



King County

Public Defense Advisory Board Meeting

Thursday, Aug. 5, 2021

9:30am – 12:00pm

SKYPE MEETING ONLY

1. Welcome

Attending via Skype: Lou Frantz, John Strait, Chris Carney, Mike Trickey, Angélica Cházaro, Shrounda Selivanoff, Adam Chromy

Not present:, Nyema Clark, Ron Whitener, Safia Ahmed

2. Approval of Minutes from Meeting on June 3, 2021

Minutes approved.

3. Remarks from SEIU Representatives

Liz Angous, a steward chair from TDAD, said the return to work is going well. Concerns about safety, especially in light of the assault of a colleague, continue; SEIU is discussing this with the DO. Members are happy that free parking at the county parking garage has been extended through October; the hope is that it will continue indefinitely.

Members share Anita's concern about expanding the footprint of the criminal legal system (due to passage of COVID budget). We're particularly concerned about the court's idea of night and weekend courts. We'd like to know more about the timeline for adding staff.

4. Remarks from Teamsters Representatives

Rachael Schultz, chief steward and a PPM at ACAD, says the Teamsters are in full support of Anita and issues surrounding personal safety in the workplace. We're supporting our direct staff in the courthouse and the jail. We're aware that we don't want the situation to be misused by the PAO; we want to make sure that doesn't happen. We want to make sure we're safe and the clients are safe. Returning to work is going well..

5. Department of Public Defense Director's Report

Operations: Anita thanks the SEIU and Teamsters – and all staff – for doing an amazing job in returning to work. We've been able to talk things through and figure out a path forward. It's been a challenging year and a half, and people have really shown up.

Filing trends: Gordon Hill and Stev Weidlich present a slide showing the number of *open* felony cases, a metric we've not kept track of in the past. (We generally track only cases assigned). We began tracking open cases due to concern that the numbers were growing

because of a lack of trial resolution. It looks like assignments are returning to pre-COVID normal – but that’s deceptive since the number of cases open when COVID started was already quite high. The numbers are down from the high in early June – but it’s still quite a bit higher than what we’d like to see. Misdemeanor caseloads are also quite high. SMC can’t summon sufficient jurors to get trials out. There have been mistrials due to lack of jurors.

Superior Court criminal filings by month – 2018-21: Filings are quite a bit lower this month compared to the same time the last three years. But we’ve heard all year about backlog in cases that they have not filed. We applaud PAO’s decision to not file cases but live in fear of a sudden spike.

Felony A Filings: Gordon shows a chart that tracks filings, not assignments, and that shows that Class A felony cases are higher than historical rates. So filings aren’t going up, but class A felony attorneys are overloaded, and DPD can’t find outside counsel to take these cases. We are actively recruiting but are having a hard time finding qualified lateral hires.

Meth Lab and disclosures about contamination issues: Katie Hurley says an attorney in Lynnwood first exposed the issue of meth lab contamination; others have also revealed the level of contamination. We had two trainings; an additional one is scheduled. Some attorneys are currently litigating the issue. We intend to set up a round table to share information. We’re also looking at the Brady issues. Brian Flaherty has been leading a lot of the work on this.

Restitution in SMC: Katie says that Restorative Community Pathways (RCP) will have the first publicly funded restitution program in the country. We’ve asked the SCAO to also do this based on Fines & Fees Task Force. Also asked them to not seek restitution on behalf of any large businesses. They’ve agreed to do this in Community Court. Discussions are underway with Seattle City Council. Hope this will become a model for the country.

Restorative Community Pathways: Katie says we’ve made a huge effort to dismantle the juvenile criminal system and reduce the number of filings, and we’re on track – the prosecutor expects to divert 400 cases to RCP. We’re already seeing far fewer filings. We’re also building up the RCP program and will move some KCDC cases into the RCP model for 18- to 20-year-olds. We also hope to raise the age of juveniles.

Litigation report (provided by La Rond Baker):

- **Inquests:** La Rond discusses the amazing victory in the inquest litigation. DPD, on behalf of clients, challenged the inquest rules. Supreme Court ruled in our clients’ favor on key issues, including a requirement that the officer who killed someone testify and that the inquest jury be allowed to consider if criminal conduct occurred in the use of force.
- **Khandelwal v King County:** This is a challenge to the PAO’s practice of raising bail *ex parte* in a second appearance in Superior Court. The PAO and KCSC are trying to get past this with use of emergency rule for the second appearance calendar. Even if they succeed, it likely won’t moot our case.
- **Reisert:** A challenge to court’s refusal to allow someone arrested by warrant to argue for release conditions. Have asked the Supreme Court to accept review.
- **Robinson:** This litigation – which is before the Court of Appeals, Division 1 – attempts to change King County Superior Court’s routine refusal to grant a defendant’s motion for reconsideration of bail unless the defendant can show “a change of circumstances.”

HB 1194 implementation: Tara Urs talks about HB 1194, recent legislation changing the way supervised visits between parents and children occur and that was successfully pushed by a coalition, Keeping Families Together (Shrounda is a part of the coalition). It's already resulted in a sea change in practice. Previously, weeks and weeks would go by before a parent could see their child; now it's happening within 72 hours of removal, as specified by the new law. We're also seeing courts ordering non-supervised visits much more frequently. Tara says she's so proud of the work by the coalition.

Summer interns: Tara says our 15 summer interns are winding down; she's midway through exit interviews with all of them. In brief, they think their supervisors are fantastic and they all want to be public defenders.

Capacity contract: Scott Ketterling says the DO has finalized our capacity contract with outside counsel, meaning that as capacity issues arise, we have some guaranteed capacity from outside counsel. Our plan is to release another RFQ this fall for homicide capacity.

Blake response: Scott says we're approaching 900 cases for Blake relief – most of them coming from DOC data or direct referrals. We're averaging around 10 new referrals a week. We've assigned about 300 clients to attorneys for Blake relief, with a focus on those who require resentencing. And we're now moving into vacating/dismissing community custody obligations. We've hired a full-time paralegal to focus on our Blake response. Leslie has gotten a new webpage posted that provides a simple fillable form for people. Also fliers, posters, and ads to let people know about the potential for Blake relief.

Delphi Study: Anita says we're trying to do some work on updating the caseload standards from 1973 – 150 felonies / 400 misdemeanors. We still find the standard is not workable. Anita would like some board members to be part of a working group to figure out a Delphi study. Lou and John agree to work on this.

6. PDAB Chair's Report

Chris says the board still doesn't have a vice chair. He'd like to see if anyone would volunteer to be nominated as vice chair.

He asks if there are any comments or concerns about the draft budget report, which board members recently received. Hearing none, Lou says he assumes it's good to go.

7. **Executive Session.** Enters the session at 10:45.

8. **Adjourn.** Meeting ends at 11:30 a.m.