



MEMORANDUM

TO: M. Lorena González, Chair of GESCNAEd Committee, Seattle City Council
Teresa Mosqueda, Vice Chair
Rob Johnson, Member

FROM: Pete Holmes, Seattle City Attorney
Kelly Harris, Criminal Division Chief

SUBJECT: Pre-Filing Diversion Program Progress Update

DATE: April 25, 2018

Introduction

The Seattle City Attorney's Office (the "CAO") is pleased to provide City Council with an update on the implementation of the pre-filing diversion program and brief councilmembers at the Gender Equity, Safe Communities, New Americans & Education Committee (the "GESCNAEd") with our community-based partner Choose 180. We have attached a copy of our presentation for your review - *please see Attachment A*.

CAO is committed to using our prosecutorial discretion to advance justice through alternatives to traditional prosecution and incarceration. Pre-filing diversion gives prosecutors the ability to decline filing criminal charges on an accused individual and provides an opportunity for the individual to be held accountable for his/her actions while receiving supportive services to make better choices.

We recognize the criminal justice system disproportionately impacts communities of color and that the filing of a criminal charge, regardless of the ultimate disposition, produces life-long collateral consequences for the accused individual such as barriers to education, employment and housing. Our commitment to pre-filing diversion and reducing the negative impact to young adults for certain misdemeanor offenses is rooted in both scientific research about brain development and best practices in criminal justice reform policy.

2017 Racial Equity Toolkit Analysis

CAO requested funding for a pre-filing diversion program in its 2017-2018 budget. In 2017, the Council appropriated partial funding in CAO's budget for pre-filing diversion services. Council also directed the CAO to conduct a Racial Equity Toolkit (RET) on the pre-filing diversion program. Early in 2017, CAO began working on a RET for the Mainstream Pre-Filing Diversion Program, which we launched as a pilot in September, while also continuing to do community engagement and outreach for the RET. Throughout 2017 and 2018, we have been engaging in the RET process and have been building a relationship with the Seattle Office for Civil Rights (the "OCR") around this work. As a direct result of the community engagement for the RET, we changed from a plan to divert through the Court to a truly community developed and supported diversion program. We are improving and

expanding the program as we continue to engage and build relationships with community. The results of the RET analysis is attached to this memo. *Please see Attachment B.* We remain committed to ongoing work in racial equity analysis and evaluation as we grow the pre-filing diversion program.

2017 Pre-filing Diversion Pilot Results

The Mainstream Diversion pilot program focuses on young adults 18-24 years old for misdemeanor offenses such as retail theft, criminal trespass, and minor in possession of alcohol to name a few of the eligible offenses for diversion. This Mainstream Diversion program started in September 2017 and Choose 180, our community partner, held four workshops.

In partnership with Choose 180, we diverted 98 fileable cases involving 88 young adult participants across four workshops from September 2017 through December 2017. The number of cases exceeds the number of participants because we allowed for diversion on more than one incident report. There were six young adults who were diverted on more than one case. We referred 199 participants on 246 reports. As for the charges diverted, 10 of the 98 incidents would have resulted in more than one charge. Thus, these statistics reflect that at least one of the diverted charges would have been:

- 72% Theft;
- 17% Criminal Trespass;
- 16% Minor in Possession of Alcohol;
- 5% Obstruction;
- 5% Vehicle Prowl;
- 3% Property Destruction;
- 3% False Reporting;
- 2% Resisting Arrest.

We have attached a separate 2017 Pre-filing Diversion Project summary with more information and analysis of the population served, the outcomes achieved, and savings in public defender and jail costs related to this program as *Attachment C* to this memo.

2018 and Beyond - Expansion of Diversion Programs

The CAO is optimistic and committed to continuing to grow this young adult diversion. We have expanded the types of crimes eligible for diversion and have requested Seattle Police Department's assistance in providing additional contact information in hopes of reaching more of the individuals being referred for diversion. Furthermore, we have learned that it is essential to connect young adults to services after the workshop if we want to ensure a lasting impact and reduce recidivism. In contracting with Choose 180 for 2018, Choose 180 requested funding for a dedicated young adult outreach and intake specialist who would provide intensive outreach before the workshop and work with the young adults afterwards to connect them to services. During our Racial Equity Toolkit engagement, we continually heard from community that funding community for aftercare was essential and after struggling to make this connection in 2017, we decided to specifically fund Choose180 for this work in 2018. Prior to the first workshop of 2018, Choose 180 engaged with 100% of the participants. Furthermore, Choose 180 engaged nine of the 23 participants in aftercare services following the first workshop of 2018.

In addition, we expect to expand the Pre-filing Diversion program to also cover the following offenses:

- **Non-Intimate Partner Domestic Violence Diversion Program**
The CAO is hoping to start a racial equity toolkit (RET) on young adult non-intimate partner domestic violence diversion this Spring. We plan to use money from the carry forward to fund a consultant to help guide us in this work as we recognize the added complexity associated with domestic violence work. We have been in touch with the Office for Civil Rights about this plan and hope to collaborate with them on the process for advertising and then ultimately hiring a consultant.
- **Driving While License Suspended 3 (“DWLS 3”) Diversion Program**
Earlier this year, the CAO took an active role in supporting a bill in the state legislature that would have drastically changed the Driving While License Suspended 3 statute. The lead PFD prosecutor consulted on that bill. Unfortunately, that bill recently died. While our office plans to continue to work on that bill for introduction in 2019, the CAO has met with the Finance and Administrative Services (FAS) Division about diverting some of our DWLS 3 cases in conjunction with their community partner that assists in re-licensing to support FAS’s Pre-Apprenticeship programs. The CAO and FAS plan to coordinate on conducting an RET and hope to begin diverting this year.

The CAO is committed to working with Council, Mayor and most importantly community stakeholders to develop and expand the diversion programs beyond the mainstream offenses and the young adult age group. We believe there is great potential to reduce racial disproportionality in the criminal justice system, and to implement innovative policies that disrupt the traditional prosecution model with alternatives to incarceration and criminal records. We hope that we will be given the funding and support to expand diversion programs and make it a fundamental practice in how we carry out our prosecutorial discretion in Seattle.