DEFENDER TIMES

ALL THE NEWS THAT'S FIT TO PRINT...AND THEN SOME

CHIEF'S MESSAGE:
BRACE YOURSELF, BIG THINGS ARE HAPPENING

BY: ALEX BUNIN, CHIEF

A new year brings new challenges. At the last Commissioners Court session, in December, a report was presented by the Justice Administration Department (JAD) entitled, “Justice for All: A Proposal to Expand the Harris County Public Defender’s Office and Create a Model Indigent Defense System.” The 23-page document was prepared by JAD, the Texas Indigent Defense Commission (TIDC) and our office. It outlined a drastic two-year expansion, ultimately allocating a 50 percent share of all appointed adult criminal, juvenile and appellate cases to the PDO.

The proposal doubles the current staff of the office. That would be an additional 107 lawyers, 17 investigators, 19 administrators and 16 social workers, four peer navigators and a psychologist. This expands all divisions, including holistic services. It would increase the entire PDO budget to more than $40M.

Has something like this been attempted before? No. I have opened four PDOs before and none were initially larger than a few dozen employees. The largest PDOs in the nation expanded over a longer time and had no comparable growth spurts. However, this expansion will have the full funding of Harris County. That kind of support is rare.

Can it work? Yes. There is enough time and money to do it. Space is an issue, but the county is committed to solving that also.

Will it happen? Probably. There is no final answer until a budget is approved. Budget hearings are starting, but Commissioners Court will not approve a final 2021-22 budget until February. The new fiscal year begins March 1st. We have requested about half of the total expansion to occur this coming year. Next year is a separate discussion.

This year will be busy. It may never be “normal,” since the courts will be backlogged for months even after the pandemic is no longer an obstacle. However, at some point, we will be able to work together, mostly in our own offices. I look forward to seeing you without virtual backgrounds or household distractions.

APD Tanisha Arline and AA Alex Compean with just part of the haul of donations from the successful winter clothing drive benefitting Star of Hope.

APD Arline Sees Freeze,
Stocks Frock, Totes Coats

BY: P.Q. DREADFUL, STAFF WRITER

As the Bail Hearing Division’s Tanisha Arline was driving to work one chilly morning this fall, she saw something we all see far too often: a person experiencing homelessness. But instead of turning away as many of us are accustomed to doing, Tanisha looked at the man. “He had a coat draped over his body, but it was too small and he kept adjusting it, trying to cover his face while his arms were still covered,” Tanisha remembers. “I talked to Bao and Mandy about it that shift and said, ‘We should have done a clothing drive.’” Mandy said something along the lines of “Should have? It’s not too late…”

That was all Tanisha needed to hear. She enlisted help from Alex Compean, the division’s indispensable assistant, and sent out an email. Soon, donations of winter clothes and blankets started pouring in, as well as cash. Donations quickly exceeded anyone’s expectations, with new bags full of items appearing each day. Cash donations ended up coming in right at $500, which was then used to buy a huge overflowing cart full of sweaters, coats, blankets, socks and gloves from Marshall’s for the drive (not pictured is a very pregnant APD Allison Mathis waddling seven giant Marshall’s bags full of clothes to the relocated Bail Hearing office and being laughed at by the three police officers lounging in the lobby of 1301, none of whom even offered to open a door for her, thank you very much).

Juvenile Division Chief Steve Halpert used the drive as an opportunity to clean out his closet—til it hurt! Steve donated a whopping ten full suits, and well over 100 shirts, slacks, jackets, and ties! Who knew he was such a clothes horse?

Tanisha, Alex, and APD Annie Marion arranged to drop off the massive donations at Star of Hope on a rainy Saturday in December. “I actually found meaning in pushing through the storm,” said Tanisha, “even though we couldn’t see well, we persevered through it and when we got there, there was light at the end. Sometimes you have to weather some storms to get to the good stuff and I am super grateful to Alex and Annie for giving their Saturday to do just that.”
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TEN YEARS OF HCPDO!

By: Lucinda Serpentine, Editorial Staff

The doors of our office have now been open for ten solid years- and what a decade it has been! From humble beginnings with just a few lawyers and support staff to the large and powerful force our office has become, the HCPDO continues to strive to provide excellent representation for indigent clients, as well as community outreach and support for the private bar.

Recent studies of our office have indicated that our representation tends to provide better results than traditional court-appointed counsel, including a higher rate of dismissals, no-bills, and deferred sentencing outcomes than private appointed counsel. Our lawyers also go to trial more often, and our appellate lawyers have higher success rates than court appointed private counsel.

So what is it that we have that makes us so special? This author would suggest that our access to resources, including support staff, investigators, social workers, holistic resources, and peer review have helped us achieve positive results. Something as small as not having to petition a court for money for an investigator, for example, is one of the myriad ways that PDO lawyer life is set up for greater success.

But one of the questions these studies have not answered is whether our office will continue to perform to such a high standard. For the first time in many years, the PDO is in a position to hire and train new lawyers, hire lawyers whose previous experience is as a prosecutor, and hire lawyers who have experience in practice areas other than criminal law. All of these things can enrich our representation greatly, but they are also new challenges. Onboarding employees during a time when we have little physical presence in the office is another test.

As our office continues to grow and take over a bigger percentage of the indigent defense caseload in Harris County, I know we will all endeavor to keep up the amazing work of the people who started this office. There will surely be growing pains, disagreements, and changes, but hopefully we will all continue to place emphasis where it needs to be: the clients and the work that goes into representing them compassionately and effectively.

POET'S CORNER

Appellate Division Chief Jani Maselli Wood shares poetry that is meaningful to hear in each issue of the Defender Times.

Mercy
Nikki Giovanni

She asked me to kill the spider
Instead, I got the most peaceful weapons I can find
I take a cup and a napkin,
I catch the spider, put it outside and allow it to walk away

If I am ever caught in the wrong place
at the wrong place, just being alive
and not bothering anyone,
I hope I am greeted
with the same kind of mercy.

Nikki Giovanni has a wonderful new book out called Make Me Rain: Poems & Prose. If you are interested, I have a signed first edition copy that I will give away. Send me an email before February 15, 2012 at midnight. I will let Alex draw the winner after that time. What better way to show friendship is there than through Nikki Giovanni poetry?

The second poem this issue is from HCPDO’s investigator, Pedro Ayarzagootia. Pedro writes, “I am a veteran of many battles. In such, I saw many fellow soldiers killed in action. I don’t know if this is a prayer or a poem. However, I often say it or post it, when I heard that a soldier has died.”

Finally brother, the battles are over.
For that day has come, that you can lay down your burden and make war no more.
Make war no more. Make war no more.
See you on the other side.
SAIF’S AMAZING
CASE LAW UPDATE!

SAIF KAZIM

APD, FELONY TRIAL DIVISION

SAIF KAZIM

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LEGISLATIVE UPDATE
TED WOOD
APD, APPELLATE DIVISION

WELCOME TO THE 87th LEGISLATURE!

The 87th session of the Texas Legislature has just begun, so I thought I would share a few fast facts with you about the upcoming session. Many of you already know these things. But to some of you, this may be new information.

The first day of the session was Tuesday, January 12th. The last day to file bills is exactly two months later – Friday, March 12th. And the last day of the session will be Monday, May 31st.

Texas has a bicameral legislature. In other words, we have two legislative houses. One is the Senate. The other is the House of Representatives.

(By the way, only one state – Nebraska – does not have a bicameral legislature.)

There are 150 members of our Texas House of Representatives. Going into the 2020 election, there were 83 Republicans and 67 Democrats. Democrats were openly hoping to flip a number of seats in the election so they would gain control of the House. This did not happen. No seats were flipped at all. After the election, there were still 83 Republicans and 67 Democrats. The election resulted in absolutely no change to the political-party balance in the House.

Prior to the 2020 election, there were 19 Republicans and 12 Democrats in the Senate. Democrats picked up one seat in the Senate. So in the 87th Legislative Session, there will be 18 Republican senators and 13 Democratic senators. This may seem inconsequential. But actually, this change results in the Republicans losing their supermajority of 3/5 of the senators. Under current Senate rules, 3/5 of the Senate must vote to bring a bill to the floor of the Senate for consideration. 19 senators is a little more than 3/5. 18 senators is a little less. So if all 13 Democratic senators voted together, they could block a bill from being considered. However, the Senate rules can be changed. It is quite possible that the rules will be changed to make only 18 votes (or less) necessary to bring legislation to the Senate floor. And it takes only a simple majority vote of the Senate to change the rules. So keep your eyes open for a change to the Senate rules at the beginning of the session.

The president of the Senate is not actually one of the 31 senators. Rather, the president of the Senate is the lieutenant governor. Our current lieutenant governor is Dan Patrick – a Republican from Houston. He orchestrated a rules change when he first became lieutenant governor to reduce the number of votes necessary to bring a bill to the Senate floor from 21 (2/3 of the Senate) to 19 (3/5 of the Senate). It could well happen again.

The leader of the House of Representatives is known as the Speaker of the House. The Speaker is one of the 150 members of the House. House members choose the Speaker from among their ranks. This typically happens on the first day of the legislative session. That is when the formal vote is taken. But the maneuvering for the position takes place long before that.

In the 86th Session, the Speaker of the House was Dennis Bonnen. But he was caught up in a political scandal and will be retiring from the House. Based on pre-session maneuvers, the next Speaker is expected to be Dade Phelan, a Republican from Orange. But this remains to be seen.
CONGRATULATIONS TO
JASON SOSA
NEW FELONY TEAM LEAD!

If you saw Jason Sosa pull into the parking lot behind the courthouse, you would guess he was a hot shot DWI lawyer—and you’d be right. With his big SUV and vanity license plates, charming smile and tailored suits, Sosa’s suave, lothario image is much more polished than people expect a public defender’s to be, and that’s just fine with his clients. Sosa joined the office in 2015, bringing not only his experience as a lawyer, but his passion for science, understanding of chemical testing, and broad educational background (he has a Ph.D. and is former faculty at Rice University) to the trial division.

Sosa will take the team lead position formerly occupied by Judge Te’iva Bell.

KNIT CLUB BIN’

BEANIES OF APPRECIATION

The PDO’s daring, darling Knit Club continues to meet each Tuesday at 12:30 via Zoom, and everyone is welcome!

You don’t have to be a knitter to join Knit Club, but please know that the first rule of Knit Club is that we talk about Knit Club. A lot.

Knit Club Founder Jani Maselli recently knit a Beanie of Appreciation for County Judge Lina Hidalgo. Judge Hidalgo has since modeled the hat in several social media posts, expressing her sincere gratitude and great admiration of Jani’s skills.
Dearest and Beloved Colleagues,

As I write this to you, I am bitingly and ginormously pregnant with my son, Mountain Man Mathis (or maybe Hrothgar Pterodactyl, Mathis, we haven’t quite worked out the name yet). I am sitting down with this huge codebook in my messy nest of other codebooks, files, and Post-It Notes of things to do, imagining myself not as a disheveled and unorganized lawyer frantically getting ready for maternity leave, but as a fierce and protective dragon with her eggs. Pregnancy during this time of isolation, sickness, and sadness has been a bizarre experience, but as always, when I start paging through the Code for the next session of this read-along, what swirls out of the mists of that complex and boring tome is something wildly meaningful for this moment in time.

Art. 2.13 is where we’re picking up, and it’s all about the duties of a peace officer. The first enumerated duty is to “preserve the peace” “by any lawful means.” There’s a lump in my dragon throat. I think of the BLM protesters over the summer, even in our hot city, kneeling on the scorching, sticky asphalt, as cops pulled them in to wait for magistrate court, sometimes for days, without access to masks, sometimes without access to food or water or restrooms. The peace includes free speech. The peace includes speaking into the moment last week where we saw someone pull her hair out of her belly as cops went for her. I wanted to hug her in that moment, hug her in her belly as I imagine her eggs. I know we all have our memories of this summer, no matter which side of the inner chambers of our democracy, planned to kill legislators. I know we all have our memories of this summer, no matter where we were.

And we all contrasted that, we couldn’t help it, with the moment last week in D.C., during that noxious display of violence, racist vitriol, looting, terrorist threats and worse—when a Black woman walking home from work was snatched by the crowd, had her hair pulled out and was beaten, when they smeared shit all over the inner chambers of our democracy, planned to kill legislators—there were thirteen arrests—thirteen—and I know they didn’t do their duty. I know they weren’t preserving the peace by any lawful means. There were some heroes we saw, there are always exceptions. But oh, friends.

I promise you, my dear ones, I know that what I have done so far is not enough. I know that my efforts at making this world a more peaceful place have been weak and ineffective. That I’ve let my ego and my pride get in the way. I get upset by the things we all see on a daily basis and, overwhelmed, I turn inward to my little nest.

I resolve to do better, to try and turn outward to face these terrible things—to teach my children the responsibilities of maintaining and engaging peace in this world, and what peace really means. Peace is not complacency. Peace is not shunning out the outside world. Peace is not compliance and silence. Peace is radical compassion. Peace is looking at others we admire and emulating them. Peace is what we find when we know we have done everything we can in pursuit of what we know is right and fair and good. And I will vow to preserve it by all lawful means, because we all know the cops won’t.

Love Always,
Allison