

MINUTES OF THE MEETING OF THE DEFENDER COUNCIL

DATE: January 27, 2023

TIME: 10:00 a.m.

Join Zoom Meeting

<https://us02web.zoom.us/j/88614812398?pwd=cnQ5SC9pVHVvOEluUTArAVBubkh3UT09>

Meeting ID: 886 1481 2398

Passcode: 315802

MEMBERS PRESENT: Craig De Costa (in person)
Stanton Oshiro (virtual)
Crystal Glendon (virtual)
Gina Gormley (virtual)
David Hayakawa (virtual)

ALSO PRESENT: Randall Nishiyama, Deputy Attorney General (in person)
James Tabe, Public Defender (in person)
Lee Hayakawa, Assistant Public Defender (virtual)

Virtual meeting called to order at 10:05 a.m. by Chair De Costa.

Approval of Agenda

Member Hayakawa moved that the agenda be approved by the members. Member Glendon seconded the motion. Motion was approved unanimously.

Public Testimony:

At 10:04 a.m., Chair De Costa solicited public testimony

Deputy Public Defender (DPD) Okechukwu Amadi inquired about the survey and if any progress was made with respect to the results of the survey. Chair De Costa indicated that the survey would be discussed in executive session and if any decision is made, it will be addressed in public session.

Observer posted a question in the chat function on Zoom. Chair De Costa invited the unidentified person to come forward for public testimony. There was no response.

Approval of Minutes of Meeting held on December 2, 2022:

Chair De Costa proposed an edit to the minutes of December 2, 2022 to correct the date of the meeting previous to December 2, 2022. The minutes state, "Approval of Minutes from prior meeting held on December 02, 2022." The minutes should state, "Approval of Minutes from prior meeting held on November 18, 2022."

Member Glendon moved that the minutes of December 2, 2022 Meeting be corrected to read, "Approval of Minutes from prior meeting held on November 18, 2022." Member Gormley seconded the motion. Members Glendon, Gormley, and Oshiro voted in the affirmative. Member Hayakawa abstained. Motion was approved.

Report by Public Defender James Tabe:

The Legislature and the Judiciary are working on a pretrial diversion program, focusing on Oahu. Next month, the OPD will be sending two supervisors, Alan Komagome from the felony division and Jerry Villanueva from the district court division, to attend a program in Miami-Dade County for a jail diversion workshop known as the Miami model presented by the Eleventh Judicial Circuit Criminal Mental Health Project (CMHP).

Judiciary released a report on the effects of the new domestic violence laws. Statistics indicate less cases filed primarily as a result of the Honolulu Prosecutor's new policy of increased deference to alleged victims, resulting in deferrals, plea deals, and dismissal of cases. Many defendants are receiving treatment and hopefully there will be fewer repeat offenses.

The Obrero bill is being heard this morning at the legislature. The OPD is supporting the bill but strongly opposing with certain portions of the bill.

More attorneys have been taking a more active role in the legislative process in the last few years, testifying and writing before the Legislature. This year, the OPD has drafted a driving without license (DWOL) bill, which decriminalizes DWOLs. Recognized DPDs Sarah Nishioka and Alan Akao for their efforts. DPD Benjamin Lowenthal has authored a bill which would give inmates the ability to have their minimum setting reconsidered by the Circuit Court. The OPD has been working closely with the ACLU on bills addressing bail reform.

Pursuant to New York State Rifle & Pistol Association v. Bruen, DPDs have been filing motions and the courts have dismissed a number of Place to Keep charges.

The administration and the Defender Council have been working to address the attorney shortages on the neighbor islands.

Chair De Costa opened the floor for questions. Member Oshiro inquired whether the Hilo Branch has an additional staff position because the office needs all the help that they can

get. PD Tabe responded that he has requested another full-time staff position for the Hilo Branch. The request has been approved by Budget & Finance, but the request is still pending.

Chair De Costa inquired about the caseloads on the neighbor island with the shortages of attorneys. PD Tabe responded that the attorneys are struggling. Recruiting attorneys on the neighbor islands presents challenges.

Chair De Costa inquired whether the district court division in Honolulu or the attorneys on the neighbor islands are still able to be effective. PD Tabe responded that the attorneys continue to be effective.

Chair De Costa inquired on the term status of the current members of the Defender Council. PD Tabe reported that Chair De Costa's and Member Oshiro's terms expire on June 30, 2023. Member Gormley also expires in June 2023. Member Hayakawa expires in June 2026. DAG Nishiyama indicated that a member can serve a third term if the Governor fails to appoint.

Executive session:

Chair De Costa entertained a motion to enter into executive session.

Member Oshiro moved to enter into executive session. Member Gormley seconded the motion. No discussion. Unanimously approved. Council went into executive session at 10:34 a.m.

Council reconvened at 11:37 a.m.

Discussion on survey and evaluation results deferred to the next agenda.

Council announced the formation of a permitted interaction group to address issues of increasing salaries for attorneys and staff and supplemental budget increase.

Chair De Costa entertained a motion to form the permitted interaction group. No discussion. Formation of the permitted interaction group was motioned for by Member Glendon and seconded by Member Oshiro. Motion unanimously approved. Members Glendon and Gormley volunteered to co-chair the permitted interaction group.

Next meeting:

Next meeting is scheduled for Friday, April 28, 2023, at 10:00 a.m. to noon in person and via Zoom.

Member Oshiro moved to adjourn the meeting. Member Gormley seconded the motion. No discussion. Motion unanimously approved.

Adjournment:

The meeting was adjourned at 11:44 a.m.