements.

Several other recommendations in this report propose the creation of new positions or offices. Given the unlikelihood of receiving additional funding due to budget constraints caused by revenue loss related to the COVID-19 pandemic, the Clerk will need to accommodate any restructuring and creation of new positions within existing budget authority. The Cook County Board of Commissioners will be approving a new budget for Cook County's 2021 fiscal year (which runs from December 1, 2020 through November 30, 2021), before the next Clerk takes office on December 1. Therefore, it is essential that a full assessment of staffing and operations be completed, so the Clerk can identify areas where resources can be freed up and reallocated within the office's total spending allocation.²

2. Establish a Clear Mission Statement

The Clerk of the Circuit Court should ensure the office approaches its mission as a partner in advancing accessible justice. We encourage the new Clerk to approach reforming the office with

² The Civic Consulting Alliance (CCA) may be a logical partner to help the Clerk's Office complete the audit given the CCA's prior experience in conducting similar audits and transition reports on a pro bono basis for other Cook County agencies such as the Cook County Assessor and the Cook County State's Attorney.

the interests in mind of those who rely on the courts for the administration of justice, as well as all residents of Cook County, who are stakeholders in the accountability of the Clerk's Office as a public service body. The Office should establish a new mission statement that describes not just the role the Circuit Court Clerk serves, but also the guiding principles by which the office will serve the court's numerous stakeholder groups including litigants, judges, attorneys, researchers, journalists, and the general public.

3. Establish an Emergency Remote Operation Plan

The COVID-19 pandemic has exposed the pressing need for the Clerk of the Circuit Court to create an emergency remote operations plan for the Clerk's Office employees and operations. Little is known publicly about how the Clerk's Office employees were directed to prioritize functions and operate remotely during the stay-at-home order. Additionally, a July 21, 2020 report of the Clerk's Shakman Consent Decree Compliance Administrator raised several concerns about the Clerk's remote working procedures during the COVID-19 shutdown. While employees were working remotely between mid-March and July 6 with no telecommuting policy in place, the Clerk made decisions about which employees would work on-site, how they would be selected, and pay increases. Despite requests from the Compliance Administrator for the Clerk's telecommuting policy beginning May 29, the Clerk failed to provide a telecommuting policy to the Compliance Administrator until June 30, days before the courts began resuming operations on July 6.³

As the Circuit Court expands remote operations for the foreseeable future, there should be clear procedures and a comprehensive, transparent plan detailing how the Clerk's Office will support the court system.

Some of the work of the Clerk's Office has proceeded uninterrupted during the COVID-19 pandemic, either remotely or by workers still coming to the office. This is to the credit of the dedicated employees who continue to perform their jobs under difficult and potentially hazardous conditions. However, many of the Clerk's Office's operations that could be done by Clerk's Office employees remotely given the appropriate technology, such as scanning and entering orders at least in some divisions, have been have experienced significant delays [*issues regarding electronic order entry are discussed more fully in Recommendation 7: Improving E-Filing System*].

Following its office audit, as recommended above, the Clerk's Office should conduct a comprehensive review and revision of its emergency plans to enable the office to conduct most or all of its business remotely in the event of continued or future office closures due to public health or other emergencies.

TECHNOLOGY

4. Work with Judges to Improve Remote Hearing Capability

While the COVID-19 pandemic sweeps Cook County at the time of this writing, the Circuit Court, as well as the Clerk's Office, have been slow to develop the capacity to hold most hearings and status conferences by telephone or video. The Illinois Supreme Court provided some guidance to Illinois

³ Fourth Report of Susan G. Feibus as Compliance Administrator for the Clerk of the Circuit Court of Cook County, filed July 21, 2020. Accessible at <https://www.shakmanclerkofcircuitcourcookcounty.com/compliance-administrator-s-reports>.

courts, but left the courts to determine their own remote hearing procedures.⁴ From March 17 until July 6, the Cook County courts were essentially closed for four months. The Criminal Division and Domestic Violence Divisions of Cook County operated on a limited emergency basis, with some attorneys and defendants appearing by video and others in the courtroom, to hold bond hearings and other emergency appearances. Other divisions have gradually begun resuming status and other hearings by Zoom or telephone. People continue to languish in jail today awaiting plea hearings or trials. This situation does not advance justice and has already created an unmanageable backlog of cases.

The Clerk's Office should work with the Office of the Chief Judge and the Presiding Judges of each Division to rapidly develop the long-term capacity to facilitate teleconference and video hearings so that the courts can become fully functional on a remote basis. Clerk's Office employees are key players in making courtrooms function effectively and efficiently, and they should be trained to set up and monitor remote hearing technology without delay.

5. Create a Functional Case Management System

A well-functioning electronic case management system is critical to the fundamental operations of the Office of the Circuit Court Clerk. The case management system must be able to quickly and efficiently pull up docket information and answer questions about cases, communicate information to litigants, attorneys and other stakeholders, and facilitate the tracking and querying of court performance measures. Like the PACER⁵ system used by the federal courts, an ideal system would permit anyone, anywhere, to search and access the docket for any Cook County case, and to view case filings (pleadings, motions, orders and the like) for each matter via hyperlinked PDFs.

The Illinois Supreme Court, through a series of administrative orders, has required circuit courts to create systems compatible with Odyssey eFileIL, which is hosted by a vendor called Tyler Technologies.⁶ With respect to Cook County, this has been an extremely slow work in process. Currently the Cook County Circuit Clerk does not have a functional case management system that is publicly accessible (only attorneys of record in a given case can access civil dockets, for example). Even then, both the case management system and the publicly-available docket information on the Clerk's Office website provide extremely limited information in vague categories, such as "motion filed." Copies of case filings and orders are not available on the web. A member of the public would not be able to understand the course of a matter, nor re-create the case file, from the meager information on the site.

While fuller information is available through public access terminals at the courthouses, these kiosks are impractical (and inaccessible during the COVID-19 pandemic) for litigants and others to use.

The Circuit Court Clerk's Office entered into a \$36.4 million contract with Tyler Technologies in 2017 for a new electronic case management system to replace the old mainframe legacy system.⁷ The case management system stores all case data and court docket information. The current contract

⁴ Illinois Supreme Court, Illinois Court Procedures for COVID-19; Supreme Court Livestream," Press Release, March 13, 2020; and Illinois Supreme Court Remote Court Proceedings Guidance Document, May 22, 2020.

⁵ See e.g. Public Access to Court Electronic Records (PACER) at <https://pacer.uscourts.gov/>.

⁶ Illinois Supreme Court Order M.R. 18368 (as amended May 30, 2017).

⁷ See e.g. meeting of the Cook County Technology and Innovation Committee, March 22, 2017, file # 17-1491 at <https://cook-county.legistar.com/MeetingDetail.aspx?ID=538655&GUID=72F4E70C-C7FA-4783-8579-CA09A1AA51FA&Options=info&Search>.

period runs through April 2021. The system went live for the County Division in February 2018, criminal cases in November 2019, and civil and traffic cases are expected to go live in the summer or fall of 2020. The rollout of the new case management system for criminal cases in November drew criticism from attorneys and judges for incomplete case information and delays in obtaining documentation.⁸

The Clerk of the Circuit Court should conduct an audit of the case management system to assess how well the system is fulfilling day-to-day case management needs for practitioners, and whether the system is able to query information needed for court performance evaluation and statistical analysis. The audit process should involve interviewing a variety of direct users of the new case management system, including judges, assistant clerks and other employees, attorneys, and legal aid providers, to identify problems and complaints. The Clerk must then work with Tyler Technologies to correct issues identified. The Clerk should also work with Tyler Technologies to rapidly implement full public remote access to the system, including full public access to scanned and e-filed documents. It is imperative that Tyler Technologies improve the Clerk's Odyssey case management system to meet the needs of its users. If this cannot be accomplished by Tyler Technologies, the Clerk should work with the Illinois Supreme Court and the Administrative Office of the Illinois Courts to seek alternatives.

6. Improve Integration of Data Between the Circuit Court and Other Criminal Justice Stakeholders

As the record holder for the Circuit Court, the Clerk plays a central role in data management. It is critical that other criminal justice stakeholder agencies in Cook County and Illinois have efficient access to court information and that those agencies' systems communicate smoothly with one another. This is especially true for purposes of public transparency and accountability.

Cook County criminal justice agencies, in coordination with the Cook County Bureau of Technology, have been in the process of implementing a Criminal Justice Enterprise Services Bus (ESB), also known as the "Data Bus," for the last several years. Cook County contracted with Applications Software Technology Corporation in January 2016 for the ESB, and so far, has spent \$6.6 million on this initiative.⁹ The current contract runs through December 2020. The Enterprise Service Bus relies on the Clerk's case management system to send data from the Odyssey case management system to the ESB, and the Circuit Court Clerk's contract with Tyler Technologies includes provisions for the Odyssey system to exchange data with external state and local agency systems.

So far, several information exchanges have been implemented through the Enterprise Service Bus: an automated court date reminder system; a mittimus (the record of judges' decisions about charges against a defendant) exchange from the Clerk of the Circuit Court to the Cook County Sheriff to provide timely information about detainees; and a Public Defender case management system for criminal and traffic cases. Data exchanges between the Cook County Sheriff and the Illinois Department of Corrections and exchanges between the Clerk of the Circuit Court and the State's Attorney, Sheriff and Chief Judge were in development as of 2018, but there have been no public

⁸ Megan Crepeau, "Dorothy Brown's Office debuts upgrade to criminal court computers to wide ridicule," Chicago Tribune, November 28, 2019.

⁹ See e.g. "Cook County Board Approved New Technology to Share Data Between the County's Justice Agencies" (January 2016) by Vimbai Chikomo for *Cook County Record*, accessible at <https://cookcountyrecord.com/stories/510654618-cook-county-board-approves-new-technology-to-share-data-between-the-county-s-justice-agencies>.

updates on the status of these exchanges since the second quarter of 2018.¹⁰ Given the delays in the rollout of the Odyssey case management system for criminal cases, it is unclear whether the Circuit Court case management system is currently sharing information with the other County agencies or how well those exchanges are working.

In addition to sharing information with other local agencies, the Clerk of the Circuit Court is required to comply with reporting requirements from the Administrative Office of the Illinois Courts (AOIC), the administrative arm of the Illinois Supreme Court that oversees all the circuit courts. With no statewide system to collect court management data, it is difficult to accurately assess everything going on in the courts across the state. There are discrepancies between the data reported by the AOIC and the Clerk of the Circuit Court in basic court management metrics such as the number of cases filed and the clearance rate (the percentage of cases that reach a disposition in relation to the number of cases filed).¹¹ The courts need to be able to answer case processing questions about caseloads and time to disposition with confidence that the information is accurate.

We recommend that the Clerk of the Circuit Court do the following to ensure data sharing is as efficient and accurate as possible:

- Assess the status of the Enterprise Service Bus data exchanges between the Clerk's Office and other Cook County criminal justice stakeholder agencies and work with the Cook County Bureau of Technology to continue quarterly updates;
- Ensure that the Odyssey case management system is providing the necessary data to the Enterprise Service Bus accurately and efficiently, and identify training needs and ensure that training on data entry and systems integration is in place and ongoing; and
- Evaluate the process by which data is reported from the Circuit Clerk's Office to the AOIC to ensure the data is accurate and consistent with all external Cook County reports.

7. Improve E-Filing System

Within the past several years, spurred by an order of the Illinois Supreme Court,¹² the Clerk of the Circuit Court has rolled out mandatory electronic filing of documents. Known as Odyssey E-File, and created by Tyler Technologies, the electronic filing platform has been riddled with delays, over-complexities, inefficiencies, and downtime, to the significant frustration of many users.

For background, electronic filing is the mechanism for attorneys and litigants to file pleadings and motions with the courts. The electronic filing system currently is not integrated with the Clerk of Circuit Court's website or electronic case management system, so despite electronically filing documents, attorneys and litigants cannot later access or download the documents via hyperlinked dockets. Nonetheless, the electronic filing and service of documents are important first steps in creating a fully functioning online document management system.

Because the Illinois Supreme Court has selected Tyler Technologies as the sole e-filing vendor

¹⁰ The most recent public quarterly update was presented by the Cook County Bureau of Technology to the Cook County Board of Commissioners on July 25, 2018, titled "Enterprise Service Bus Program: Integrated Justice "Bus" Initiatives, Quarterly Report: Q2 2018," found as file # 18-4007 at cook-county.legistar.com.

¹¹ The Cook County statistics reported by the Administrative Office of the Illinois Courts in annual statistical reports (which is information collected directly from counties) differ from the statistics reported by the Clerk of the Circuit Court of Cook County in the County's annual budget. For example, the AOIC's 2018 annual statistical report says Cook County had a total of 940,753 cases filed that year and a clearance rate of 77.2%, whereas the Cook County FY2018 adopted budget and FY2018 Performance Management Annual Report say the Clerk's Office had 715,834 cases filed and a clearance rate of 116%.

¹² Illinois Supreme Court Order M.R. 18368 (as amended May 30, 2017).

across the State of Illinois, the Illinois Supreme Court should work as a partner with the Cook County Circuit Court Clerk in ensuring improvements are made to the existing system. The Clerk of the Cook County Circuit Court should leverage assistance from the Administrative Office of the Illinois Courts as needed in order to implement the following recommendations.

A. Simplify User Interface and Streamline User Experience Across Divisions

The current Odyssey E-File user interface is inordinately complex and nearly impossible for pro se litigants to navigate. Even among experienced attorneys, paralegals and law office staff, many find it extremely difficult to understand the various categories under which they are to file various documents. The user interface should be drastically re-thought and simplified. User testing, particularly with self-represented litigants, should be required for future updates or overhauls of the system.

One factor exacerbating the complexity is that different Divisions of the Circuit Court use different events, codes and procedures for electronic filing. The Clerk of the Circuit Court should work with the Office of the Chief Judge, the Presiding Judges of each Division, and Tyler Technologies to systematize, streamline, and unify the procedures for filing documents in the various Divisions.

B. Allow “Kiosk Mode” Filing and Alternatives to E-mail for Self-Represented Users

While some self-represented litigants may be granted exemptions from e-filing, it is preferable for the e-filing system to be simplified and more user-friendly so all participants in Cook County have equal access to this court resource. One mechanism could allow users to e-file documents without creating a username and password, known as “kiosk mode” e-filing. Kiosk mode e-filing should be available to all self-represented litigants, whether they file at a Clerk’s Office kiosk or from another location.

In addition, the e-filing system should have the capacity to serve text message notices in lieu of email notices, particularly for self-represented litigants who lack an email address or regular access to a computer. Clerk’s Office employees who communicate with litigants and attorneys regarding orders, hearing scheduling, and other matters also should be empowered to communicate by methods other than e-mail, including phone and text message, to broaden access for self-represented litigants who lack regular e-mail access.

C. Implement Electronic Order Entry and End the Use of Carbon Paper

Much of the real-time documentation in Cook County courtrooms is still completed by hand, on carbon paper. Following a court hearing, the responsible attorneys usually write out an order that is later signed by the judge and stamped and scanned by a Clerk’s Office employee. During the COVID-19 pandemic, to the extent judges have been entering orders, they are accepting draft orders by e-mail and sometimes returning them to the responsible attorneys by email, but often the Clerk’s Office has not been entering them on the public docket, or docket entry has been delayed, and often stamped copies of orders are not timely returned to counsel or litigants.

This is particularly a problem – and potentially a matter of grave public safety – with respect to domestic violence orders of protection. On July 30, 2020, Legal Aid Chicago filed a lawsuit against the current Clerk of the Circuit Court, entitled *Kouk v. Brown*, 2020 CH 05200. The Plaintiffs promptly won a Temporary Restraining Order against the Clerk’s Office on August 10, 2020, requiring the office to immediately provide litigants or their attorneys copies of protective orders entered in their cases upon entry by a judge, and to transmit those orders on the same day to the Cook County Sheriff. The complaint alleged numerous examples of Legal Aid Chicago’s clients whose orders of protection were not timely provided to domestic violence victims and/or to the Sheriff

for enforcement. We hope that this issue will be fully resolved prior to the new Clerk taking office, but the new Clerk should be vigilant to ensure that these workflow issues regarding entry of orders do not repeat. Fully electronic order entry and implementation of a fully accessible, public docket containing copies of all pleadings and orders in a case, would solve this problem.

As a general matter, the Clerk of the Circuit Court should work with the Office of the Chief Judge to implement electronic drafting and entry of court orders. Preferably, each judge's courtroom clerk or law clerks should draft the orders electronically for judges to approve; if attorneys are to draft the orders, computer kiosks pre-loaded with order templates should be available in each courtroom for completing the orders. Handwritten orders should be eliminated. After entry of an electronic order, that order should immediately be made available to the litigants, attorneys and the public via the online case management system.

D. Preapprove Filings by Most Law Firms

Currently, all documents that are electronically filed in Odyssey E-File must be approved by a Clerk's Office employee before they are accepted. This step creates unnecessary delays and backlogs and should be eliminated. Law firms and other filers who can demonstrate that they have successfully e-filed in the past, or who have taken a training program offered by the Clerk's Office, should be preapproved.

Relatedly, all documents filed electronically in a matter should be served automatically and immediately, through Odyssey E-file, on all other attorneys and litigants who have registered to receive notices of filings in the matter. The current notice system is glitchy, often does not send notices that should be sent, and allows filers to opt out of electronically serving their opponents, which is undesirable. (An exception should be available for certain filing categories that are meant to be *ex parte*, including certain emergency orders of protection and temporary restraining orders.)

E. Conduct a User Survey

As with the case management system, the Clerk of the Circuit Court should survey a variety of users directly familiar with the e-filing system – including judges, assistant clerks, attorneys, and legal aid providers – to identify problems and complaints, then work with Tyler Technologies and the Administrative Office of the Illinois Courts to correct those.

8. Make Judges' Daily Court Calls Available Online

Litigants and attorneys should be able to find out their court dates and hearing times online. Each judge's schedule for the day (cases to be called, times, and line numbers on the docket) should be posted on the Circuit Clerk's website and regularly updated. If a matter has been rescheduled or resolved, it should be stricken from the call and so noted on the judge's daily public schedule.

Currently, daily call sheet information is available only on paper schedules posted outside each courtroom when court is held in person and is not available at all for Zoom hearings. The Circuit Court's website lists only each judge's template schedule (for example, times available for motions or trials) and not the cases on his or her daily schedule. Judges' schedules should be integrated with the electronic case management system, so that every judge's daily call schedule is available online to the public and easily accessible to litigants.

9. Install a Court Recording System in Every Courtroom

The Clerk of Circuit Court should work with the Office of the Chief Judge to install an electronic



court recording system in every Cook County courtroom to enable creation of and access to official transcripts of every proceeding to all litigants.

Installation of a court recording system is important for at least two reasons. First, recordings and the resulting transcripts are essential for litigants to be able to appeal adverse rulings. Second, evidence gathered by Chicago Appleseed also indicates that judges behave more respectfully toward litigants, particularly self-represented parties, when they know their words are being recorded and transcribed.¹³

Recently, facilitated by the Office of the Chief Judge, court recording equipment was installed in Chicago's eviction courtrooms to enable eviction proceedings to be recorded electronically.¹⁴ This is a significant step forward and should be greatly expanded. Currently, only criminal courtrooms are staffed routinely with official court reporters, and generally civil litigants needed to request and pay for private court reporters to attend a given hearing to enable preparation of an official record of their proceedings.

The remaining courtrooms in Chicago's Daley Center and municipal courthouses in Cook County should be next to have court recording equipment installed. Court proceedings are public and records of every hearing in each courtroom should be available for transcription upon request, with payment or hardship waivers available as needed. While the Clerk of the Circuit Court cannot undertake this effort alone, she can actively engage with the Chief Judge to pursue installation and use of court recording equipment in each courtroom and train her courtroom clerks effectively in its use. The Clerk's Office also can be a valuable partner in providing the public with access to digital recordings.

10. Implement Court Hearing Reminders for All Litigants

The Circuit Court Clerk should implement a system for sending text message and phone call reminders to litigants to remind them of court hearing dates in all divisions including civil, criminal, traffic and other matters. Litigants would opt in to receive the reminders if they want to participate in the reminder system. Cook County has already implemented a court date reminder system in the criminal court that places automated phone calls and text message reminders to pretrial criminal defendants to remind them of their court dates.¹⁵ The call reminders have been in place since December 2017 and text reminders went live in March 2018.¹⁶ Cook County uses its county-wide telephone system, the Interactive Voice Response System, to facilitate the automated court date reminders through call and text.

We recommend that the Clerk of the Circuit Court advocate for the expansion of the call and text reminder system to all litigants with cases in all divisions including civil, traffic, domestic relations, child protection and other divisions as appropriate. Court hearing reminders are especially important for helping those who are representing themselves in their case and have no attorney to remind them of court hearings. The Clerk should coordinate with the Office of the Chief Judge, the Cook County

¹³ See Chicago Appleseed Fund for Justice, *The Case for Recording Devices in Cook County Eviction Courts* (July 2016), pp. 2-5, available at <http://www.chicagoappleseed.org/wp-content/uploads/2016/12/The-Case-for-Recording-Devices-in-Cook-County-Eviction-Courts-1.pdf>.

¹⁴ See e.g. "For the First Time in 16 Years, Chicago's Eviction Court is On Tape" (October 2019) by Maya Dukmasova for *Chicago Reader*, accessible at www.chicagoreader.com/chicago/eviction-court-recording-equipment-transcripts/Content?oid=75221105.

¹⁵ Cook County Bureau of Technology, *Modernization and Innovation Report 2018*, p. 15.

¹⁶ Cook County Bureau of Technology, *Enterprise Service Bus Program: Integrated Justice "Bus" Initiatives*, Quarterly Report: Second Quarter 2018.

Bureau of Technology, and other relevant Cook County criminal justice agencies to implement the automated court date reminders.

PUBLIC ACCESS TO DATA

Because the Clerk of the Circuit Court maintains records of all proceedings in the trial courts, the Clerk is an essential partner in ensuring transparency of judicial processes and in supporting research and analysis on the outcomes and efficacy of the courts. The following recommendations aim to improve the quality of data held by the Clerk of the Circuit Court and the process for members of the public to obtain data and information from the Clerk's Office.

11. Create a New Office of Data Management to Improve Internal Data Management and Oversee External Data Requests

Because the judiciary in Illinois is not subject to the Freedom of Information Act (FOIA), data disclosure and responses to requests for information are discretionary, despite the fact that case files are a matter of public record and are open to any member of the public for inspection.

The current process for members of the public to obtain Cook County Circuit Court data is to submit requests in writing to the Chief Judge. If the request is approved, the Chief Judge directs the Clerk of the Circuit Court to process the data request. If a request is for a large amount of data, a response can take months and the Clerk may charge a fee.¹⁷

Requests for data in the possession of the elected Clerk of the Circuit Court should not need to go through another office with a separately-elected official for approval. Furthermore, the internal data management systems used by the Clerk of the Circuit Court should be sophisticated enough to pull information and respond to data queries timely and efficiently, while protecting sensitive information.

To be a true partner in advancing justice, the Clerk's Office must be able to not only maintain accurate records, but also provide information and statistics that help answer questions about how fairly and equitably the court system is working for the people of Cook County. Without sufficient data, system stakeholders and the public cannot make assessments about how effectively, efficiently and fairly court programs are working.

The following improvements in data management are needed within the Office of the Clerk of the Circuit Court. First, records should be accurate, up to date and quickly accessible for everyday operational purposes. Second, data should be maintained in such a way that it can be used for research and analysis. This will require intentionally building an internal expertise to understand and interpret data and improve transparency by streamlining public access. Third, the Clerk's data must be used to help the courts understand case processing and measure performance.

To accomplish improvements in both internal and external data issues, we recommend that the Clerk of the Circuit Court create a new office or department to oversee data management and analysis. The mission of this office would be to improve the transparency and integrity of the Clerk's data. This office would build capacity for better data management and analysis and ensure the proper data

¹⁷ For example, the Chicago Justice Project submitted a bulk data request for 30 years of all felonies on a case-level basis, which is an average of about 30,000 cases per year. The request took a year to obtain approval from the Chief Judge, and after being approved the Circuit Court Clerk said the request would cost \$25,000 to cover the staff time and effort it would take to remove identifying information from cases that did not result in a conviction. Civic Federation, *The Impact of Cook County Bond Court on the Jail Population: A Call for Increased Public Data and Analysis*, November 15, 2017.

infrastructure is in place to evaluate how the court system functions.

The office should be led by a dedicated and accountable data director who reports directly to the Clerk. The data director would be responsible for improving the accuracy of individual court records and case file information; analyzing data; ensuring clear and consistent protocols for public access to court data; responding to external data requests; and producing reports about court performance and case processing outcomes.

Creating a new Office of Data Management will likely require some restructuring and shifting of resources – or combining this new office with existing programs or functions such as Public Information. Therefore, the incoming Clerk must first complete a full audit of the Office [see *Recommendation 1: Conduct a Complete Office Audit to Identify Areas for Savings, Efficiency Improvements and Resource Repurposing*] so that resources can be appropriately reallocated to support this initiative.

12. Work with the Illinois General Assembly to Amend State Statute to Make Information in the Clerk of the Circuit Court's Possession Subject to the Illinois Freedom of Information Act

In Illinois, the judicial branch is not subject to the Freedom of Information Act (FOIA). The language of Illinois' statute does not explicitly exempt the judicial branch from FOIA. However, the Illinois courts have interpreted the Illinois FOIA to exclude the judiciary, and have interpreted the definition of the judiciary broadly.¹⁸ This exempts the Circuit Court of Cook County from FOIA requests and gives the court discretion over what information and data it will release, despite the fact that court records are open to the public for inspection.

A scan of open records laws across the U.S. found that Illinois is an outlier when it comes to court information being subject to freedom of information and open records laws. The vast majority of other states in the U.S. have open records laws that make at least some judicial branch information available to the public such as pretrial and probation program information, statistical data and data about how court agencies spend public funds.¹⁹

Because the Office of the Circuit Court Clerk serves an administrative function of the judiciary in its role as record keeper, the data in the Clerk's control and possession should be obtainable under FOIA. This would include operational information such as budget and performance data, as well as data about the court cases that make their way through the Circuit Court. It would not apply to any information or documents in the possession of judges operating under the Cook County Chief Judge.

The Cook County Circuit Court Clerk should work with the Illinois General Assembly to amend the Illinois Freedom of Information Act, and potentially also the Clerk of Courts Act, to make information in the Clerk's possession subject to FOIA. This would result in greater transparency of operational data that would help researchers, journalists, advocates and the general public better understand the public activities of the Cook County Circuit Court and its Clerk.

Expanding access to court records and data through FOIA was an initiative supported by several

¹⁸ See *Copley Press, Inc. v. Administrative Office of the Illinois Courts* (Illinois Appellate Court, 1995). See also *Newman, Raiz & Shelmadine, LLC v. Brown* (Illinois Appellate Court, 2009).

¹⁹ Research conducted by DLA Piper on behalf of the Chicago Appleseed Fund for Justice, October 2019.

of the Circuit Court Clerk Democratic primary candidates during election debates.²⁰ Encouragingly, Senator Iris Martinez – a candidate for Clerk of the Court – introduced Senate Bill 3850 in the Illinois General Assembly in spring 2020 that would make the Clerk of the Circuit Court of Cook County subject to the Illinois Freedom of Information Act.²¹

13. In the Absence of a Change to FOIA, Voluntarily Release Data and Operations Information

While the Illinois Freedom of Information Act has been interpreted as not applicable to the judicial branch, there is nothing in state statute that prevents the release of information about court operations or the appointment of a FOIA officer to handle requests from the public, media or researchers. In fact, some Circuit Court Clerks in Illinois already have FOIA officers, including DuPage, Kane, and Kendall Counties. Others provide some statistics on their websites, including the Circuit Court Clerks in DeKalb, McHenry, and Sangamon Counties.

Absent a change to the FOIA law in Illinois, we recommend that the Circuit Court Clerk voluntarily operate as if the Office is subject to FOIA and hire a FOIA Officer to respond to requests for information held by the Clerk's Office, such as court statistics and operational and budget information. Implementation of this recommendation will require the Clerk to coordinate with the Cook County Chief Judge to revise the process for data requests. Currently, requests must go through the Chief Judge's Office; the Clerk will need to work with the Chief Judge to recognize the Circuit Court Clerk as an independently-elected office with its own records and information. Any information released would follow the same exemptions in FOIA to protect personal information.

ACCESSIBILITY AND USER SERVICES

There have been complaints over the years from members of the public, researchers, self-represented litigants, and lawyers that the Clerk of the Circuit Court's Office is unhelpful and difficult to navigate. Many who interface with Clerk's Office staff complain that the staff appear to be under-trained, especially in relation to e-filing and other technology issues. Participants in the justice system with reading or comprehension issues, certain disabilities, or non-English language requirements face additional barriers and need improved support from the Clerk's Office to navigate an extremely complex system. We suggest that the Clerk's Office entirely reimagine its purpose as a community-oriented, public-serving body, and make particular efforts to serve historically marginalized populations.

14. Appoint a Chief Accessibility Officer

An important step toward increasing access to justice for individuals with disabilities and language barriers is appointment of a Chief Accessibility Officer – a role that currently does not exist within the Clerk's Office. This position would be responsible for coordinating the various accessibility-improving initiatives and changes recommended below. The role would be to make the Clerk's Office more user-friendly to all, but especially people with unique needs or other obstacles to accessing information or participating in their cases. This person should be responsible for both ADA

²⁰ See e.g. "The Race to Repair Dorothy Brown's Office" (January 2020) by Mari Cohen for *Chicago Reader*, accessible at www.chicagomag.com/city-life/January-2020/Circuit-Court-Clerk-Race-Meet-the-Candidates/; "Democrats Running for Circuit Court Clerk Vox Digitization, Accountability, Debt Relief" (January 2020) by Chip Mitchell for WBEZ-Chicago, accessible at www.wbez.org/shows/wbez-news/democrats-running-for-circuit-court-clerk-vow-digitization-accountability-debt-relief/66e13a3d-c305-44d5-8600-bbc90fc80ed1.

²¹ See e.g. "Bill Status of SB3850" from the Illinois General Assembly (February 2020), accessible at <https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3850&GAID=15&DocTypeID=SB&LegId=125992&SessionID=108&GA=101>.

(Americans with Disabilities Act) requirements and translation, language, and other access issues. The Chief Accessibility Officer should be involved in all decisions made by the Clerk's Office before roll-out – for example, all new forms, new software, and new policies should be examined and tested to ensure full and equitable accessibility.

A. Improve ADA and Language Access

Specific recommendations for steps to be taken by the Chief Accessibility Officer include the following:

First, in conjunction with the Chief Judge's Office, the Clerk's Office should develop a comprehensive ADA Accessibility Plan and implement it in each courthouse. This includes improving physical accommodations and accessibility for litigants with disabilities to Clerk's Office locations and courtrooms. The Clerk's Office should install adjustable (height and volume) ADA kiosks in the Daley center. Equally important, the Clerk's Office should train its staff members regarding customer service for individuals with disabilities, including how to help them access disability accommodations offered by the courts.

Second, the Clerk's Office should ensure uniformity of signage and communications about available accommodations and services throughout every courthouse and division. Currently, different courthouses offer different levels and types of ADA accommodations and there is no apparent reason for the differences.

Third, the Clerk's Office should prioritize improving language and translation services. The Chief Accessibility Officer, working with other stakeholders, should develop a language access plan and implement it in each courthouse. One important step toward increasing access would be placing a language line phone in every Clerk's Office location throughout Cook County. Another important step is to hire additional bi- or multilingual staff, particularly employees who speak Spanish and Polish, in every Clerk's Office location. Finally, it is necessary to provide American Sign Language (ASL) interpreter services in each courthouse, available either in person or remotely.

15. Appoint a Chief Public Service Officer

The task of the Chief Public Service Officer is to ensure that the Clerk's Office serves the needs of all litigants and members of the public, including and especially those whose access to justice and information historically has been underserved by the office. This person's primary responsibilities will include liaising with Legal Aid Chicago, the Circuit Court's Pro Se Advisory Committee, the Illinois Supreme Court's Commission on Access to Justice, and similar organizations who serve poor and self-represented litigants to ensure that the needs of these people are being met by the Clerk's Office's policies, forms, services, and technology.

The Chief Public Service Officer's job also would include ensuring that all Clerk's Office personnel are adequately trained to address questions and assist self-represented litigants in navigating typical scenarios they face in court. Finally, the Chief Public Service Officer's role will include ensuring all Clerk's Office personnel involved in the e-filing and case management systems are adequately trained to troubleshoot and answer questions from attorneys and the public. The Chief Public Service Officer should be involved in all decisions made by the Clerk's Office before roll-out -- for example, new forms, new software, and new policies all should be examined and tested for

accessibility by and for under-resourced populations.

A. Improve Access to Justice

Specific recommendations for steps to be undertaken by the Chief Public Service Officer include the following:

First, this position will serve as an important liaison between the Clerk's Office and other resources serving self-represented and underserved litigants, particularly the help desks and other pro bono resources already available in Cook County courthouses. The goal of working together with these existing resources is to provide uniform information for self-represented litigants and to ensure that people's needs are being met, such that particular issues do not fall through the cracks between various services. The Chief Public Service Officer should create and implement training for all front-line clerks so they are aware of and comfortable making referrals to appropriate resources. The Chief Public Service Officer should serve as a point of contact for other justice partners to raise emerging issues and trends that impact access to justice and self-represented litigants.

Second, it is necessary to increase training for front-line clerks on providing useful information to self-represented litigants and others with procedural questions on court operations. Historically, many employees in the Clerk's Office have taken an overly narrow view of the information they are empowered to provide by using the excuse that they cannot give "legal advice." The Chief Public Service Officer should review and bring the Clerk's Office's services and front-line employees fully into compliance with the Supreme Court's Safe Harbor Policy on providing legal information.²² Relatedly, the Chief Public Service Officer should review all signage and self-help and referral information available across each division/district to ensure it is accurate and consistent.

Third, the Chief Public Service Officer should review all public facing materials and forms used in the Clerk's Office and the Circuit Court of Cook County and work with the Office of the Chief Judge and the Administrative Office of the Illinois Courts to ensure that these materials comply with the Supreme Court Policy on Plain Language²³ and other Illinois Supreme Court rules regarding public-facing communications, such as posting information about fee waivers and similar requirements.

Fourth, the Chief Public Service Officer should be responsible, at least in part, for improved staff training – including but not limited to the e-filing system. In conjunction with the re-imagined mission statement proposed above, staff members should be trained that it is part of their job to assist attorneys and litigants in navigating the e-filing system and in filling out and filing other forms. They should be trained on the criteria and mechanisms for obtaining individual fee waivers and Civil Legal Service Provider certificates necessary for payment waivers. Moreover, staff should be cross-trained in the operations of several divisions such that they can be flexible for reassignment and can fill in when other staff members are absent.

Finally, the Chief Public Service Office should conduct or commission periodic customer satisfaction surveys and reviewing court patron feedback to identify areas for improvements. All constituencies should be represented in the surveys, including judges, attorneys, jurors, litigants who are

²² "Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers" (effective April 2015; amended November 2018), accessible at https://courts.illinois.gov/SupremeCourt/Policies/Pdf/Safe_Harbor_Policy.pdf.

²³ "Illinois Supreme Court Policy on Plain Language" (effective April 2018), accessible at https://courts.illinois.gov/CivilJustice/Training_Education/Plain_Language_Policy.pdf.

represented and litigants who are not represented.

16. Improve Partnerships with Other Agencies

The Clerk's Office has the opportunity to reinvent itself as a resource for and integrated with the larger Cook County community. We encourage the next Clerk of Court to look beyond the office's historic boundaries and engage with other public agencies to better serve the public.

For example, the Clerk's Office could partner with the Chicago Public Library system to install e-filing kiosks in libraries and train volunteers to assist self-represented litigants, similar to the volunteer assistance currently provided at the Daley Center help desk.

The Clerk's Office could partner with the Chicago Transit Authority and Metropolitan Transit Authority to provide better public transportation options to suburban courthouses, with better transit schedules that align with common court call times.

The Clerk's Office could partner with the Cook County Sheriff's Office to seamlessly coordinate service of documents (such as complaints and orders of protection) without needing to upload them to two separate systems. With respect to courthouse security, the Clerk's Office should explore with the Sheriff's Office ways to maintain security while also allowing litigants to retain their cell phones in courthouses so that they can access online resources, call for rides home, and otherwise conduct necessary business that requires e-mail and phone service.

ETHICS AND OVERSIGHT

17. Continue to Comply with Shakman Consent Decree Requirements

The Clerk of the Circuit Court has been under federal court monitoring through the Shakman Consent Decree since 1972.²⁴ The Consent Decree prohibited making employment decisions based on political factors or coercing political contributions or activity from government employees in connection with their employment.

A Supplemental Relief Order was issued by a federal judge in August 2018, again prohibiting the Clerk's Office from basing any employment on a political factor, and a Compliance Administrator was appointed to oversee the Clerk of the Circuit Court's hiring and employment practices and investigate unlawful political discrimination. The Clerk must reach substantial compliance with the Compliance Administrator's requirements in order to be released from court monitoring. Since the 2018 Supplemental Relief Order, the Circuit Court Clerk has made progress on requirements including finalizing a list of employees deemed exempt from the Consent Decree (meaning that hiring for those positions based on political factors is permitted), finalizing an interim employment plan, hiring a Director of Compliance, implementing training for the Clerk's workforce on hiring practices, and beginning to use Taleo (Cook County's electronic job application system) to fill vacant positions. There are, however, still some outstanding issues that need to be addressed in order to reach substantial compliance.²⁵

²⁴ See, e.g. "Clerk Compliance Administrator Reports" from the Shakman Compliance Administrator for The Clerk of the Circuit Court of Cook County, accessible at <https://www.shakmanclerkofcircuitcourtkookcounty.com/compliance-administrator-s-reports>.

²⁵ Third Report of Susan G. Feibus as Compliance Administrator for the Clerk of the Circuit Court of Cook County, filed January 28, 2020. Accessible at <https://www.shakmanclerkofcircuitcourtkookcounty.com/compliance-administrator-s-reports>.

A January 2020 Compliance Administrator report recommended that the Clerk of the Circuit Court provide the Compliance Administrator with requested documents in a timely manner, give the Compliance Administrator notice of all employment actions including hiring, and provide information about Shakman compliance prominently on the Clerk's website.²⁶ Another July 21, 2020 Compliance Administrator report confirmed that in order to reach substantial compliance, the Clerk still must also implement a final New Employment Plan, procedures to identify and remedy noncompliance, and procedures to prevent political considerations in employment decisions.²⁷ The July 2020 report also reported significant concerns about a lack of transparency and potential political unlawful political employment decisions related to the Clerk's teleworking policy. The Clerk reports that progress is being made, and that her office is preparing a roadmap to reach substantial compliance that will be in place for her successor.²⁸

We urge the next Clerk of the Circuit Court to comply fully with all of the Shakman Compliance Administrator's requirements with the goal of reaching substantial compliance in order to be released from court monitoring as soon as possible.

18. Eliminate Patronage Hiring in the Office of the Circuit Court Clerk

As explained above, the Clerk of the Circuit Court has been under Shakman Consent Decree monitoring for nearly 50 years. The Consent Decree was intended to reform patronage hiring in Chicago and Cook County government and ensure that employment decisions are made based on merit rather than political benefit.

According to a Compliance Administrator report issued in May 2019, the Clerk has 1,350 employees, 300 of whom are non-bargaining unit employees.²⁹ The remainder are bargaining unit employees who are members of the Teamsters International Union, Local 700. Of the 300 non-bargaining unit employees, 80 are "Shakman exempt," meaning hiring decisions for those positions can be made based on political factors. Exempt positions are considered to be policymaking roles, and many are high level supervisory positions (for example, positions including Chief Financial Officer, Chief Information Officer, General Counsel, and Chief Deputy Clerks for Intergovernmental Affairs, Labor Relations, Personnel Services, Payroll, Budget, and all court divisions). Despite the fact that employment decisions related to these positions are permitted to consider political affiliation, hiring and other employment decisions for these important policymaking roles should still be primarily based on merit and qualifications. The Clerk should commit to eliminating patronage for all hiring and personnel actions, including those for Shakman exempt employees.

For all non-exempt employees, both union and non-union, the Circuit Clerk is required to implement an employment plan with policies, practices, and procedures for all employment actions (hiring, promotion, demotion, termination, discipline, and other job assignment changes). However, in matters of promotion, demotion and transfers, the employment plan applies only to non-union positions. The collective bargaining agreement with Teamsters Local 700 covers those terms

²⁶ Third Report of Susan G. Feibus as Compliance Administrator for the Clerk of the Circuit Court of Cook County, filed January 28, 2020.

²⁷ Fourth Report of Susan G. Feibus as Compliance Administrator for the Clerk of the Circuit Court of Cook County, filed July 21, 2020. Accessible at <https://www.shakmanclerkofcircuitcourcookcounty.com/compliance-administrator-s-reports>.

²⁸ Statement by the Clerk of the Circuit Court of Cook County at a Cook County Finance Committee meeting on the Circuit Court Clerk's FY2020 Mid-Year Budget Review, July 22, 2020.

²⁹ First Report of Susan G. Feibus as Compliance Administrator for the Clerk of the Circuit Court of Cook County, filed May 9, 2019.

for union positions. The Circuit Clerk has produced an Interim Employment Plan as a first step to reaching substantial compliance. As the new Clerk takes over implementation of the employment plan, she should work with the Compliance Administrator to move forward on completion of a Final Employment Plan and ensure that employee training on hiring and employment practices continues on a regular basis (at the time of hire and annually thereafter).

19. Ensure Stronger Inspector General Oversight

It is imperative for the Office of the Clerk of the Circuit Court to have strong inspector general oversight, especially given past problems with patronage and a lack of efficiency and transparency. Reports by the prior Shakman Compliance Administrator raised concerns about the Inspector General's (IG) independence from the Circuit Court Clerk given that the IG is hired by and reports directly to the Circuit Clerk. There were also concerns about the IG being understaffed, which could inhibit the IG's ability to complete investigations of Shakman complaints within 180 days.³⁰

In response to the concern about independence from the Clerk, the Inspector General indicated that she would refer complaints against the Clerk to the Cook County Office of the Independent Inspector General (OIG). The Clerk's Office has taken the position that it is not subject to the jurisdiction of the OIG,³¹ however, the OIG's enabling ordinance states it has authority to investigate corruption, fraud, waste, mismanagement, unlawful political discrimination, and misconduct in operations of separately elected Cook County officials.³² The OIG has also conducted investigations of the Circuit Clerk in the past.³³ It appears, based on the Cook County OIG ordinance and prior investigation of the Clerk, that the OIG *does* have the authority to conduct investigations into the Clerk of the Circuit Court. The incoming Circuit Clerk needs to comply with this authority to ensure a sound, fair and impartial procedure for investigations into complaints by an independent and unbiased outside party.

We recommend that the Circuit Court Clerk recognize the OIG's jurisdiction and reach agreement with the Cook County Independent Inspector General for all complaints to be directed to the Cook County Office of the Independent Inspector General rather than to the Clerk's own Inspector General. The Clerk should also reevaluate whether having her own Inspector General is even necessary. Political discrimination complaints are already being directed away from the Clerk's IG to a new Director of Compliance position, based on an August 2019 Amended Supplemental Relief Order. With the Director of Compliance and the Cook County OIG handling complaints, the Clerk's Inspector General could potentially be eliminated, thereby freeing up resources for other uses.

20. Execute a New Collective Bargaining Agreement

The current collective bargaining agreement between the Clerk of the Circuit Court and the Teamsters Local 700 expires on November 30, 2020. As such, negotiating a new contract with the union is one of the first things the Clerk will need to finalize upon taking office on December 1, 2020. It is in the best interest of the Clerk's Office to finalize a collective bargaining agreement quickly to avoid operating on old terms and risking expensive retroactive payments after the fact. We recommend that upon taking office the Clerk work with the Office of the Cook County President to

³⁰ Initial Report from Clifford Meacham as Compliance Administrator for the Clerk of the Circuit Court of Cook County, filed on November 8, 2018.

³¹ Initial Report from Clifford Meacham as Compliance Administrator for the Clerk of the Circuit Court of Cook County, filed on November 8, 2018.

³² Cook County Code of Ordinances, Article IV, Division 5, Section 2-284.

³³ The Cook County Independent Inspector General investigated the Circuit Court Clerk's jeans policy in 2010.

finalize the terms of a new agreement.

Additionally, in the spirit of transparency, the Clerk should work with the Cook County Bureau of Human Resources to make sure the all executed collective bargaining agreements are posted either on the Clerk of the Circuit Court's website or the Cook County website's collective bargaining agreement page. The most recent collective bargaining agreement between the Clerk's Office and Teamsters Local 700 available on the County website is from 2012-2017.³⁴

BUDGET TRANSPARENCY AND ACCOUNTABILITY

21. Reassess Staffing Levels to Ensure the Best Use of Resources

Approximately 300 of the Clerk's roughly 1,400 staff are non-bargaining unit employees, meaning hiring, transfer, and termination decisions for these positions can be made at will.³⁵ The rest are members of the Clerk of the Circuit Court's union, Teamsters Local 700. Approximately 80 of the non-bargaining unit employees are exempt positions, meaning they can be hired based on political factors because of the policy-making nature of the positions.³⁶ The Office of the Clerk of the Circuit Court has reduced overall staffing levels significantly (by approximately 27% over the ten-year period from FY2011 to FY2020, from over 2,000 to approximately 1,465—not including grant positions), while the number of cases filed in Cook County has decreased even further (a decrease of 43.4% over the ten-year period from 2009 to 2018).³⁷

In order to determine optimal staffing levels based on current needs, the Office of the Circuit Court Clerk needs to conduct a thorough review of job positions, updated job descriptions, and an assessment of current workloads by function, program, and location. While the Clerk's Office has implemented new systems for e-filing and case management, it is unclear how much these systems have helped streamline processes and reduce the need for personnel that could be redeployed in more useful areas.

As noted earlier in this report, the first thing the Circuit Court Clerk should do upon taking office is to conduct a full operational audit, including a desk audit. Desk audits are commonly used to determine whether job descriptions accurately represent the functions being fulfilled and whether specific positions and the overall organization are functioning efficiently.³⁸ The desk audit would involve interviewing employees to ascertain the nature and scope of their job duties and to receive input about how operational efficiency could be improved. The results of the desk audit would then be used to determine any structural and cultural changes needed to improve efficiency and to deploy

³⁴ See e.g. <https://opendocs.cookcountyil.gov/human-resources/labor-agreements/2012-2017/Cook-County-Clerks-2012-2017.pdf>.

³⁵ Shakman Compliance Administrator for the Clerk of the Circuit Court of Cook County, *First Report of Susan G. Feibus as Compliance Administrator*, filed May 9, 2019.

³⁶ A list of exempt positions in the Office of the Circuit Court Clerk of Cook County is available at https://28deaac3-bfc7-4d05-9f05-d09ff9a915d3.filesusr.com/ugd/11c424_33c7f4a71a674bae8a364ae2fbef3a2d.pdf.

³⁷ Civic Federation Blog Post, "What is the Cook County Circuit Court Clerk's Office and What Issues Does it Face?" February 5, 2020, <https://www.civicroad.org/civic-federation/blog/what-cook-county-circuit-court-clerks-office-and-what-issues-does-it-face>.

³⁸ For an example of a desk audit, see Forest Preserve District of Cook County Summary Report for 2011 Desk Audit by AMD Business Solutions, Inc., August 3, 2011, <https://fpdcc.com/wp-content/uploads/2019/05/FPCC-desk-audit-report-adm-mar12.pdf>.

staff appropriately.

22. Conduct a Comprehensive Review of Special Purpose Funds

The Circuit Clerk should reassess the agency's four Special Purpose Funds to identify how much revenue is generated annually and how funds are dispersed and make this information publicly accessible.

The total budget of the Office of the Clerk of the Circuit Court for FY2020 is approximately \$124 million. Of that amount, the majority of expenditures—\$100.3 million—are accounted for within the Public Safety Fund, which is part of the County's general operating fund. About \$21 million is accounted for through four special purpose funds. Another \$2.3 million is accounted for through grant funding.³⁹

The four special purpose funds were created to defray costs of specific functions such as maintaining automated record keeping systems and document storage. Revenues for these funds are derived from fees charged for activities related to each fund. The four funds are:

- *The Circuit Court Administrative Fund*: This fund is used to offset the costs incurred by the Circuit Court Clerk in performing additional duties required to collect and disburse funds to entities of State and Local Government as provided by law;
- *The Circuit Court Electronic Citation Fund*: This fund is used to defray expenditures incurred by the Office in performing its required duties of establishing and maintaining electronic citations in any traffic, misdemeanor, municipal ordinance, or conservation case upon a judgment of guilty or grant of supervision;
- *The Circuit Court Document Storage Fund*: This fund was started to assist in the preparation of documents to be microfilmed and revenues for this fund are derived from fees for services such as retrieving, updating, and refiling and transporting record orders; and
- *The Circuit Court Automation Fund*: This fund was established for the installation and maintenance of computer hardware and computer programs. Revenues are derived from fees from users for items such as reports and statistical data.⁴⁰

While total revenues and expenditures within these funds can be found through financial audit reports, little is widely understood about the circumstances in which the special purpose fund fees are collected and how they are used. Better transparency is needed for the general public to understand what fees are collected for what purpose, and how those funds are spent.

A first and simple step that would improve transparency around the special purpose funds is for the Clerk to post the annual financial audit reports on the Clerk of the Circuit Court website. Second, the Clerk of the Circuit Court should produce a straightforward, narrative summary description of fees collected and dispersed among government agencies. The description should be included in an annual report, discussed further in another recommendation below. In addition to publishing information about the special purpose funds revenues and expenditures, we recommend that the Clerk of the Circuit Court review the four funds to assess whether they still serve their original

³⁹ Cook County Annual Appropriation Bill, Volume 2, p. L-1. Accessible at <https://www.cookcountyil.gov/sites/default/files/service/volume-2-web-adopted-2020.pdf>.

⁴⁰ Cook County FY2018 Comprehensive Annual Financial Report, pp. 148-150.



purpose and work to revise or sunset fees where possible.

23. Revise Annual Performance Metrics

The new Clerk of the Circuit Court should review and revise annual performance metrics to better track operational efficiency of the Clerk's Office. The Clerk of the Circuit Court in recent years has produced metrics for inclusion in Cook County's Performance Based Management and Budgeting program. While the metrics were intended to measure outcomes, efficiency and outputs by measuring activity based on staffing and expenditure levels, the measures provide little insight into how efficiently the Clerk's Office is actually operating.

For example, various measures of average output activity "per # FTE" (full time equivalent employees), which are intended to measure efficiency, merely show how much of a certain activity is being completed with the number of staff assigned to that activity. Measures do not include definitions, so it is unclear what some metrics mean. For example, it is unclear whether the measure "number of cases e-filed activity" measures the number of cases that are e-filed, the number of actions taken per case, or something else.⁴¹

The most recent annual performance measurement report states that there are "...many opportunities for data collection and the restructuring of programs..." within the Office of the Clerk of the Circuit Court.⁴² Measuring office performance will be an integral part of reforming the Office of the Clerk of the Circuit Court and will require meaningful metrics that help measure efficiency and performance over time.

Cook County is working on implementing a new performance measurement system that focuses more heavily on how performance measures relate to departments' and agencies' mission, goals and operations. We recommend that the Circuit Court Clerk work with the new Office of Research, Operations and Innovation to develop revised performance measures that are relevant to tracking operational efficiency of the Clerk's Office, and that are clearly defined.

24. Produce an Annual Report with Budget, Performance and Statistical Information

Understanding the flow of revenues and expenditures into and out of the Office of the Circuit Court Clerk is difficult because little detail is provided in the County's budgets or financial audits. Reports that do contain financial details about the Clerk's revenues and expenditures, such as the annual audits of the Circuit Court Clerk's financial statements,⁴³ are not easily accessible to the public and are difficult for non-experts in finance to understand. As mentioned above, these annual audit reports should be accessible to the public on the Clerk's website.

Overall improvements to disclosure of the finances and performance of the Office of the Circuit Court Clerk are needed for stakeholders and the general public to understand how money flows in and out of the office.

In order to improve transparency and build public trust in the Office of the Clerk of the Circuit Court, the Clerk should institute an annual report to be released publicly and made available on the Clerk's

⁴¹ Cook County, *Performance Based Management and Budgeting FY2018 Annual Report*, April 8, 2019, p. 50.

⁴² Cook County, *Performance Based Management and Budgeting FY2018 Annual Report*, April 8, 2019, p. 33, available for download at <https://www.cookcountyil.gov/agency/performance-management>.

⁴³ The Clerk of the Circuit Court is required by State statute to have the Office's financial statements audited by a licensed public accountant, per the Illinois Clerks of Courts Act, 705 ILCS 105/27.8.

website each year. The annual report should include information on the following topics:

- A summary of revenue generated, including breakdowns of fees, fines and other sources of revenue;
- A summary of how funds are spent and dispersed across agencies;
- A summary of the Office's performance measures and a description of how those measures will be used to improve efficiency; and
- Statistical data about case volumes in the Cook County Circuit Court. For example, statistics could include:
 - The number of case filings by case type;
 - The number of pending cases and their status;
 - The number of case dispositions by disposition type within each case type; and
 - The time it took to reach a disposition by case type.



CONCLUSION

Chicago Appleseed, Chicago Council of Lawyers, and the Civic Federation hope the next Clerk of the Circuit Court of Cook County finds these recommendations helpful as she prepares to take office. As stated in the introduction of this report, this transition offers a significant opportunity to improve issues with technology, transparency, and efficiency within the Clerk's Office. We acknowledge that many of the recommendations will require significant changes in operations and in some cases additional resources, which is why it is imperative that the Clerk immediately conduct an office-wide audit upon taking office in order to restructure staffing and free up resources for needed new positions.

We will follow up with the Circuit Court Clerk periodically to receive updates on progress made on these recommendations, and will publish updates to this report after the Clerk has been in office for the first six months and first year. Our respective organizations are available for further participation in the implementation of the recommendations presented in this report. We encourage the Circuit Clerk to contact us for assistance, discussion, or clarification of any of the recommendations included in this report.



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