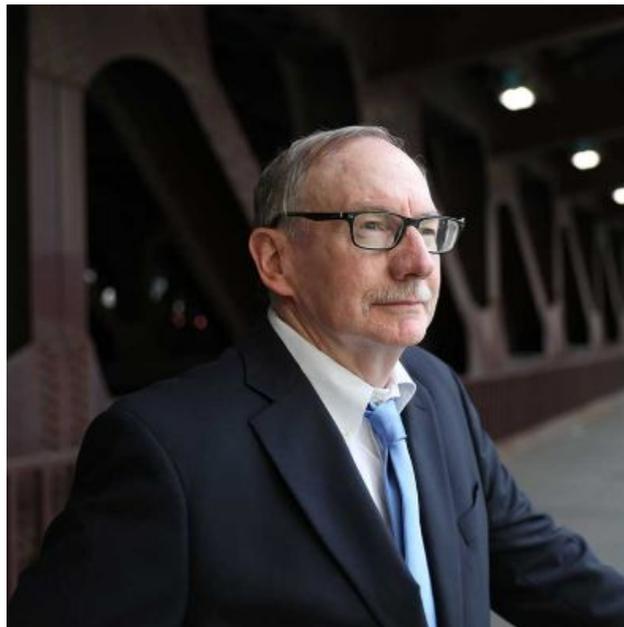




Cook County State's Attorney 2020 Election Guide

**Candidate:
Pat O'Brien**



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Questions

Please answer the following questions in 400 words or less.

1. There has long been talk of eliminating or revamping the Felony Review Unit. Should the CCSAO maintain the Felony Review Unit? If you would eliminate, please explain why. If you would maintain a Felony Review Unit at the CCSAO, describe how you would structure the Unit to: (a) encourage, rather than shut down, thorough police investigations when survivors have requested such investigations; (b) ensure that perpetrators of gender-based violence are charged with offenses that reflect the severity of their violence; (c) ensure the process is sensitive to the needs of victims and witnesses participating in the investigation?

I would retain the State's Attorney Felony Review Unit (hereinafter, FRU), however I would make some structural changes and alter the Assistant's pathway prior to being assigned to FRU.

Upon assuming Office, I would address every Assistant State's Attorney in the Office to reinforce my Policy that a prosecutor's duty is to protect the Community by protecting victims of crime, especially vulnerable victims. We do that by charging offenders with the appropriate offense which is substantiated by credible evidence.

The Office's ability to strengthen cases at the felony review stage, and evaluate victims and witnesses is crucial to the future success of the prosecutions. With the consideration of the victims and police in mind, I would reassign FRU Assistants into City and Suburban Districts to achieve faster response times to the police stations, and increase familiarity of the prosecutor with the investigators and places of occurrence. I would change the Assistant's work assignment to three twelve hour days with the following three days off. This would provide continuity of personnel where investigations take beyond the present eight hour shift. I would limit the stay in FRU to no more than eight months.

The individual prosecutor's pathway to FRU would include prior assignments in the juvenile division or misdemeanor courts with coordinated training in handling gender-based violence victims and investigations. The next assignment would be in the Preliminary Hearing Courts, including Branch 66 (Homicide Sexual Crimes Court) to interact with victims and their cases under the supervision of more experienced prosecutors. This assignment would be coordinated with additional training. Finally, the Assistant would be prepared to sensitively interview, assess, and strengthen gender-based violent crimes in FRU. There would be layers of review where charges are rejected or lesser charges approved.

2. The Illinois Criminal Code has established certain crimes as “domestic” based on the relationship between the offender and victim and therefore subject to more stringent penalties. It is currently a concern of advocates that ASAs utilize discretion to reduce charges and plead down charges in a significant number of domestic violence cases, and often do so without consulting victims. What will you do as State’s Attorney to ensure domestic violence cases are prosecuted as charged? What are your intentions regarding deferment or diversion for domestic violence cases?

My Policy in domestic violence, sexual abuse and assault cases would be to communicate all activity to the victim on their case whether it is a simple continuance or the ultimate resolution of the case. Any Assistant who did not communicate to the victim the resolution of a case where there is a reduction in charge would face severe consequences. In cases where a reduction in charge is contemplated, the Assistant must consult with the victim and have the decision reviewed by a Supervisor in the Domestic Violence Division. Where the victim raises questions or expresses disagreement, the matter would be reviewed by a Supervisor in the Domestic Violence Division with an opportunity for the victim to voice disagreement to the Supervisor. The final decision would be made by the Supervisor.

Given the circumstances of prior, present, and possible future contact between the victim and defendant, my Policy would be to prosecute cases as charged with very few exceptions. I note that the deferred prosecution statute (Offender Initiative Program) specifically excludes domestic violence, and violations of orders of protection from the Program. That is sound legislative judgment which I endorse.

3. What protocol would you establish to ensure that victims of domestic violence who were acting in self-defense during a violence incident are not charged with a crime by your office?

To ensure the appropriate decision regarding a violent incident where the individual is claiming self defense based upon prior or continuing domestic violence, my Protocol would require that any and all reported and unreported incidents between the parties and any medical attention sought in those incidents be gathered and considered. Further, any and all possible witnesses to those other incidents be interviewed. All this information would be reviewed along with the present incident before a decision was made.

As additional levels of scrutiny, where self defense is claimed and the Assistant believes that the defense is not warranted, the decision whether to charge would be reviewed by a Supervisor from FRU, then a Supervisor from the Domestic Violence Division.

4. Under your leadership how do envision the State's Attorney's role in maintaining a relationship with the Chicago Police Department in prioritizing the investigation of

domestic violence, sexual assault, and human trafficking? How do you see this role balanced with holding law enforcement accountable for officer- involved domestic violence, human trafficking and/or sexual assault?

From the first day in Office, I will communicate to the various police departments, including the Chicago Police Department, that violent crime which includes domestic violence, sexual abuse and assault, and human trafficking is my highest priority along with murders. I will reinforce that priority by requiring that Assistants try felony gender-based violence cases within eighteen months of charging, demanding that the State Crime Lab process evidence kits in a timely manner, and charging all sexual and domestic violence offenses where there is credible evidence. My Office's emphasis on training, investigating, and trying these cases will be concrete evidence of my commitment.

As Chief Law Enforcement Officer for the County, I will repeatedly state and practice the Policy that no one is above the law. In instances where a police officer is the subject of investigation of domestic or sexual violence, the investigation, and any prosecution, will be handled by Assistants assigned to a Unit within the Special Prosecutions Bureau. Those Assistants would not be involved in any other type of prosecution other than of law enforcement personnel. This separation of Assistants would ensure the cooperation of police in all other matters.

5. When it comes to prosecuting prostitution-related crimes, 9 of 10 people prosecuted in Cook County are prostituted people while only 1 out 10 who face any criminal penalties are buyers of sex or traffickers. Does this reflect your beliefs about how to best address commercial sexual exploitation? Please explain.

I am well aware that there is a chain of persons involved in prostitution-related activity. I am also cognizant that prostituted people are as much victim as nominal offender. It would be my Policy to devote the most resources to target the person(s) who control and profit from the prostituted people. I am also aware that the buyers of sex are more culpable than the prostituted people. To address these inequities, I propose to view the prostituted people as cooperating witnesses in the grand jury to investigate and charge the traffickers, and buyers. Office resources would be used to protect, assist, and redirect those prostituted people. The buyers would be targeted with sting operations with the assistance of the police.

6. Data are an important part of the advocacy process that helps the advocacy community to better assess and meet the needs of victims. How will you ensure that the advocacy community has access to comprehensive and understandable data? Specifically, what data will you share to demonstrate the efficacy of various initiatives?

How will you track the number of sexual assault cases that are reduced to lesser charges? How will you provide overall data on charging versus final disposition?

Presently, the State's Attorney data reports mix sexual abuses and assaults with nonsexual aggravated batteries. I would create separate categories for domestic violence, sexual abuse and sexual assault crimes. For each crime, I would track and make monthly data available for the following information at the felony review level: the greatest charge requested by the police, the greatest charge approved, the rejection of charges, and continuing investigations. At the trial level, I would track and make monthly data available for the following information: the length of time a case is pending, the disposition of a case whether by dismissal, plea, or trial, and the highest charge in plea or trial, and sentence in plea or trial.

This data would permit a review of gender-based violent crime at the FRU level, then at the trial level. It would permit review of cases rejected versus approved, and if approved, whether for a lesser charge than requested. It would also permit review of courtroom activity such as speed of disposition, whether if plea or trial on a lesser charge, and the length of sentence imposed.

7. In what ways do you believe the criminal justice system is failing victims of gender-based violence? How will you provide oversight to misdemeanor domestic violence and sexual assault cases that meet standards for felony charges but are charged as misdemeanors? How will you ensure safety of victims that are interacting with the criminal legal system?

The criminal justice system in Cook County handles a large volume of violent crime with a barely adequate amount of resources. The majority of crimes are prosecuted in a horizontal fashion which means a victim will deal with a different prosecutor at every stage including at the trial stage. However, in sexual abuse and assault, and domestic violence cases, one dedicated prosecutor will handle the matter from the time it is assigned to a trial call until disposition. This will continue to be my Policy.

Further, my Policy will have successive levels of review for gender-based violence matters where charges are rejected or a lesser charge is approved. The first layer of oversight in FRU is the immediate review of the decision by a FRU Supervisor. The second layer of review is the Supervisor of the Sexual Assault or Domestic Violence Division.

I am aware that gender-based violence victims have experienced a very personal and life-altering trauma. It can be another trauma to be in the same courtroom as the offender. A specific person from the Victim Witness Assistance Unit will be assigned to every victim.

The security of the victim is of paramount importance, however this is particularly true in gender-based violence cases. At the first court appearance, the victim would be given instructions, and phone numbers, for the police and the FRU number for any security problem. Where the victim is to appear in court the Assistant would direct that they first come to the State's Attorney Office where an escort would accompany them to court.

8. What do you identify as the biggest challenge in prosecuting cases of gender-based violence where the victim wants prosecution? How will you specifically address the challenges in prosecuting reported cases of:

a. Domestic Violence?

In domestic violence cases, the biggest challenge can be the delay in reporting due to the complex nature of the existing relationship. The evidence of violence may not be apparent because it is slight or has healed. To counter the problem of delay in reporting, you would investigate prior incidents in which injuries were seen by witnesses or treated by medical personnel as other crime evidence.

b. Sexual Assault?

In certain sexual abuse and assault cases the adult victim and offender's only contact is the crime. However, in some gender-based violence cases there may be extensive prior contact. In such sexual assault cases, the offender may acknowledge the act, but allege consent. Rebutting the defense of consent can be the biggest challenge in such cases. Among the types of evidence which can counter the defense of consent is outcry to family or friends, reports to police, and/or evidence of physical harm.

c. Human Trafficking?

In Human Trafficking, the biggest challenge is the length of time between charging and trial. During this period, the victim may have little or no support system. The solution would require Victim Witness Assistance to secure and monitor social services in providing the necessary resources for the victim.

9. We want to hear more about your priorities as they relate to violence against women and girls.

a. Will you have a Policy Director focused exclusively on these issues? If not, why not? If yes, what do you see as the first three priorities they will work on?

I will have a Policy Director who is specifically focused on violence against women and girls. My three priorities which would be initially addressed are: legislative proposals aimed at increased penalties for traffickers and buyers of sex, coordinating

training programs for prosecutors in the Office which curriculum is a joint product of best practices from other jurisdictions and your Organizations, and organizing jointly a regional information and training program for prosecutors and police.

b. What will your legislative priorities be? Will you commit to actively collaborating with the GBV community on priority issues?

My legislative priorities will address the imbalance of statutory penalties in the sex trade. I would propose legislation which increases the penalties for traffickers and buyers of sex. I will communicate to law enforcement that traffickers and buyers will be prosecuted. (NOTE: the Cook County Sheriff's Office recently conducted a sting where 157 buyers of sex were arrested, however none were charged with a crime because as a sheriff's spokeswoman stated, "They don't do any time... They'll get court supervision." Chicago Sun Times 02/06/2020) That is an attitude which has to be addressed and changed.

c. How will you increase funding for specialized positions addressing gender-based violence in your Office? Will you collaborate with service providers on joint grant submissions?

No answer provided.

10. Cook County has long benefitted from a partnership between advocates and the State's Attorney to develop model programs that prevent and appropriately intervene in domestic violence, sexual assault and human trafficking. How specifically will you partner with advocates to sustain current programming and expand legal protections and services for victims of domestic violence? What are three things you hope to partner with in the upcoming term?

The Cook County State's Attorney Office beginning with State's Attorney Daley and continuing thereafter, has been in the forefront in creating specialized Division and courtrooms with trained Assistants to address domestic violence, sexual abuse and assault, and human trafficking. These efforts will continue and expand when I am State's Attorney. The core training of Assistants will be the combined product of best prosecutor's practices and your expertise and experience. All legislative initiatives in these areas will be the result of the Office and your Organizations' efforts.

Specifically, I will present legislation which redirects law enforcement to target traffickers and buyers of sex by increasing the penalties for both and prosecuting those cases. I will treat the prostituted people as cooperating witnesses against the more culpable offenders. I will partner with your Organizations to continue in-house Assistant training and jointly sponsor a regional Conference for prosecutors and police addressing gender-based

violence. Finally, I will partner with your Organizations to address the support and services necessary for victims of gender-based violence.

11. What do you see as additional barriers to prosecuting cases with survivors who want prosecution in the following communities? What do you see the role of the CCSAO in assisting in overcoming these barriers?

- a. Communities of Color**
- b. Immigrant Communities**
- c. LGBTQ Communities**

As previously mentioned, the problems which arise in gender-based violence cases involve the length of time from charges to disposition, and the emotional and support needs of victims during that time period. I recognize that the Communities of Color, Immigrant Communities, and LGBTQ Communities are separate and distinct, however the problems noted above are similar even if the solutions need to be tailored. The Office must and will have support staff and Assistants who can relate to the differences of each Community while addressing the core problems.