

DEFENDER ASSOCIATION OF PHILADELPHIA

# Philadelphia City Council Budget Testimony

FISCAL YEAR 2019

Keir Bradford-Grey, Chief Defender

April 24, 2018

W. B. GUILD.  
BALANCE WEIGHING SCALE  
1875

**PHILADELPHIA  
CITY COUNCIL  
BUDGET TESTIMONY**

**PHILADELPHIA**

**FISCAL YEAR 2019**

DEFENDER ASSOCIATION of PHILADELPHIA ESTD 1924

KEIR BRADFORD-GREY CHIEF DEFENDER	
DEFENDER ASSOC.	4 24 18
FY 2019	PHILA

*G. S. Blair*  
*Keir Bradford-Grey*

## INTRODUCTION

Good afternoon, Members of City Council. My name is Keir Bradford-Grey, I am the Chief Defender of the Defender Association of Philadelphia- I am honored to present our budget for Fiscal Year 2019 appropriation. I am here with Carolyn Jester, our Chief Financial Officer, and Jim McHugh, the First Assistant Defender. It has been a pleasure to work on behalf of the City of Philadelphia to provide constitutionally mandated legal representation for our residents, both juveniles and adults, who cannot afford a lawyer. We take this responsibility very seriously, working hard to train our lawyers to be the best trial and social advocates for tens of thousands of people every year.



However, in an era of mass incarceration, this mandate also means developing solutions to reverse the horrific consequences of the tough on crime approach, which sought to dismantle lives, families, and communities.

### **OUR WORK AS COURTROOM ADVOCATES FOR THE PEOPLE OF PHILADELPHIA MAKES US ESSENTIAL POLICY PARTNERS**

In 2017, our team handled 62,717 cases of various complexities and requiring many different specializations. Every day, we protect our clients' rights and narrow the net of our justice system. By focusing on the intended goal of our system, to uphold justice, we are constantly working toward a system that is more fair and more cost-effective, while also promoting public safety. Those three goals are not mutually exclusive, but rather are complimentary.



It is this work that informs us of the opportunities we have to change our practice and improve the justice process. That is why the Defender Association has made every effort to join our City Council and the community to search for progressive yet practical solutions. In addition to understanding deeply the impact mass incarceration has on the people whom we stand beside in court; we also understand the need to strengthen public safety. We can create a system that is truly fair -- reducing racial bias and ensuring people are allowed their right to a fair trial -- while addressing social needs and thus decreasing crime, all while cutting costs.

Our office has worked tirelessly to advance meaningful reform. While there is still far more to do, I want to use this opportunity to highlight our work thus far, both inside and outside of the courtroom. The Defender has been a valuable resource in advancing policy that relies less on incarceration and more on community supports. We have created key partnerships and collaborations to advance this effort. Having the Defender at the policy table brings a unique and in-depth understanding of the people who have been impacted by our justice system

**Our Work with Children Who Have Been Deemed to Be Abused or Neglected:**

As you can see from this slide, our representation covers many areas of practice in the realm of criminal law. However, I want to take a moment and focus on our representation of children who have been abused and neglected. This area of representation dramatically illuminates the consequences trauma and poverty have on our youth, and the damaging cycle we are trying to break. In 2017, our team of lawyers and social workers handled 3,827 cases involving abuse and neglect of children from infancy through 21

years old. The teams must work diligently and rapidly to protect the child from future harm and find services and shelter that will properly deal with their past trauma. Our lawyers and social workers work with many agencies, including our law department to address those needs. We wish there were an endless pot of funding to bring all the joys of childhood to these youth because they need it just as all kids need it. However, with their limited resources our team has been creatively thinking outside the box and advancing policy that'll ensure these kids have the tools needed to succeed in life.

This has been a great year full of productive partnerships between our Child Advocate staff and City Council. Our lawyers have recently joined efforts with Councilwoman Cindy Bass in her exploration to learn about the impact the Community Umbrella Agency (CUA) model has on our children. I hope our perspective and experience helped shape an understanding of the gaps that need to be filled to protect these youth from future harm.

Our staff also had the opportunity to have some of the children we represent that are in foster care systems participate in Councilman Curtis Jones' summer internship program; an amazing experience that exposed these kids to so many new ideas. Our leadership has also teamed up with many city agencies, including Councilwoman Helen Gym, to address the issue of homelessness for youth aging out of our foster care systems. On top of representation in the courtroom our staff are also committed to supporting our clients outside of the courtroom.

We understand how unaddressed trauma can lead to negative outcomes, which is why we took on 205 of the 320 juvenile lifer cases. Our experienced homicide attorneys work to bring all information to light. In many of these cases, there were missed opportunities to provide meaningful services before the incidents occurred, which might have prevented these senior citizens from receiving life sentences when they were just kids.

### **Working to End the School-to-Prison Pipeline:**

Our juvenile unit social workers and social workers represented 1,743 youth in 2017 from the ages of 10-18 charged with criminal offenses. They understand the need to look beyond the offense and understand the whole picture of the child. We hired an education specialist to help us understand how to curb the school to prison pipeline. Our lawyers are not educational specialists. The nuanced emotional support needs and learning challenges for these youth need to be provided by the school system before they wind up in the criminal justice system. This education specialist helps us understand the school's obligations and with her assistance, we help families find schools that can support these

needs. Through our partnership with the DA's office, oftentimes these charges are withdrawn or diverted based on the understanding that the youth are getting services that will keep them stable.

## **BECOMING A NATIONAL LEADER IN REDUCING MASS INCARCERATION THROUGH USING BEST PRACTICES**

### **City Council's Criminal Justice Reform Committee:**

Working on the criminal justice reform committee formed by Council President Darrell Clarke, and co-chaired by Councilman Curtis Jones, myself and Kevin Bethel, has allowed us as a city to explore best practices in meaningful bail reform models. Through our practice, the Defender Staff understands how pretrial detention reinforces mass incarceration. When this committee was formed, 62% of our prison population was pretrial detainees, whether because of just cash bail or because of detainers. With that knowledge, we knew that if we could reduce the pretrial population in ail, we could significantly reduce the unnecessary use of jail. Through this committee's work we've explored various models from different jurisdictions. We learned how they were able to decrease their prison population with no risk to public safety, saving millions of tax dollars by implementing a new process rooted in fairness.

We participated in over 35 community events this year focused on bail reform, listening and learning from the public about their experiences, and sharing information to work together to make shared visions of justice a reality.



### **Putting Knowledge into Practice:**

The Defender Association places an emphasis on extensively training our lawyers, and we are continuing to enhance our advocacy skills to create more opportunities for pretrial release. With all of the information we have learned through working on various committees, we have focused our work to gather meaningful information about the front end of our system. We have implemented new models of representation using community resources and enhanced our training programs to include meaningful front-end analysis to advocate for opportunities to advance less reliance on bail and more participation in diversion programs.

### **Advocacy at Bail Hearings:**

We represent everyone at initial bail hearings, 24/7- 7 days a week, 365 days a year; everyone arrested in Philadelphia will be represented by our office, except the select few who hire an attorney less than 24 hours after arrest. That means we are their first point of contact with someone trying to understand the whole picture, and help the system understand them too. Only with all the information can the best decision be reached.

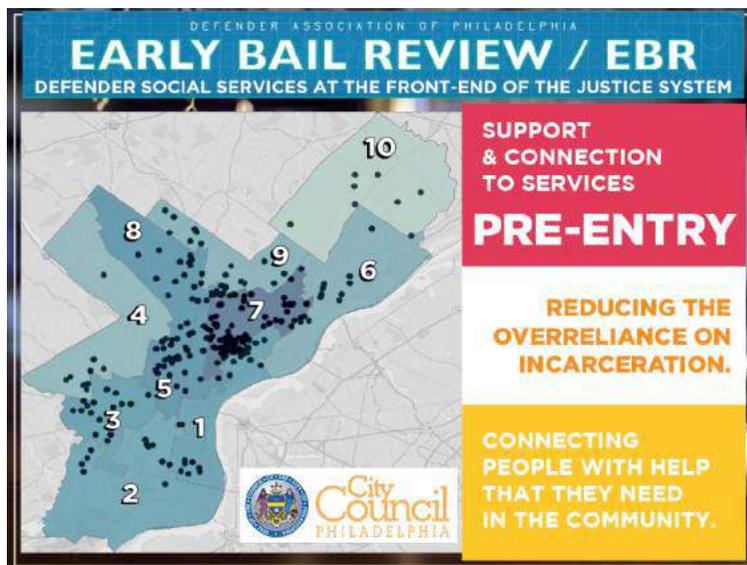
To that end, we have piloted a program called Bail Advocates. Through a unique partnership with the Police Department, our bail advocates are housed at the police district and interview people upon arrest. Our first bail advocate has interviewed nearly **1,500 people** since the program's beginning about a year ago. Initial data suggest that the program is working. When we gather this personalized information, people are more likely to be safely released without cash bail, and have more affordable bail amounts when cash bail is set. Even after bail is set, we continue fighting for more affordable bail amount. In 2017 the Defender lawyers and staff argued thousands of bail motions, successfully reducing bail in over 2 cases each day, on average, throughout the year.

### **PRE-ENTRY: PILOTING THE VISION FOR HOLISTIC BAIL REFORM**

Through our work as partners in the MacArthur Safety and Justice Challenge, the Defender has been able to use a holistic approach to support those who have cash bail set on low-level cases, focusing on those with high needs. We have teamed up our legal staff and social service staff to develop community plans to address the needs of those who will be released after their hearing, helping people stay supported and connected to services while awaiting their trial.



Through our early bail review our social service staff has serviced 468 people within council districts. We have connected to services that are available within their neighborhoods. In addition to treatment providers, we have also partnered with community organizations to help us and those being released navigate their way through the system.



This is an example of the system we hope to create – one that focuses on pre-entry. By frontloading our analysis of individuals, and preparing people for success before they ever enter jail or face a conviction, we will improve justice and life outcomes.

We have a District Attorney that is advancing good policy regarding when to use bail and when not to use it. We are assisting that effort for now but believe it is only a first stop. Our vision is to use day reporting centers and build up our pretrial capacity to determine needs and release options. When the DA seeks detention there will be a hearing set to determine if and when that is necessary. The DA is moving in the right direction and we are servicing them on the outside and working with community in creative ways to build a strong support for this effort as well as awareness.

### **Preparing for the Future of No Cash Bail by Focusing on Leveraging Technology to Give Our Clients Support and Greater Access to Information:**

We know that being unformed can lead to bad decisions. To help combat this issue, we have developed software to connect with our clients who are released. We know the courts do robocalls to remind people of their court dates, which is useful, but we believe that there's more that we can do. Our office has taken that idea and enhanced it to allow two-way communication. This enables us to provide court reminders, gain useful information, and advise our clients on how to navigate the system. Jurisdictions across the nation are embracing text reminders to reduce the number of people who fail to appear at court hearings. Our service will lead to prompter resolutions of cases, will save the city money, and will save our clients from being arrested on a bench warrant.



### **Working with Communities In Order To Improve the Justice Process:**

Our system can be difficult to navigate so we using our experience, we sought to fill a much-needed gap and bring resources to our efforts to reform. In 2017, the Defender held numerous community forums geared towards bringing more information to individuals about the process through our “Know Your Systems Training” initiative. This helps people better understand the process so they can make better-

informed decisions about their lives. Knowing we all have a role to play in criminal justice reform we willingly set out to share that with community members.

We have worked with numerous community organizations to advance bail reform: No215 jail coalition, The Philadelphia Community Bail Fund, Frontline Dads, POWER, Reclaim, Center for Returning Citizens, and many others. We have looked at opportunities to assist in bail reform advocacy at both local and state levels while also helping implement bail out events.

### **How Our Work to Reform Our System Has Also Gained National Attention:**

Our work extends beyond the state and local level. We've developed national partnerships that have become models for bail reform efforts across the country.



For instance, we reached out to the National Football League's Players Coalition, which is made up of NFL players across the country. We helped teach them about our pretrial system and discussed our broader vision to reform our pretrial practice. We also hosted the NFL Commissioner Roger Goodell, Philadelphia Eagles owner Jeffrey Lurie, and Eagles players at the Defender Office. We discussed with them our shared goal to shrink our use of incarceration and find alternative models to deal with less serious offenses. I've been told that this experience had a profound impact on the players. The Players Coalition is now replicating what we did in other states. They were recently in New York where they went to see the bail process and talked to the people who worked within the system to learn more.

As a result of these efforts, we are going to host the National Legal Aid and Defender Association's national conference on holistic defense. Chief Defenders from all across the country will come to Philadelphia to hear about what we have done and we will have a chance to partner with the players

coalition to achieve meaningful and long-lasting change. In addition, our city council and criminal justice stakeholders will be acknowledged for all the work we are doing here to reform our system. As the chair of the American Council of Chief Defenders, I know what an honor it is to be recognized nationally for our work. There are many jurisdictions pursuing substantive reform and we have been chosen as a standout for our efforts and results.

### **SHRINKING OUR SYSTEM FOR BETTER ADVOCACY**

The Defender Association staff has seen the net widening of the system firsthand. Our justice system is not equipped to solve all of the social ills of our city, and when the system is over-burdened, we lack sufficient time to spend on the cases that matter most. We believe our system must handle fewer cases, but do so in a more thoughtful way, if we are to achieve the level of justice reform we so desperately need. The goal of shrinking our system will provide huge cost savings to the city and will allow resources to be shifted to where it's more desperately needed.

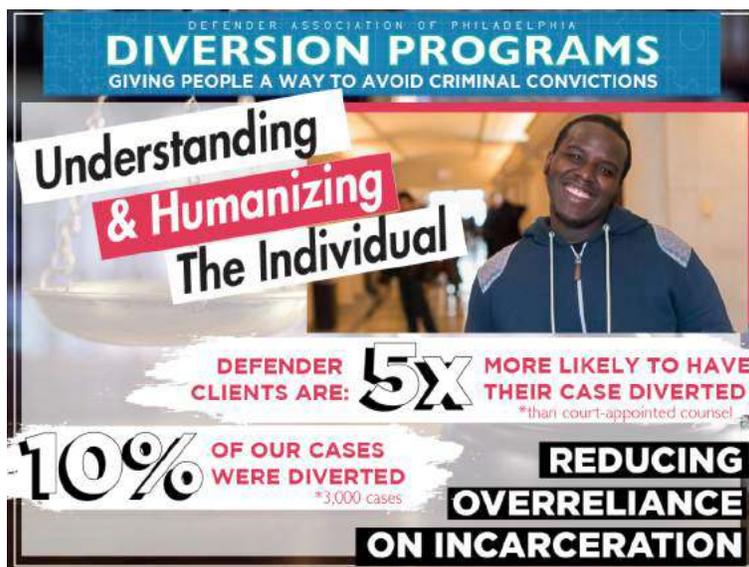
In our system, everyone starts off incarcerated. Then we, as Defenders, try and identify who doesn't belong in jail and convince others that they shouldn't be held pre-trial or shouldn't be prosecuted at all. Take the Starbucks incident for example. If there was no video, those two innocent men could have been charged. And all we would have as lawyers, and all the court would initially see, is a police report from the perspective of the Starbucks manager. We would then have to unravel that narrative, identify whom the two men are and what actually occurred, to convince others that what occurred was not actually a crime. It takes a significant amount of time and resources to get a case out of the system that never belonged there in the first place. Our experienced lawyers have mastered the art of trial advocacy. They have engaged in new ways of bringing information to a trier of fact about the incident and the person who comes before the court.

#### **Using Diversion Safely and Smartly:**

Our lawyers also help advance the opportunities for people to be diverted from the system. Our courts offer many diversion programs; however, it takes a significant amount of work and advocacy to develop an understanding of the person charged and their opportunity to gain from participation in a particular program.

Data shows us that Defender clients are 5 times more likely to have their cases diverted, than if the client is represented by court-appointed counsel. Our multi-disciplinary approach allows for us to tell

the whole story of a person and the circumstances behind their encounter with the law. With an intricate knowledge of diversion programs, we identify the right candidates for the right programs, promoting success and preventing the harm of a conviction. In addition to being a necessary partner in our city's diversion efforts, we also use our extensive knowledge of clients to spearhead the development of new programs.



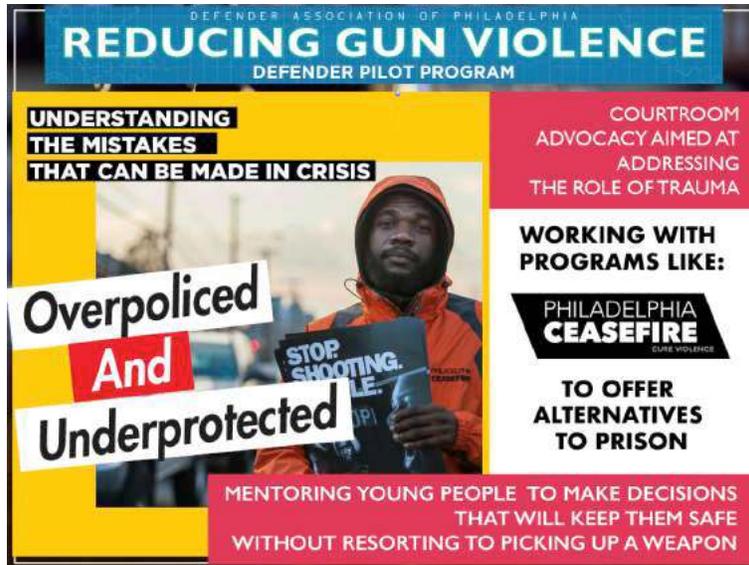
### **Addressing the Cycle of Trauma and Violence in Women:**

We are keenly aware of the consequences of trauma on our clients. To help address this issue, we piloted a program to better understand the cycle of domestic abuse. By providing specialized representation to women who are survivors of domestic violence, and who themselves have been arrested for domestic violence against an abuser, we developed a deeper understanding of the significant overlap between victims and the accused, especially when trauma is present. Understanding the history of these women has helped us seek alternatives to deal with the history of abuse. We have begun conversations with the District Attorney's Office for a new diversionary program for women who fit this profile to work with Mother's in Charge as an alternative to jail and conviction. Helping them heal and strengthen themselves.

### **Working Holistically to Reduce Gun Violence:**

By providing specialized representation of youth ages 18-24 who have their first contact with the criminal justice system for alleged gun possession, we developed an understanding that many of the youth make decisions to handle conflict or protect themselves based upon fear or what they see going on around them. Our office has focused our efforts to gain more information from community and

family to bring options to the courts on how to reduce the likelihood that there will be an act of violence. Youth in this position are at a crossroads: they will either wake up from their arrest or fall into a life of crime.



This is where we decided to intervene. We began this program in the Southwest section of the city where Councilman Kenyatta Johnson has worked to bring solutions to gun violence. We saw youth make decisions to carry a weapon because they witnessed violence recently and feared for their safety. It's a fact that many, if not all of the youth, feel they are under protected and over policed. As a result, they do not look for protection from our police officers. We have worked with CeaseFire to bring youth and community members together to figure out better options to deal with trauma they are feeling so they can make better decisions.

## **ACHIEVING FAIRNESS ENGAGING IN INITIATIVES TO FILE PETITIONS FOR A NEW DAY IN COURT WHEN PEOPLE WERE NOT GIVEN FAIR TRIALS**

### **Efforts to Grant New Trials in Cases with Officers On The DA Do Not Call List:**

Unlike the incident at Starbucks incident, which demonstrated how easy it is to be brought into the net of the criminal justice system, many such incidents are not caught on camera. We recently acquired information about police officers who were on a do not call list because they have demonstrated actions that impact their credibility. This information was not turned over to the defense in order for the person accused to have a fair trial.

Our office has responded by reviewing cases involving those officers and filing motions for new trial where the officer's testimony was material evidence. In total, we are looking at close to 6K cases where these officers have testified. In response to the enormous number of people this situation potentially affects, we have set up a hotline for people to call if they want to find out what they can do if they received a conviction stemming from what they believe to be an unfair trial. To help with this effort, our office has engaged Temple law school to provide legal interns that will assist us in combing through these cases. This situation is much more than just Meek Mill. It's impacted thousands of people and our office is committed to bringing justice to them.

Not only are we delivering these services on behalf of our clients, we are also willing to file petitions for the greater Philadelphia population. By doing this we are actually saving the city from having to appoint counsel for these cases. As of today about **1,007** citizens had their cases withdrawn. We are also working with Community legal services on a massive expungement project on cases that were we have filed petitions that were granted by agreement for similar theories of police corruptions. We are working on this effort.

### **PROVIDING THOSE REENTERING OPPORTUNITIES, NOT BARRIERS**

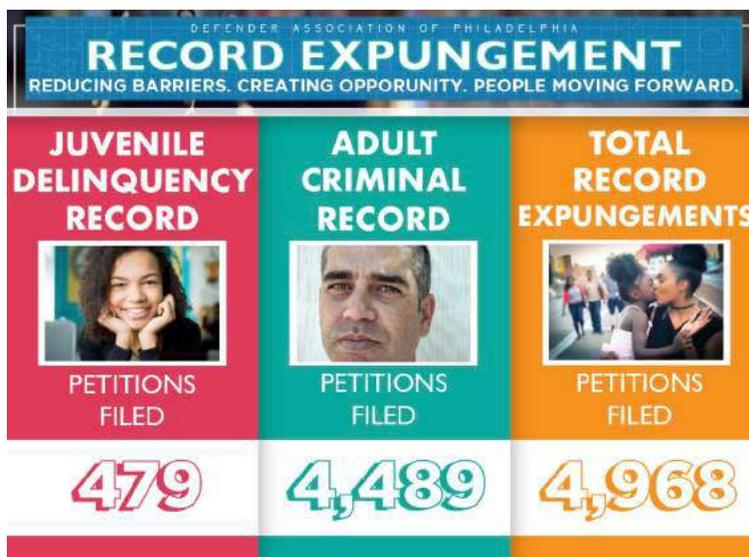
It is not only our lawyers who can help save taxpayer money; our social service staff has helped save unnecessary incarceration costs for those who violate probation due to struggles with addiction using a service we created called The Hub, which is staffed by just 9 social service advocates. The Hub breaks down the barriers to effective treatment by bringing the treatment providers into the courthouse. This allows judges to order same-day referral services to address treatment needs rather than letting a person languish in jail to await an assessment.



Before the Hub, these assessments typically took 6-8 weeks. With our Hub, and the cooperation of the Judiciary, we are able to completely erase this wait time at a huge savings to city. Our social service advocates are involved in other initiatives as well. For instance, they help our alternative sentencing unit and the broader community develop a parole plan for success. These efforts have led to us filing 1,163 early parole petitions in 2017. Of these 1,163 petitions filed, 87% of the petitions were granted, saving the City and an estimated 8.2 million dollars.



We recognize that there are still significant barriers to reentry after an individual is released from incarceration. To help overcome these barriers, we have added criminal record expungement work to our practice. In 2017, we have filed almost **5,000** expungement petitions for both Juveniles and adults.



We are constantly working to develop new ways of working without our community and improving outcomes. Most notably, we have embarked upon a participatory defense initiative that empowers Philadelphians with the knowledge necessary to most effectively help their loved ones involved in the criminal justice system.



We have established a community hub that is up and running at the Mother’s in Charge headquarters. They hold meetings every Tuesday to train and teach people about what they need to do to participate in their own defense and the defense of their loved ones and community members. Participatory defense leaders help people understand the process and work with their defender to present important information that humanizes the involved in the justice system. This process helps loved ones participate meaningfully and provides our lawyers with information to assemble a stronger defense and understanding of the person behind the case.

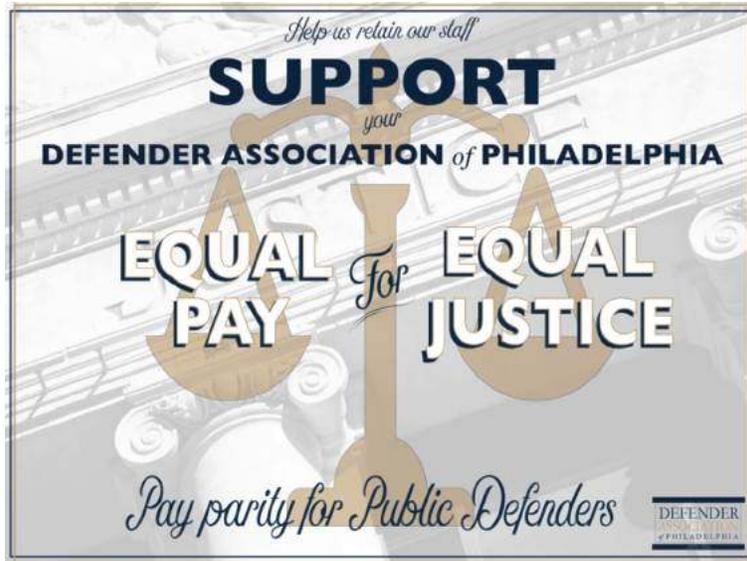
We are pleased to share that we just received a grant from the Stoneleigh foundation for \$500,000 dollars over three years to make Philadelphia a national model for participatory defense, developing more of these participatory defense hubs within the city for our juvenile justice representation,

Additionally, we have partnered with many of the members of City Council through participating in their community event, staffing information tables, coordinating expungement clinics as well as a host of other events aimed at reforming policing or having meaningful engagement with the community.



**OUR BUDGETARY ASK:**

We are respectfully asking for an increase to our budget appropriation. Our efforts in 2017 have gone far beyond our mandate as trial lawyers and we have engaged in truly meaningful ways to achieve more just outcomes for our clients. As I mentioned at the beginning of this testimony, we believe our mandate extends beyond trial advocacy and Defender Association has proven a valuable partner in our efforts to reverse the impact of mass incarceration. I want to thank you for investing in us by supporting our request for parity last year. With that money we **were able to decrease the attrition rate of our experienced lawyers by a third**. This extra money also enabled our staff to pursue the many initiatives I discussed, which fall outside the bounds of traditional casework.



In the last year, because of the increase we received for FY 2018, we were able to create a salary structure that provided salary increases to our attorneys that addressed some of the salary disparity between assistant defenders and assistant district attorneys. However, we still have not reached parity. As an organization we understand the needs of the City and this year's focus on the School District and we are excited about that initiative. Therefore, we have agreed to delay our next increase towards parity until FY 2020. For FY 2019 we will however, need an increase of \$258,450 simply to maintain the step towards salary parity that was approved last year and prevent us from slipping backwards. The \$258,450 will fund the necessary increases our attorneys receive as they move within our salary structure and allow us to retain lawyers who can continue the work we have started. With all the new information about how our justice system impacts others, and this City Council's commitment to meaningful criminal justice reform, we know we can continue to be a valued partner.

\$800,000 will help us close the gap in the disparity between our office and our counterparts at the District Attorney's office. The \$258,450 will fund the necessary increases our attorneys receive as they move within our salary structure and allow us to retain lawyers who can continue the work we have started. With all the new information about how our justice system impacts others, and this City Council's commitment to meaningful criminal justice reform, we know we can continue to be a valued partner.

Thank you.