

Seattle City Attorney's Office Criminal Division Overview & Recommendations

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Seattle City Attorney's Office—Criminal Division Overview & Recommendations

I. Prosecution Philosophy & Office Standards

Distilling the Seattle City Attorney Office's (CAO) Criminal Division to its essence, the Division appears to have grown organically and has evolved into an office where many experienced Unit Chiefs and Assistant City Prosecutors (ACPs) have been short on direction from the very top of the office. This is by no means a criticism of the Unit Chiefs and ACPs; to a person, they are devoted to the CAO and its mission. But given little direction, they have had to adapt to processes, programs, and technology that do not always seem to complement one another and may create barriers to the efficient processing of cases.

Some of the processes the CAO uses seem like "bolt-ons." These are well-intentioned ideas—but likely no one paused to assess *how the Criminal Division as a whole should operate in a coordinated and efficient way with all of its component parts*. I might expect this in a prosecutor's office in a very small municipality with a handful of ACPs working closely together, but not in an office as large or as complex as the Seattle CAO.

One example is in the Specialty Court Unit (SCU) where programs appear to have been created and expanded, often driven by pressure from external entities (*i.e.*, Seattle Municipal Court, the City Council, etc.), without ever pausing to look at, or at least revisit, how the various courts should work in coordination. See the discussion on the SCU, *infra*.

Another example will help illustrate what I mean about the office's "philosophy." I had a few staff members tell me that when reviewing police reports for charging decisions, the office philosophy was that each report was reviewed without regard to whether the suspect had 0, 5, or 25 prior report referrals to the office. It is possible this "philosophy" emerged simply because discovering if the offender had other reports elsewhere in the office is technologically cumbersome and time-consuming. This genuinely surprised me; fortunately, I think it is a minority view and not one shared broadly. But it does tell me two things: (a) in the past, there was a disconnect between the top of the CAO to line staff and Unit Chiefs, and (b) the current case management system is often more a hindrance than help to the ACPs.

When I asked for the CAO's filing standards, I was provided over 70 different documents. Similarly, when addressing how the Review and Filing Unit (RFU) decides—in conjunction with an SCU ACP—who goes where in the Specialty Courts, it seems to involve a great deal of back and forth and far more “art than science.” To be clear, there are some standards and guidelines that do exist, but they appear to be the function of individual Unit Chiefs committing their Unit's practices and procedures to writing.¹

Having a single resource or desk book of filing standards, plea standards, who is eligible for which SCU, who makes what decisions, and all manner of other administrative processing of criminal cases *in one place* is well worth working toward. Doing so will: (a) provide needed direction and expectations for all ACPs and professional staff from top CAO leadership, (b) be a valuable resource to new ACPs and professional staff about how the office is organized and run, and (c) provide needed transparency to the public and other stakeholders about the office and its priorities.²

II. Separation of Powers & Separation of Functions

One of the more interesting issues is the extent to which the Seattle Municipal Court (SMC) seemed to drive policy matters under the former Administration. This is particularly impactful in the SCU, where some of the judges have weighed in on office policy regarding who should be eligible for some of the therapeutic courts.

For example, when I spoke with an ACP about “gating criteria” for defendants who would be eligible for Community Court, she conceded there had previously been numerous disqualifying offenses, but that pressure from members of the court to drop all prior offenses from precluding someone from entering Community Court was met with a “get along, go along” approach from CAO leadership.

By way of another example, RFU ACPs spend valuable time—time they no longer have—redacting certain information from police reports. I am aware that CrRLJ 4.7(d), (g), and other provisions allow certain steps to be taken for defense counsel to share police reports and other information with their client, and incorrectly assumed that was the reason for the time spent redacting police reports. However, I learned the redactions were done so that SMC could post the police reports on the Court's website. No one recalled why or when this practice started.

¹ For example, the Domestic Violence Unit has created their own standards. These could serve as a good start for office-wide implementation of standards.

² Numerous prosecuting attorney's offices put their filing and related guidelines on their offices' websites.

In other words, the Court appears to be directing and managing at least this one function of the CAO's workload. Aside from driving work from the SMC to the ACPs, one might also question if this is good public policy. For one thing, having an ACP review and redact police reports for the SMC to post on its website almost certainly removes the possibility for third-party notification to affected parties whose names and information may appear in the police report and who may elect to challenge the public posting of the report.³

The point here is that while the CAO and Court must work together, collaborate for a common good, and strive to get along, there is also a need for mutual respect and deference to their separate constitutional roles and responsibilities.

Ultimately it must be and should remain the prerogative of the elected City Attorney as to who should be eligible for therapeutic courts and who is not; that is not the role of the Court. All criminal referrals to CAO/SCU programs must be defensible in the "court of public opinion," and the Criminal Chief and the City Attorney should be comfortable with, and ultimately sign off on, who is eligible for each Specialty Court, who is not, and how they are run. Attention to the nature of the current balance between the SMC and the CAO merits attention.

III. Use of Data

It quickly became apparent that the CAO's ability to master and use data to assist in the management of the office and case processing was wholly inadequate. This problematic theme was reinforced during numerous staff interviews. In short, the current case processing system does not lend itself to "user-friendly" reports, so data was rarely used to create a picture of how the office was functioning. As a result, case processing in the RFU has been more by "feel," and it clearly has not worked.

In my interviews with RFU supervisors and others formerly in the RFU, they acknowledged that the Criminal Chief did not regularly use data to monitor RFU output. They seemed genuinely surprised at the data provided showing how many filings the RFU has done over the past year, that approximately 232 cases in the backlog had expired statutes of limitation, that approximately 50 more were within one month of expiring, or how many defendants had three or more pending matters in the office.

³ Some jurisdictions post police reports to a public-facing portal, but only *after* a public records request has been made and careful vetting of the report's contents, including for third-party notification, has been completed and the report released. The RFU ACPs simply do not have the luxury of time to perform a thorough vetting of these reports for third-party notification or other sensitive issues.

Similarly, it was often the case when an ACP was reviewing a case for filing, SCU consideration, or any other reason, that he or she was unaware, at least at times, of other cases involving the same defendant also pending review. This raises all sorts of issues, including the lost opportunity to clear out all cases involving a particular defendant by “batching” them into one universal plea agreement, determining if a defendant was appropriate for an SCU court, knowing who the prolific offenders are, and being able to determine if revocation from an SCU program is warranted as new charges come into the office.

The good news is that these problems are quickly being resolved. The new administration brings with it a new emphasis on using data to help manage the office’s work. Obtaining and providing useful—often critically important—data, and how to make the data understandable to ACPs managing the office, is long overdue.

In the RFU, at least four things should become consistent practices:

- (1) When reviewing a case for charges, the RFU ACP should always be aware of other cases pending against the defendant as well as other dispositions reached for the defendant (*i.e.*, is he or she in an SCU program?).⁴
- (2) The Criminal Chief, RFU Leads, and other Unit Leads must always be aware of their ACP’s workloads and case output, and take action *proactively* to avoid future backlogs before they become unmanageable.
- (3) No case should ever again go unreviewed before the statute of limitation expires.
- (4) Special attention should be paid to prolific offenders with several matters pending review.

IV. High-Priority Offender Program

The CAO does not currently target frequent criminal offenders for priority attention. This became apparent when data was pulled for offenders with three or more pending cases

⁴ In many offices, a simple numerical coding is created as every new police report comes in. For example, office file number for “John Doe: 21-xxxxxx-xxxx,” immediately identifies for the ACP that he or she is seeing the 21st referral for offender John Doe. As it stands now, ACPs must spend time querying a database that is slow and cumbersome to obtain this information.

in the office (to say nothing of prior matters elsewhere). There were 239 offenders in this category, representing roughly 5% of the current backlog.

This is a lost opportunity. We know that in any community, a small number of offenders will commit a disproportionately large number of offenses. Interdicting these offenders will result in a more visible impact to community safety and have a disproportionately positive impact on lowering the level of crime.

Similarly, working with the Seattle Police Department to identify those matters where a handful of “high impact” prosecutions may be merited is worth doing. One such example emerged from a meeting with the CAO’s Precinct Liaisons; at a popular Seattle gathering spot for young people, a young man drove his car in an exceedingly reckless manner and endangered numerous other people gathered there to watch. Prosecuting this individual would have communicated to all those assembled there that such acts carry consequences. Instead, no charges were ever filed.

Fortunately, the CAO is already considering a framework for a program to hold prolific offenders accountable. While challenges remain, *i.e.*, convincing the jail to actually book these offenders, implementing a High-Priority Offender Program will go a very long way in reducing crime in Seattle and should be implemented.

V. Professional Support Issues Related to Backlog Prevention & Reduction Efforts

(A) Filing and Case Preparation Support Functions

In the course of reviewing ACP resources needed to begin addressing the backlog, it was equally important to assess the professional staffs’ ability to handle a much higher influx of new filings. To assess this capacity, I met with the Criminal Division Manager, Prosecution Support Supervisor, and Case Prep Supervisor.

We initially discussed impacts from the new policy of filing cases coming into the office within five days. They agreed, at least initially, that there was no appreciable difference since they were still handling roughly the same volume of cases. In other words, it doesn’t matter *where* in the queue the cases come to them for filing and case prep; what matters is *how many* come to them.

Before the new system of filing cases in the same week they came into the office was implemented earlier this month, the office contacted *all victims and numerous witnesses* to see if they desired prosecution, would assist in the prosecution, and to inquire if they had any additional evidence such as photos. In past years, this was much more of an

“investigative” function; they would ask detailed questions and essentially “reinvestigate” the alleged crime working from the police report. Over time, this was unsustainable and evolved into just getting the “basics,” as outlined above.

If the prosecution support staff were unable to reach a victim by phone, they would then send out a letter to obtain the information before filing the case, regardless of what the police reports indicated about the victim or the crime. Finally, even after the victim’s wishes were known, the case prep team would then gather all discovery information and refer it back to the RFU ACP **before** filing the matter criminally.

Much of the way this old system came in existence was to address three things:

(a) needed discovery is often slow in coming from the SPD, (b) there is a practice of wanting every single piece of information potentially available before charging a case, no matter how tangential it may be, and (c) expectations of the court and defense bar about what is necessary for a case to proceed to trial.

It is clear this practice was also implemented to “weed out” cases from prosecution early on that might later become problematic due to concerns about victim or witness cooperation. One problem with this practice is that it may subtly signal to the individuals that *they controlled whether a criminal case would be brought*, not the CAO. And while there is no question that there will be many times where victims and witnesses must be contacted in advance of filing decisions, and their wishes are often very valuable, *doing it uniformly* is inefficient, unnecessary, and in my experience, bad policy and potentially dangerous.⁵

The new system essentially does away with a mandatory victim/witness contact approach, even when the police reports do not indicate it is warranted (and again, at times it will be necessary). This alone should result in a considerable time savings for the professional staff.

(B) Backlog Reduction Issues

We also discussed how best to support the work of the additional and significant case volume that will result from a concerted backlog reduction effort. It is clear that for short bursts of filing activity by non-RFU ACP’s and others (e.g., Special ACPs from outside the office), the CAO’s Damion system is going to be highly problematic.

⁵ In domestic violence matters especially, putting the alleged victim in the position of determining whether his or her abuser faced criminal charges opens that person up to even more pressure, more abuse, to “drop” the charges.

From conversations with ACPs who in the past took over a number of charging decisions, the Damion case management system is far from intuitive and slows down the ability to process filing and decline decisions quickly. I also learned that Damion has a limited number of licenses available, so additional filers may be unable to use it, or at least use it efficiently. The possibility of a Damion “work-around” or streamlining filing decisions must therefore be explored in order to file and decline cases quickly and, at the same time, ensure that all necessary data is eventually captured.

VI. Specialty Court Unit (SCU)

The CAO has several Specialty, or “therapeutic,” courts. Some are “owned” (e.g., they are created by and wholly run by the CAO), some are co-owned with the SMC, and others the CAO merely refers offenders to for participation. Each court has different functions, distinct “gating criteria” (e.g., who is allowed in and who is not), and different consequences for failing to comply with the *opportunity* to take part in a therapeutic court.

My preliminary thoughts, after a fairly extensive review of each “court” are:

- (1) There are numerous programs, both within the CAO and elsewhere, where the CAO refers offenders. Often, there are overlapping programs—for example, Mental Health Court, Veteran’s Court, LINC, LEAD, co-LEAD, and VITAL all touch on aspects of criminality and mental health. The question is if all are necessary or if there are efficiencies that can be realized in the use of CAO resources.
- (2) In many SCU programs, the gating criteria is extremely generous, and the trend is to become even more so. These courts often carry few or no consequences for noncompliant behavior.
- (3) Judging the success of the courts, with the exception of one or two discussed below, tends to be anecdotal. The ACPs charged with running the courts are “all in” and genuinely believe in the mission of their court and the success of their “clients.” Data regarding recidivism rates and the success of each court should be a priority.
- (4) Decisions regarding who gets into these courts are often made without knowing how many cases the offender may have in the office pending review. See section regarding “Use of Data.”

(5) ACPs all over the office see great value in the LINC/Mental Health Court program. These are among the most difficult cases the CAO must address, and taking these cases out of the RFU filing queue is extremely valuable.

(6) I found virtually no support from any source I consulted that the Community Court has value *in its current form*. From what I now know, and in the best-case scenario, its primary use is to divert cases from an already busy CAO.

(7) Several of these programs do not require the program enrollee to stipulate to the police reports. If the offender is noncompliant and the CAO desires to revoke them from the program, they will start from the beginning and be set for trial. The reality is that this will not happen in most cases, and noncompliance means they will still avoid a criminal conviction.

A. Pre-Filing and Pre-Trial Diversion Cases⁶

(1) Pre-Filing Diversion Cases

As the name implies, **Pre-Filing** Diversion cases (PFDs) are cases that are diverted from the RFU and earmarked for eligibility for diversion from criminal prosecution. There are written criteria that are thorough and used to determine how cases are processed and eligibility determined.

The genesis of the program is described as follows: “Neurological research shows this age group is not fully developed in their reasoning skills, so giving them a chance to change course is beneficial.” The program previously allowed victims of PFD offenders to veto entry into the program, but this was ended due to “equity” concerns.

My initial impression is that the CAO’s current policy is generous in terms of who is and who is not eligible for PFD. The following are the criteria that are excerpted from the PFD’s written standards (**emphasis added**):

- a. Age of Suspect
 - i. 16-24 years of age on the date of the incident
- b. Charging
 - i. Must be a case that SCAO would otherwise file
 - 1. Cases that would have been declined will still be declined

⁶ For brevity, I have removed all footnotes when citing to the program description. But many stated that exceptions were made regarding the stated program criteria.

c. Criminal History

i. **In general, prior criminal history will not be a barrier to eligibility as that barrier needlessly exacerbates racial disproportionality and often suggests that the traditional legal system's interventions were not successful. Persons assessed as having the highest level of criminal history (level 3) will be offered CHOOSE 180+.**

1. Exceptions:

- a) Person-related Crimes—individuals accused of person-related incidents that involve more than minor allegations are **ineligible for diversion where they have convictions for prior person-related crimes**;
- b) Firearms—individuals accused of incidents involving a firearm are **ineligible for diversion where they have convictions for prior firearm crimes**;
- c) Facts Specific to Incident—in rare circumstances individuals with prior criminal history may be **ineligible for diversion where the prior criminal history taken in consideration of the current incident indicate an extraordinary threat to public safety.**

d. Types of Cases

i. Eligible Categories of Crimes

1. Non-Domestic Violence Intimate Partner or Family, Non-DUI related

- a) Domestic Violence cases involving **current or former roommates may be permitted** subject to approval of the Criminal Division Chief.
- b) DUI, Physical Control, Negligent Driving, Hit and Run Attended with injury, Ignition Interlock Violation, and DWLS 1 will **not** be considered for PFD
 - i). DWLS 2 charges that are DUI-related will be diverted to CHOOSE 180+ which will include a requirement that the participant meet with CHOOSE 180's behavioral health specialist.
 - ii). **Minor DUI cases are diversion eligible.**
- c) UUW incidents may be permitted depending on the type of alleged weapon used, the circumstances of the incident, and whether the person has any prior criminal history involving weapons or any violent criminal history. Any incident involving use of a weapon to intimidate is ineligible for diversion.
- d) **Person-related crimes will be diverted unless the person is ineligible due to severity of crime including that the crime resulted in more than transient injury.** In rare circumstances, facts specific to the incident indicating an extraordinary threat to

public safety may also result in ineligibility. Individuals diverted for person-related crimes will be diverted to CHOOSE 180+.

- e) Firearm crimes related to possession only will be diverted unless the person is ineligible due to prior firearm criminal history. Incidents involving the use of a firearm to threaten another are ineligible for diversion. Individuals diverted for firearm crimes will be diverted to CHOOSE 180+.
- f) Prostitution crimes will be diverted. Sexual Exploitation crimes are not eligible for diversion.
 - 1. Recognizing the importance of connecting young persons involved in crimes of Prostitution to resources, individuals who would have had a charge of Prostitution filed against them if not for our internal filing policy will be invited to the CHOOSE180 Workshop and identified as Preventative Referrals.
 - a. If the person does not attend the Workshop, the incident will still be declined pursuant to internal filing standards.
 - b. If an individual eligible for diversion was previously invited to the CHOOSE 180 Workshop as a Preventative Referral in the past 12 months, then the case will be staffed with CHOOSE 180 to decide whether to re-refer the individual.
 - 2. Serious Treatment Needs
 - a) Suspects that would be better served through Seattle Municipal Court's treatment courts due to obvious **serious treatment needs will not be diverted through this pre-filing program.**
 - b) Suspects whose incidents are declined due to the suspect being held pursuant to the Involuntary Treatment Act (ITA), the Support Prosecutor will email the possible Legal Intervention and Network of Care (LINC) prosecutor to screen for a LINC referral.
- e. Suspect's Referred Reports
 - i. Must not have already participated in this program;
 - ii. **When suspect has an additional incident report(s) referred to the SCAO that is pending review for criminal charges:**
 - 1. **Up to four incident reports may be included in the PFD referral if they are for a PFD eligible offense; non-PFD eligible reports will be reviewed by filing prosecutors per office protocol.**
 - iii. If a suspect was recently screened out of Pre-Filing Diversion for failing to appear at Workshops, the PFD Paralegal will note to the Support Prosecutor whether there is a new phone number or email in the new report and/or whether there is another way to contact such as via a

defense attorney at SMC if the suspect is appearing at hearings on another case.

1. If there is no new way to contact, the Support Prosecutor will screen the case out. Before screening out, if victim/witness contact needed, Support Prosecutor will fill out a charging worksheet and give to Paralegal. Once workup is complete, Support Prosecutor can screen out the case to RFU for a filing decision with a Post File Letter ready in DAMION
2. If there is new contact information, Paralegal will update spreadsheet with a different color font to show new contact info and email Choose180 Outreach Specialist to alert them that we are referring again despite recent screen out because of the new contact information.
3. **A suspect that was screened out over 12 months prior for a previous charge may be considered for referral and screened out only if suspect has active warrants.**

f. Facts Specific to Incident

- i. In reviewing incidents for potential diversion, the **SCAO has an obligation and duty to consider unique public safety risks exhibited by the facts of each incident; the SCAO maintains ultimate discretion to forgo diversion where the risk to public safety is too significant to justify diversion.**

It is important to note that the PFD Unit tracks recidivism rates, something that most SCU courts appear to do. *It is reported that 92% of those enrolled since 2017 have not reoffended.* If accurate, this is a very high success rate. I was also advised by ACPs that there has been “pressure” by some to expand the PFD program to include offenders over the age of 24.

On average, 1,300-1,400 offenders have been referred to PFD, *but only approximately 40% show up for their initial appointment to the program.* Offenders get one additional chance to attend. PFD enrollees attend a four-hour class offered by CHOOSE 180 that is described as a “one-on-one workshop designed to provide participants individualized attention and the ability of CHOOSE 180 navigators ample opportunity to work with the young adults in a heightened way to address barriers to their success.”

(2) Pre-Trial Diversion Cases

It is important to note that while the PFD program resides in the SCU unit as a stand-alone program, there is another universe of diversion cases that resides *outside the*

SCU but still within the CAO. This program is the **Pre-Trial** Diversion (PTD) program and is run out of the RFU.

Unlike the PFD, the PTD allows for pre-trial diversion of other criminal matters and appears to reside with the RFU and Trial Teams Unit (TTU). These cases are addressed *post filing but pre-arraignment* and involve stipulating to the police report and a three-month dispositional continuance (e.g., continuance without findings) to complete whatever programming is agreed upon.

I am unaware of any written guidelines about what cases are and are not eligible for PTD. However, the supervisory ACP advised me that to be eligible for PTD, offenders *must have no criminal history* and must stipulate to the police reports in the event of a violation/revocation proceeding.

The requirement that Pre-Trial eligible offenders must have no criminal history of any kind is at odds with the Pre-Filing program where a wide variety of offenders are eligible. Subject to confirmation, this only make sense if the PTD offenders are those whose crimes make them ineligible for the PFD program. But again, I am unable to locate any written guidelines for the PTD program; however, it is described as a long-standing but rarely used sentencing alternative; most offenders now go to Community Court.

B. Legal Intervention & Network of Care (LINC)

The genesis and initial funding for this program was derived, at least in part, from the *Disability Rights WA v. DSHS* (“Trueblood”) settlement addressing mental health competency evaluations. The goal of LINC is to address offenders with mental health issues, though no formal mental diagnosis is required for acceptance.

There are certain crimes that bar entry onto the LINC program:

Disqualifying convictions

- Any felony defined under any law as a class A felony or an attempt to commit a class A felony; (Burglary 1)
- Criminal solicitation of or criminal conspiracy to commit a class A felony;
- Manslaughter in the first degree;
- Manslaughter in the second degree;
- Indecent liberties if committed by forcible compulsion;
- Kidnapping in the second degree;

- Arson in the second degree;
- Assault in the second degree;
- Assault of a child in the second degree;
- Extortion in the first degree;
- Robbery in the second degree;
- Drive-by shooting;
- Vehicular Assault – DUI or Reckless
- Vehicular Homicide – DUI or Reckless
- Assault 3 – LEO with taser; Substantial Pain; Bodily Harm; Resist/Apprehension

Crimes that do not count as disqualifying:

1. Any juvenile convictions, unless it is homicide or Assault 1
2. Assault 3 Health Care Worker
3. Assault 3 Law Enforcement Officer
4. Assault 3 Transit Employee

Exceptions: (only apply to COVID-19 OCA screenings).

1. Not disqualifying if conviction is outside of 10 years:
 - a. Robbery 2
 - b. Assault 2
 - c. Assault 3
 - d. Burglary 1

The stated goal of a LINC referral is to connect offenders with various community support systems, *i.e.*, housing, transportation, mental health services, medication-assisted treatment, and case management.

If an offender is not LINC-eligible for some reason, their cases are typically closed out due to competency issues, and most come from the I/C calendars. The supervising ACP's salary is funded by the Behavioral Health Program, and she (rather than the RFU) screens all offenders for eligibility.

C. Mental Health & Veteran's Court

(1) Mental Health Court

When asked what the difference was between LINC and Mental Health Court (MHC), it appears that LINC is designed for the lower-level mental health issues while Mental Health Court appears to target the more profoundly mentally ill. The two responsible ACPs work collaboratively with each other and the court clinician to decide "who goes

where.” Others in the CAO cited the great value these two ACPs play in disentangling the more difficult mental health issues from the more mainstream cases.

If accepted into the MHC, offenders stipulate to the police reports and agree to a dispositional continuance. They are then assigned a “probation counselor.” While there was no data available, one ACP believes 80-90% of participants successfully complete MHC. The only barrier to entry into MHC is if the matter involves a DV matter; when that occurs, a DV prosecutor must approve entry.

(2) Veteran’s Court

Other than an honorable or general discharge from the military, there do not appear to be a list of disqualifying offenses for Veteran’s Court other than that they are the same as for MHC. In the absence of written gating criteria, I asked if someone could get into Veteran’s Court with a murder conviction and was told “yes.” My sense is that the gating criteria is a “know it when see it” type of approach, aside from having to consult with a DV prosecutor.

As with MHC, Veteran’s Court enrollees stipulate to the police reports and agree to a dispositional continuance. The Veteran’s Court ACP is very supportive of the court; he stated that enrollees are able to communicate with one another in a way that they couldn’t in other programs. He pointed out that the Veteran’s Court could be bigger, since it only has 10 or 11 men in it, and could benefit from assisting female veterans.

D. Infractions

The CAO has had an ACP assigned to assist the court with infractions since 2014. The universe of infractions generally includes traffic, animal control, and serious traffic matters. This latter category involves Negligent 2 cases that typically involve a car-versus-pedestrian accident resulting in serious injury or death; there are a handful of these cases each year.

When available, the ACP is assisted by one or two Rule 9s, and they or the ACP handles the direct examinations when there are contested hearings. One of the bigger issues on the horizon is the increased use of photo enforcement. There are three traffic court calendars each week.

E. Community Court

Community Court has gone through at least two iterations in the past several years to address perceived deficiencies in the program. While the court has very detailed and

thorough written guidelines, two issues quickly emerged as I probed this program inside and outside the CAO: (a) virtually anyone and everyone is accepted into the program (some called it “universal acceptance”), and (b) even the written guidelines provide for virtually no sanctions in the event an offender does not comply with the program’s requirements.

I interviewed three former judges about Community Court; not one felt the program was even remotely worthwhile and it had become, in essence, a way to allow hundreds of offenders to avoid criminal charges or any other accountability or programming.

ACPs in the office were similarly candid that the program was “toothless.” Still others viewed the court as a safety valve that allowed the CAO and defense counsel to divert cases so they would be taken off the trial docket.

Problematically, when the responsible ACP reviews Community Court applicants, she employed a process to determine if the applicants had priors pending in the office and often found that they did. *In other words, Community Court often received referrals without knowing the extent of other pending cases in the office.* See, III. Use of Data, *supra*.

In sum, Community Court is a program that appears to be merely a revolving door to get offenders back into the community without stringent (or any) programming requirements and no leverage to make offenders come into and remain in compliance. The CAO might just as easily decline these cases and avoid the fiction that there is any real consequence for failing to comply as ordered. While it does work for “some,” the responsible ACP said a better way to populate this court would be to confine it to low-level offenders only.

F. LEAD/Familiar Faces

In its current status, this SCU consists of three separate programs. The programs are “owned” by other agencies, and the CAO refers offenders to each program. This program spends a great deal of time coordinating with other jurisdictions since they cross jurisdictional lines. The three programs are:

(1) LEAD

The primary “owner” of the program is the King County Prosecuting Attorney’s Office. Formerly called Law Enforcement Assisted Diversion (LEAD), the court now is called Let Everyone Advance with Dignity (LEAD). Despite the name change, there do not appear to be any substantive changes in approach.

LEAD was created in 2011 as a street-level program to address low-level drug crimes but has since evolved into addressing all low-level felony crimes. The CAO has about 850 offenders in LEAD.

(2) Co-LEAD

Co-LEAD was created around the beginning of Covid and was geared to getting offenders off the street and providing housing. The goal was to provide short-term and intensive treatment. The CAO has about 70 offenders in Co-LEAD.

(3) VITAL

VITAL was described to me by CAO staff as a pilot program to address high utilizers of jail space. To be eligible, the offender must have been booked into jail four or more times in a twelve-month period.

Handouts state VITAL "...aims to improve the lives of Kings County's most vulnerable individuals by shifting away from a criminal-legal response to homelessness and behavioral health crises to a coordinated health and human services response." The CAO has about 60 offenders in VITAL.

VII. Training

One theme I heard consistently is that there is no regular curriculum of training offered to ACPs. This was most frequently heard about the TTU where new ACPs were usually placed. As a result, the learning environment regarding how to become an effective trial lawyer appears to be "see one, try one, teach one." This can work in some instances, but only if the teaching ACP is highly skilled, has the time, and is a good teacher.

I am confident there are numerous, very experienced, former and current prosecutors and defenders who would offer pro bono services to teach a module on trial advocacy—some have already reached out to me. Curricula could be developed to fit into the busy schedules of the ACPs.

VIII. Civil Division Precinct Liaisons

As part of my review, I was not tasked to address the structure of the CAO Civil Division. I did, however, meet with the Precinct Liaisons and had several follow-up calls with them; they are among the most experienced ACPs in the office, had transitioned to their current roles from the Criminal Division, and had excellent insights about the Criminal Division.

The Precinct Liaisons have a mix of responsibilities; they attend community meetings, serve as legal and policy advisors to the office and to the SPD, facilitate follow-up on things such as discovery issues, and undoubtedly perform numerous other tasks. Some attention to how these positions may assist with the work of the Criminal Division ACPs is warranted. I can easily envision that these ACPs are better able to engage with SPD, facilitate communication, and solve problems for the Criminal Division.

IX. Hiring

In a phrase, the hiring process under the prior Administration involved too many ACPs, too many interview stages, took too long, and landed too few candidates. The current City Attorney has already changed this; there are now fewer interviews of candidates, the City Attorney sits on the panel, and she is positioned to make offers quickly, often the same day. This revised process will do more to impact office morale than most other things—people will be onboarded much closer in time to when a vacancy occurs, and office productivity will not be held hostage to excessive process.

X. Rule 9s

One of the many excellent suggestions coming from staff was the concept of paying Rule 9s. This obviously carries with it budgetary implications, but there are several benefits in doing so if the budget permits it:

- (1) It will provide an avenue to get law students interested in a job as an ACP,
- (2) It will allow the CAO to “audition” Rule 9 law students and make early employment offers; and
- (3) It allows financially disadvantaged students the ability to take a position with the CAO when their finances require them to secure a paying job for the summer.