



King County

Public Defense Advisory Board Meeting

**Thursday, Dec. 3, 2020
9:30am – 12:00pm**

SKYPE MEETING ONLY

1. Welcome

Attending via Skype: Adam Chromy, Lou Frantz, Mike Trickey, Ron Whitener, Shrounda Selivanoff, Angélica Cházaro, Sophia Byrd McSherry, Safia, Nyema Clark, Chris Carney, John Strait

Meeting held via Skype because of COVID-19 and the shelter-in-place order.

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

At Lou's suggestion, each board member spends a few minutes introducing themselves, their connection to public defense, and why they wanted to be on the board.

2. Approval of Minutes from Meeting on Oct. 1, 2020

Minutes approved.

3. Remarks from SEIU Representatives

Molly Gilbert thanks the board for holding a recent discussion with the union as part of the development of its annual report. The union is concerned about some recent COVID cases in District Court and the court's refusal to tell the union what courtrooms the people worked in. Finally, case filings are high, and people are feeling the pressure from that.

4. Remarks from Teamsters Representatives

Rachael Schultz notes that they're beginning to bargain.

5. Department of Public Defense Director's Report

Court operations. Anita says DPD has asked the court to shut down operations similar to the way it did so in March, when the pandemic started. The court is suspending all in-person jury trials for criminal and civil cases until Jan. 11, 2021, and making other proceedings as remote as possible (though certain remote proceedings are worse for our clients). The interactions with the court have been challenging. DPD is committed to trying to keep people as safe as possible during this time.

SMC Budget. Gordon discusses our ongoing negotiations with the City of Seattle's budget office over the SMC budget, which is not final. One significant issue is that the city wants to decrease the budget, premised on a projected reduction of cases from 7,500 this year to 6,000 next year – except that we are actually at 6,000 cases this year and staffed for that number of cases. The reduction the city is proposing would increase attorney caseloads. The city fails to reflect the true number of hours it takes to handle a misdemeanor case; the city says 4.5 hours, when in fact, it's on average 5.7 hours. At 4.5 hours a case, an attorney would have to carry 400 cases a year – a woefully out of date and unmanageable caseload. The department is still advocating for a Delphi study, which would address this situation.

Felony filing trends. Gordon and Stev go over the latest numbers in felony filings, as well as trends over the past few years. In 2019, filings skyrocketed, attorneys were facing extremely high caseloads, and the DO was sending as many cases as possible to assigned counsel. In 2020, the pandemic brought case filings down, but in June, filings shot back up, and we're now edging towards being at over-capacity. The county is projecting lower felony filings in 2021, based on some diversion programs.

The new staffing model, included in the budget that the County Council just approved, allows us to address this situation. Each time filings are above a certain level for two consecutive months, DPD gets the authority to hire one additional full-time lawyer – a built-in FTE release trigger. Gordon says this new approach will make it much likely that we'll get a good applicant pool, since the new hires will be full-time, career-service positions. Also, it's possible that this additional hiring authority will discourage the PAO from over-filing.

Assigned Counsel. Scott discusses our new plan to enter into formal contracts with firms to provide contract counsel. The attorneys on our current panel are completely at will; a contract will guarantee coverage, should there be another surge in filings. DPD released an RFQ for contract counsel in October; three of the firms or agencies that responded seem very positive. Scott is also vetting four new members for our panels in high-need areas. The two new expert services administrative attorneys (formerly called special masters) seem to be doing well.

Intern Hiring. Tara discusses our intern hiring for the 2021 summer program. DPD had an excellent pool this fall and hired 15 students – seven who identify as people of color, eight as white. If necessary, the program will again be remote, as it was this past summer.

Foster Care reform. Tara discusses an effort underway to address racial disproportionality in the foster care system in the upcoming legislative session – an effort being led by Shrounda and Laura Lippold with Partners for our Children. The goal is to flip the system, so that resources are used to keep families together rather than housing children with strangers. The hope is to borrow from the Indian Child Welfare Act, raising the bar for removal and incorporating other aspects of this powerful law in dependency proceedings.

Juvenile legal system reform. Katie talks about the State Supreme Court's adoption of a court rule that bans the issuance of warrants on juvenile offense proceedings except in instances where there's a serious threat to public safety. The court approved the new rule on an 8-1 vote on Nov. 6. It goes into effect on Feb. 1. DPD worked on this rule change with several partners, including State OPD and TeamChild; Judges Trickey and Whitener also helped DPD in its advocacy. Katie noted that we'll need to hold judges to this standard and that it will likely take litigation and ongoing work. Some see the juvenile court system as a kind of safety net, but that should not be the purpose of the criminal legal system.

Katie also discusses DPD's ongoing work to end youth sex offender registration. Katie convened a team to work on this issue, including recently retired King County Superior Court Judge Roger Rogoff and Shawn Sant, president of the Washington Association of Prosecuting Attorneys. Sen. Jeannie Darneille has agreed to sponsor legislation. The team has considerable data that shows the racial disproportionality of youth registration. The KCPAO largely supports this bill; Katie says the group is hopeful.

6. PDAB Chair's Report / Discussion of the Annual Report

Lou says the team putting together the annual report has most of the information it needs. They conducted interviews with all the judges they identified and held an employee panel as part of the board's annual report process. Chris plans to meet with community partners. PDAB reps will be meeting with Anita, Gordon, and Laura soon. Next is figuring out what they should cover in the report. The pandemic has highlighted several issues and exacerbated issues, such as a shortage of interpreters for the courts and jail visits. Lou hopes to finish the report before PDAB's next meeting in February.

Lou asks about the inclusion of the "10 principles" in PDAB's report. Why is that? It's supposed to be in DPD's report. John said it was because there were issues that weren't being addressed in DPD's report that needed to be brought before the PAO, the County Council, and some judges. He believes it's a good idea to continue to do this. Ron says he'll write that section.

Angélica and Shrounda say they'll write the section addressing ESJ issues. Other issues the report will cover: The impact of COVID and the lack of collaboration around some of the issues the pandemic created; both criminal and civil caseloads; PAO's filing practices; bail reform; and more. Lou and Chris will come up with an outline.

Meanwhile, the board also needs to write its budget report. Lou says he and Chris will work on that, with an eye to also completing it by the February meeting.

7. Executive Session.

No executive session.

8. Adjourn. Meeting ends at 11:35 a.m.