

DANIEL T. SATTERBERG  
PROSECUTING ATTORNEY



Office of the Prosecuting Attorney  
CRIMINAL DIVISION  
W554 King County Courthouse  
516 Third Avenue  
Seattle, Washington 98104  
(206) 296-9000

12 August 2019

**MEMORANDUM**

TO: Jenny Giambattista  
FROM: Dan Clark  
SUBJECT: Parity Study

Hi Jenny:

You asked me to respond to the 8 questions listed below (listed in red). See my answers following each question. Please let me know if you have any questions about my responses, or additional issues. Thanks so much for the opportunity to respond.

1) In Exhibit 5 (page 11) of the report, there is a large difference in the number of PAO and DPD Supervisors and Support staff for Superior Court cases. What explains the difference? I do recognize that PAO has more cases because you must staff ALL cases, but interestingly the number of attorneys is relatively similar whereas the number of supervisor and support staff is a lot more.

To best answer this question, I needed to see the data that Anna Markee relied upon to generate the numbers. Kapena Pflum provided me the spreadsheets that Anna was working with. Upon further examination, I noted a few parts of Exhibit 5 (page 11) that I think should be corrected. Your question is directed at the top of Exhibit 5 which lists 64 “Supervisors & Support” for the PAO Superior Court.

**Exhibit 5. Court Staffing by Department, 2019<sup>8</sup>**

Court	Position Type	PAO	DPD
Superior Court	Attorneys	74.7	71.7
Superior Court	Supervisors & Support	64.0	30.0

Based on the data Anna was looking for, this number should actually be 50.0. There are 15 Attorney Supervisors, 10 Staff Supervisors and 25 trial paralegals. Some of the Staff Supervisors are double counted in the chart because they are also counted in a section below (listing PAO Filers & Support, Advocates, and Records and Discovery) and therefore should be removed here. In one instance, we inadvertently identified 2 paralegals reporting to the Chief

Administrative Manager when there should have only been 1. Finally, some of the count appears to include student interns.

While this number (50) is still higher than DPD's "supervisors & support" (30), that may be accounted for based on 3 potential factors:

- a. The staff in PAO are paid only for a 35 hour work week. DPD pays their staff for a 40 hour work week. Put another way, PAO would need to have 12.5% more staff to cover the same amount of work as DPD's staff.
- b. DPD lists 35 "DPD Investigators" on their staff (listed at the bottom of the chart.) It would be important to define exactly what work these investigators do to see if any of the tasks they do are equivalent to those performed by the PAO "Supervisors & Support." If so, that could explain some of the disparity since they are separately listed at the bottom of the chart.
- c. As you noted, approximately 22% of the PAO Superior Court case load comes from criminal cases that DPD does not staff at all. Put another way, to be comparably staffed for each case, PAO would need 22% more attorneys and staff overall.

2) **Same question for juvenile court. Additionally, do the 13 supervisors and support staff include diversion program staff?**

The 13 "Supervisors & Staff" includes: 2 attorney supervisors, 3 paralegals, 6 clerical staff and 2 "other staff." These staff members handle the diversion cases in addition to the Juvenile Superior Court Cases. There are no additional staff to address diversion cases.

3) **Same question for District Court.**

The 21.4 District Court "Supervisors & Staff" number includes: 4.4 attorney supervisors, 10 paralegals, and 7 clerical staff (2 of the 7 are students.) These staff members handle all aspects of District Court.

4) **Do you think there is parity in the current staffing and budgets between the PAO and DPD?**

As noted in the Venn diagram of the report (Exhibit 3, page 9), the parties perform significantly different work. There are a number of tasks that are unique to the PAO Criminal Division: reviewing search warrants, filing criminal cases, collecting and providing discovery to defense, setting arraignment calendars, running criminal history, handling appeals, working with DV victims, collecting restitution documentation, etc. DPD also has unique work: mitigation, dependency, municipal court. In the middle of the diagram (comparable tasks), there are court calendars, trials, ITA Court and Juvenile work. Ideally, both sides should be adequately funded to meet these various needs. However, when DPD has hit their caseload "limit," they assign overflow cases to "conflict/capacity" counsel. As such, they are assured to maintain a certain level of staffing to adequately address their workload. The PAO does not have the same opportunity. Instead, the PAO shifts from existing resources to triage caseload needs. As a result, older, less violent cases, sit in a backlog waiting to be filed. In that backlog are DUIs, property offenders and drug addicted individuals. Having their cases sit idle benefits no one. Additionally, in some instances, the PAO has made a policy determination to not file certain types of crimes to meet staffing and budget needs. Finally, the PAO continues to handle a much

larger piece of the filed cases in Superior Court (22%), Juvenile Court (19.96%) and District Court (37.22%) than DPD. The best way to address proper funding would be to divorce the idea of parity entirely. The parties do different tasks, with different responsibilities, with staff paid at a different rate, with different caseloads. To have a robust criminal justice system each side should be examined individually to ensure core functions are adequately addressed.

5) **If not, do you recommend any staffing level changes to either PAO or DPD to achieve parity?**

I cannot speak for the staffing levels of DPD. For the PAO, there are significant deficiencies that should be addressed. As previously mentioned, filing backlogs benefit no one. The parties are working with staler cases and defendants have either continued to reoffend or moved on with their lives. Compounding that issue, cases have continued to get more complex over the years with the proliferation of body cam, dash cam, surveillance cam, cell phone tower data, cell phone data, DNA etc. A robbery case 10 years ago looks nothing like the same case today. That added level of complexity requires more PAO resources to assist with reviewing complex search warrants, making filing decisions on the case, processing the complicated electronic discovery, digesting and organizing the data, and presenting the cases in court. This leads to later resolution dates which further inhibit case turnover. For DPD, they can use "capacity" counsel to address slower case turnover but the State does not have that option.

Furthermore, while the State provides victim advocacy for DV victims and families of homicides, we are not funded to offer the same services to victims of other crimes. Victims of shootings, robbery, kidnapping, stabbings have no advocate or navigator. In many instances, PAO staff picks up the slack but this is in addition to their other defined job duties. The PAO should be funded to provide victim advocacy and navigation to the thousands of victims in the county. This is also an ESJ issue since we know that an overwhelming majority of our violent crime victims are marginalized and/or people of color. Being able to adequately direct these victims to services around the county should be properly funded.

6) **Can you disaggregate the Supervisor and Support numbers in exhibit 5?**

Yes, see answers 1, 2 and 3.

7) **Please describe to what extent PAO attorneys use paralegals/legal assistants in their work. I'm trying to understand if perhaps DPD and PAO use a different staffing model for legal work. Perhaps PAO uses paralegals more routinely than DPD to do the legal work?**

Paralegals assist in several ways in our Criminal Division. We have paralegals in our Discovery Units that review and process discovery with little to no supervision by DPAs. We also have paralegals that assist with cases at the EPU stage (prior to trial set) and Western State Hospital matters. There are also several paralegals assigned to our diversion programs. The majority of our paralegals are assigned once a case is set for trial (typically after the case setting hearing.) They work with the lawyers to organize discovery, set up witness interviews for defense counsel and the defense investigators, and subpoena and organize witness schedules.

8) **Does PAO have a Supervisor ratio requiring a supervisor for every X number of staff?**

No, there are no fixed ratios.