



King County

Public Defense Advisory Board Meeting

Thursday, April 1, 2021
9:30am – 12:00pm

SKYPE MEETING ONLY

1. Welcome

Attending via Skype: Chris Carney, Adam Chromy, Lou Frantz, Sophia Byrd McSherry, Mike Trickey, Ron Whitener

Meeting held via Skype because of COVID-19 restrictions.

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

2. Approval of Minutes from Meeting on Feb. 4

Minutes approved.

3. Remarks from SEIU Representative

Andres Mendez says more of our members can be vaccinated. He notes that the court has restarted trials, allowing six trials per courthouse and holding jury selection via Zoom. An outbreak of COVID in the jail is worsening, he says; it's clearly not contained and is deeply distressing to our clients and to our members. Bargaining for the next contract has begun. The *Blake* decision is new and significant, and the union is continuing to keep an eye on it.

4. Remarks from Teamster Representative

Rachael Schultz says trials are ramping up, particularly in Kent. We continue to get PPE out to our people and appreciate the DO's efforts to get supplies and support this distribution. We're also bargaining.

5. Director's Report

Filing trends and other operational numbers. Gordon and Stev said that felony filings, which have been lower than usual, are beginning to rise again, coming into a range considered average for this time of year. Kent, however, has been higher than anticipated, and we continue to send additional resources there. Meanwhile, Gordon says, we're anticipating a wave of felony filings due to a COVID-related backlog in the prosecutor's office, as well as new assignments stemming from the *Blake* decision. Stev is beginning to track open cases: The numbers have swelled in the past couple of years, with a sharp

increase in open cases during the pandemic. However, Gordon cautions that the numbers may not yet be solid, in part because we're just beginning to track this information and are still figuring out the various factors driving these trends. With a motion for reconsideration before the court, the *Blake* mandate has not yet been issued, but we're still getting *Blake*-driven assignments (people in prison who are seeking a resentencing due to this watershed ruling). Gordon said we have already made 40 to 60 *Blake* assignments to our attorneys. He expects many more.

CrR 3.4. Brian discusses the impact of the State Supreme Court decision to amend CrR 3.4, effectively putting an end to mandatory case-setting hearings in King County. The PAO is trying to find different ways to maintain the model – and make a distinction between trial and non-trial cases – because they can't staff every case as though it's headed to trial, he told the board. We're pushing back, because we think they shouldn't file unless they put the time and effort into investigating the case. The next big fight, he said, is the PAO threatening not to negotiate if we don't go along with their structure – something they've already started to do.

Litigation. La Rond discusses the so-called "Pimentel fix," litigation we're bringing to challenge the PAO's long-standing practice of seeking a higher bail amount when they're unhappy with the bail set by the District Court. PAO seeks a higher bail without notice to client or counsel; Superior Court routinely goes along with the PAO's request. The case was brought by David Allen as an original writ in Superior Court; by the time it reached the Supreme Court, it was very moot. We're now drafting a complaint challenging the practice and will soon file. La Rond also said we're filing a motion for discretionary review with the State Supreme Court in *State v. Reisert*. Under CrR 3.2.1, anyone incarcerated can argue the conditions of release within one day of being confined. In King County, the court has interpreted this rule to applying only to warrantless arrests. But the language clearly applies to anyone arrested, even if on a warrant.

Training. Tara provides an update on the training program. She says the big lift right now is the work we're doing with the Freedom Project, a group directed by a formerly incarcerated Black man who – along with other staff at the FP – is helping us look at issues of racial justice within the department, as well as issues of racism throughout the criminal legal system.

Legislative update. Tara discusses HB 1227, which – among other things – would allow the state to remove a child only when necessary to prevent imminent physical harm to the child. She says all the credit for this bill still being alive goes to Shrounda, who has made this both an issue of pertaining to child welfare and to racial justice. Katie discusses HB 1140, the statewide youth right to counsel legislation, which is also moving forward and could pass. Anita discusses a number of different bills that would "fix" our drug possession law, which the State Supreme Court recently found unconstitutional. She said we're engaged in this legislative process.

6. PDAB Chair's Report

Annual Report. Lou says it was just posted on PDAB's website. It looks good. He thanks all involved.

Ordinance reforming certain aspect of PDAB. Lou says the CM Zahilay will sponsor it. It proposes changes to how members are recruited – rather than being tied to an organization, potential members will be recruited based on their areas of expertise. Also allows people to nominate themselves. The other substantive change: Instead of requiring an annual report and budget report every year, it would alternate them (one year an annual report, the next year a budget report), lightening the load a little bit. Finally, PDAB is asking for some funding for some part-time staffing.

Chair and vice chair of PDAB. Adam and Sophia will forward nominations to the rest of the board.

7. Executive session. None

Meeting adjourns at 11:15 a.m.