



Office of the Public Defender
City and County of San Francisco

Jeff Adachi
Public Defender
Teresa Caffese
Chief Attorney

July 14, 2009

Supervisor Chris Daly
Supervisor Ross Mirkarimi
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, Ca 94102

Re: Inquiry into the Office of the Public Defender for July 14 Board of Supervisors' Meeting

Dear Supervisors Daly and Mirkarimi,

I am responding to the July 9, 2009 inquiry from your offices:

1. What is the amount of the shortfall in the Public Defender's budget, and how will this shortfall affect your office's operations and programs? Which specific programs would you have to eliminate if the budget cut proposed by the Mayor is imposed?

The current shortfall in the Public Defender's budget is \$1.6 million.

The least expensive means of meeting this shortfall would be to lay-off seven deputy public defenders eliminate the BMAGIC and Mo MAGIC Programs and the Juvenile Social Worker Program. Other alternatives were considered but proved to be more expensive.

Program	Staff/FTEs	Classification	Cost
Felony Defenders	7 FTEs	8177	\$ 1.15 million
Juvenile Social Workers	3 FTEs	2910	\$ 243,000
BMAGIC and Mo MAGIC Programs	2 FTEs	8452	\$ 208,000
Total	12 FTEs		\$ 1.6 million

The savings realized by laying off seven experienced deputy public defenders, each of whom handle a caseload of 222 felony cases each year, is \$1.15 million. Because our attorneys already have caseloads which exceed the standards permitted by the American Bar Association by 50%, these cases would have to be referred to private attorneys at \$89-\$144 an hour. This would cost the city \$668,784 more than it would save by reducing our staff.

Withdrawing from as many as 1,500 cases and substituting new private attorneys would lead to court continuances and increased incarceration times. Assuming that each case is continued for 30 days at a cost of \$3600 per case (\$120 per day in jail multiplied by 30 days), the cost of increased incarceration is \$5.4 million dollars.

I would also be forced to eliminate the office's juvenile social workers, who provide counseling, service linkages and placements to over 300 youth in the juvenile justice system, and the office's BMAGIC and MoMAGIC collaboratives, which provide capacity building to over 100 partnering agencies, youth and family organizations in the Bayview Hunters Point and the Western Addition.

2. How much of the budget shortfall would affect the legal representation of indigent children? How would it affect the quality of the work that you were able to perform? Is that work required or mandated by statute?

The office's three social workers provide assistance to over 300 youth each year. Each social worker handles an average caseload of 50 children at any given time. Their responsibilities include creating treatment plans for the judge, and integrating mental health, special education and counseling services available through the school district, government agencies and community-based service providers. The social worker ensures that the services are received and that the minor successfully meets all of the objectives of the treatment plan.

Not having these social workers will result in more children being kept in custody for longer periods of time and more out-of-home placements. It costs \$250 a day to house a child at the Youth Guidance Center, so any cost savings would have to be offset against increased incarceration due to the department's inability to produce early release and treatment plans. Also, each out-of-home placement costs the \$60,000, which is the amount saved when the social worker is able develop a plan for an in-home placement.

The work performed by the juvenile social workers is mandated by Rule 5.663 of the California Rules of Court which requires the Public Defender to advocate "that the child receive care, treatment and guidance consistent with his or best interest." (See Rule 5.663 attached). Without the three social workers, no one would be able to perform these responsibilities.

3. How much of the budget shortfall would result in additional costs to the city as a result of having to outsource cases to private attorneys? Would there be a net increase or decrease in costs of outsourcing cases to private attorneys after the city realized the savings by reducing your staff?

As noted above, laying off seven deputy public defender attorneys would force me to withdraw from 1,522 present and future cases in the next twelve months. These cases would be referred to private attorneys who would be paid \$89-\$144 an hour. According to the Controller's report issued on 6/23/09, it costs \$1,194 to have a private attorney handle a felony case. This would cost the city approximately \$ 1.82 million in the next fiscal year and would result in a net increase

of \$668,774 beyond what the city would save by cutting the Public Defender's felony defense program by \$1.15 million. A chart showing the cost-benefit analysis is attached.

4. Are there any programs that you could eliminate without affecting your caseloads or workloads of your public defenders? What are these programs and what functions do they perform?

The only non-case work programs the Public Defender's office operates are MAGIC, described above. BMAGIC was formed in 2004 and Mo MAGIC in 2006.

The MAGIC programs include the following functions:

- hold monthly meetings with over 100 community-based organizations in Bayview Hunters Point and the Western Addition with a 95% participation rate;
- plan major community events, including MAGIC's Back-to-School giveaway of 5,000 backpacks and school supplies to children, Book, Technology and Literacy Programs which serve over 1,500 children each year, youth empowerment events such as the Winter Ball;
- create and distribute over 10,000 community resource and summer guides to children and families;
- assist in building the capacity of partnering community-based organization and enhances collaboration and communication between families, schools, community organizations and juvenile justice agencies; and
- work with community organizations to build their interdependence among agencies doing similar work and to improve both fiscal and program accountability.

A more comprehensive of the work and functions performed by the MAGIC programs is attached.

5. Have you considered any other alternatives other than outsourcing cases to private attorneys at an hourly rate? Are there any private law firms that might be willing to take cases that the Public Defender cannot handle on a pro bono basis?

Yes, the office is currently using volunteer attorneys and law firms to help reduce the cost of cases that the Public Defender cannot current handle because of lack of staff.

The Public Defender's office staff has been reduced by 10 positions, due to mid-year cuts and positions we have not been allowed to fill.

Volunteer Attorney Program: The office currently has three volunteer attorneys who work in the office for four months without pay in order to receive experience handling cases. They each handle caseloads that would otherwise have to be referred to private attorneys. However, due to the limited experience of these attorneys, they can only handle a reduced caseload and we cannot supervise more than three attorneys at a time.

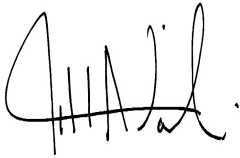
Private Law Firm Pro Bono Program: I have contacted private law offices who practice criminal and asked them to begin taking cases on a pro bono bases. Thus far, we have a retainer agreement with the Peabody law firm, and they have agreed to take 2 cases per year. I believe that I will be able to secure several additional agreements with other outside law firms. Each major case referred could save the city as much as \$25,000 in private counsel costs per case.

6. What is the minimum amount of funding needed to maintain the current caseload of the Public Defender's office in order to avoid the need to outsource cases to private attorneys?

In order to maintain the current caseload and not outsource cases to private attorneys, we would need \$1.15 million. This would allow our attorneys to continue to handle all of the cases that are assigned to the Public Defender, except those cases where there is an actual ethical conflict of interest. However, this would still require that we eliminate the MAGIC programs and the Juvenile Social Worker programs. Without the social workers, it is unlikely that we will be able to handle all of the juvenile cases assigned to the department.

Thank you for the opportunity to allow us to respond to this letter of inquiry. Please contact me should you have additional questions and concerns.

Very truly yours,



Jeff Adachi

cc: David Chiu, President, Board of Supervisors
John Avalos, Chair, Board of Supervisor Budget and Finance Committee
Bevan Dufty, Member, Board of Supervisor Budget and Finance Committee
David Campos, Member, Board of Supervisor Budget and Finance Committee
Carmen Chu, Member, Board of Supervisor Budget and Finance Committee
Eric Mar, Member, Board of Supervisors
Michela Alioto-Pier, Member, Board of Supervisors
Sean Elsbernd, Member, Board of Supervisors
Sophie Maxwell, Member, Board of Supervisors