



## Department of **PUBLIC DEFENSE**

### Department of Public Defense call on courts, prosecutors to take measures to protect health, safety of defendants and court personnel

For Immediate Release: March 18, 2020

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Seattle - The King County Department of Public Defense (DPD) has asked the King County Superior Court and the King County Prosecuting Attorney's Office to temporarily suspend certain criminal proceedings to protect the health and safety of criminal defendants, public defense staff and court personnel.

DPD has also asked the court and prosecutors to work with DPD to develop booking criteria in order to limit the number of people sent to jail and to develop release criteria to enable some defendants to go home on electronic home monitoring or other release conditions. Currently, there are about 2,000 people being held in the county's two jails.

The requests come at a time when many court practices continue in King County Superior Court, despite orders by the county's Public Health Officer to severely limit group gatherings in an effort to slow the COVID-19 pandemic. On Monday, Room 1201 in the King County Courthouse was packed with out-of-custody defendants who were there for arraignments in response to a court summons. Nearly everyone in the crowded room was a person of color.

Anita Khandelwal, DPD director, has sent a letter and subsequent emails to King County Superior Court, expressing her concerns. So far, the court has not acted. Out-of-custody arraignments are scheduled to continue every day this week.

"Emergencies such as the one we're currently facing test our legal institutions and their resolve to uphold our shared standards of fairness, decency and equity," Khandelwal said. "Right now, we believe King County Superior Court is failing that test. And we worry about the ramifications, should faith in these important institutions further erode and should COVID-19 reach our jails."

The situation is particularly troubling for her staff, she added. "Prosecutors and judges are able to practice social distancing, even in a crowded courtroom. Public defenders are not. They stand close to their clients, talking quietly with them, in an effort to represent their interests. I'm troubled by what the courts are expecting of the people who work here. It's not right."

Other actions that DPD has sought so far include the following:

- DPD has asked the Seattle City Attorney's Office and the King County Prosecutor to collaborate on booking criteria so as to limit the number of people booked into jail.
- DPD has asked the King County Prosecutor to identify individuals who are currently incarcerated and could be placed on house arrest or released.

- DPD has sent to the City Attorney's Office a list of individuals who are incarcerated pre-trial due to bail imposed for nonviolent misdemeanor offenses by Seattle Municipal Court, as well as those who have been incarcerated due to a prior failure-to-appear charge; DPD has asked that these individuals be released.
- DPD has asked the King County Prosecutor to prioritize hearings that may result in the release of individuals who are incarcerated.

Both the City Attorney's Office and the King County Prosecutor say they are working to address some of these issues. The department, however, believes urgent action is needed because of the number of people who remain incarcerated, many pre-trial or on minor charges, who are unable to take steps to protect themselves.

DPD's attorneys, meanwhile, have been filing motions for release due to the public health crisis in adult court for individual clients who are currently being held in jail pre-trial. Some judges have responded to public defenders by saying that COVID-19 does not represent a change in circumstances and thus another bond hearing is unwarranted, absent specific medical information as it pertains to a particular defendant or agreement by the State.

Superior Court's actions in adult court stand in stark contrast to those of King County Juvenile Court, where several measures have been implemented to protect youth respondents, their families, DPD staff and court personnel.

Juvenile Court is holding only essential in-custody hearings so as to ensure that youth and families are not coming into the courthouse unnecessarily. In addition, the probation department and prosecutors are working with public defense to recommend some youth for release to electronic home monitoring. The King County Prosecutor, Juvenile Court, and the probation department are also working with DPD to adopt more restrictive booking criteria.

Khandelwal urged the courts and prosecutors to immediately take similar steps for adults in the criminal legal system.

"We are deeply concerned about the health of our clients and our staff," she said. "It's imperative that the courts, the prosecutors and others in the criminal legal system recognize the dire situation we're facing and follow the urgent advice of our public health officials."

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