



Seattle
City Attorney's Office

Ann Davison, City Attorney

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May 26, 2023

Via Email

Honorable Judge Faye Chess, Presiding Judge
Honorable Judge Andrea Chin
Honorable Judge Anita Crawford-Willis
Honorable Judge Willie Gregory
Honorable Judge Catherine McDowall
Honorable Judge Damon Shadid
Honorable Judge Pooja Vaddadi
Seattle Municipal Court

Ms. Anita Khandelwal
King County Department of Public Defense

RE: Termination of Seattle Community Court 3.0 Agreement

Dear Seattle Community Court Stakeholders:

Three years ago, the previous City Attorney signed an agreement with Seattle Municipal Court and Department of Public Defense to establish Seattle Community Court 3.0, the third attempt at a community court in Seattle in the past 12 years. Notably, Community Court 3.0 is a significant departure from prior versions and community courts in other jurisdictions. The agreement mandated that a large swath of misdemeanor crimes be automatically routed into Community Court, without regard to the seriousness of the offense, the criminal history of the offender, or the offender's past failures following the requirements of Community Court. Moreover, Community Court 3.0 mandated that participating defendants be immediately released from custody, and that they face few, if any, consequences for months and sometimes years of failures to engage in the requirements of the court.

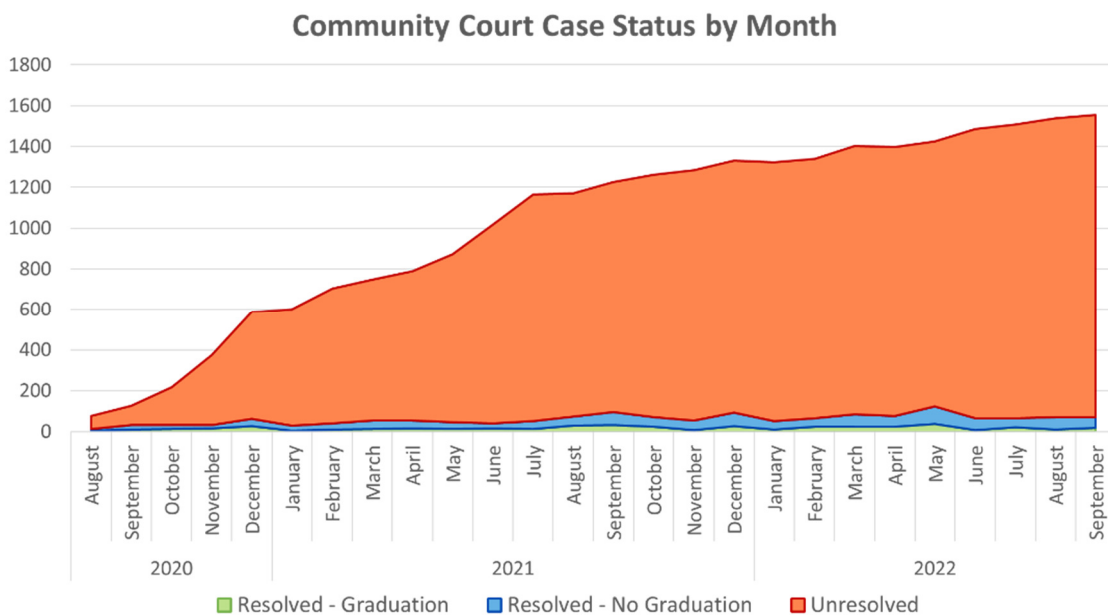
After nearly three years of operation, we have clear data regarding outcomes and effectiveness. Metrics illustrate that most defendants entering Community Court 3.0 fail to engage with court resources, fail to resolve their cases, and never perform even the minimal 6 hours of community service that was a central component of the Community Court 3.0 operating agreement. Over the same time span, Seattle has seen a marked increase in misdemeanor crimes such as theft, trespass, and property destruction – all crimes that are mandated to be diverted to Community Court under the existing agreement.

For these reasons, and as further outlined below, City Attorney Davison and I have decided to end the City Attorney’s Office’s participation in Community Court 3.0, and instead shift cases where the defendant is likely to engage with service providers to a pre-filing diversion model. This letter serves as the City Attorney’s formal notice of termination of the Community Court 3.0 agreement.

As of Monday, June 12, 2023, no new cases will be referred to Community Court 3.0. For cases currently pending in Community Court 3.0, we plan to dismiss a significant number of cases that were filed prior to January 1, 2022. We propose (for discussion with Seattle Municipal Court) that all other cases currently pending in Community Court 3.0 that do not resolve within the next three months be transferred to mainstream Seattle Municipal Court. The City Attorney’s Office will work closely with the Seattle Municipal Court to mitigate the impacts of this transition. Some of the reasons for this decision and transition plan are outlined in more detail below:

1. Only 22 Percent of Defendants Have Completed Community Court 3.0’s Minimal Requirements

Since its inception in 2020, 3,539 cases and 2,237 unique individuals have been referred to Community Court 3.0. In order to graduate, most participants only had to participate in an assessment with a pre-trial service counselor and attend a 90-minute life skills class. Despite the court’s stated emphasis on rapid resolution of cases, only 501 individuals (accounting for 725 cases) have ‘graduated’ from Community Court successfully. In other words, Community Court 3.0 has a meager 22 percent graduation rate even with low requirements. In fact, the majority of defendants never ‘opt in’ to Community Court 3.0 and stay in a limbo status with outstanding “Orders to Appear” or \$25 bench warrants. Over time, this has resulted in a huge volume of unresolved and unaccounted for cases as shown in the chart that follows:



One result of this failure of defendants to engage with Community Court 3.0 is a large volume of wasted hearings where the defendant is not present and the cases are simply set over for the next month (often to be repeated again). In fact, in 2022, defendants were only present at one in every three hearings.

2. Community Court 3.0 Does Not Screen for Defendants with Serious Criminal Histories

Community Court 3.0 allows defendants to avoid jail time for a wide variety of the most common misdemeanor crimes in Seattle, regardless of the individual defendant's criminal history. This has resulted in a significant number of defendants with lengthy felony and misdemeanor criminal histories having new misdemeanor cases routed to Community Court 3.0, even while they had felony cases pending. Further, some of these defendants are not even transferred out from Community Court 3.0 when they commit new offenses – even felonies – after having been released under the court's "release-first" model.

To partially mitigate this concern, in April 2022, City Attorney Davison requested that the Seattle Municipal Court exempt approximately 100 'high utilizers' – individuals who had committed a significant number of repeat crimes – from participation in Community Court 3.0.¹ The Seattle Municipal Court agreed. That exemption was able to help screen out some individuals who were fundamentally inappropriate for the Community Court's 'harm reduction' model.

An illustrative example, William P., entered Community Court in 2020 despite a long out-of-state criminal history, two Washington felonies, and 16 misdemeanor cases in Seattle Municipal Court. From 2020-2022, William P. had 21 cases sent to Community Court 3.0. He failed to appear regularly on those cases, subsequently resulting in 140 court hearings. While those cases were pending, new allegations of misdemeanor offenses continued to be automatically routed to the Community Court 3.0 docket. Contemporaneously, he accumulated three additional felonies. It was not until he was identified as a high utilizer that the City Attorney's Office was successful in getting William P. screened out of Community Court.

Despite the high utilizer exemption, a significant number of inappropriate cases and individuals continue to be automatically routed to Community Court. For example, on March 5, 2022, Ryan P. had vehicle prowl and property destruction charges automatically referred to Community Court 3.0. At the time, he had six pending felonies in King County Superior Court: Possession of a Stolen Vehicle; two counts of Residential Burglary; Taking a Motor vehicle; Unlawful Possession of Firearm in the First Degree and an Attempt to Elude. Following a series of continuances, Ryan P. opted into community court on both cases on May 12, 2022. He completed his assessment that day. Ten days later, on May 22, 2022, Ryan P. was arrested and charged with multiple new felonies including attempted kidnapping, attempted robbery, theft of a motor vehicle and assault for carjacking a car in Ballard with a five-year old child inside. Despite

¹ See <https://www.seattletimes.com/seattle-news/politics/seattle-city-attorney-issues-formal-request-to-prosecute-repeat-offenders/>

these new felony charges, he was allowed to remain in Community Court 3.0 until he subsequently elected to opt out.

3. *Community Court 3.0 Does Not Screen Out Serious Offenses*

Under the Community Court 3.0 agreement, 24 different misdemeanor offenses accounting for approximately half of the non-traffic/non-domestic violence crimes filed by the City Attorney’s Office are automatically routed to the court. There are no exceptions for criminal history (except high utilizers discussed above) or the seriousness of any particular offense. The offenses that are currently eligible for Community Court 3.0 are:

| Level 1 Offense | Level 2 Offense | Level 3 Offense |
|---|---|--|
| <ul style="list-style-type: none">• Criminal Trespass 2 (non-residential)• False Reporting (Giving False Identification only)• Trespass in Park• Disorderly Bus Conduct• Theft (recovered property/ not damaged)• Appropriation of Lost/Misplaced Property (recovered/not damaged) | <ul style="list-style-type: none">• Criminal Trespass 2 (residential)• Criminal Trespass 1 (non-residential)• Obedience to Officer/Firefighter/Flag• Pedestrian Interference• Unlawful Use of Weapon (possession only)• Theft (un-recovered / damaged)*• False Reporting (Making False or Misleading Statement)• Possession of Stolen Property• Appropriation of Lost/Misplaced Property (unrecovered/damaged)• Attempted Trafficking of Stolen Property in the 2nd Degree | <ul style="list-style-type: none">• Criminal Trespass 1 (residential)• Property Destruction*• Obstruction (refuse to cease activity; refuse to leave scene; or disobey order to stop)• Refusal to Stop• Refuse to Give Information• Resisting Arrest• Vehicle Prowl*(reviewed on an individual basis)• Burglary or Auto Theft Tools |

In many situations, significant criminal acts are routinely routed to Community Court 3.0. For example, on January 14, 2023, Michael D. was arrested for commercial burglary in SODO. He had crawled under the fence of a secure business and was throwing items back over the fence when he was disrupted by a bystander and subsequently arrested. The case was not charged by the King County Prosecuting Attorney’s Office and was instead sent to the City Attorney’s Office, which charged Criminal Trespass-1, which was automatically routed to Community Court. Michael D. was immediately released from custody pursuant to Community Court 3.0 protocols. Two weeks later, he was arrested for a high-profile residential burglary in Wallingford where he barricaded himself inside and did tens of thousands of dollars in property destruction requiring a full SWAT response.²

In another example, David A. was arrested in October 2021 for criminal trespass, theft, and assault when he entered a store in North Seattle that he had been previously trespassed from,

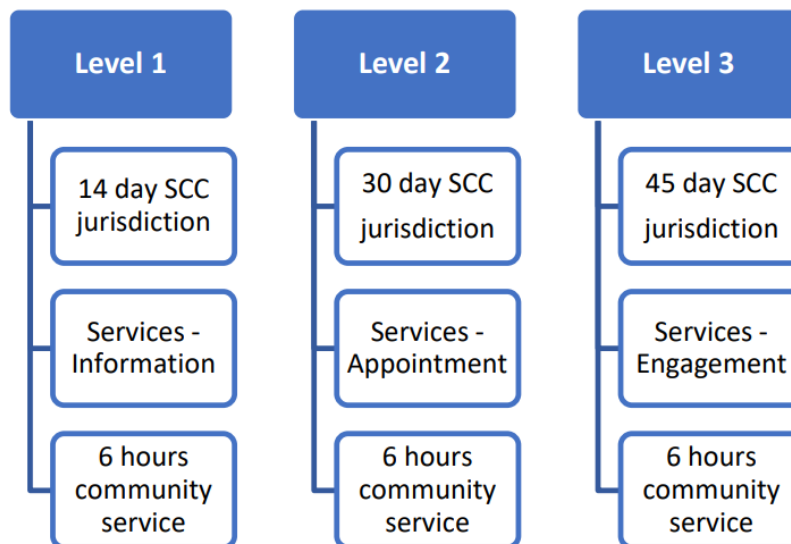
² See [SWAT Team Arrests Burglar After He Locks Out Homeowners, Vandalizes House - SPD Blotter \(seattle.gov\)](https://www.seattle.gov/spd/blotter/2023/01/14/swat-team-arrests-burglar-after-he-locks-out-homeowners-vandalizes-house)

stole \$612 worth of merchandise, and assaulted a loss prevention officer in the process. The assault charge was subsequently dismissed and, despite the seriousness of the offense and the fact that the defendant had 8 pending cases in Community Court, David A.’s case was re-routed to Community Court 3.0. While these cases sat in Community Court 3.0, David A. accumulated three additional felony cases. On February 24, 2022, David A. “graduated” from Community Court 3.0 (having completed only the 90 minute life skills class to resolve all his cases) and his 9 cases were dismissed. Months later, David A. was charged with felony burglary after returning to that same store and destroying over \$1,000 of property while attempting to steal over \$1,800 worth of merchandise.

4. Community Court Has Eliminated Any Meaningful Community Service Requirements

Under the original design of Community Court 3.0, defendants would perform 6 hours of community service in lieu of traditional criminal justice consequences like jail or fines. During the pandemic, the community service requirements were understandably put on hold temporarily. Now that the pressures of the pandemic have reduced, however, the obligation to perform community service has not returned. These negotiations have dragged on for months without resolution. As shown in the below graphic from the Community Court 3.0 Policies and Procedures manual, community service was a fundamental component of the 2000 agreement.³

SCC REQUIREMENTS MODEL



Community service was an essential and fundamental component of the original conception of Community Court and the agreement that was made, yet currently there continues to be strong resistance to sticking to the re-inclusion of community service requirements.

³ Available at: [POLICIES & PROCEDURES \(seattle.gov\)](https://www.seattle.gov/policies-procedures)

5. Shifting to a New Model of Pre-Filing Diversion

Ann Davison and the City Attorney's Office continue to support the principle that some defendants are best served by an alternative to the traditional criminal justice system, particularly those defendants who are able to meaningfully engage with service providers and/or are able to perform community service. For those defendants, the City Attorney's Office plans to significantly expand our pre-filing diversion programs. These eligible defendants will not have charges filed if they meaningfully engage with designated service providers.

Other defendants who have a history of not being able to engage with court requirements or court services will have their cases filed in mainstream Seattle Municipal Court. That is the right place, in our view, to ensure the appropriate balance between public safety and the individual unmet needs of defendants. We acknowledge that this shift in caseload will have an impact on court operations and we commit to working with the Court to ensure a smooth transition.

6. Dismissal of Older Community Court 3.0 Cases

The extraordinary accumulation of unresolved Community Court 3.0 cases makes it impractical to suddenly transfer all those cases to mainstream Seattle Municipal Court without threatening to overwhelm court systems and calendars. In recognition of the practical challenges that this would create and the staleness of many of those cases, the City Attorney's Office plans to dismiss charges in a significant percentage of older Community Court 3.0 cases. That will include a majority of cases that were filed prior to January 1, 2022. We believe this is the best way to address the large backlog of unresolved cases. All other defendants with open Community Court 3.0 cases will be encouraged to resolve those within the next three months.

Conclusion:

The City of Seattle faces many urgent public safety challenges. It is essential that our municipal criminal justice system adapt to the rise in crime and the difficult behavioral health issues posed by many of our defendants, particularly those with addiction to fentanyl and methamphetamine. I believe that this letter outlines an initial step in the right direction and I look forward to working with you to address the changing needs of our city.

Sincerely,

/s/ Natalie Walton-Anderson

Natalie Walton-Anderson
Criminal Division Chief