



King County

Public Defense Advisory Board Meeting

Thursday, June 3, 2021
9:30am – 12:00pm

ZOOM MEETING ONLY

1. Welcome

Attending via Zoom: Safia Ahmed, Chris Carney, Angélica Cházaro, Adam Chromy, Nyema Clark, Lou Frantz, John Strait, Mike Trickey. The meeting is quorate.

Meeting called to order by Lou at 9:35 a.m.

2. Approval of minutes from meeting on April 1, 2021

Minutes approved.

3. Remarks from SEIU representative

Kimberly La Fronz says that the situation re COVID has begun to calm down and they're getting some idea of what a new normal will look like. Now, the union is working with DPD leadership to determine what the return to work will look like. Most SEIU members prefer a hybrid model – some days in the office, some days telecommuting. The union plans to continue to meet with DPD leadership to discuss this issue and adjust, as needed, since it's still not clear what the courts will do.

4. Remarks from Teamsters representative.

Rachael Schultz says that the supervisors are experiencing a similar situation and, like the Teamsters, are waiting to see what things will look like when everything starts to reopen.

5. Director's Report

Future of Work. Anita discusses the "return to work" plan, noting that we're in a period of transition and uncertainty, since DPD doesn't control the flow of cases or the courts' reopening plans. She says she wants to make sure we're serving our clients well; at the same time, she's open to a hybrid plan that allows people some flexibility in terms of telecommuting. She says she and Gordon are in good communication with the unions and figuring out a path forward together.

Filings. Stev presents Superior Court filings for April and May, which show that filing numbers are lower than they were in previous years, including last April and May. This makes sense in light of the PAO's stated backlog. Gordon notes filings tend to pick up over the summer. Gordon also says that we can't just focus on new filings, since attorneys are

carrying so many open cases – and that fact is not reflected in the filings number. We need different metrics to get an accurate picture.

Assigned Counsel. Stev notes that we're not sending as many felony cases to assigned counsel due to capacity; the number of conflicts is also within the normal range. However, the cases that we're assigning are more serious ones. Scott says that because trials have effectively stopped, there are a lot of serious homicide cases that would have resolved by now but haven't. As a result, our outside attorneys qualified to take homicide cases have a lot of unresolved homicide cases and are at capacity.

Blake. Gordon says we've had many meetings with PAO and Council staff about *Blake* funding in anticipation of us submitting to Council our forecast for our *Blake* budget. Two classes of people will require *Blake* relief: Those who are under sentence or community custody by DOC (a group fairly easy to determine), and those who have a felony conviction on their record and would like those convictions vacated or LFOs refunded (a much larger group – maybe 40,000 in King County – and harder to determine). Scott says we have data from the DOC, which has provided a good starting point for those under sentence or community custody. Stev has created an excellent spreadsheet. We're assigning many cases to our attorneys; Anita notes that this is adding to their workload.

Staffing. Two separate issues are driving our increased staffing needs – the COVID-related backlog and *Blake* relief. Gordon says the numbers for *Blake* relief are clear; harder to get a handle on COVID-related backlogs because the PAO has not given us an estimate on their delayed filings. There's also a backlog in trials; according to Judge Rogers, there are 74 serious violent cases that are awaiting trial.

Training and interns. Tara says we've been giving additional thought to our core trial skills training program and plan to enhance it with some non-trial-based trainings that we'll provide over the course of the year. She notes some significant recent trainings: Monique Mitchell on the harm of removal, which was very well-attended, and Anita on the *Blake* decision (a training for non-attorney staff). We also have an intensive advanced motivational interviewing training coming up for mitigation specialists. The yearlong Freedom Project workshops continue; we're midway through the second division.

Our interns start on Monday. They'll start with an intensive weeklong training – with 10 different attorneys and staff participating – then transition to their divisions. Tara notes all the effort that has gone into getting them set up here – work that happens before they arrive.

Policy issues. Katie talks about our work to reform the fines and fees charged in SMC. We're planning to meet with Pete Holmes soon to discuss the issue of restitution and a victims' compensation fund. We're also drafting a proposal re auto decline cases; we're doing some work with partners to end this practice and hope to propose legislation for the 2022 session. Finally, we're working to deprioritize traffic stops, which has occurred in some jurisdictions. We're working with community partners to figure out how best to do this.

Current litigation. Brian discusses the *Reisert* litigation, which addresses the issue of whether people arrested pursuant to a warrant have a right to a first appearance to seek release. We've petitioned the State Supreme Court for review. Brian says current KC Superior Court practices – which grant a preliminary appearance only for those held on a warrantless arrest – conflict with state criminal rules and violates people's due process

rights. Theresa DeMonte, a Seattle attorney, is working on an amicus brief that is exploring the history of the criminal rule; very important and helpful work, Brian says.

La Rond discusses our lawsuit against King County Superior Court, *Khandelwal v. King County* (also known as the “Pimentel fix”), challenging the PAO’s long-standing practice of seeking a higher bail amount in Superior Court when they’re unhappy with the bail set by the District Court – and doing so ex parte. DPD filed the case in Pierce Co Superior Court; the PAO sought to have it moved to federal court. We’re now working to get it remanded to state court, since it’s a state issue.

6. Chair’s Report

Ordinance. Lou says PDAB’s proposed ordinance is moving forward. If approved, it would change how members to the board are recruited and the frequency of the board’s reports to the County Council. Lou met with Jenny Giambattista and Gail Stone; Jenny hopes there will be a hearing in early July.

Membership. Sophia, who represents OPD on the board, will not seek another term on the board. OPD plans to nominate three people for the Executive to choose from. Sophia has been a tremendous asset to the board; Lou is sorry to see her leave. Lou’s term as chair ends this month, as does Chris’s term as vice chair. Chris is willing to serve as chair; Lou says we’re still trying to find someone to serve as vice-chair.

Adam nominates Chris to serve as PDAB’s chair. Safia seconds. The motion carries.
Chris becomes the new chair.

7. Executive session. None.

Meeting adjourns at 11 a.m.