



# The King County Department of Public Defense

2022 ANNUAL REPORT

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On the cover: DPD employees at the annual gathering at the Seattle Center last summer (top). From left, Madeleine Mashon, a DPD attorney; Dominique Davis, CEO of Community Passageways, at our annual gathering last year; Mahalia Kahsay and Edwin Aralica, DPD attorneys, in court.



## The power and promise of quality public defense

Two years ago, people here and across the country took to the streets after the murder of George Floyd holding signs with the simple premise: “Black. Lives. Matter.” In response, we heard elected officials at all levels of government discuss the need to transform systems, end the violence against Black and brown people, and reckon with the inherent structural racism of the criminal legal system. Prosecutors said they’d change their charging practices; courts, like King County Superior Court, promised to consider systemic racism.

Those voices are quieter now. Our voices, however, are not.

This past year, we provided robust defense to people ensnared in harmful systems that fail both our clients and our communities. We argued for humane release conditions, attempting to keep clients out of an understaffed jail where they languished in their cells, at times for 23 hours a day, where their mental health worsened, and where their prospects for stability upon release slipped ever further away.

Our family defense practitioners fought to keep families together in the face of a family policing system driven by both overt and implicit racism and the belief that children are better off outside their communities and away from their families of origin. Those who practice in the Involuntary Treatment Act Court fought for the humanity and autonomy of their clients in the face of a system that pathologized and silenced them. Our investigators worked to gather evidence that could shape the disposition of a case. Mitigation specialists interviewed clients and family members, drafting reports that told the stories of our clients’ lives. Legal assistants uploaded discovery, redacted documents, even ran to the jail to provide clothes to clients who were about to appear in court.

The collective silence during this past year of those who once called for change has been dispiriting. Instead of change, we’ve confronted a redoubling in the institutional commitment to maintain and expand systems that are expensive, ineffective, racist, and harmful and a failure to invest in true community safety – in housing, community-based treatment, and health care. We find ourselves where we were two years ago, fighting against players with far more power and very little interest in ending systems we know are harmful.

But therein also lies the significance of this past year. When I consider what our defense teams have accomplished in the face of these challenges, I’m humbled. At every level of the department, I’ve witnessed the meaning of client-centered advocacy. We’ve kept people out of jail. We’ve kept families together. We’ve shaped appellate decisions. We’ve stood with our clients.



Anita Khandelwal, Director  
The King County Department of Public Defense

When you read this report, you’ll hear about this tireless and excellent work. You’ll also hear the voices of public defense. “Our job is to help our clients reclaim the power that has been taken from them.” “We give our clients a voice in a system that is stacked against them.” “I want to support people who are doing good work.” “This is where I’m supposed to be.”

Their words resonate with me. They speak to the power and promise of quality public defense, to our ability to make a difference against all odds. They also give me hope. As my colleagues make clear, our commitment to resisting systems of oppression will endure.



## Standing with community in opposition to a ‘racist, carceral system’

Michael Rowland, a Black man experiencing a mental health crisis, died in the King County Jail last year after law enforcement allegedly held him on the floor of the jail using the same restraint tactic that killed George Floyd. His death, plus those of others in the county jail, prompted protesters to gather across the street from the jail in February of this year and call for its closure. The protest came three days after the ACLU of Washington sued the county, saying the county had breached a settlement agreement pledging to provide people in jail with adequate medical care, safety from assaults, and access to court hearings.

Anita Khandelwal was one of several speakers at the gathering. “I hear from attorneys, mitigation specialists, and other members of my office every day about how our clients are suffering, how they are failing to get adequate medications while incarcerated or at the time of their release,” she told the group. She described one individual – callously referred to as the “bathtub burglar” by Seattle Police – who was arrested after he broke into a home and was found fully clothed in a bathtub filled with water. Records show he had been released from jail a few months earlier, was declared too mentally ill to stand trial, was sent to Western State Hospital to be medicated, and then came back to King County where he pled guilty and was released onto the street, without any medication or support.

“We must stop fueling this racist, carceral system. We must stop caging those who are too poor to pay their bail and those who are too mentally ill to even understand their charges or assist their attorney,” she said.



# AN OVERVIEW OF DPD

## Working to dismantle harmful systems

The King County Department of Public Defense is committed to providing high-quality advocacy to members of our community while working to limit and dismantle the systems that harm them.

Every year, we represent thousands of clients in King County – adults and youth facing felony or misdemeanor charges, parents and children who face separation from one another in a dependency proceeding, and people facing involuntary commitment to a psychiatric or sex offender facility. We represent people charged for unpaid child support debt and parents and youth facing certain civil or dependency proceedings. We also handle a small number of post-conviction cases, helping people get relief from often egregiously long sentences. We work in King County Superior and District Courts and in Seattle Municipal Court, treating the people we represent with dignity and compassion and fighting for their stated interests in the face of legal systems that routinely fail to see their humanity.

Informed by the experiences of our defense teams, we also work on the policy level to advance laws or shape appellate decisions that could reduce the harm and reach of the criminal legal system and those aspects of the civil legal system that restrict our clients' liberty. At every level, these systems are infected by racial bias – from police arrests, to filing decisions, to bail practices, to CPS referrals – resulting in cycles of incarceration, family separation, generational poverty, and other harms. Through our policy and appellate work – as well as our direct representation – we attempt to dismantle systems of oppression and fight systemic racism.

The lived experience of clients and community partners also drive our work. This past year, as in previous ones, we formed strong working alliances with community partners, joining forces to advocate for new laws, develop litigation and appellate strategies, and advance other policies that could transform systems that harm our clients or make the systems that remain as restorative as possible.


In 2022, DPD represented 14,247 people in 18,409 cases. This includes all of our practice areas – felonies, misdemeanors, family defense, civil commitments, and more. However, in family defense, this number reflects only the assignment of new cases in 2022, since many of the assignments last for years.

The department is headed by Anita Khandelwal, who began her tenure in 2018 and was appointed to a second four-year term in 2022. Client representation is provided by four divisions, operating as separate law firms so that DPD can keep as many cases in-house as possible. Reflecting their history as nonprofits before becoming a part of the county in 2013, the divisions are called:

- Associated Counsel for the Accused Division
- Northwest Defenders Division
- Society of Counsel Representing Accused Persons Division
- The Defender Association Division

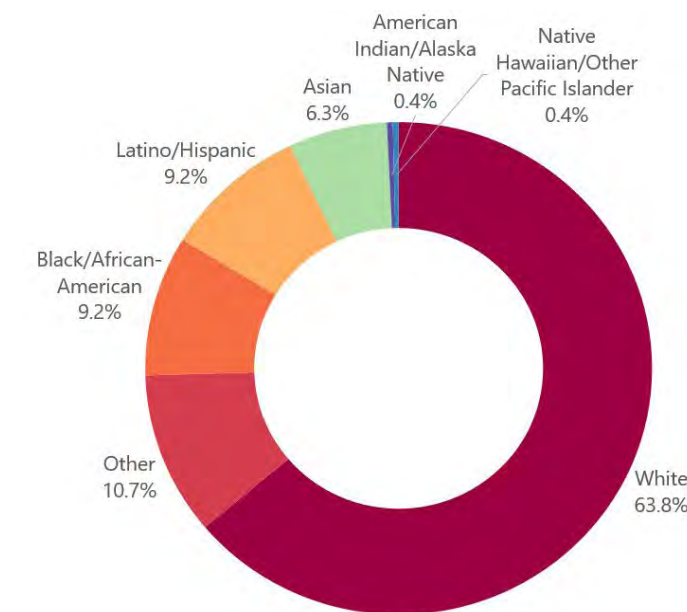
The Director's Office provides strategic and policy direction for the department, runs the department's training program, and provides budgetary oversight, human resources support, communications support, and administrative support. Case coordinators in the Director's Office interview clients to determine financial eligibility, assign cases to the divisions, and manage case assignments. The department employs and depends on attorneys, investigators, mitigation specialists, paralegals, legal assistants, fiscal and data specialists, case coordinators, human resources specialists, and more. Attorneys comprise about half of DPD's staff. Two unions – SEIU Local 925 and Teamsters Local 117 – represent the majority of DPD's employees. (SEIU represents non-supervisory staff; Teamsters represents supervisors.) A panel of assigned counsel – outside attorneys who have met certain qualifications – provides representation when none of the

divisions can do so. Assigned counsel provide representation in adult felony, adult misdemeanor, juvenile, civil commitment, and contempt of court, as well as child representation in dependency cases.

The 11-member Public Defense Advisory Board (PDAB), established by County Ordinance 17678 and codified as part of King County Code §2.60, reviews DPD's activities and plans, advocates for high-quality public defense, and advises the Executive and the County Council on matters of equity and social justice related to public defense. Currently on the board are Shoshana Kehoe-Ehlers, chair, La Rond Baker, Chris Carney, Angélica Cházaro, Nyema Clark, Louis Frantz, Oloth Insyxiengmay, Andrés Muñoz, Sara Rankin, Shrounda Selivanoff, and John Strait. 

### DPD demographics

About 450 people work at DPD. Here's a snapshot of our current demographics.



### Freedom Project helps us build 'a culture of mutual respect'

DPD strives to create a workplace culture that is inclusive, respectful, and supportive, premised on a shared anti-oppression framework. This is in keeping with one of our department's strategic objectives: to create "a culture of mutual respect and support" in our workplace.

In 2021 and 2022, we gave meaning to those words by holding a series of thoughtfully crafted workshops that enabled staff to explore structural racism as it exists in the community and in our workplace.

The workshops were developed and led by The Freedom Project, which works to dismantle the institution of mass incarceration and create space for collective healing. So far, more than 300 employees have attended these workshops.

Several participants have said the workshops helped them to see the world differently.

"The facilitators did a wonderful job creating a comfortable space for uncomfortable conversations that are essential to moving ourselves and our practices toward a more equitable conception of justice," said Mikk Lukk, an attorney at DPD.

Mary King, a legal assistant, said she deeply appreciated both David Heppard and Lauren Ephriam, who led the Freedom Project sessions. "They're concerned about us, about people, about people of color, and how we're feeling and our work environment and what's going on today. I just have a lot of love for them."

*Above, Mary King gives David Heppard a hug, while Nina Elmore, a mitigation specialist supervisor, looks on.*





# CRIMINAL DEFENSE

## A year of robust advocacy

DPD's criminal defense teams provided high-quality legal advocacy to thousands of people who faced felony and misdemeanor charges last year. They did so aggressively, thoroughly, and creatively, striving to advocate for their clients' stated objectives and human dignity.

As a result, our teams – comprised of attorneys, investigators, paralegals, mitigation specialists, and legal assistants – recorded some significant successes in 2022. They achieved not guilty verdicts, dismissals, and significant reductions in charges. They got people released from jail while charges were pending. They convinced judges to award penalties against the state for the state's failure to find a bed for competency restoration. They took on post-conviction cases, getting people released from prison who were experiencing cruel and unconstitutionally long sentences.

No matter the outcome, they stood by their clients, providing a voice to some of our community's most marginalized individuals.

Attorneys and DPD's policy team also worked together to fight systemic issues, developing both litigation and advocacy strategies to tackle some of the most egregious elements of the criminal legal system, a system that is racist, harmful, expensive, and ineffective and that keeps people ensnared for decades.

### Jail conditions

Our incarcerated clients faced increasingly deplorable conditions this past year. Due to staff shortages, clients often went days without getting a change of clothes and were isolated for up to 23 hours a day. Drinking water was brown for weeks on end, requiring the jail to bring in bottled water. Because of COVID restrictions, family members could not get into the jails in Seattle or Kent until last fall, so clients were isolated from loved ones more than ever. Most alarming of all, suicide rates climbed, far exceeding the national average.

Staff shortages also affected clients' access to counsel. Under normal conditions, attorneys who are in trial would often rush to the jail during their lunch hour to see a client. That couldn't happen in 2022, when it was not unusual for an attorney to wait over an hour for jail guards to escort their client to the visitation booth.

"When I had a morning free, I used to stop by the jail to see four or five people. Now, you might see one," said Suzanne Pickering, a felony supervisor. "This has made it very hard on our staff, who now go to the jail to see clients early in the morning or on the weekends. It's stressful and challenging."

While attorneys worked to get clients out of these harmful conditions, the department also fought to address this situation. We called on the Executive to maintain and expand booking restrictions in an effort to keep the jail population from ballooning to pre-pandemic levels. We explored changes in court rules to lessen the harsh impact of monetary bail, which only serves to keep poor people incarcerated. Finally, in December, after the horrific death Michael Rowland at the hands of jail guards, DPD became one of dozens of agencies and organizations calling for the permanent closure of the King County Jail.

### Caseloads and backlogs

The issue of court backlogs in Superior Court captured a lot of attention last year – it was mentioned frequently by Superior Court judges, policymakers, and news reporters. And indeed, the judicial slowdown due to the pandemic has been harmful to many of our clients. Adrien Leavitt, a

## "Our job is to help our clients reclaim the power that has been taken from them."

Vincent Hooks had four felony jury trials this past year. He could not have done them, he says, without the support of a remarkable team.

In one case, a homicide that he co-chaired with Kate Aitken, he had to have five copies of 60 transcripts alphabetized, organized, and accessible at a moment's notice. "All of the paralegals in our office coalesced to help us get this done."

In another case, his client was hesitant to talk to him about his profound childhood trauma, information that could help his case. A mitigation specialist, Becca Sartwell, was able to reach the client, who opened up to her about his deep and sad memories of childhood.

An investigator agreed to take the stand in yet a third case, giving impeachable testimony about an interview she'd had with a child in a child rape case – critical to showing the child's inconsistencies. She worked with Vince late into the evening the night before she was scheduled to take the stand, prepping for her testimony.

Vince was successful in all four of his trials – two of the juries hung, and two found Vince's clients not guilty. But he's quick to add that it's not about him. "Great teamwork makes such a difference," he said.

The clients also benefit from a well-resourced office, he said. With meaningful support, "we have the ability to go deeper into our work," he said. "We don't have the Wild West sort of situation, when you go to court and hope things turn out well. We go in fully prepared."

Vince has been in his division's felony unit for over three years, standing by clients who are sometimes terrified, other times filled with dread. It's hard work; he often feels his client's pain. But he also said he has a clear sense of purpose as a public defender: "Our job is to help them reclaim the power that has been taken from them." They can reclaim that power by slowing down the system; by standing up to prosecutors; by fighting side-by-side their attorney as they face the most powerless situation in their lives, he said.

"It is our moral imperative to do the most good we can by giving our clients the tools they need to combat the mass suffering the system inflicts on them," he said. "When I feel I've empowered my clients, that's when I feel good."





felony attorney, said many of his clients found themselves stuck in jail, unable to post bail, waiting for a trial. "I have had clients who want their case to go to trial, to be heard by a jury, but we can't get there because of the jury backlog," he said.

From DPD's perspective, however, the problem wasn't simply the backlog: It was the prosecutorial response to that backlog. The prosecutor's office chose to file hundreds of old cases delayed due to COVID, many of them non-violent cases born of poverty and behavioral health conditions, jamming the courts with filings that could have been dismissed or diverted.

### The profound harm of jailing people suffering from a mental health crisis

Our defense teams routinely represented people who were incarcerated due to a mental health crisis – clients who acted out in a state of psychosis and were arrested and booked into jail, where they were considered too ill to be prosecuted.

By law, the state must send such clients to a state psychiatric facility to have their "competency" restored so that they can aid in their defense. But because of scarce resources, many clients were forced to wait months for a bed to open up for competency restoration – waits in violation of the *Trueblood* class-action lawsuit, which requires the state to provide competency restoration services within seven days of a court order. Our clients only got sicker while incarcerated, waiting for a bed.


DPD attorneys advocated fiercely for these clients, filing motions demanding that charges be dismissed because of the egregious waits – and sometimes winning. They also sought monetary sanctions, winning tens of thousands of dollars for clients. "Our attorneys have done amazing work challenging these long wait times," said Lauren Conner, a felony supervisor.

At the same time, DPD continued to call for an end to the prosecution of people who are charged with crimes stemming from a mental illness. Competency restoration only means a person is well enough to be prosecuted – they're still caught up in a system that criminalizes their illness and still without the services and support they need to live healthy lives.

"People suffering from mental illness need housing and other community supports, not the destabilizing cycle of jailing and prosecution," said DPD Director Anita Khandelwal.

"We asked them to focus their resources on cases that pose serious threats to public safety. Instead, we continued to see poverty, addiction, and mental illness prosecuted as crimes," said Gordon Hill, DPD's deputy director. "This was unfortunate. After the upheaval of the past two years, we had an opportunity to rethink the criminal legal system, to build on what we've seen that works. We should have leaned into community partnerships and community responses, which we know can help people harmed by the criminal legal system, not returned to business as usual."

As a result of these filing decisions, DPD's attorneys ended up with far more open cases than in previous years – in 2022, open cases hovered at around 6,000 per month, compared to 5,000 in January of 2019. And according to frontline attorneys, other issues in the Prosecuting Attorney's Office made these high caseloads even more challenging, including the PAO's slow responses to plea offers and delays in discovery and witness interviews.

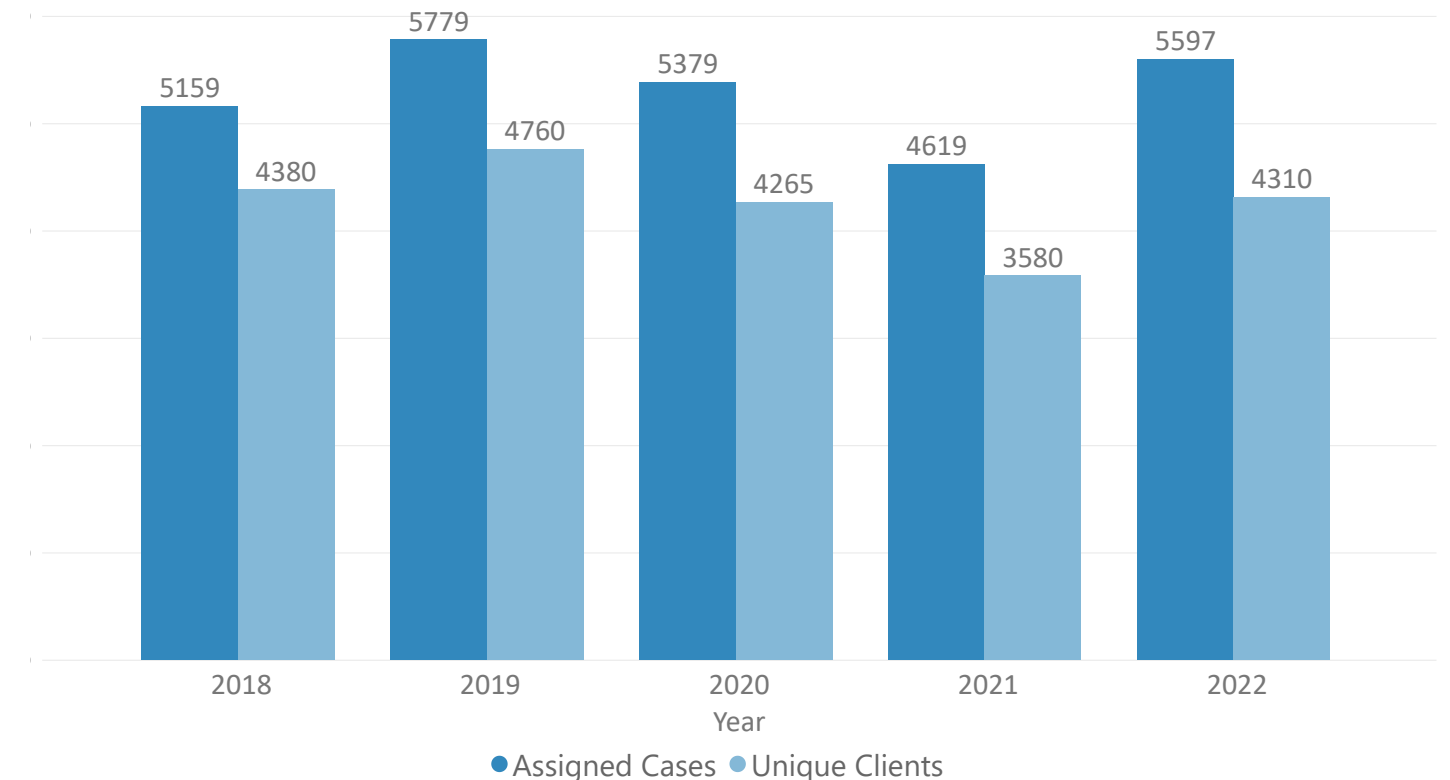
Even so, said Lauren Conner, a felony supervisor, there were many bright spots this past year – for her, in particular, she was encouraged by the amount of collaboration among our attorneys. Every felony trial in her division has two attorneys assigned as a way to ensure newer attorneys gain experience as quickly as possible. "It's really increased the quality of our representation," she said. "And as a result, we've seen some excellent outcomes. That's really been a bright spot for me." 



Attorneys and their in-custody clients continue to appear before a screen in a courtroom three floors away from the judge and prosecutor, a set-up established during the pandemic and that continued in 2022 – over the objections of our attorneys. We see this as a violation of our clients' right to an in-person appearance and the fairness doctrine and another way that our clients are marginalized by the system.

### Felonies by the numbers

The number of felony cases assigned to DPD attorneys increased 21 percent from 2021 to 2022, and the number of individual clients we represented increased by 20 percent.





## “We give our clients a voice in a system that is stacked against them.”

Attorney Sarra Marie represented a client in 2022 whom she called “a poster child” for the trauma of the past couple of years. Her client, a nursing student from an immigrant family, was thriving until the pandemic hit her workplace – the Life Care Center in Kirkland, the site of the first known coronavirus outbreak in the United States. A few months later, she joined the massive protests on the streets of Seattle over George Floyd’s murder, another kind of trauma because of the way those protests spotlighted the vulnerability of people of color at the hands of the police.

She began to unravel, sought help from hospitals that turned her away, and ultimately committed a felony, when Sarra stepped into her life and was able to take stock of what had happened. “She went from being an amazingly competent person to someone who was falling apart,” Sarra said.



Sarra, who’s worked in felonies a little more than a year, took the case to trial, arguing that her client’s crime was born of a mental health crisis that resulted in her diminished capacity, an inability to understand that what she had done was harmful. Sarra brought in an expert who also testified that trauma had led to her dissociative behavior.

During the trial, the prosecutor focused on the client’s acts, on the crime she had committed. Sarra told the story of her life – the story of a young woman who fell apart during what Sarra called “the perfect storm” of the last two years. After a six-week trial, the jury agreed and found her not guilty due to her diminished capacity.

When she considers this past year at DPD, Sarra says this case stands out for her. She was able to “change the narrative,” she said, and show how her client was just as victimized as those who suffered from her act.

“It would have been so easy for her to get swept away,” Sarra said. “Her life would have been ruined.” Instead, she stayed out of prison and has had a chance to begin the hard work of regaining her mental health.

Sarra says this case also underscored for her the importance of this work. “People often talk about how horrible our clients are,” she said. “But we get to show people who they really are, to give them a voice in a system that is stacked against them and set up to make them fail.”

“The more I do this work, the more I realize what matters most to me – to be a voice for people who are often unseen and unheard.”

## “I really love fighting the State.”

Selena Alonzo, an attorney in one of our felony units, has a bulletin board above her desk that holds dozens of notes and cards she’s gotten from clients in the three and a half years since she became a public defender. “You have gone above and beyond,” says one. Another: “I’m grateful for your work.” And another: “You’re prob the best (attorney) I ever had.”

“It makes me happy,” she says of her card-filled board.

Selena grew up in Texas, the daughter of blue-collar workers, in a neighborhood where many “had a strong distrust of the system.” She decided on public defense early on in law school, encouraged by a mentor with a passion for the profession and drawn to work on behalf of clients, on behalf of people many see as outcasts.

“I have family members who have been incarcerated, some convicted of serious crimes, such as murder and drug trafficking. But I don’t see them as that – I see them as family, and I see them as good people. I understand where they’re coming from,” she said.

“That’s what I want to extend to the clients I represent, to people who aren’t my family. I want to be that person who hears their story, who sees them as real people, who fights for them. I want to give them the same grace I’ve given my family members.”

She recently had a client who berated her during their first meeting. But with the help of a coworker – another attorney he knew – she was able to gain his trust, and they ended up talking for 90 minutes. “That was meaningful to me. It wasn’t winning a not-guilty verdict or a big trial. It was bonding with him as another person.”

Selena’s parents and other members of her extended family experienced racism and profiling – something Selena witnessed during her years growing up in Texas. Now as a public defender, she says, “I really love fighting the state. They have all the power, all the advantages. But we’re fighting for clients, fighting to keep the state from running over them.”

She spent her first two years out of law school at another public defense agency, a place with far fewer resources than DPD. While she knows DPD is also under-resourced, she appreciates what the department has been able to offer her – excellent supervisors who have time to talk to her about her cases, strong support staff, and the ability to hire experts.

That support makes all the difference, she said. “I feel we can actually fight for our clients.”





## Misdemeanor Defense: A new administration brings new challenges to SMC

A new administration in the Seattle City Attorney’s Office (SCAO) brought new challenges to our teams that practice in Seattle Municipal Court (SMC) – and more harm to those in Seattle who are poor, unhoused, and suffering from a mental illness or behavioral health disorder.

Filings rose in 2022. Bail recommendations were higher. Community Court, a court diversion program that the previous City Attorney supported, was made off-limits to some of the clients who needed it most.

“It’s always a challenging place. It’s only gotten harder,” said Katharine Edwards, who supervises a team of SMC attorneys. “People are being jailed at higher numbers and then released back to the street, in worse shape and with fewer resources.”

According to SMC data, case assignments to DPD have increased 48 percent in 2022 over 2021, and the number of clients we represented increased 46 percent. (See chart, page 14.) At the same time, the SCAO launched what they called a “new initiative” to prosecute people already heavily policed as a strategy for addressing public safety. This “high utilizer” list – targeting more than 100 people with more aggressive prosecution and presumptively excluding them from Community Court – was

hardly a new strategy. As Anita Khandelwal said in a statement shortly after it was announced, this is a “tired strategy” that only perpetuates an expensive and ineffective system.

In a guest essay in the South Seattle Emerald last May, co-written by Anita and Mark Stroh of Disability Rights Washington, they noted that 62 percent of the people on the SCAO list faced competency issues – meaning a judge determined they were too mentally ill to be prosecuted. They called on the city attorney to create a new list – a list of those people found too mentally ill to stand trial – and introduce them “to service providers who can develop community support and housing options without the hindrance and destabilization caused by repeated jailing and prosecution.”

Meanwhile, DPD experienced a significant accomplishment in 2022 – the department and the City of Seattle agreed to a new four-year contract that lowers the maximum case credits an attorney can carry per year. This new contract, years

### DPD’s Court Watch program spotlights the harms of misdemeanor prosecution

As part of our advocacy, DPD launched a Court Watch program in December 2021, spotlighting via Twitter the harms of Seattle Municipal Court and how it targets our community’s most vulnerable people. Our court watchers are Seattle University Law students, who send us information about what they’re seeing in court, which we then use as the basis for a tweet.

The tweets show how people with mental illness are cycled through jail, often detained pretrial for months on end. We write about unhoused people, incarcerated for sleeping in doorways or shoplifting a few small items. We sometimes note the costs of this incarceration – often thousands and thousands of dollars – money that could go towards community-based services. The court watch program aims to provide a small window into the world of municipal court prosecution – to help the community see some of what we and our clients see every day. We see a system that disproportionately ensnares BIPOC individuals, poor people, unhoused people, and those who suffer from behavioral health disorders, a system that compounds existing harms without providing meaningful help to our clients or our community.

Many of our tweets are retweeted hundreds of times – in fact, one was retweeted 2,293 times and “liked” 14,300 times. This says to us that many share our outrage over our continued use of law enforcement, prosecutors, and courts – rather than community-based services and supports – to address the behavioral health needs of our residents.

in the making, sets the annual maximum attorney caseload at 325 – down from 400 – and awards supplemental credits after the first 10 hours. It began in January 2023. “Our SMC defense teams fight hard for their clients,” Anita Khandelwal said. “We hope this new contract offers them meaningful relief and enables them to provide even higher-quality defense to clients ensnared in that system.”

### “I’m a better lawyer because of my colleagues.”

James Coatsworth doesn’t hesitate when asked about working in Seattle Municipal Court last year. “It was challenging,” he said.

Filings increased under the new City Attorney, who ran for office touting a tough-on-crime agenda. At the same time, the municipal court system seemed more bogged down than ever: One of his cases was rescheduled for trial five times – each cancellation due to a different administrative problem.

His clients suffered as a result, he said. Some who were struggling with mental illness had to wait months simply to get an evaluation for competency – a crucial first step in trying to resolve a case. His caseload, meanwhile, grew and grew. “Part of it is that I couldn’t get cases resolved,” he explained.

But even with these challenges, James, who has been in SMC since September 2021, said he loves his job as a public defender. What buoys him, he says, are the relationships he forms with his clients and the opportunity that gives him “to tell their story in a way that nobody in the system would otherwise see.”

He described a recent case with “terrible facts,” involving a client who had suffered trauma since he was a child. With the help of mitigation specialist Haley Brunner, James was able to tell this man’s story, providing a perspective to the jury that no one else in the system had bothered to hear or understand.

When the jury returned a not guilty verdict, his client stood up and exclaimed, shouting his thanks to the jurors across the room. “It was quite a moment,” James said.

“People make a lot of assumptions about our clients. In this case, we did enough to push back on those assumptions and help this client avoid a significant jail sentence,” he said. “It was immensely satisfying.”

The other part of the job that sustains him is the sense of camaraderie he has found in public defense. When he wins a case, he said, his voicemail box fills up with congratulatory messages. When he has a bad day, he can turn to another attorney in his office for perspective and encouragement.

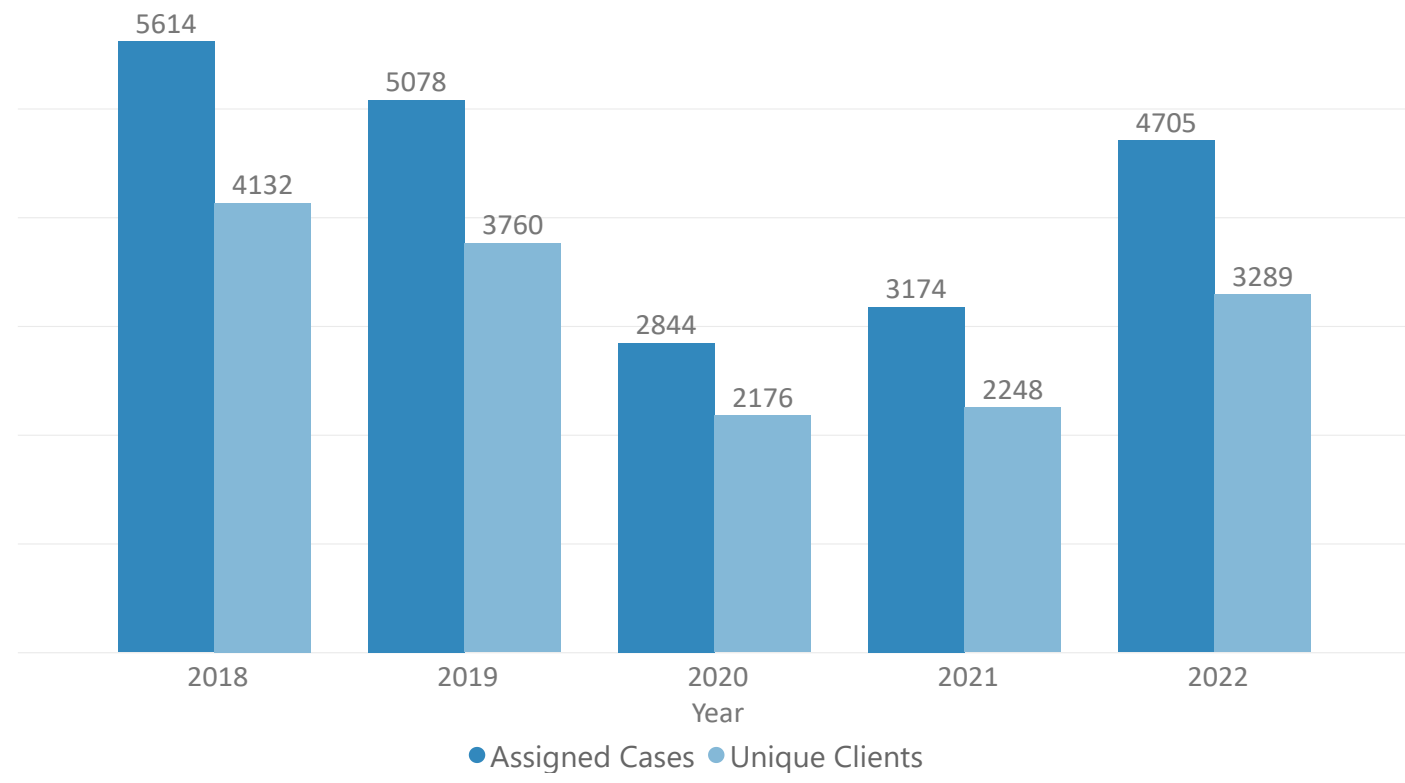
“I’m a better lawyer because of my colleagues,” he said. “I can’t imagine a better group of people to work with.”





**SMC by the numbers**

The number of cases assigned to DPD attorneys jumped 48 percent from 2021 to 2022, and the number of individual clients we represented increased by 46 percent.



Anita Khandelwal and Scott Ketterling represent clients during the investigation calendar, arguing for their release. High bail – or any bail at all – has led to our jails being filled with people who are poor and disproportionately BIPOC. We continue to advocate for reform to bail practices in an effort to lessen the harm of the system. We also advocated for booking restrictions in 2022, trying to keep as many people as possible out of jail altogether.



**“Sometimes, it really does matter who your attorney is.”**

Krystal White remembers the moment she first realized something was wrong with the criminal legal system. She was in elementary school when her older brother’s best friend was charged with murder, an act her brother and many other members of her close-knit community on Chicago’s South Side knew he hadn’t committed. Within a couple of months, he was in prison, where he still sits, 25 years later.

The profound injustice she bore witness to set her on her path, she said. Today, she’s a public defender representing clients facing misdemeanor charges in King County District Court, working hard to be the best attorney she can on behalf of clients who are poor, unhoused, and disproportionately Black. As she learned as a child, she said, “Sometimes, it really does matter who your attorney is.”

Her clients have been charged with low-level crimes – often so minor her friends express surprise when she tells them about her cases. “That’s a crime?” they’ll ask her. But what troubles her most, she said, is the way charges pile up, the sheer magnitude of the system, and the collateral damages it inflicts. Prosecutors file charges without investigating them thoroughly; due process is often violated; people go in and out of jail, losing jobs, homes, and more along the way. “It’s a conveyor belt,” she said. “I feel our job is to slow the system down.”

This past year gave her deeper insight into the injustices of the system: She was one of several attorneys who represented people charged with a DUI based on toxicology reports from the state’s toxicology lab, which was rife with contamination. She came in near the end of the process and was able to get two cases dismissed; other colleagues got several more dismissed.

The process was meaningful to her. “It’s rare in District Court to have cases included in such big and far-reaching litigation,” she said. But it was also deeply disturbing. Hundreds of people likely pled guilty to a DUI based on faulty evidence and suffered the many collateral damages of such a conviction, she said. Others who were charged after the state admitted to the contamination faced a long process; cases dragged on for years, and some clients, desperate to get on with their lives, just gave up.

“We were able to help a lot of people; many people benefitted from the resolution,” she said. “But what about the hundreds of cases that were swept under the rug? Or the people who were basically denied their day in court, denied their due process, because of the length of time it took? To me, it’s mind-boggling.”





## Post-Conviction Work: Helping hundreds of people owed relief due to *Blake*

Over the past two years, DPD has handled hundreds of post-conviction cases stemming from the State Supreme Court’s decision in *State v. Blake*, a watershed ruling that found the state’s felony drug possession law unconstitutional.

Handed down in February 2021, the decision meant thousands of people in Washington who had been convicted of drug and drug-related offenses would have those convictions vacated and be released. Others serving sentences made longer due to prior drug convictions could be resentenced – judicial procedures that could shave years from their sentences and in some instances lead to their immediate release. Thousands more – people no longer incarcerated but with drug and certain drug-related convictions on their records, convictions that make housing, employment, and education more difficult – could get those convictions erased from their records. Others are owed money for the court fines and fees they paid as part of their prosecution.

After the decision, DPD set up a review process to figure out the best way to provide legal representation to the hundreds of people in our community who are owed relief under *Blake*.

The work has led to far-reaching results. In 2022, we assigned attorneys to 609 clients: 95 were resentenced under *Blake*, many got convictions taken off their records, and some cases are still pending. In 2021, we assigned 730 *Blake*-related cases to attorneys.

We developed a tiered prioritization for this work, putting in the top tier those who stood to gain immediate release from prison because of a resentencing. We pored over prison records, reviewing every person serving a King County sentence who is currently in prison and assigning cases to attorneys in our four divisions. We also established an online portal and conducted outreach events so that those owed post-conviction relief could contact us and begin the process.

The work has led to far-reaching results. In 2022, we assigned attorneys to 609 clients: 95 were resentenced under *Blake*, many got convictions taken off their records, and some cases are still pending. In 2021, we assigned 730 *Blake*-related cases to attorneys. As of February 2023, only 48 people were serving King County sentences who we believe are still owed resentencing under *Blake*;

all of them are people for whom resentencing would not result in an immediate release from prison due to the length of their sentences, and all will be assigned attorneys this year.

We have also worked with the Prosecuting Attorney’s Office to create a system of mass vacation orders submitted by the prosecutor and processed through the designated *Blake* judge. Once a vacation of convictions is ordered, we then provide the client with information on how they can obtain their refund in court fees.

Scott Ketterling, who has overseen this process for the department, said he is pleased by the department’s accomplishments. But the work is ongoing – there are still many people who have convictions that should be vacated. “We’re still trying to find them,” he said.

According to the attorneys and paralegals who have handled *Blake* cases, this work is often meaningful and gratifying. Mass incarceration in the United States stems in large part from drug convictions, often tacked onto other charges to create sentences that are among the longest in the developed world. These prosecutorial policies have worsened the already racially disproportionate nature of incarceration.

Dillon Johnson, a public defender at DPD, was able to get two people released from prison due to *Blake* resentencings last year. “It’s very gratifying to see a person be able to rejoin their families and get back to their lives,” he said.

Some people told us this work made a profound difference in their lives. A client who needed a conviction vacated so that she could apply for a job as a substance abuse disorder professional sent Jill Carlsen, the paralegal who helped her, a note after she learned her conviction was vacated: “This is an incredible blessing! ... I am so very grateful and am crying right now.”

But as Dillon pointed out, the victories are often bittersweet. “What we can’t give them back are all the years they lost in prison,” he said. He represented some clients whose initial conviction was drug possession, made worse because of probation violations or other technical matters that followed that initial conviction.

“They faced a lifetime of being dogged by the system due to what we now know were unconstitutional convictions,” he said. “At the very least, we’ve been able to put an end to that madness.”

### “I want to support people who are doing good work.”



As an administrator, Sithong Sosavanh knows she could use her organizational skills at a number of agencies or firms; she applied to become DPD’s training program administrator last year because of her innate desire to help people. “I like public service,” she said.

But she was also motivated by another factor. “I grew up in neighborhoods where I knew people who went into the system. I’ve seen that side. If members of my family ever got into trouble, they’d need a public defender.”

“I want to support people who are doing hard work and good work,” she added. “Public defenders are passionate about their jobs and care about their clients. That matters to me.”

Sithong’s role is to coordinate DPD’s robust training program. Working closely with Tara Urs, a special counsel who oversees training, Sithong helps to schedule and plan trainings, provides technological support, submits continuing education credit requests for attorneys and mitigation specialists, and communicates about upcoming training events. She also supports our annual summer intern program, when rising third-year law students from around the country join our ranks for 10 weeks, and helps to plan our annual gathering.

Her favorite trainings, she said, are panel discussions where some of the panelists are people with lived experiences in the criminal legal system. She learns from all our trainings, she said, but those that include people with lived experience are especially meaningful. “I love hearing their stories,” she said.

Sithong refers to herself as someone who likes to help others, who’s quick to say yes when someone needs a favor. Perhaps she likes public defense, she offered, because public defenders “are different – they’re not afraid to fight.”



# JUVENILE DEFENSE

## Fighting for vulnerable youth

DPD's juvenile practitioners represented more than 400 youth in 2022, using their legal acumen, trial skills, and compassion to help vulnerable young people navigate the trauma and complexities of system-involvement.

Our defense teams advocated fiercely for their young clients, driven by extensive research that shows youth are deeply harmed by prosecution and incarceration. What makes a difference in a young person's life is not punishment, but family support, community support, mental health support, job training, and academic support.

This growing body of research about youth brain development, as well as strong advocacy by DPD and other community members, has made a difference. Far fewer young people are being charged, prosecuted, and incarcerated in King County than in the past. On average, the number of young

people ensnared in the juvenile legal system has fallen 20 percent year over year. According to the King County Prosecutor's Office, there's been a 90 percent reduction in referrals – police reports sent to the prosecutor for charging decisions – over the past 25 years. While DPD's case numbers increased in 2022 over 2021, the department has seen a steady decline in youth clients over the past six years. (See chart, page 21.)

Unfortunately, this steady decline in the number of young people caught in the system has not ended its profound racial disproportionality. According to county data, in 2022, the number of Black youth incarcerated in the youth jail averaged 17.5 per day; the number of white youth averaged 7.3 per day. Another way to measure this disproportionality is by looking at police referrals: In

2021, 206 Black youth per 10,000 youth were referred to King County prosecutors, while 38 white youth per 10,000 were referred.

Also of grave concern to advocates is the number of young people incarcerated in the youth jail, a number that rose significantly last year. In 2020, the number of incarcerated youth fell to around 20, and the county pledged at the time to end youth detention altogether by 2025. This past year, youth incarceration climbed: A total of 1,208 young people were incarcerated in the first three quarters of 2022, compared to 812 in 2021, a nearly 49 percent increase.

Sarah Wenzel, a public defender at DPD who represents young people, said higher incarceration rates – coupled with severe staffing shortages at the county's Department of Adult and Juvenile Detention – meant her young clients suffered more in 2022. Youth were isolated in their cells for as long as 18 hours a day, in violation of county law. Educational programs were severely curtailed. And because of COVID restrictions, for much of 2022, young people could see family members only through glass partitions. "It's so hard for kids not to be able to touch their parents," she said.

Still, Sarah said, she and her colleagues experienced successes in 2022. Many young people, she said, aren't even entering the juvenile legal system thanks to Restorative Community Pathways, which started in November 2021; in lieu of facing criminal charges, they're assigned to community navigators, who help them take responsibility while addressing a wide range of needs. Meanwhile, some youth who were automatically transferred to adult court because of the nature of their charges had their cases returned to juvenile court, thanks to strong advocacy by our attorneys. Other young people who were facing adult court due to prosecutorial discretion were also returned to juvenile court after public defenders, with the help of excellent mitigation work by DPD's mitigation specialists, convinced prosecutors to change course.

Sarah Wenzel, a public defender who represents young people, said higher incarceration rates – coupled with severe staffing shortages at the county's Department of Adult and Juvenile Detention – meant her young clients suffered more in 2022.

## "I try to be a voice for our clients."

Jill Carlsen came to DPD because she wanted to use her writing skills to do something meaningful on behalf of people ensnared in the system. This past year, she found her calling. A paralegal, Jill helps people who were adjudicated for a sex offense as a youth win relief from the onerous and harmful "duty to register" as a sex offender. She's both an experienced writer and an empathetic listener and is thus able to craft compelling petitions that tell the client's story and why they should no longer be forced to register, relief allowed under the law. "I try to be a voice for our clients," she said.

She wrote five of these petitions this past year, working closely with attorneys Matt Sanders and Amy Parker. Despite objections by prosecutors in three of the cases, a Superior Court judge granted all five of the petitions. The clients, she said, were enormously grateful. "They feel like a huge weight's been lifted."

Ample evidence shows such registration laws harm people. Young people who are forced to register are far more likely to attempt suicide or to become the victims of sexual assault themselves. As they grow older and are forced to register, often for decades, they face barriers to housing, employment, education, and more – an endless cycle that limits their ability to move on with their lives. Nor do such registries keep communities safer: Numerous studies show sex offender registries neither reduce recidivism nor deter first-time sex crimes.

In Washington state, a person convicted as a youth of certain sex offenses can petition for relief if two to five years have passed since they completed the terms of their confinement and they have been "sufficiently rehabilitated" to warrant removal from the list. But the judge has considerable discretion in determining if the client is "rehabilitated" – and that's where Jill's petitions come in.

Jill interviews each client, learns more about the kind of treatment they received, and asks for permission to talk to their treatment provider. She asks them about the kind of community support they have, their employment, their family life. Sometimes, she'll explore the circumstances that led to the offense, enabling her to show how they were harmed as children and how registration furthers the cycle of harm. She tries to channel their voice, then shares what she's written with the client to ensure her petition is accurate.

It's a powerful process for the clients, she said. "Many of them have not been seen or heard by anyone in a position to help them change their situation in a very long time, if ever," she said.

DPD is working to end youth registration. We filed two separate amicus briefs last year in support of petitions to the State Supreme Court to review the constitutionality of youth registration laws, partnering in one of them with preeminent researchers in the field. Unfortunately, both were denied. We're also working legislatively to change the law. In the last legislative session and again in the current one, we're working with partners on a bill that would limit registration requirements and bolster access to treatments known to be effective.

Meanwhile, as long as these requirements exist, Jill knows that she's on a path that matters. "It feels like I'm in my right place when I'm doing this work," she said.





Sarah said her clients often seem so young and vulnerable. She mentions clients whose feet don't touch the floor when they're in the courtroom. Representing them, though sometimes painful, is also deeply rewarding, she said.

"They're such incredible people and have so much potential, and they have been dealt the worst set of circumstances," Sarah says of her young clients. "It's really wonderful to be able to work with them."

**Policy work: Working to dismantle systems that harm young people**


While our frontline attorneys were fighting to keep young people out of these punitive systems, DPD worked in the Legislature, in policy circles, and at the appellate level last year to lessen the harm of the juvenile legal system. Among our goals is to end the use of juvenile adjudications to automatically increase a person's sentence in adult court; change court rules to limit the broad dissemination of youth records via the Internet; and end the requirement that youth convicted of a sex crime be forced to register as a sex offender (see profile, page 19). We worked on all of these fronts in 2022, in some cases making incremental progress; we'll continue these efforts in 2023.

More broadly, the department is trying to bring evidence-based research and data into policy discussions so as to dismantle the harmful youth legal system and replace it with community-based responses. Katie Hurley, a special counsel with extensive experience in the juvenile legal system, has been at the forefront of these efforts, testifying before State Supreme Court committees, at the legislature, and elsewhere. Last July, she was part of a 90-minute presentation to the State Supreme Court conducted by the Race and Criminal Justice Task Force 2.0, which

was convened by the deans of Washington's three law schools to address racial disparity in the state's criminal legal system. At the meeting, she discussed several specific policy recommendations that would help to eliminate youth prosecution and move us towards systems that promote healing, restoration, and community-based support. "The solution is through the community, not the expensive, harmful, and racially disproportionate criminal legal system," she told the justices.

An amicus brief we filed with partners last fall underscores this effort. In *Washington v. J.W.M.*, a case recently before the State Supreme Court where a Black youth appealed his enhanced sentence, we urged the high court to use this case as an opportunity to address the "adultification" of

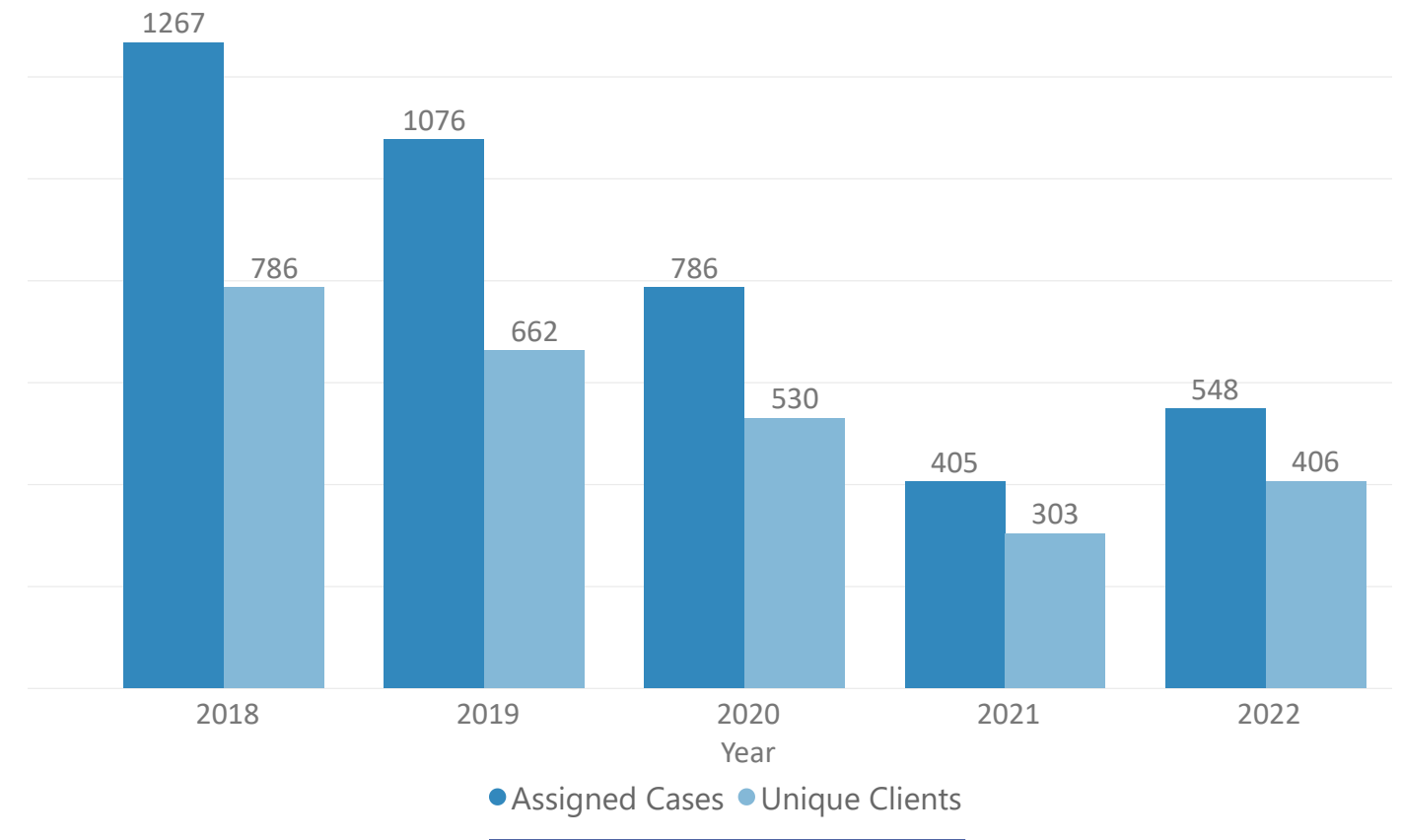
Black youth – studies show that Black children are seen as older and thus more culpable and less in need of protection than white youth. We also urged the court to consider "the well-established literature demonstrating that incarceration undermines community safety and causes significant harm to young people."

According to research, longer sentences do not lessen a young person's likelihood to recidivate. Rather, we noted, incarceration uproots and destabilizes young people – they're removed from their families, schools, and communities and face a much greater chance of developing mental health conditions and engaging in self-harm. Youth leaving juvenile detention facilities experience homelessness at higher rates, face barriers to employment, and are far less likely to receive their high school diploma. Incarceration, we wrote, "drives young people deeper into the system, increases recidivism, and inflicts trauma." 

Longer sentences do not lessen a young person's likelihood to recidivate. Rather, incarceration uproots and destabilizes young people – they're removed from their families, schools, and communities and face a much greater chance of developing mental health conditions and engaging in self-harm.

**Juvenile defense by the numbers**

The number of youth cases assigned to DPD attorneys steadily decline over the years, until 2022, when case assignments rose, jumping 35 percent over 2021.



Last year, DPD held its first all-staff gathering since the start of COVID, a chance for people to learn together, get to know each other better, share stories, and relax. Here, staff listen to a keynote address by David Heppard, director of the Freedom Project, who shared his thoughts on the trauma of our work, the deep need for us to support one another, and the need to confront the racism "that shows up in all of us."



# FAMILY DEFENSE

## Working to keep families together

DPD has a robust practice in family defense. Teams in all four of our divisions – attorneys, paralegals, mitigation specialists, and legal assistants – work hard to keep families together, representing parents and children over age 12 in all stages of the dependency, or family policing, system. At any given time, our teams’ collective caseloads include over 900 parents and nearly 350 children, making our family defense practice the largest in the state.

Our family defense teams’ work is driven by what they know to be true – that the government’s effort to remove a child from their parents is often harmful to both the parent and the child, is driven by implicit or overt racism, and subjects parents caught up in the system to a kind of oversight more privileged parents seldom face. Like the criminal legal system, the family regulation system is deeply racially disproportionate: Black and Native American families are ensnared in every aspect of this system – from investigation to termination – at disproportionately higher numbers than white families.

The State Supreme Court, in a 2022 decision we supported with an amicus brief, made clear why we and other advocates fight hard to keep families together: “Separating a child from their family, even for an hour, can cause great harm.”

This past year, family defense cases were again often conducted virtually, with most of the players on a camera except the judge, the DPD attorney, and their client. Katie Farden, one of DPD’s family defense attorneys, noted how wrong that scenario, replayed over and over again, felt to clients. “The state has so much power and control, and yet they can show up via camera, while we’re the ones in

court. It’s something our clients notice and that exacerbates this disparity of power. These people on a tiny little square on a screen are making arguments that affect our clients’ lives. If they didn’t already feel like the system was designed to make them feel they’re not important, this does it.”

Even so, attorneys experienced many successes in 2022. They won many 72-hour shelter care hearings, resulting in the immediate return of children to their parents. They also won motions to return children to their parents and to increase the visitation allowed to families.

Family defense cases are long and complex – attorneys often represent a parent for years – and much is at stake: Where the child will live, with whom, on what basis they can see their parents, siblings, and extended family, and more. Most of our cases end with children returning home – such is the determination of our clients, the strength of our advocacy, and the growing recognition that removing children from their families is harmful. Still, the process is difficult, and each reunification feels momentous.

“There’s nothing better than helping a family access the tools they need to reunify,” said Matt Bjork, an attorney in one of our family defense units. “Our clients face many barriers, often systemic, in a complex and often unfair arena. It’s motivating to see how hard they work. I feel privileged to advocate on their behalf in court, in meetings with stakeholders, and in the community.”

When children can’t return home, our defense teams work on finalizing other resolutions for the case that align with our clients’ goals. Often, that means advocating for a guardianship over the

### “As a new mom, I felt inspired by my clients.”

Katie Farden started representing parents facing dependency petitions brought by the state shortly after becoming a parent herself. The juxtaposition was profound, she said.

She represented parents fighting hard to hold onto to their children in the face of a system that seemed designed to make them fail. She saw the way they were held up to a kind of scrutiny affluent parents rarely experience. Most of her clients were brown or Black and poor, and she saw how generational poverty and the cycles of system-involvement had affected their lives.

“As a new mom, I felt inspired by my clients,” she said. “I saw how hard they had to fight to get their kids back and how the system is stacked against them. I found it inspiring to see how brave and determined they are.”

She was particularly struck by one of her first shelter care hearings, a court proceeding the state is required to hold within 72 hours of removing a child from their parent to determine if the child should go into foster care or be returned to their parent. In this instance, the state alleged abuse due to the child’s injuries – “the kind kids get on the playground every day,” she said.

Katie argued that the state had no right to remove the boy – the only person in this single mom’s life – based on such scant evidence, and the judge agreed, ordering the state to return the child to Katie’s client. It was both a victory and a painfully eye-opening experience, she said. “It woke me up to the huge disparity in the system and to how much power the government has and how little power the parents have. It made me think of my life as a mother, my privilege, and how most families never even give a passing thought to the scrapes and bruises their children get from roughhousing or playing on a playground.”

Victories in family defense, she added, rarely feel like victories. By the time a parent gets their child back, “a lot of damage has been done.” Her clients are rarely joyous – they’re mostly relieved, she said.

Still, Katie says, she loves this work. She’s been in family defense, as this practice area is called, for about a year, standing side-by-side parents determined to do whatever they must to prove to the state their children should be returned – to prove that they’re good parents.

“Every parent has moments when they doubt themselves. And I can imagine what it would be like if the government were telling you you’re a bad parent,” she said. “But the fact that they fight for their kids every day is deeply moving. I feel honored to help them in this process.”





termination of parental rights. A termination order severs all legal connections between a parent and child – it’s considered the family law equivalent of the death penalty in a criminal case. And like all aspects of the system, termination disproportionately affects Black and Native American families. In Washington, research shows, Native American children are 2.7 times more likely than white children to experience termination of both parents’ rights; Black children are 2.4 times more likely than white children to lose their parents to termination.

### A “sojourn into misdemeanors ... honed my ability to be decisive.”

Hannah Roman had practiced in family defense for nearly seven years – five years at DPD and two in New York – when she asked to rotate into misdemeanors. Late last year, she returned to family defense, a better attorney, she believes.

She learned more about the criminal legal system, which ensnares many of our clients in family defense, while working in misdemeanors. She honed her trial skills and learned more about what clients experience during encounters with law enforcement and stints in jail. She’s now able to answer some of her clients’ questions more quickly and clearly – like how to get a warrant quashed or request that a no contact order be vacated.

Family defense cases often last a long time, and the questions are usually big, hard, and elusive: What is the right home for this child? What does it mean to be a good parent? In misdemeanors, she had to think fast and on her feet, poring over a discrete set of facts and a narrower list of questions. “I found that it honed my ability to be decisive and not second guess myself,” she said.

Perhaps most importantly, her “sojourn into misdemeanors,” as she called it, gave her a chance to take “a few deep breaths,” a pause from the emotional intensity of family defense. “I came back with a certain amount of perspective,” she said.

Hannah had a boss in New York who used to say, “Once you do family defense, you can never really leave.” Hannah gets that. Family defense touches on some of the most fundamental issues in life – the relationship between a parent and a child or the shared experiences of siblings – and success, when it occurs, is deeply rewarding. “You see parents reunified with their kids. It’s transformative,” she said.

Still, she’s happy that she took a break last year and dipped her oar into different waters. “It’s been such a valuable experience. I feel I can now stand with our family defense clients and advocate for them with even more conviction and empathy, armed with a greater understanding of how the criminal legal system has harmed them.”



Concurrent with our frontline practice is policy and appellate work to limit the harm of the family regulation system and in some cases to go even further – to fundamentally alter the legal philosophy that informs this area of law. Working closely with partners and informed by the practice of our frontline public defenders, DPD in 2022 advanced legislation, filed amicus briefs, and advocated on a national level to both reform and transform systems that harm families.

### Policy Work: Ending the practice of making parents whose children are removed pay child support

A huge driver of family separation is poverty: Caring for children becomes harder when parents are stretched thin and overwhelmed by the circumstances of their lives. Thus, we’ve worked hard over the years to get the state to end a particularly egregious practice – requiring parents whose children were taken from them to reimburse the state for the costs of foster care. This past year, we were successful.

Ordering parents who are already struggling financially to reimburse the state for foster care is clearly harmful and counterproductive. Such a policy only destabilizes families and exacerbates poverty – it takes resources away from the family, away from children who are now back with their parents. Even so, it took years of advocacy – and a change at the federal level – to get the state to end this practice.

Federal law required state agencies like Washington’s Department of Children, Youth, and Families (DCYF) to pursue child support to reimburse the state for foster care “where appropriate.” Unfortunately, Washington opted to automatically refer *all* cases to support enforcement as soon as a dependency case was filed, regardless of whether the child was ever found dependent. We shared research with the state showing that collecting child support delays reunification, harming children and preventing cases from being resolved quickly, and that the state spent more money attempting to collect child support than it collected. DCYF Secretary Ross Hunter agreed that the practice needed to change. But as DCYF worked with partners to devise a new system, federal regulators said that DCYF would need to switch from a system of referring all cases to a new system – individually evaluating each case before deciding to not charge parents for support – adding more discretion and thus racial bias into the process. DPD and our partners then turned to the national level, reaching out to contacts in the federal government to issue new guidance to authorize states to exempt broad categories of cases from support enforcement.

Ultimately, federal regulators agreed. Last summer, the Administration for Children and Families’ Children’s Bureau issued new national guidelines making clear that referrals for child support should occur only “in very rare circumstances.” The new guidance allows states to determine for themselves which categories of cases are not appropriate for support enforcement, and DCYF opted to narrowly define these categories. As a result, our clients are no longer responsible for paying back the state for the foster care – care our clients typically opposed from the start.

### Advancing legislation that reshapes dependency law

Over the past few years, we’ve seen success in the legislature, working with partners to advance several bills that lessen the harm of family separation, but one law, in particular, stands out, according to Tara Urs, who oversees DPD’s family defense policy work. In 2022, SHB 1747 was signed into law, requiring courts in Washington to prioritize, at every stage of the case, keeping a child with their extended family if that child cannot be returned home. The law also elevates legal guardianships, putting them on par with adoption, and requires the state to demonstrate that it ruled out a guardianship before terminating parental rights.

Both provisions, Tara says, reflect the beginning of a sea-change she and other advocates hope to see in the world of dependency law. “Sometimes children need to live with another adult and not their parents. But we can do this in a way that adds adults to a child’s life, instead of erasing their



parents from their life," she said. A guardianship does not require the termination of parental rights, but when judge ends a dependency case in termination and adoption, they erase the parents' names from the birth certificate, making the parent a legal stranger to the child. Legally erasing a parent, however, does not remove that parent from a child's memory or eliminate the significance of that relationship in the child's life. Advocacy by adult adoptees, nationwide, has demanded that these systems rethink the current approach that favors the legal erasure of a child's origins. "The law cannot tell us who we are to each other," Tara said.

SHB 1747 is an important step towards that goal because it requires participants in this system to think about whether guardianship is an option before moving to adoption. It also makes clear that there is always a statutory preference for placement with a child's extended family before considering stranger foster care.

### Working to uphold the promise of the Indian Child Welfare Act


The Indian Child Welfare Act (ICWA) became law in 1978 to address the country's long-standing practice of removing Native children from their families; the law was passed by Congress after a decade of activism by Native people and others outraged by the way state child welfare policies had for decades undermined Native families, culture, and sovereignty. Over the years, ICWA – which requires states to make active efforts to provide the services parents need to keep their children with them – has been held up as a model, the gold standard for child welfare cases. And in Washington state, the promise of ICWA

has only gotten stronger, thanks to a State Supreme Court that has recently issued opinions requiring trial courts to uphold both the letter and the spirit of this important law and its companion, the Washington Indian Child Welfare Act. DPD has filed amicus briefs in these cases, helping to inform the Supreme Court's decisions.

Just as we are starting to fully uphold ICWA's requirements here in Washington, however, the law is under attack at the national level. *Haaland, et al. v. Brackeen, et al.*, a case argued before the U.S. Supreme Court last fall, takes direct aim at the act, advancing a long-discredited legal theory that laws that benefit tribes, as ICWA does, are race-based discrimination. The federal government and several tribes defended ICWA before the U.S. Supreme Court – Haaland refers to U.S. Secretary Deb Haaland, the first Native person to head the Department of the Interior, which administers ICWA.

Because of the significance of the issues at stake, the case has touched off a powerful, nationwide response. All told, 21 organizations and individuals have filed amicus briefs in support of ICWA in the case, briefs representing nearly 500 tribes, more than 60 Native organizations, 87 members of Congress, 23 states, 30 Indian law professors, 27 child welfare and adoption organizations and others. DPD was one of them. The department took the unprecedented step of filing an amicus brief in the U.S. Supreme Court – co-signed by 17 other organizations in eight states that represent parents in dependency cases – underscoring our experiences in courtrooms across the country, where we've seen firsthand how ICWA helps to keep families together and lessens the harm of the dependency process.

"Federal judges rarely have an opportunity to consider these kinds of cases and may, therefore, have misconceptions about our clients," said Tara, the main author of DPD's brief in support of ICWA. "We wrote this brief to try to ground the conversation in what this area of law really looks like, in who are clients are and why keeping their families together is both a core constitutional principle and the right thing to do."

DPD will continue to fight to keep Native families – and all families – together, regardless of how the U.S. Supreme Court rules. 

We wrote this brief to try to ground the conversation in what this area of law really looks like, in who are clients are and why keeping their families together is both a core constitutional principle and the right thing to do.

Tara Urs  
Special Counsel,  
Civil Policy and Practice

## DPD's Intern Program: A summer of substantive work

DPD's interns thrived in 2022, providing support to the department's defense teams while working directly with clients and alongside seasoned public defenders.

They briefed and argued motions. They challenged search warrants and worked to suppress unlawfully seized evidence. They represented both adults and children in first appearances, sought their release in release hearings, co-counseled entire misdemeanor trials, and supported attorneys in felony trials.

Nineteen interns participated in DPD's 10-week program. Many called it a rich experience.

"It was awesome," said Mila Reed-Guevara, a 3L at Yale Law School. "Right off the bat I had my first courtroom experience, representing children in their first appearances in juvenile court. It was such a lesson in working with clients and meeting them at their different needs."

Another intern said she was deeply moved by the colleagues she found herself working alongside. "I've never worked with more passionate and kind people," said Jessamine Anderson, a 3L at Seattle University School of Law. "It seemed everyone was dedicated to abolishing the system even while working within it."

DPD takes pride in its internship program, one of the few in the country that pays participants. We do so, said Tara Urs, who oversees our intern program, out of a commitment to equity.

"Law schools vary widely in how much support, if any, they offer their students over the summer. We are committed to ensuring all of our interns are paid equally for their work," she said.



Mila Reed-Guevara


"I enjoy working at DPD. It has a robust training system, as well the resources to hire a team of people to provide our clients with the most support and best legal representation possible. DPD also focuses on challenging the racial injustices in our court system – by supporting staff attorneys who are fighting racism for an individual client, litigating systemic issues, or partnering with local community groups to combat racial injustices."

Jacob Walsh, former intern and now a staff attorney



The program is an important investment – a way to develop aspiring public defenders, deepen their connection to the cause of public defense, and support DPD's mission of strong and effective advocacy on behalf of poor and marginalized people. It begins with four days of intensive training, after which interns are assigned to DPD's four divisions and to a supervisor who works closely with them.

"We want our interns to end the program knowing what it means to stand with a client," said Anita Khandelwal, the director of DPD.

Rachel Bass, a 3L at Georgetown, said she was impressed by the depth of that client-centered commitment. "The first question always was, 'How can we do this in a way that's best for our client?' It was great for me to learn what it means to truly put the client first." 



# APPELLATE LITIGATION

## Challenging systemic racism

At every level, the criminal legal system is infected by racial bias. We see it in police arrests, filing decisions, jury selection, bail practices, judicial rulings, and more. The result is deeply harmful and painfully cyclical: Our jails and prisons are disproportionately filled with Black and brown people, entangled in a system that not only fails to address their fundamental needs but also further harms them, their children, and their children's children, perpetuating and entrenching systems of racism.

DPD fights to mitigate the harms caused by the inequities of the legal system, both civil and criminal, through strategic appellate work. Informed by our frontline staff and community partners, we file several amicus briefs each year, pursue motions for discretionary review, and, occasionally bring original actions, drawing courts' attention to facts and arguments they might otherwise not hear and that bear directly on our work with clients.

Today, we formally recognize what has always been true: in interactions with law enforcement, race and ethnicity matters.

Justice Mary Yu,  
Washington Supreme Court

In 2022, the State Supreme Court ruled on three cases that directly addressed issues of racism in the criminal legal system, drawing on the language or arguments we used in amicus briefs in support of these outcomes.

### **State v. Sum | Applying a standard that reflects the lived experiences of BIPOC**

The State Supreme Court made a significant ruling in *State v. Sum* when it recognized that BIPOC individuals experience law enforcement differently due to the impact and harm of historic

racism. The legal issue before the court was a critical one in criminal law – whether the defendant was “seized” by law enforcement because an ordinary person wouldn’t believe themselves free to go. The state argued that the client was not seized: Based on a “reasonable-person standard,” he knew he was free to go. We argued that a different standard needed to apply: whether a reasonable person of color would, under circumstances that include the history of racist and violent policing in our communities, feel free to leave.

This reality is borne out in damning statistics, our brief said: People of color are more likely than white people to be stopped by law enforcement and more likely to be threatened, harmed, or killed by law enforcement, even though they are less likely than white people to be armed. So profound is this issue, we noted in our brief, that BIPOC parents routinely engage in “The Talk” – conversations in which parents coach their children on how to safely navigate interactions with law enforcement. We urged the State Supreme Court to modernize seizure analysis “in light of the known history of racialized policing in America.” The brief was filed on behalf of DPD, ALCU of Washington, Fred T. Korematsu Center for Law and Equality, and the Washington Defender Association.

The court, in an opinion issued June 9, 2022, agreed. “Today, we formally recognize what has always been true: in interactions with law enforcement, race and ethnicity matter,” wrote Justice Mary Yu for a unanimous court. “Therefore, courts must consider the race and ethnicity of the allegedly seized person as part of the totality of the circumstances when deciding whether there was a seizure.”

### **State v. Zamora | Calling out race-based prosecutorial misconduct**

In *State v. Zamora*, the State Supreme Court articulated a standard for race-based prosecutorial misconduct, another important step in trying to limit the harm of systemic racism in the criminal

legal system. The case centered on a prosecutor in Grant County who made repeated references to border security, undocumented immigrants, and criminal acts by immigrants during voir dire – “anti-immigration tropes,” as we noted in our brief, meant to inflame racial bias and empanel a jury prejudiced against the client. The court agreed, reversing the appellate court and vacating the defendant’s convictions.

“Reversal is required,” the court said, when a prosecutor’s “questions and remarks flagrantly or apparently intentionally appeal to jurors’ potential racial bias.” Using language we suggested in an amicus brief we filed on behalf of DPD and several partners, the court said the test for whether a prosecutor is engaged in such race-based prosecutorial misconduct should be based on the “objective observer” standard articulated in *State v. Jefferson* and GR 37 – “a person who is aware of the history of race and ethnic discrimination in the United States and aware of implicit, institutional, and unconscious biases, in addition to purposeful discrimination.” Such a person, the court said, would understand that the prosecutor’s comments were a flagrant attempt to appeal to jurors’ potential racial bias toward Latinxs. “The state-sanctioned invocation of racial or ethnic bias in the justice system is unacceptable,” the court said.


The opinion was issued on June 30, 2022. DPD’s brief was filed on behalf of the department, the Fred T. Korematsu Center for Law and Equality, ACLU of Washington, Northwest Immigrant Rights Project, One America, Public Defender Association, Washington Defender Association, and Washington Association of Criminal Defense Lawyers.

### **State v. Tesfasilasye | Ensuring GR 37 remains a bulwark against racism in jury selection**

In *State v. Tesfasilasye*, the State Supreme Court strengthened GR 37, an important, though certainly not perfect, rule in trying to root out both implicit and intentional racial bias in jury selection. Adopted by the court in 2018 to correct the shortcomings of *Batson*, GR 37 directs trial judges to deny a peremptory challenge when an objective observer could view race as a factor in its use.

In this case, the trial court allowed two preemptory challenges made by the prosecutor to stand in the face of GR 37 challenges by the defense because the prospective jurors – both people of color – spoke of their frustrations with the criminal legal system. We noted in our brief that such a standard, if allowed to stand, will undermine the purpose of GR 37 and lead to less-diverse juries. “It is well-settled,” we wrote, “that the criminal legal system disproportionately targets people and communities of color. Allowing potential jurors to be stricken based on involvement – or proximity to those involved – in the criminal legal system further disenfranchises Washingtonians of color.”

And that, in turn, harms our BIPOC clients, we note, because of the urgent need for diverse juries. “In a legal system rife with bias and a criminal legal system that disproportionately targets people of color, the racial and ethnic diversity of juries is critical to reducing the harm of that system.”

The State Supreme Court, in an opinion issued Oct. 6, 2022, agreed, noting the importance of GR 37 and its need to remain robust. “Racial bias has long infected our jury selection process,” the court wrote. Joining us in the amicus brief were the ACLU of Washington and the Washington Defenders Association. 

In a legal system rife with bias and a criminal legal system that disproportionately targets people of color, the racial and ethnic diversity of juries is critical to reducing the harm of that system.

DPD’s amicus brief in *State v. Tesfasilasye*



# CIVIL COMMITMENT | ITA COURT

## Giving our clients a voice

Our practice representing people facing the possibility of a civil commitment to a psychiatric facility continues to grow. Nearly every year over the past decade, we've seen the number of cases assigned to DPD steadily increase. This past year was no different – the number of cases we were assigned in 2022 rose nearly 10 percent over 2021.

A person can be detained past 120 hours on an involuntary hold after a hearing by a judge or commissioner in the county's Involuntary Treatment Act (ITA) Court, after the hearing is continued, or after the person agrees to the detention. Most often, a person's detention results from contact with the police, emergency room personnel, or a designated crisis responder. If the petitioner, usually a hospital represented by the King County Prosecutor's Office, demonstrates at the hearing that the person being detained is "gravely disabled," a threat to themselves, to others, or to property, the person may be hospitalized for up to 14 days or placed on a 90-day less restrictive order, which means they are not hospitalized but are required to comply with conditions and are subject to court surveillance. The standard of proof is low – a mere preponderance of the evidence.

Clients detained leading up to and following a 14-day hearing are generally held at one of nine evaluation and treatment hospitals in King County, though when those are full, as they often are, other hospitals can designate single beds as a psychiatric treatment bed. Most of DPD's clients are sent to Navos Psychiatric Hospital, Harborview Medical Center, Fairfax Hospital, or Cascade Behavioral Health.

The ITA system, like other systems in which we work, disproportionately ensnares BIPOC individuals. Black people made up 14.8% of ITA cases in 2019, despite representing 7% of the county's general population.

DPD has two units dedicated to representing clients in these proceedings, comprised of professionals who represent the client's stated interest. Our attorneys talk to clients about their options – they can contest the detention in court, ask for a 90-day less restrictive

order, seek a continuance that prolongs detention without a hearing but may eventually yield a release, or agree to forced hospitalization. But as Nathan Bays, a special counsel who supports this area of work, told the Seattle Times last year, "Ultimately, it's the client's decision whether they want to oppose hospitalization or seek an alternative. We never place our own personal beliefs or preferences over the desires of the client."

The ITA system, like other systems in which we work, disproportionately ensnares BIPOC individuals. According to the state Department of Community and Human Services, Black people made up 14.8% of all ITA cases in King County, despite representing 7% percent of the county's general population. Recommitment is also high. A 2019 King County audit of the ITA system found that 57% of those involuntarily committed in 2017 had been through the system once before. Housing instability is also a factor, according to the audit: Statistics show a growing number of ITA clients report housing instability.

Add to this picture another sobering statistic – Washington state ranks 32nd in the country on a scale that measures the incidence of mental illness relative to the availability of care, according to Mental Health America, a nonprofit that advocates for improved mental health services.

Those who work in ITA see the reality of these statistics, day in and day out. Hearings can be gut-wrenching, when clients hear their loved ones tell the court why they should be committed, said Melody Overton, a public defender in one of our ITA units. Many hospitals create labyrinthine rules that frustrate rather than facilitate our work. The work is challenging and fast-paced. "It's a

### "This is where I'm supposed to be."

After three years as an ER social worker, Jennifer Rubio knew the next step she was expected to take in her career was to become a designated crisis responder – a job that didn't appeal to her. DCRs are frontline mental health responders, making the final decision about whether someone in crisis should be involuntarily committed and detained.

"I never wanted to do that. I never wanted to be in the position to take away someone's rights," she said.

Then – through a colleague – she discovered public defense and quickly realized she'd found her calling. For the last three years, Jennifer has worked as a mitigation specialist at DPD, assigned to one of our units that works in the Involuntary Treatment Act Court. "This is where I'm supposed to be," she said.

What's meaningful to her is the pivotal role she plays in discharge planning, helping someone who has been committed against their will move back out into the community. Unlike in the criminal setting, where people often leave jail with little hope of housing, Jennifer often works with hospital-based social workers and public agencies to ensure her clients have supportive housing and other essentials at a critical moment in their lives.

She described a recent client's situation. First, Jennifer coordinated with the client's criminal attorney who was able to get the woman's jail hold dropped while she waited in the hospital for housing. Jennifer then worked with a hospital MSW, pulling together the needed paperwork to get a warrant quashed. Finally, she coordinated with a hospital to ensure the client was discharged to her own furnished apartment, where she's now receiving ongoing support services. She also got a cell phone upon discharge.

The support was significant, Jennifer said. "This was a rehabilitative moment for our client. We were able to offer her far more than a band-aid."

Jennifer never wants to see someone detained against their will. At the same time, she said hospitalization can be a critical moment in a person's life. Once detained, some clients stabilize, make informed decisions, and opt to stay in the hospital until a discharge plan that includes housing is in place. "This is a civil court. These folks have specific opportunities for placement that others do not. If the client wants the help, then sometimes we can make the stars align," she said. "I come from a housing-first approach, so I'll do whatever I can to help people keep, or obtain, safe housing."

She's tenacious in her advocacy, pushing hard to make sure the client leaves better off than where they started. When it happens, she's ecstatic. "I live for that," she said.






## CIVIL COMMITMENT - ITA | Giving our clients a voice

constant juggle, all day long,” said Katy Wallace, who supervises one of the units.

What’s meaningful, practitioners said, is the opportunity to be both a voice for their clients in this highly stressful situation as well as a check on the state’s power. “If we weren’t there, we know more people would be detained,” said Brandon Davis, a supervisor of one of the units. “We make sure our clients’ voice is heard and that the reasoning to detain someone is based on the record, on witnesses, and on oral arguments. We make sure it’s not a kangaroo court.”

Meanwhile, DPD continues to advocate for a different kind of response to mental health issues in our community. Our goal is to see resources diverted away from an expensive, court-based system that strips people of their liberty and dignity and to instead put resources into community-based programs that can provide housing, health care, and other supports to people living with chronic mental health disorders. 



## Administrative professionals make a world of difference

Our administrative professionals include legal administrators, case coordinators, fiscal specialists, and more – people who support and sustain the work of public defense in myriad ways.

Case coordinators take initial calls from people in need of a public defender, screening them for financial eligibility and determining what division should take their case. Legal administrators open and close case files, upload discovery, redact discovery, help in case coordination, and answer our phones, also providing an important initial contact to clients.

Our fiscal specialists are critical to our day-to-day operations, ensuring experts get paid, budgets are managed, and invoices are processed. Our human resources specialists oversee recruitment, support staff development, and help staff navigate King County policies and manage benefits. Other administrative professionals analyze data, respond to public disclosure requests, manage our facilities, and more.

As Anita Khandelwal wrote in an all-staff email on administrative professional day last year, “Though their roles are varied, all of our administrative professionals are central to our commitment to provide excellent, client-centered advocacy.” Last year, on administrative professional day, supervisors lined up with a message: “Thank you, admin professionals.”

## “I’m grateful to work in service to the community I grew up in.”

Morgan True was a journalist before he became an investigator at DPD. He knew how to interview people and wasn’t afraid to cold call someone or show up unannounced at their door. He was able to gather information quickly and develop expertise on a topic in a matter of days.

As a result, he segued easily into his new position when he was hired as a public defense investigator two years ago. But what he hadn’t expected was how meaningful it would be to work in support of DPD’s clients or the way it would open his eyes to the impact of generational poverty, racism, and the cyclical nature of the criminal legal system.

Morgan is from Seattle – he went away for college and a career. Now back in the city and working in public defense, “I see Seattle in a different light,” he said. “It’s really humanized my city.”

He talked about one case that he worked on – an animal cruelty case – and how he came to realize the client, a single mother, was doing her best in the face of daunting issues and deep poverty. “It struck me as a case of our client being prosecuted because she was poor,” he said. “If she had had a nanny to look after her kids or a car or a cleaner or money to cover her vet bills, none of this would have happened.”

Morgan worked closely with Christine Tian, the attorney on the case – “she was a rock star,” he said – and felt a deep sense of relief when the jury hung on the felony charges.

Looking back over the last year, he said he feels grateful “to work in service to the community I grew up in.” He also finds his work in public defense humbling – it’s made him more aware of his immense privilege.

“I try to live my life with self-awareness and gratitude, understanding that it’s all a kind of genetic lottery – that where I am is the result of circumstance not virtue, and the same is true for our clients,” he said.





# CIVIL COMMITMENT | SCU

## Helping clients return to the community

Every day, hundreds of people are locked within the Special Commitment Center (SCC) on McNeil Island, either civilly committed indefinitely or awaiting trial on the State's petition to have them committed. Mostly men, they've already completed a prison sentence for a sex offense. Alleged by the State to be sexually violent, they're sent to the SCC on the day they were to be released from prison, where they can linger for decades, even life.

Washington was the first state to create a process for the indefinite civil commitment of "sexually violent predators" (SVPs), detaining them not for what they have done but for what they might do. Since then, 19 states and the federal government have followed suit. According to a recent national study by the UCLA School of Law, Black men are vastly overrepresented in this population, facing a rate of SVP detention more than twice that of white men.

DPD has a small unit that fights hard on behalf of people detained indefinitely at the SCC. They represent clients in trial, working to keep them from being labeled an SVP and forced into civil commitment. They help those who have been committed get released into the community, either unconditionally or, more often, on what's called a "less restrictive alternative" (LRA) to total confinement. Attorneys also represent people in the community on an LRA who face revocation hearings or who are seeking unconditional release.

This past year, they were able to get seven clients released: One person won his trial and six moved into LRAs. "It was a good year," said Chris Jackson, who heads DPD's Special Commitment Unit (SCU).


The work of the unit is hard, due in large part to the nature of the trials – the client's whole life, not just a single incident, is under scrutiny – and the difficulty of finding housing for those released under an LRA. Success takes years, even decades, Chris said. Key to successful release is the work of Aimee Martin, the unit's mitigation specialist, who helps to identify and address clients' barriers to release, creates detailed individual release plans, and works with the SCC, other state officials, and treatment providers to implement the plan. Also key to success is the work of Deb Scott, an investigator, who tracks down housing options and locates long-lost family and other supports, and Doug Vavrick, a paralegal, who obtains records critical to attorneys' release arguments and organizes more than 20,000 pages of discovery per case.

What does success look like? Chris described one of their clients, a 72-year-old man who served a 50-year prison sentence, then went to the SCC for a couple of years, until he was finally conditionally released. "Aimee walked him through his first days and weeks outside of total confinement. She helped him register as a sex offender, apply for benefits, and go grocery shopping for the first time in over 50 years. She showed him how to use his stove, his dishwasher, and, most importantly, his cell phone. He's now back in the community."

DPD is also working on a policy level to effect change. The biggest issue has centered around community-based housing for clients released on an LRA, said Devon Gibbs, a public defender in the unit. Legislation passed last year shifting responsibility for identifying LRA placements away from defense attorneys and onto the state Department of Social and Health Services, which runs the SCC. This was a promising development, Devon said, but it had a rocky start: Just before final passage, the bill was amended to disallow LRA housing on sites within 500 feet of childcare facilities and public or private schools and to limit such homes to current local zoning laws.

The upshot was disappointing – some group homes already in existence no longer met these standards and finding new sites became much more difficult, Devon said. Over the past year, she co-chaired a subcommittee of the state's Sexual Offender Policy Board to address this issue, and

last fall, the stakeholder members of the subcommittee as well as the policy board unanimously agreed that these provisions should be removed from state law. Their recommendation was sent to the legislature, and new legislation is expected to be drafted.

"Taking these prohibitions out of the statute will be huge. We desperately need more housing for people who are trying to become members of the community again. Then we can start work on improving the DSHS LRA release process and help more of our clients finally get into their own homes in the community," she said. 

### "There are all kinds of ways we can be there for our clients."

Ashley Tillery, a legal assistant, finds her work supporting her division meaningful in many ways, but one part of her job particularly stands out. It's when she is answering the phones, takes a call from an anxious client, and can connect them with the right person. Or as she puts it, "When I hear that sigh of relief."

"I'm happy that I can help them feel calm in that moment," she said. "There are all kinds of ways we can be there for our clients. This is such a life-altering moment for them. Of course, the big things matter, like the quality of the representation. But the little things matter, too."

Ashley came to DPD in February 2020, a month before King County instituted work-from-home mandates due to the pandemic. Like the rest of the department's legal assistants, she had to be nimble, work with her team to develop new, paperless processes, and quickly adjust to a set of challenges no one could have foreseen. She's now working a hybrid schedule, and she has had to adapt to yet another set of new processes. "It's an ever-changing environment," she said.

But a part of her job has remained the same, she notes – and that is the myriad ways she can support clients and the attorneys who are providing their representation. "If it's the support staff or the whole legal team, we're all working towards the same goal," she said. "We're all trying to do the best we can for our clients."

As a legal assistant, she handles docketing, updates the case management system, uploads discovery, does conflict checks, and answers the phones. This past year, as trials resumed, she also had to run to the courtroom on occasion, providing clients with trial clothes or materials that an attorney needed. "Small victories," she calls them, because of the way they help the client or attorney feel supported and prepared.

Ashley studied criminal justice, forensics, and psychology as both an undergraduate and graduate student, where her interest in helping people made her realize she wanted to do client-focused work. Today, she says, she feels she's found the perfect job at DPD.

"Public defense is right in line with my values," she said.







### DPD's training program supports strong defense teams

DPD's training team strives to provide relevant trainings to people in every practice area and job class, helping employees develop additional skills, stay abreast of new developments, and become even stronger advocates for the people we represent.

Last year's program included a weeklong core skills training for new practitioners, taught by several of our own staff members and offered in person for the first time in several years. We also held an in-person annual gathering in an indoor-outdoor setting at the Seattle Center, bringing together our office for a day to connect with one another. Throughout the year, however, we continued to offer most trainings remotely.

Those trainings included ones from experts on new developments in science as well as the law. Other trainings helped to deepen our understanding of how structures of oppression operate in our work, highlighting the experiences of those most affected by the systems in which we work. We also offered DPD 101 and 201, trainings about the fundamentals of public defense or a particular practice area for staff who are not attorneys.

All told, in 2022, we offered 53 trainings, 25 of which were provided by DPD staff, with a total attendance of 1,500. We also arranged for staff to travel to 13 trainings in other parts of the country. In 2023, we plan to build on this strong foundation, ensuring that staff can continue to strengthen core skills and develop professionally and that our program is nimble enough to be responsive to staff requests and emerging developments.

### "It's the most rewarding work I've ever done."

Nick Dominique discovered that he could use his MSW in public defense by happenstance. He was working in community mental health with high-needs people when one of his clients was charged with assault. Nick found himself working not only with the client, but also his attorney, a public defender at DPD – and quickly felt tugged by the profession.

Now a mitigation specialist for DPD, he says he's found his calling. "It's the most rewarding work I've ever done."

A huge part of his job is writing mitigation reports – documents that attorneys use in their negotiations with prosecutors, at sentencing hearings, or in jury trials. He works hard to gain the client's trust, encouraging them to talk freely not only about the circumstances that landed them in jail, but their entire life. He gathers more information by interviewing family and friends. The process is meaningful, the outcome sometimes powerful. "We're there to hear their stories in a really intimate way," he said. "We hear things about their lives that they don't tell other people."

This past year, Nick said he felt encouraged by how the process sometimes helped clients, most of whom were incarcerated pretrial on felony charges. He described one client who had been incarcerated off and on since he was a teenager and was now facing sentencing on charges as a young adult. Over the course of several months, Nick got to know the client well. He brought in an expert who wrote a report identifying the psychosocial issues in his life; Nick supplemented that report by "telling his story in a non-clinical way." The combined report made a difference; the client's attorney, Sophia Posnock, was able to get a reduced sentence. "And at the end of the day, the client felt heard."

He also worked with Kim La Fronz, another attorney, in obtaining a mental health sentencing alternative for a client, a new law and one of the first times this alternative was sought. "It was an uphill climb every step of the way," Nick said. The client was facing up to 27 months in prison. Due to Nick and Kim's advocacy, he received 24 months of community custody instead – a success, said Nick. "He gets to live in the community. He's not in prison."

The work is challenging. The sheer number of cases weighs on him, as does the trauma of his clients' lives, a secondary trauma that takes a toll on him and others at DPD. Still, it's work that he loves, he said. "We get a chance to provide our clients with the dignity the system tries to strip away from them."





## FROM OUR UNIONS

### SEIU: Working to address external issues

This past year was a transformational one for public defense employees organized under SEIU Local 925. With the immediacy of COVID conditions waning, new stability in our management with Anita Khandelwal's reconfirmation as director, and the subsequent diminishing of internal emergencies, our bargaining unit was able to shift energy to addressing external systemic issues.

In January, we joined with the King County Corrections Guild in an unprecedented coalition to address inhumane conditions in our county's jails. Our efforts to mitigate the sweep of Omicron through a carceral system undergoing a staffing crisis made national headlines and led to conversations with local politicians, media outlets, and partners in criminal justice reform. Despite our pleas, little substantive change occurred. As the year unfolded, the situation worsened; jail guard attrition led to overcrowding in the outdated Seattle jail, forcing our members to endure hours-long waits to meet with clients, lengthy travel times to and from our Kent offices, and court delays as our client transports to hearings became spotty at best.

While our members did what they could to mitigate the immediate effects to our clients, our union gathered evidence of appalling conditions inside the jails. We confirmed stories of interrupted healthcare, solitary conditions that led to mental and physical distress, and irregular access to clean clothes, clean blankets, or even regular showers. During the summer of 2022, the jail's potable water pipes began spewing brown water, which compounded an already unacceptable situation. Our union gathered reports of water bottle rationing and subsequent dehydration of our clients, who were kept in their cells 23 hours a day as the guard staffing crisis persisted. While potable water finally returned, following inspections and testing for contaminants, other conditions inside of our jails have yet to improve.

Throughout our advocacy, however, we learned how powerful our voice can be when we raise it in unison. Our work on this issue is nowhere near done.

Our union also negotiated a new contract in 2022 which included sorely needed improvements. Our "legal administrative specialists" were formally reclassified as "legal assistants" with a 10% wage increase and a "lead legal assistant" promotion opportunity. Public defense attorneys made gains with higher step increases that reward longevity and experience, along with the ability to electively use the title "senior public defense attorney" once they've reached Step 12. All members are enjoying large general wage increase steps that will total 12.5% by 2024, as well as sizable union bonuses. Recognizing the need for workload assessments for our non-attorneys, the contract requires management to work alongside us to determine benchmarks for improvement.

Our membership made some concessions as well: We agreed to a standard one-year probationary period for new attorneys (recognizing management's difficulties evaluating an attorney's breadth of skill before permanency) and a small wage decrease for future case coordinators. Upon completion, our contract was approved by membership at a whopping 97%.

Internally, our stewards and union leaders met regularly with management at all levels, tackled HR concerns, answered member questions, researched contract language and labor law decisions, and held new employee orientations to familiarize our members with the work that we do.

Overall, a lot happened in 2022. We haven't touched on post-COVID policies that required in-office attendance for most employees, the high caseloads and low hiring due to COVID court delays and national recruitment difficulties, or, most importantly, ongoing morale issues as our members are forever overworked and overwhelmed with no relief in sight. These problems are some of the most important and most difficult to solve, but we will continue fighting alongside DPD management for further improvements in 2023.

**Molly Gilbert, President, DPD Chapter, SEIU Local 925**

## Teamsters: The frontline for addressing problems

The supervisors at DPD are represented by Teamsters Local 117, which represents approximately 22,000 people at nearly 300 places of employment throughout the region.

DPD supervisors strive to solve problems, support our staff, and inspire others. We focus on our clients and staff, we act responsibly and expeditiously, we champion racial justice, and seek to understand the bigger context in which our members work. We regularly attend the Public Defense Advisory Board's meetings to share developments with the panel as well as seek support for our critically important work. In our roles as supervisors, we are charged with a wide array of responsibilities, and none are more important than our responsibility to protect our clients and staff.

Our stewards work to meet regularly and, when issues arise, we are the frontline for lifting issues and concerns to the appropriate platforms for quick resolution. In 2022 we concluded negotiations for both large and small tables. Teamsters 117 bargains as a part of the King County Coalition of Unions, negotiating to address our collective priorities related to the Coalition Labor Agreement, including total compensation and employees' health care benefits.

Teamsters 117 strives to lift communities beyond the confines of our Collective Bargaining Agreements. In 2022 alone, we marched for Breast Cancer, "Painted Tacoma Beautiful," and donated nearly 700 blankets to those currently experiencing homelessness. In February 2023, we dedicated our Membership Meeting to assembling "comfort packages" for those who need small items while living on the street. There was an educational component to this activity where we discussed the circumstances and systems that perpetuate and exacerbate this pervasive problem. Additionally, members were able to take these comfort packages with them to distribute in their communities or where they see a need.

All people deserve dignity, and at Teamsters 117 we strive to live out our mission: "We build unity and power for all working people to improve lives and lift up our communities. This is our union."

**Rachael Schultz, President, DPD Chapter, Teamsters Local 117**

### DPD IN THE COMMUNITY

DPD employees often engage in community programs, external trainings, outreach events, and more, all with an eye towards supporting partners and sharing with others the work of public defense. One such event last year was the Washington Defenders Association's annual ethics conference held at the Century Ballroom in Seattle. Pictured here, Michael Schueler, a supervising attorney, leads a panel discussion about implicit bias, the need for diverse juries, and the importance of GR 37 in enabling defenders to challenge strikes by prosecutors in jury selection. Others on the panel from DPD were Jesse Dubow, Mahalia Kabsay, and Hong Tran.

