



Philadelphia District Attorney's Office
Philadelphia City Council Budget Testimony – Fiscal Year 2020
Lawrence S. Krasner, Philadelphia District Attorney

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Introduction

Good morning, members of Philadelphia City Council. Thank you Council President Clarke for the opportunity to present testimony on the District Attorney's Office's ("DAO") Fiscal Year 2020 Request.

I would also like to thank City Council, Mayor Kenney, the Philadelphia District Attorney's Office, the First Judicial District, the Defender Association of Philadelphia and all other stakeholders for your continued commitment to improving public safety in Philadelphia through combined efforts.

I am joined here today by:

- Carolyn Engel Temin, First Assistant District Attorney;
- Robert Listenbee, First Assistant District Attorney;
- Arun Prabhakaran, Chief of Staff;
- Keith Daviston, Chief Financial Officer;
- Mike Lee, Supervisor of Government Affairs;
- Cecilia Madden, Assistant Director of Administration; and
- Ben Waxman, Director of Communications.

Last year, Philadelphians, through the Mayor and City Council, made investments toward transformational change in criminal justice through the DAO based on promises I made. We applied fair and just prosecutorial methods in order to bring balance back to the criminal justice system and improve public safety. Thank you for investing in the DAO, and I am here to report that your investment is paying back profound dividends.

The FY20 budget that we've proposed builds upon the successes of the last year. The DAO is preparing to advance these gains by increasing staff diversity and inclusion, expanding DAO intelligence gathering abilities of the Investigative Units, and identifying potential savings created by criminal justice reforms.

Wherever possible, we are working in partnership with our criminal justice stakeholders to improve the criminal justice system through reform. In other areas, we will display a bias towards action, offering leadership and vision where we can. The DAO feels a fierce urgency of now given that Philadelphia is uniquely positioned nationally and

locally to address the social and economic costs of mass incarceration and mass supervision.

Movements create policy through people making themselves heard in the streets, at community meetings, during marches, and in the voting booth. As a part of this movement, we have made engaging our neighborhoods and communities central to our strategy, listening to concerns and focusing our efforts based on community needs and input. Combining traditional law enforcement strategies with principles of individual justice helped us make gains in public safety. The result is that crime is down in Philadelphia generally, although certain neighborhoods continue to experience concentrations of criminal incidents, including homicides.

Our work is not done.

Our mission to seek justice through a more fair and balanced criminal justice system and improve public safety continues. To achieve our mission, my top priorities are to:

- Build a 21st Century prosecutor's office – diverse, talented, and technologically savvy – through attracting, recruiting, training and retaining the next generation of prosecutors.
- Drive major reforms in the Criminal Justice System, continuing Year One with reforms to Cash Bail, Sentencing, Supervision, and Juvenile Justice.
- Revamp and strengthen our Investigative Units, making it a champion for everyday Philadelphians through a range of efforts, including prosecuting economic Crime and drug trafficking.
- Generate economic cost savings to the City and Commonwealth by reducing mass supervision and mass incarceration, so we can invest in our most pressing needs: education, jobs, housing, and public health and safety.

21st Century Prosecution and the Next Generation of Prosecutors

Philadelphia needs a 21st Century Prosecutor's Office in every sense. It deserves a District Attorney's Office that looks and thinks like today's diverse Philadelphia. A diverse group of talented attorneys and staff will be best equipped to understand the unique cultures and neighborhoods that comprise Philadelphia.

In FY19, we made improvements in diversity and inclusion by focusing on talent attraction, recruitment, training and retention. Last fiscal year, City Council allocated funds to the DAO which helped to establish an equitable salary structure based on talent, experience and merit for all DAO staff, correcting decades of bias and imbalance. The starting salary for a new Assistant District Attorney ("ADA") is now a competitive \$60,000 and support staff salaries start at \$40,000. This new and fair structure sets the basis for fiscal predictability for the City and parity with the Defender Association and Law Department.

In addition to these competitive salaries, expanded professional development and training helped us retain current talent, attract new talent, and ensure diverse new recruits. These changes made it possible to recruit the largest and most diverse new class of ADAs in Philadelphia history. We interviewed over 400 highly qualified candidates from our local law schools, five of the six recognized historically black law schools, and 24 of the top 25 law schools in the nation. We hired 64 attorneys who will join the Office in September as the next generation of prosecutors. This incoming class is 55 percent diverse. Importantly, 24 percent of the incoming class of ADAs are Philadelphians or from a Philadelphia law school.

One example of the kinds of superstars we are recruiting is Carla Agbiro. She is a Philadelphian and a graduate of Central High School, who is getting her law degree from Northwestern University. Now, she is committed to coming back to Philadelphia as an ADA. Here is a video of Carla, who can tell you her reasons for coming home far better than I can.

Workload, office culture, and career advancement paths play roles in staff wellbeing. In today's economy, employers need to be proactive in the recruitment, training and retention of top talent. We are meeting this challenge by asking for an increase of \$480,000 of class 200, 300/400 to continue our investment in technology improvements for ADA prosecutorial resources to support better work-life balance, make case preparation more efficient, and cultivate better communication with victims.

Today's ADAs are required to have expertise and competency in various software programs and devices during trials, while continuing to master the legal components of prosecution. We must maintain the existing trial equipment and keep up with evolving technology. The courts and the public expect effective use of data in policy and operational decision-making. Intelligence-based prosecution requires modern courtroom technology and a criminal case management system that leverages technology to improve communications with victims, witnesses, and the public. To achieve these goals, we would like to invest in:

- Equipment for courtroom efficiency. For example, computer tablets for ADAs, allowing them to video stream evidence, Skype, remotely access work product, and increase the effectiveness of their courtroom presentations;
- Additional geospatial technology including a mapping technique called risk terrain modeling, which incorporates features of the environment with other risk factors;
- Continued stabilization of our network infrastructure by upgrading existing physical hardware and cloud-based services; and
- Collection of public survey data and analytics that will improve our responsiveness to the communities we serve.

Driving Reform Locally and Leading Nationally

Together with other criminal justice stakeholders and City Council, we have made progress towards ending mass incarceration and mass supervision on several reform fronts: Cash Bail, Sentencing and Supervision, and Juvenile Justice.

Cash Bail

We made strides toward eliminating the moral and economic costs of cash bail. In February 2018, City Council passed a resolution urging the DAO to institute new internal policies reducing reliance on cash bail. Days later, the DAO launched phase 1 of its bail policy reform, instituting a presumption of Release on Own Recognizance (“ROR”) for twenty-five commonly charged low-level offenses. In addition to internal monitoring and evaluation, the outcomes of this first phase of bail reform were independently studied and validated. We look forward to continuing to work as a part of the MacArthur Safety and Justice Challenge Initiative, community partners, and City Council to further reduce our reliance on cash bail.

Sentencing and Supervision

Also, in February 2018, our office announced important policy changes for plea negotiations and sentencing recommendations. ADAs were advised to make certain plea offers below minimum guidelines, with exceptions upon a supervisor’s approval. In March 2019, we enhanced these measures and set presumptive limits on our community supervision recommendations, again with exceptions upon a supervisor’s approval. Our presumptive limits, premised on evidence-based best practices from across the country, limit parole and probation supervision recommendations to 12 months for misdemeanors and three years for felonies. Without limiting the length of incarceration for serious crimes, the policies also significantly limit probation sentences tacked on at the end of jail and prison sentences and set limits on sentences for violations of probation.

As a result of these changes, and with stakeholder support, we have been reducing the future years of incarceration and future years of supervision within Philadelphia’s criminal justice system. With the participation of our criminal justice partners, we have reduced the jail population by 29 percent since January 2018, roughly equal to the reduction percentage over the prior five years. As we continue to shrink the number of Philadelphians subject to incarceration and supervision, the long-term impact of our policy changes will allow system partners to better utilize scarce resources and move us further away from being the most supervised city in the second most supervised state in the country.

Juvenile Justice

Perhaps one of the best examples of reducing mass incarceration locally is that the number of juveniles from Philadelphia in placement has decreased by 44 percent since December 2017. In February 2019, our office released new juvenile justice policies advising our ADAs to seek alternatives to detention for new arrestees, with some exceptions. Too many of our young people are in placement far from home and their

support systems; our policy now advises that when a child is committed to placement, the ADA should ask for the closest placement available. Too many of our young people are on unreasonably restrictive probation; our policy now advises that when a child is placed on probation, the ADA should ask for the least restrictive program, without GPS unless necessary, and with three or fewer probation conditions. Our efforts thus far resulted in 63 fewer children charged as adults and an 83 percent decrease in the number of children whose case remains in adult court.

Revamp and Strengthen Investigative Units

Another key priority is building the capacity of our Investigative Units to gather intelligence, investigate, and prosecute crime. These units include the Conviction Integrity Unit, Economic Crime Unit, and the Dangerous Drug Offenders Unit. These units investigate and prosecute complex criminal operations like deed theft, contractor fraud, building collapses, officer-involved shootings, election fraud and organized drug trafficking. Successful investigations require time, talent, technology and resources.

Economic Crime

During a community event in Southwest Philadelphia, our Office asked how many people know someone who has had their deed stolen and a sea of hands went up. Accordingly, we reorganized the Economic Crime Unit to increase our ability to investigate and prosecute deed theft. Over the last few months, we have announced arrests following months of complex investigations into deed thefts, a problem that has festered all over the City for many years. We have more investigations in the pipeline. Additionally, we serve on Councilmember Parker's citywide task force, and train Philadelphia Police Department Detectives on investigating deed theft to strengthen the City's fight against deed theft.

We recently announced charges following investigations by the Philadelphia Police Department and the Economic Crime Unit for illegal towing practices. Tow truck operators were circumventing the recently enacted City Code provisions governing towing activity and price structure. These tow truck operators took money from vulnerable drivers and defrauded insurance companies, thereby increasing insurance rates for all of us.

Drug Trafficking

For over twenty years, the community surrounding Kip and Cambria Streets in Kensington sought relief from a drug operation that was selling fentanyl, heroin, cocaine, crack cocaine, and other drugs. A joint investigation by DAO's Dangerous Drug Offenders Unit (DDOU), DEA, High Intensity Drug Trafficking Area Program, Chester County District Attorney's Office, Delaware County Detectives, and Pennsylvania State Police resulted in the arrest of more than 57 individuals. Intelligence gathered from the investigation showed an organization that destroyed thousands of lives as they made more than five million dollars a year from the pain and misery of drug and opioid addiction. This investigation is an example of the vast resources – wiretaps, trained

personnel, targeted buys, and video surveillance to name a few – that we need more of to complete similar, successful investigations.

As highlighted above, these units have proven that they have the ability to get the job done for Philadelphia, achieving strong results, which is why I am asking for an investment of \$2,785,000 so that we can:

- Expand the Economic Crime Unit to protect victims of deed theft by investigating and prosecuting complex, multiple-defendant organizations as well as individual bad actors.
- Expand the Conviction Integrity Unit. Use more DNA testing to solve cold cases especially homicides and rapes. Furthermore, the Conviction Integrity Unit's expansion includes the development of a new Civil Rights Unit. To begin, this unit will review claims of illegal stop and frisk because members of the Clergy have repeatedly raised concerns with the lack of redress.
- Expand the Dangerous Drug Offenders Unit's intelligence gathering ability through additional bi-lingual detectives and ADAs. Focusing prosecutorial resources on surveillance tools will allow us to prosecute more drug traffickers.

Cost Savings

Through these evidence-based policies and priorities, the DAO has taken steps to address the social and economic costs of mass incarceration, creating opportunities for savings.

We know that mass incarceration is costly and that prisons are expensive to build and staff. It costs roughly \$45,000 per year to incarcerate one person, and each dollar spent is diverted away from other government services. We know that the social cost and inter-generational impact of losing a family member to incarceration is incalculable, and that the lost time in the workforce results in a loss of future potential earnings and a loss in contributions to the local economy. By safely reducing the number of individuals who are incarcerated, we know we are adding value to Philadelphia families and communities. We are making communities safer and saving money that can be reinvested in further improvements.

We know that, like mass incarceration, mass supervision is costly. The cost comes in the form of administrative, economic and social costs that have contributed to Philadelphia's status as the poorest large metro area in the country. By safely reducing the number of individuals under supervision, we are taking some of that burden off the system and our neighborhoods.

We know that the mass incarceration of our youth is expensive, for not only the juvenile justice system, but also the criminal justice system and the community. We know that having juvenile offenders serving life without parole is not just morally wrong, but it's costly. We also know that allowing individuals who have rehabilitated themselves and

are ready to reenter families, communities, and society to do so saves money because it reduces the number of years that individual would otherwise have been incarcerated.

Many of these savings are incalculable or difficult to quantify in strict economic terms, but we know we are working to safely discontinue extremely expensive practices. And we know continued investment in expanding these policies will generate more savings. Working together, we can identify these savings and capture and reinvest them into evidence-based crime prevention strategies such as transitional housing, education, living-working wage employment, and family support services.

Thank you to the Kenney Administration and his budget team and the entire Philadelphia City Council, staff, and Council President Clarke for your past and future support. I greatly appreciate the opportunity to present my budget testimony, and I am happy to answer any questions that you may have.