



# *System Failure*

## *Part 2*

### DECLINES, DELAYS, AND DISMISSALS - WHY MOST SEATTLE MISDEMEANOR CASES NEVER GET RESOLVED AND THE IMPACTS ON PUBLIC SAFETY

September 2019

#### **Abstract**

*A report by a former public safety advisor to the City of Seattle commissioned by neighborhood business groups examines new data from city agencies showing that most non-traffic criminal cases that Seattle Police send to the City Attorney's Office never result in a meaningful resolution because of case declines, case filing delays, and a high rate of dismissal. The report discusses how the poor performance of Seattle's criminal justice system results in under-reporting of crime from chronic victims, low police morale, and helps perpetuate crime and incarceration cycles for vulnerable individuals.*

Scott P. Lindsay

A letter to the reader:

Nine months ago, we commissioned the [\*System Failure\*](#) report that demonstrated how a substantial portion of high-impact criminal activity in Seattle's busiest neighborhoods is committed by repeat offenders. The report focused on an initial sample of 100 prolific offenders and how the current criminal justice system had failed to meaningfully respond to or change their behaviors.

In the months that followed, Seattle and King County leaders, criminal justice stakeholders and human services representatives began a dialogue about the report's findings and how action is needed to address them. Seattle Mayor Jenny Durkan convened leaders of our criminal justice system in a "High-Barrier Individual Workgroup" to look at the underlying issues facing prolific offenders as well as the systems set up to support them and hold them accountable.

Earlier this month, the Mayor and County Executive announced a series of public safety-related investments in their proposed 2020 budgets and stood together to announce some a series of pilot programs recommended by the High Barrier Individual Workgroup. These investments focused on rapid re-entry, enhanced probation services and supervision, inter-agency case conferencing and new beds at the County Jail for placed-based services. We thank the Mayor and the County Executive for their leadership on these issues, while also acknowledging that the work is far from done. In fact, since our initial report was released in late February, 87 of the 100 prolific offenders have been booked into jail again more than 220 times, with a dozen of them booked into jail more than 5 times each.

*System Failure, Part 2: Declines, Delays and Dismissals* is a continuation of our efforts to better understand and shed light on the failures within our criminal justice system. The report finds that less than one out of three cases find a meaningful resolution and that system inefficiencies and discord have rippling effects that impact victims, the police and repeat offenders. In releasing this report, we call on the City Attorney to develop and share a detailed plan on how to achieve better outcomes through improved coordination and effective use of criminal justice resources. Only with a thorough understanding of these system breakdowns can we accomplish the reforms and accountability we need to address the public safety issues impacting our business districts and neighborhoods.

Sincerely,

Lisa Howard, *Alliance for Pioneer Square*

Mike Stewart, *Ballard Alliance*

Monisha Singh, *Chinatown-ID BIA*

Jon Scholes, *Downtown Seattle Association*

Erin Goodman, *SODO BIA*

Tom Norwalk, *Visit Seattle*

# Contents

Executive Summary.....	3
Primer on Misdemeanor Criminal Justice .....	6
1. <b>Declines:</b> The City Attorney’s Office declines to file charges in almost half of all non-traffic-related criminal cases that Seattle police refer for prosecution. ....	8
2. <b>Delays:</b> The City Attorney’s Office takes on average 6 months to file cases when the suspect is not in custody. ....	10
3. <b>Dismissals:</b> Four-in-ten non-traffic-related misdemeanor cases filed by the City Attorney’s Office achieve no meaningful resolution. ....	22
4. <b>Consequences:</b> The dysfunction of Seattle’s criminal justice system has real impacts on victims, policing and defendants. ....	28
A. Impacts on Victims .....	28
B. Impacts on Policing.....	31
C. Impacts on Vulnerable Defendants.....	36
Conclusion .....	39
Appendix: Methodology .....	40

## Executive Summary

The ineffectiveness and inefficiency of Seattle’s misdemeanor criminal justice system is well known to those who interface with it the most: police, offenders and victims. Police investigate and refer thousands of cases every year that see no resolution. Repeat offenders appear emboldened to commit crimes in plain sight. Victims of chronic criminal activity see very few resolutions of their cases and report only a fraction of the crimes they experience every day.

According to new data obtained from the City of Seattle, the City Attorney’s Office declines to file almost half of all misdemeanor non-traffic cases that Seattle police refer every year. It takes on average six months for prosecutors to file cases in which the defendant is not in custody. And only one-in-three cases referred by Seattle police ever reach any meaningful resolution.<sup>1</sup>

*System Failure, Part 2: Declines, Delays, and Dismissals* builds on the findings of the [System Failure: Prolific Offenders in Seattle’s Criminal Justice System](#) report and takes a deeper look beyond the people who are cycling through our local criminal justice system to examine the central causes of its dysfunction.

In many instances, the criminal justice system may not be the appropriate place to resolve issues that are often at the root of criminal activity. But as discussed in the first *System Failure* report and acknowledged by the efforts of the inter-governmental High Barrier Individual Working Group, currently very few of the prolific offenders who are struggling with mental illness, substance use disorders or homelessness receive any alternative interventions that might address those issues. Instead, defendants are trapped in a cycle of arrest, incarceration (for failing to appear at hearings for criminal incidents that happened a year or more before), and release.

This report examines why so few misdemeanor cases reach a meaningful resolution and the consequences this dysfunction creates for people who depend on this system to work effectively. The findings in this report fall into four areas: Declines, Delays, Dismissals, and Consequences.

1. **Declines:** The City Attorney’s Office declines to file charges in almost half of all non-traffic-related criminal cases that Seattle police refer for prosecution.

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<sup>1</sup> The next chapter offers a primer on misdemeanor criminal justice—including some definitions for the terminology used in this report. The concept of a “meaningful resolution” is more clearly defined in *Chapter 3: Delays*.

In 2017 (the most recent year for which data is available), the City Attorney's Office filed only 54 percent of all non-traffic criminal cases referred by police. According to data from the City Attorney's Office, the rate at which misdemeanor prosecutors declined cases increased dramatically over the past decade from 17 percent in 2007 to 46 percent in 2017. Most of that change is driven by the City Attorney's Office not filing 65 percent of out-of-custody cases (when the suspect is not in jail) that Seattle police refer for prosecution.

**2. Delays: The City Attorney's Office takes on average 6 months to file cases when the suspect is not in custody.**

When someone has been arrested and is in custody, the City Attorney's Office must make a filing decision within 48 hours of booking the suspect into jail. For cases where the suspect is not in custody, however, there is no filing deadline other than the statute of limitations. These out-of-custody incidents account for almost half of all cases Seattle police refer to the City Attorney's Office. An examination of filing times for all out-of-custody cases shows that it takes prosecutors on average six months or more to file charges on even serious misdemeanor crimes like assault, harassment, sexual exploitation, property destruction and reckless endangerment. In many instances, these delays allow repeat offenders to commit multiple new crimes while older cases stack up without prosecution.

**3. Dismissals: Four-in-ten non-traffic-related misdemeanor cases filed by the City Attorney's Office achieve no meaningful resolution.**

For the 7,081 non-traffic criminal misdemeanor cases that the City Attorney's Office filed in Seattle Municipal Court in 2017, 42 percent had no meaningful resolution as of August 2019. These cases were dismissed with proof issues, remained pending with bench warrants outstanding, or were dismissed for reasons of incompetency. The report analyzes 1,806 retail theft cases filed in 2017 through 2019 and finds that only 11 percent had a meaningful resolution. Not surprisingly, cases with significant filing delays had even poorer results. For example, in 92 assault cases filed one year or later after the incident, only 21 percent achieved a meaningful resolution.

**4. Consequences: The dysfunction of Seattle's criminal justice system has real impacts on victims, policing and vulnerable defendants.**

The systemic dysfunction of Seattle's criminal justice system has real consequences. Prolific offenders commit daily crimes in plain sight and cycle through the criminal justice system with no meaningful intervention. Police spend tens-of-thousands of hours developing misdemeanor cases that either never get filed or the cases sit at the

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

City Attorney's Office for such a long time that they eventually get dismissed. And many businesses that face major issues with crime under-report it because doing so seems fruitless. A survey of 12 large stakeholders with private security (retailers, public shopping areas and hotels) found that they report on average less than 5 percent of the daily crime they experience. Ultimately, the dysfunction of Seattle's criminal justice system supports an ecosystem of criminal activity that is taking a toll on Seattle.

For defendants who are struggling with homelessness or behavioral health issues, significant case filing delays and long periods to resolution set up a trap of recurring failure to appear warrants followed by brief incarceration and release. According to King County Jail Health, 45 percent of bookings into King County Jail in 2017 were of homeless individuals, many on failure to appear warrants.

\* \* \*

In many other cities, prosecutors, police, judges and elected leaders work together to clearly identify what types of cases, crimes and defendants are appropriate for the criminal justice system and which are better suited for other systems that can resolve what are often complex underlying issues. Prosecutors communicate to the police under what circumstances they will or will not file cases. In turn, the Police Department instructs its officers to minimize the cases that will not produce meaningful results. When police and prosecutors encounter chronic criminal challenges ill-suited for traditional policing practices like arrest and booking, those are elevated to policy leaders to come up with alternative solutions to keep the public safe.

That is not the way it works in Seattle.

Instead, data from Seattle's misdemeanor criminal justice system shows that there is a significant disconnect between the City Attorney and other criminal justice system actors on how Seattle's laws should be enforced. The result is that Seattle police churn thousands of misdemeanor case referrals every year, only to see them declined, delayed or dismissed. Prolific offenders know they are unlikely to be held accountable, even when arrested. Police know that most of their hard work is discarded. And repeat victims understand that there is little relief in sight for the daily grind of crime.

The dysfunction highlighted in this report suggests that it is time for a significant review and reform of Seattle's misdemeanor criminal justice system.



## Primer on Misdemeanor Criminal Justice

Every year, Seattle experiences tens of thousands of misdemeanor crimes, including theft, assault, harassment, car prowling and property destruction. Misdemeanors are crimes that by law can receive a maximum of up to one year in jail. Misdemeanors represent approximately 75 percent of all crimes in the city of Seattle and are prosecuted by the Seattle City Attorney's Office in Seattle Municipal Court. Felonies are all crimes subject to a penalty of more than one year in prison, including assaults that result in serious injuries, burglaries or robberies, and drug offenses. Felonies are prosecuted by the King County Prosecutor's Office in King County Superior Court.<sup>2</sup>

Seattle police officers investigate only a fraction of all misdemeanor crimes. If there is no reliable suspect or substantial evidence to collect (i.e., for a typical car prowling), the police may create a brief report recording the crime or may ask the victim to report the crime online. If police can identify a suspect, they will complete a full "General Offense" report with all available evidence and refer that case to the City Attorney's Office for prosecution.

If the officer makes an arrest and books the suspect in jail, the suspect is "in custody." If officers can identify the suspect but do not make an arrest, or detain but release the suspect, then the suspect is "out-of-custody" when the case is referred to the City Attorney's Office. Almost half of all cases Seattle police refer to the City Attorney's Office involve a suspect who is out-of-custody.

Once the City Attorney's Office has received a completed misdemeanor general offense report from Seattle police, assistant City Attorneys review the case and determine whether to file charges - also known as a criminal complaint - against the suspect in Seattle Municipal Court. The criminal complaint is a straightforward form document. It is captioned "City of Seattle v. [Defendant]" and generally states that "the defendant did commit the crime of [\_\_\_\_] in the City of Seattle on or about [date]." The police report is attached to the complaint. Filing the complaint initiates a case.

If a suspect was arrested for the crime and is in custody at the King County Jail, the suspect will have a "first appearance" hearing before a Seattle Municipal Court judge by the end of the next business day. If the City Attorney's Office wants to request conditions of release, they must file a criminal complaint by the hearing time. At the first appearance hearing, the prosecutor and public defender (or private attorney) will make recommendations to a Seattle Municipal Court judge regarding conditions of

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<sup>2</sup> Misdemeanor crimes in certain special jurisdictions within Seattle (i.e., the University of Washington campus or on Metro buses) are prosecuted by the King County Prosecutor in King County District Court.

release from jail (e.g., bail, personal recognizance, weekly reporting to the probation office) or other pre-trial obligations.

If the suspect is out-of-custody when the City Attorney receives the case referral from Seattle police, there is no deadline to file a criminal complaint except for the statute of limitations (which is two years, in most instances). When the City Attorney's Office files a criminal complaint against a defendant who is not in custody, the court clerk issues a "summons" letter to the defendant requiring that individual appear before the court at a first appearance hearing date (usually 2-3 weeks out).

Following a first appearance, most misdemeanor cases progress with monthly pre-trial hearings in which the judge will hear the status of the case and set a timeline for trial. However, very few misdemeanor cases go to trial. Most cases are resolved in a variety of different ways, including: a negotiated plea in which the prosecutor agrees to recommend a particular sentence in exchange for the defendant pleading guilty; dismissal of the case for a number of different reasons; pre-trial diversion; a deferred sentence; or a dispositional continuance (prosecutor agrees to delay the case for a certain amount of time to see if the defendant can meet certain obligations like no new criminal law violations or completing a treatment program).

For any case in which a defendant pleads guilty (pursuant to a negotiated plea) or is found guilty at trial, Seattle Municipal Court judges issue a "sentence." Judges will typically follow the prosecutor's recommended sentence in a negotiated plea agreement but are not required to do so. A judicial sentence can include: jail time; a suspended sentence (days in jail that the defendant does not serve immediately but can be imposed if the defendant violates conditions of the sentence); and/or probation (ongoing supervision for up to two years by Seattle Municipal Court probation officers for a variety of obligations). For example, the sentence "7/180, CFTS, no criminal law violations, one-year year monitoring" means seven days in jail with "credit for time served," with a 180-day suspended sentence that could be revoked if the defendant has any further law violations within one year of the sentencing.

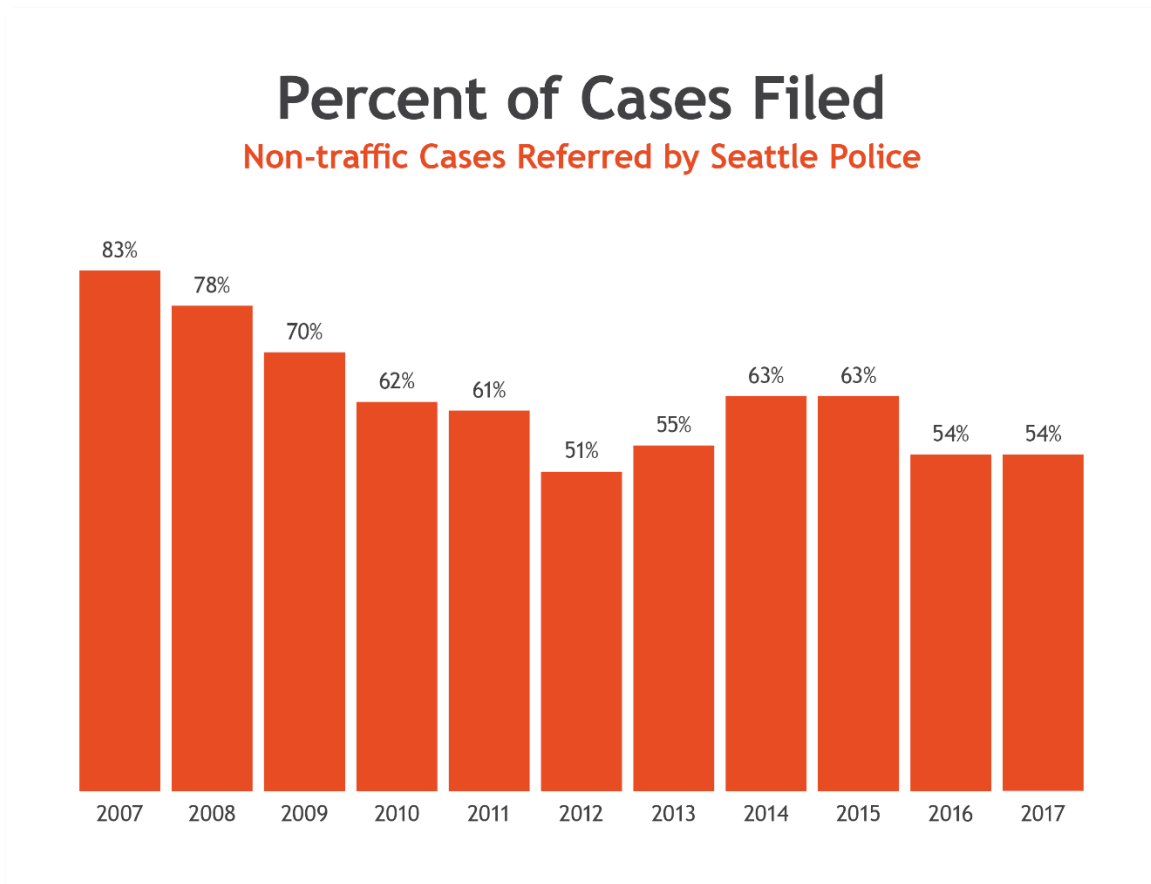
If a defendant fails to appear for one of his or her court hearings or fails to comply with pre-trial obligations set by the court, the court may issue a bench warrant. The bench warrant authorizes local law enforcement to arrest the defendant and book him or her into jail until that person can be brought before a judge. As a practical matter, Seattle police typically do not actively look for individuals with outstanding misdemeanor bench warrants but do come across them in the course of their regular work.

As a part of sentencing, the court may order post-trial probation obligations for a period of up to two years, particularly in cases involving suspended sentences.



# 1. Declines: The City Attorney's Office declines to file charges in almost half of all non-traffic-related criminal cases that Seattle police refer for prosecution.

According to data obtained from the Seattle City Attorney's Office, prosecutors filed only 54 percent of all non-traffic misdemeanor cases that Seattle police referred in 2017, the latest year for which full data is available. In total, the City Attorney's Office declined to file over 5,500 non-traffic criminal cases that year. The rate at which cases are declined increased dramatically approximately 10 years ago, from 17 percent declined in 2007 to 46 percent in 2017. Between 2010 and 2017, the City Attorney's Office declined to file almost 37,500 non-traffic criminal cases.



Source: Seattle City Attorney's Office SPAR Report (2017)

The City Attorney's Office's criminal case decline rate is particularly high for cases in which the suspect is not in custody. Historically, between 42-51 percent of all cases that Seattle police refer to the City Attorney's Office involve an out-of-custody suspect (meaning the suspect is not held in the King County Jail at the time the police send a completed case file to the City Attorney's Office).<sup>3</sup>

**37,442**

Cases Declined from 2010-2017

In 2017, Seattle police referred 7,356 out-of-custody cases to the City Attorney's Office. Of those cases, the City Attorney's Office filed a criminal complaint in just 2,606 cases (35 percent of the total).

There are some important reasons why a prosecutor might decline to file an individual case. For example: a police officer might

have failed to include sufficient facts for the requested charges; the prosecutor might disagree with the interpretation of the facts; or prosecution of the case might not serve the interests of justice (e.g., the suspect is elderly or was badly injured or is already being prosecuted in a separate jurisdiction). But declining to file almost half of all cases for multiple consecutive years leads to a significant waste of police time and effort and has significant consequences for victims.

Notably, very few cases are declined so that the defendant can receive some alternative public health intervention outside the criminal justice system. Only a fraction of defendants receive any meaningful support to address common underlying causes of criminal behavior or have their cases dismissed in order to participate in a program like Law Enforcement Assisted Diversion (LEAD).

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<sup>3</sup> There are many reasons that a suspect may not to be in custody, including: the suspect was identified but was not present at the crime scene; the officers decided to release the suspect and submit the case as a "charge-by-officer;" or King County Jail refused to book the suspect for medical reasons. As a general matter, booking suspects into King County Jail is time-consuming, expensive, and can be traumatic for the suspect, so when public safety or the case circumstances do not demand the suspect be put in custody this can be a positive outcome.

## 2. Delays: The City Attorney's Office takes on average 6 months to file cases when the suspect is not in custody.

Seattle police refer roughly 12,000 non-traffic misdemeanor cases for prosecution each year and almost half of those involve suspects who are not in custody at the time of the referral (discussed further in Section 1 above). Police typically transmit these cases to the City Attorney's Office the same day or soon after the incident. However, according to data obtained from the Seattle Municipal Court, it takes the City Attorney's Office on average 187 days from the time of the incident before they file these cases. This pattern of significant filing delays holds true for all types of cases - both property crimes and serious person crimes. (See chart below).

Analysis of Filing Times for All Out-of-Custody Cases Where Crime Occurred in 2017-18		
# Cases Filed	Crime Description (select crime categories only)	Avg. # days between incident and City Atty. case filing
2,608	Theft	182
486	Assault	217
457	Criminal Trespass 1	193
224	Property Destruction	232
179	False Reporting	162
132	Harassment	204
120	Obstructing	173
100	Concealed Weapon	193
96	Criminal Trespass 2	144
65	Sexual Exploitation	326
57	Receiving Stolen Property	229
54	Unlawful Use of a Weapon	171
45	Vehicle Prowling	272
40	Burglary/Theft Tools	167
33	Harassment with No Cont. Ord.	124
28	Indecent Exposure	135
25	Assault with Sexual Motivation	123
17	Reckless Endangerment	274
<u>Total</u>		<u>Average days to file</u>
4,766		187

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

*Source: data obtained by public disclosure request to Seattle Municipal Court. Average time is calculated across all non-traffic out-of-custody cases while chart only includes select case categories. Data collected as of July 2019. Because many cases from 2017-18 have yet to be filed, the average filing delays likely understate the actual average filing delays by a material amount.*


In some cases, there are legitimate reasons to delay filing a case. For example, the prosecutor might send the case back to the police for follow-up investigation. Those reasons are not present in the huge majority of delayed case filings by the City Attorney's Office. These cases show that they were printed by the City Attorney's Office near the time of receipt from police and no Seattle police follow-up investigation was requested or conducted while the cases awaited filing. Indeed, the Seattle Police Department is chronically short-staffed and has little capacity to conduct follow-up investigations except in misdemeanor cases involving domestic violence, sexual assault or organized theft rings.

Significant case-filing delays often mean that justice eludes victims and offenders elude accountability. The following examples illustrate the serious consequences of major case filing delays:

### **(1) 222-day delay to file Capitol Hill assault with sexual motivation:**

On the evening of February 25, 2018, a young woman met with a casual acquaintance, John W., at a bar on Capitol Hill. Later that evening they returned to her nearby apartment where her roommate was already asleep. John flirted with the woman, but she rejected his advances after he admitted to having a girlfriend. He then grabbed her, pinned her to the couch, and choked her. She fought back and scratched at him, but he did not stop. Finally, she feigned passing out from the choking. He paused and she was able to get away, make loud noises, and then push him from her apartment. Thirty minutes later the victim called Seattle Police to report the assault, but they could not respond on scene due to a staffing shortage. The following day she walked to the East Precinct and reported the assault in person. (See excerpt of police report below).

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

 **SEATTLE POLICE DEPARTMENT**  
GENERAL OFFENSE HARDCOPY  
SEATTLE LAW DEPT RELEASE COPY  
(1306-0 ASSLT-AGG-BODYFORCE)

GO# 2018- [REDACTED]  
OPEN

[REDACTED]. She asked him if he had a current girlfriend. Suspect [REDACTED] told the victim he had a girlfriend but that it did not matter. Victim [REDACTED] said it mattered to her and that she did not want to engage in sex. The suspect became rude and pushed her down on the couch, pinning her down with the weight of his body. Victim [REDACTED] struggled to get away from him. The suspect held her down then was able to put his hand around her throat. Victim [REDACTED] was able to stomp her foot on the wooden floors in an attempt to wake her roommate, witness [REDACTED]. The roommate was not awoken. The suspect turned the victim on her stomach and then continued to "choke" her. Victim [REDACTED] made it appear that she had passed out. The suspect loosened his grip around her neck. Victim [REDACTED] immediately slid away from the suspect, stood up then pushed him away from her. The victim kept yelling and pushing the suspect towards the front door to the apartment and eventually got the suspect to leave.

About thirty minutes after victim [REDACTED] composed herself she called for the police. SPD received the 9-1-1 call at about 2301 hours. Due to the lack of patrol resources and knowledge that the victim was safe and secure in her apartment, she was notified of the delay in SPD response to her residence.

On Monday, February 26, 2018 at about 1100 hours' victim [REDACTED] walked into the East Precinct to personally report the assault from the previous evening.

The incident was assigned to police officers in a follow-up investigation unit who then spent time compiling information to develop a case to transmit to prosecutors. The victim provided evidence to the detective and confirmed the suspect's identity. A detective collected statements from neighbors who said they heard a disturbance that night. The detective interviewed the suspect who cried and admitted that he had gone to the victim's apartment and that there had been a "misunderstanding" followed by "pushing."

In March 2018, the detective sent the case to the King County Prosecutor's Office, but that office declined the case. On April 16, 2018, the detective transmitted the case to the City Attorney's Office and, records show, it was printed there the same day. Four months later, in August 2018, the suspect moved out of state.

In September 2018, The City Attorney's Office signed a criminal complaint against the suspect, but it was not filed until October 5, 2018 - 222 days after the attack. (See criminal complaint at right). After filing the case, the Seattle Municipal Court issued a summons to the suspect's old address on Capitol Hill. That returned undeliverable. The defendant did not appear at the initial

IN THE MUNICIPAL COURT OF THE CITY OF SEATTLE  
KING COUNTY, WASHINGTON

THE CITY OF SEATTLE, )  
Plaintiff, ) CASE NO: [REDACTED]  
vs. ) INCIDENT NO: 18-[REDACTED]  
JOHN [REDACTED], )  
Defendant. ) CRIMINAL COMPLAINT

On or about February 25, 2018, in the City of Seattle, King County, Washington, the above-named defendant did commit the following offense(s):

Count 1  
Commit the crime of Assault with sexual motivation by intentionally assaulting [REDACTED] and one of the purposes for the assault was for defendant's sexual gratification.

Contrary to Seattle Municipal Code Section(s): 12A.06.010(B)

Dated: 9/4, 2018  
Assistant City Attorney

hearing. A bench warrant was issued but it is one of thousands outstanding. The suspect may not even know that a case was filed against him. In all likelihood, he will never face justice for the assault.

According to the victim in this case, she stayed in close communication with the assigned Seattle police detective during the first two months after the assault. She was later contacted and told that the case was being filed, but she was left with the impression that the police did not have high hopes anything more would happen. The case status is still “pending.”

## **(2) 284-day delay to file Northgate car prowls:**

On Sunday, July 15, 2018, at 2 p.m., Douglas R. smashed the windows of 15 vehicles in the Northgate Mall parking lot. Witnesses called the police and several officers responded. Douglas was arrested, read his Miranda rights, and admitted to being responsible. He told officers that he was stealing to get money for food and drugs. He opened his backpack and identified over a dozen items he had just stolen from the cars. (See excerpt of police report below).

█████ stated that he did break into approximately 12 vehicles and stole various items. █████ stated that the backpack that was in his possession had various items in it. I asked if I could look through the backpack, he said that I could. In the backpack, I found four check books that were not in his name, a substance that appeared to be heroin, change in coin purses, car keys, as well as various items that are unknown who the owners are, or if they were stolen at that point in time. In the right pocket of █████ shorts he had a lime green window punch, that he stated he used to break the vehicle windows. █████ was also wearing a black Columbia jacket that was said to be owned by V/█████. █████ stated that he did take that jacket from one of the vehicles he stole from.

Nine Seattle Police officers spent the better part of the afternoon locating smashed car windows in the parking lot, contacting victims, getting witness statements, taking photos of property damage, and trying to reconnect stolen property with its rightful owners. Two officers transported Douglas to the King County Jail where the Jail declined to book him until he was screened at Harborview for a leg infection. Officers then escorted Douglas to the hospital, waited with him while he saw a doctor, and then transported him back to the Jail where he was finally booked.

The police report with photos of all evidence totaled 216 pages. In this specific case, the complete police report, booking process, and evidence processing likely took over 25 hours of officer time.

Because of the dollar value of the property damage and the brazen nature of the crime, Seattle Police originally requested felony charges. The case was reviewed by the King County Prosecutor’s Office but declined. Seattle police then referred the



## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

case to the City Attorney's Office for misdemeanor prosecution. Douglas was out of custody, having been released two days after his initial arrest.

The City Attorney's Office received the complete case file in July 2018 and printed it. But the City Attorney's Office did not file the case until April 24, 2019 - 284 days after the crime occurred. After the City Attorney's Office filed the complaint, the Seattle Municipal Court mailed a summons addressed to Douglas R. at "77 S. Washington St." (See notice of summons excerpt at right.) Douglas did not appear for his court hearing and the Seattle Municipal Court issued a bench warrant. That warrant is still outstanding today and the case remains pending.

The nine-month delay in filing Douglas' vehicle prowling case had a secondary benefit for the defendant. In September 2016, Seattle police had referred two separate criminal cases to the City Attorney's Office against Douglas for theft at Uwajimaya and Home Depot. Those cases were filed in early 2017 (six and nine months after the incidents, respectively). After filing, these two prior cases proceeded slowly, with multiple bench warrants issued in each case. In April 2018, Douglas agreed to a plea deal which would dismiss the Uwajimaya theft and offer a dispositional continuance in the

Home Depot case, meaning the case would be dismissed if Douglas committed no new crimes in the following six months. A hearing date was scheduled for October 2018. (See excerpt of "agreement to continue case for dismissal" at right.)

IN THE MUNICIPAL COURT OF THE CITY OF SEATTLE  
KING COUNTY, WASHINGTON

FILED  
APR 25 2018  
Court 302

City of Seattle, Plaintiff,  
vs. Douglas [REDACTED], Defendant.

Case No. 623833

Next court date 10/24/18 at 1:30 in courtroom 302

Defendant is charged with the following crime(s), which carry the following maximum and minimum penalties:  
1. Theft Maximum Sentence: 90/364 days in jail; \$1000/\$5000 Minimum  
2. City to dismiss 622053 upon entry of dispositional continuance Maximum Sentence: 90/364 days in jail; \$1000/\$5000 Minimum

The parties jointly move the Court to continue the trial in this case for a period of 6 months from this date. During this period of continuance, defendant agrees to:

☒ Have no criminal law violations.  
☒ Immediately notify the court of any change of address.  
☐ Not possess or consume alcohol or illegal/non-prescribed drugs.  
☐ Not possess firearms or weapons; forfeit weapons by [REDACTED]  
☒ Have no contact with Home Depot, 2901 Union St, Seattle, WA  
☐ Complete \_\_\_\_\_ hours of community service by \_\_\_\_\_  
☐ Complete National Traffic Safety Institute Level \_\_\_\_\_ and provide proof of completion by \_\_\_\_\_  
☐ Obtain anger management evaluation and follow-up treatment as recommended by Probation.  
☐ Defendant shall not refuse a breath or blood test when asked to do so by a law enforcement officer. ☐ Pay \$200 BAC Fee.  
☐ Complete a DUI Victims Impact Panel and provide proof of completion. ☐ Not drive without ignition interlock device for \_\_\_\_\_ year(s).  
☐ Complete Alcohol and Drug Information School (ADIS) and provide proof of completion by \_\_\_\_\_  
☐ Obtain a \_\_\_\_\_ evaluation from a state certified agency, and complete the recommended treatment by \_\_\_\_\_  
☒ Other: 3 months with no new offenses  
☐ SOAP, HIV test, STD Counseling, PPIA \$50, \$1,500, \$2,500 or \$5,000, SIVF \$1,000, counseling fee \$169.50.

☒ Appear at all hearings scheduled by the court.  
☐ Not drive without a valid license and insurance.  
☐ Pay restitution to \_\_\_\_\_ \$ \_\_\_\_\_  
☐ Obtain a valid Washington Driver's License.  
☐ Appear for all scheduled Probation appointments.  
☐ Defendant agrees to be supervised by Probation.

In addition, as a condition of this agreement with the City, the defendant makes the following acknowledgements, waivers and stipulations:  
☒ Defendant acknowledges that he/she has the following constitutional rights: to a trial by jury, to a speedy trial, to remain silent before and during trial, to refuse to testify against himself/herself, to hear and question the witnesses against him/her, and to testify and have witnesses testify on his/her behalf. Defendant waives all of these rights by entering into this agreement. Nobody has made any threats or promises to get Defendant to enter into this agreement. Defendant agrees that the new commencement date is 1/22/19.  
☒ Defendant acknowledges that his/her violation or failure to comply with any of the conditions of this agreement will result in the court determining his/her guilt of the charged crime(s) based solely on the police reports and/or other documents/materials attached to or accompanying this agreement. If applicable, Defendant acknowledges that his/her compliance with this agreement will result in the court determining his/her guilt of the reduced crime(s) based solely on the police reports attached to or accompanying this agreement. Defendant waives any defenses to the charged crime(s) or reduced crime(s) and stipulates to the facts in the police reports incident # [REDACTED] See alternative stipulations

If defendant complies with the conditions of this agreement, the City agrees to:  
☒ Dismiss the following crime(s) Theft  
☐ Reduce crime(s) as follows: \_\_\_\_\_  
☐ Recommend sentencing as follows: \_\_\_\_\_  
☐ Reduce crime to NVOLOP with a civil penalty of \$ \_\_\_\_\_, \$ \_\_\_\_\_ Insurance. Other infractions will be dismissed ☐ yes ☐ no.

IT IS HEREBY ORDERED that the case is continued upon the conditions set forth herein.

DATE this 24th day of April, 2018  
Judge Pro-Tem Judge Commissioner  
Defendant: [REDACTED]  
Prosecuting Attorney: Mary E. Lyne

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

The key condition of the dispositional continuance was that the defendant have no new law violations. In effect, that provision is a chance to show the prosecutor and court that the charged crime was an aberration and, if the defendant can stay out of trouble for six months, help him avoid a conviction.

As discussed above, three months after Douglas signed the dispositional continuance, he violated its terms when he smashed 15 car windows at Northgate. Furthermore, in September 2018, while the Northgate car prowls sat un-filed at the City Attorney's Office, the suspect was arrested again for multiple car prowls in Queen Anne. He admitted to those crimes, was booked into jail, and released the next day. Charges for the Queen Anne car prowls have still not been filed in that case almost a year later.

ON (date) <u>9/30/2018</u> AT (time) <u>10:19 AM</u> , WITHIN THE (city/unincorporated area of county) <u>City of Seattle</u>
COUNTY OF KING, STATE OF WASHINGTON, THE FOLLOWING DID OCCUR:
<u>█████</u> , Douglas was observed attempting to open a car door on the 600 block of 5 Av N. <u>█████</u> matched the physical description of a car prowler suspect from multiple car prowls on the 400 block of Roy St. Several witnesses identified <u>█████</u> as the person who broke into the vehicles. <u>After Miranda was read █████ stated that he had broken into several vehicles.</u>

At the October 2018 hearing to evaluate Douglas's compliance with the court order in the cases at Home Depot and Uwajimaya, the City Attorney moved to dismiss charges in both crimes - reporting to the Seattle Municipal Court that Douglas had complied with all the terms of the dispositional continuance by not committing any new crimes. (See excerpt of court hearing worksheet below.) This was despite Douglas' two major car prowler sprees which had resulted in arrest and despite the public King County Jail website showing that Douglas had been booked into jail in both July and September 2018.

<input type="checkbox"/> City <input type="checkbox"/> Defense <input type="checkbox"/> Joint motion to continue	<input type="checkbox"/> Granted <input type="checkbox"/> Denied <input type="checkbox"/> DOL Screen
<input type="checkbox"/> Time for Trial Waiver filed. New commencement date	New expiration date
<u>End of Delom - In Compliance</u>	<u>II motion to dismiss - Granted</u>
<u>CAEW - Completed.</u>	

### (3) 492-day delay to file charges for violent assault in front of Court House:

An individual with a history of violent assaults attacked a couple on their way to the Pioneer Square Sound Transit station in September 2017. (See excerpt of police report below.) The case was referred to the City Attorney's Office for misdemeanor assault, but no charges were filed until January 2019.

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

On 09-04-17, I was in full uniform and in a marked vehicle at 3 Av and James St when I was flagged down by a metro bus driver stating that he had just witnessed an assault and the suspect was following the victim southbound on 3 Av. I logged to the call and was updated the victim was calling in near 3 av and Jefferson St. I located the victim bleeding heavily from the nose and request fire respond. Victim and his wife stated they were walking southbound on 3 Av trying to head to the light rail as they had a flight to catch at Seatac. They stated the suspect who was a stranger to them rode up to them on a bmx bike and asked the victim if he wanted to fight. The victim replied something to the effect of no and the suspect pushed the victim in the chest. While now in the southbound lane of travel the suspect punched the victim in the face, knocking him to the ground. The victim and his wife were able to then run away and the suspect fled the scene southbound on the bike. A description was provided and officers located a possible in front of the union Gospel Mission. The victim's wife responded and positively identified the suspect who was then placed under arrest for assault. Search incident to arrest an illegal fixed blade dagger was found attached in a sheath on the bike he had been riding. In his backpack he wore on him I also located a small plastic baggie containing two small shards of suspected methamphetamine. I field tested the substance in accordance with the protocol established by the WSPCL. I used field test kit #U. The substance had a positive field test result for methamphetamine. The suspected meth weighed 0.0grams but was of a usable amount.

SFD A2 responded to treat the victim at the scene and believed he would need stitches to his nose. They could not tell me if the nose was broken or not. V/ [REDACTED] was transported to HMC via AMR.

Officer [REDACTED] obtained a copy of video from the Morrison. In the upper left corner of the video you can see parts of the assault taking place followed by the victim and his wife running southbound. The suspect can be seen riding away southbound a short time later. That video DVD was placed into evidence.

While the suspect was out-of-custody on the 2017 assault charges, the same officer arrested him again for another assault in Occidental Park and again noted the violent danger that the suspect posed to the community. (See excerpt of police report below.)

The SPD case number for this warrant, ref: 17-328725, was an incident that I assisted with the arrest of [REDACTED] for a different violent assault. [REDACTED] has a weapons caution listed in his SPD history on RMS. During a search incident to arrest, I found a makeshift shank in [REDACTED]'s right back pocket. The knife was seized and entered into evidence.

This is one of many examples where delayed filing for out-of-custody suspects fails to stop a disturbing pattern of dangerous behavior that can escalate over the course of months and years.

### (4) Filing delays for woman who went on to commit a rash of burglaries that devastated the Chinatown-International District:

Heather D. was arrested in January 2019 and charged with 22 burglaries in the Chinatown-International District, causing small business owners hundreds of thousands of dollars in damage. Her crime spree over a two-month period hit almost every

prominent restaurant and retailer in the neighborhood and was featured in extensive local news coverage.<sup>4</sup> Upon arrest, she admitted that the burglaries were to support her drug habit and that she had been living in an encampment in the neighborhood.

Prior to her arrest for the burglaries, Heather had three prior shoplifting cases in the Chinatown-International District. Her first two cases in 2015 and 2016 were each filed three months after the incidents. Her next case, a theft at Uwajimaya, occurred on August 2, 2016 and was not filed until June 6, 2017, ten months later. Heather did have one timely filed case in Seattle Municipal Court: she was arrested for a midnight break-in at Goodwill in 2017 after she hopped over the fence and had to be located by a K-9 unit. She was sentenced to two days in jail.

**(5) Prolific Downtown thief committed frequent thefts while cases languished:**

Matthew L. is a 31-year-old white male who moved to Seattle from Florida sometime in the fall of 2017. When Matthew arrived in Seattle, he was homeless and unemployed and immediately began a major crime spree. According to the King County Prosecutor's Office, Matthew had multiple convictions in Florida, including felony drug possession, theft, trespassing and disorderly conduct. He was booked into jail nine times in the first nine months he was in Seattle.

Matthew's modus operandi is to enter retail outlets in Downtown Seattle, quickly grab large stacks of high-value merchandise, and race out the door, barging through employees or security on the way out. During one three-month period in 2018, Seattle police sent seven theft cases to the City Attorney's Office for thefts at Banana Republic, Gap, J. Crew and Nordstrom. Loss prevention personnel told officers that Matthew was a near-daily presence in their stores.

Despite already having convicted Matthew of five theft cases in 2018, the City Attorney's Office waited four months to file the seven new theft cases that Seattle police referred from May and June 2018. In the interim, Matthew's criminal behavior continued to escalate and in July 2018, he was arrested for a serious assault on a gas station employee who tried to stop him from shoplifting. The King County Prosecutor's Office described Matthew's crime spree and recidivism in detail. (See excerpt of criminal complaint below.)

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<sup>4</sup> See, e.g., <https://www.kuow.org/stories/chinatowninternationaldistrictburglaryspreeleavesbusinessesheartbroken>



## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

22 For the last half-year or more, the defendant has been a bane to downtown Seattle  
23 property owners. In 2018 alone, he has racked up six misdemeanor convictions, with five Theft  
24 in the Third Degree convictions and one Assault in the Fourth Degree conviction in Seattle  
Prosecuting Attorney Case  
Summary and Request for Bail  
and/or Conditions of Release - 1

Daniel T. Satterberg, Prosecuting Attorney  
CRIMINAL DIVISION  
W554 King County Courthouse  
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(206) 296-9000 FAX (206) 296-0955

1  
2 Municipal Court. His Theft convictions stem from incidents on 2.6.18, 2.8.18, 2.12.18, 3.12.18,  
3 and 6.14.18; his assault conviction stems from an incident on 3.14.18. As a result, the defendant  
4 has spent a fair amount of 2018 in King County Jail, but has reoffended often within days of  
5 being released. JILS shows that the defendant was in King County Jail during the following  
6 periods: 11.7 – 11.8.17; 2.8 – 2.9.18; 2.13 – 2.15.18; 3.12 – 3.14.18; 3.14 – 4.2.18; 4.6 – 4.7.18;  
7 4.19 – 4.20.18; 5.13- 5.16.18; and 6.14.18 – 7.12.18. After his release on 7.12.18, it took the  
8 defendant only 12 days to be caught reoffending, this time for a robbery. Thus, he is charged  
9 with a rapid recidivism aggravator in this case.

By the end of 2018, Matthew L. had accrued over a dozen misdemeanor and felony convictions. In almost every instance, he committed significant crimes while prior case reports sat pending at the City Attorney's Office.

### **(6) Case filing delays from Retail Theft Program lead to chronic victimization with lackluster response:**

Small and large business owners have increasingly complained about the anemic criminal justice system response to their challenges. Many theft cases are reported online through the Retail Theft Program so that they will not require a police response. The cases are then reviewed by a police officer and transmitted to the City Attorney's Office for prosecution (usually within 1-3 business days). The City Attorney's Office takes on average 182 days to file these cases, meaning that prolific offenders have little deterrence to continue the same activity. The following is a series of illustrative examples showing how this plays out.

**(A)** A Downtown retailer detained a woman who had stolen over \$800 in goods. Police arrived but released the suspect and asked the retailer to file charges

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

through the Retail Theft Program. (See excerpt of security report given to SPD, below.) The City Attorney's Office did not file charges until four months later. The woman did not appear for her court hearing and remains at large in the community. A bench warrant was issued, and the charges remain outstanding.

At this time, TPS [REDACTED] and I approached [REDACTED] from the front, identified ourselves as [REDACTED] Security, and asked her to come back into the store to discuss the theft. [REDACTED] argued that she hadn't taken anything but eventually admitted to the theft and was escorted back into the store. At 5:29 PM, [REDACTED] entered the booking room without further incident. Once in the booking room, [REDACTED] said she did not have a photo ID, so I called Seattle Police Department for assistance. When SPD officers arrived, they confirmed [REDACTED] identity. [REDACTED] admitted to the theft and signed an admission statement. [REDACTED] also signed a trespass notice. At 6:19 PM, [REDACTED] was escorted off [REDACTED] property and released under her own recognizance. Value of merchandise recovered from [REDACTED] after she exited the store: \$805.77 SPD issued case number 19-41190 for this incident.

(B) A prolific offender with multiple trespasses from prior shoplifts was detained at a retail outlet. Police were called. They released the suspect on site and asked the retailer to file the case through the Retail Theft Program. (See excerpt of security report given to SPD, below.) The case was filed four months later. A summons was sent to 77 S. Washington. The defendant did not appear, a bench warrant was issued, and the case remains pending.

At approximately 12:55 PM APD [REDACTED] and I made contact with [REDACTED] outside of door five and within 100 feet from the door and identified ourselves as [REDACTED] Asset Protection (AP). We asked [REDACTED] to return back with us inside of the store to discuss the unpaid for items but HE stated "I am already trespassed please let me go" as HE began to tug away in an attempt to flee. I deployed my handcuffs and applied them to [REDACTED] without further incident to maintain control of the situation. [REDACTED] was escorted back inside of the store, during the escort HE continued saying "I am trespassed and I know I will go to jail this time". Once back in the AP office I conducted a routine pat down search for weapons of [REDACTED] and none were discovered. I asked [REDACTED] why HE was shoplifting and HE said "I needed money because I am homeless". [REDACTED] was notified for a prosecution disposition, once he approved SPD was called. At approximately 1:20 PM Officer [REDACTED] arrived and asked us to prosecute [REDACTED] through RTP. I issued [REDACTED] a civil demand, notice of trespass and a statement of admission which HE stated HE understood and signed all documents. Officer [REDACTED] escorted [REDACTED] out of the building without further incident. I was able to recover all of the merchandise valued at \$80.00

(C) A woman with multiple outstanding warrants was detained for shoplifting following a struggle with thrift shop security. Despite the warrants, SPD declined to arrest and asked that the case be referred to the City Attorney's Office through the Retail Theft Program. (See excerpt of security report given



## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

to SPD, below.) The case was filed four months later. The defendant did not appear, and a bench warrant was issued. The case is still pending.

office. [REDACTED] then apologized for trying to run saying that she was just scared and that it was stupid. She did have identification so I called SPD to run a warrant check. She was then trespassed from all [REDACTED]'s for five years and civilly advised. SPD arrived and confirmed her warrants but declined to take her and after gathering all the information needed, I escorted her out the building.

(D) A prolific offender was detained by security at a Downtown retail store despite forcefully resisting. Seattle police identified him at the scene but released him and asked that the case be filed through the Retail Theft Program. (See excerpt of security report below.) The case was filed almost six months later and was resolved one year later with a dispositional continuance.

[REDACTED] made HIS way to the customer exit leading to Fourth Ave (Door 5). The doors that [REDACTED] tried to leave out of were locked. I approached [REDACTED] after HE had attempted to open the locked doors several times. I identified myself as a store employee and asked HIM to come to the AP office. [REDACTED] began to forcefully resist apprehension. Handcuffs were employed in order to maintain control of the situation. [REDACTED] was escorted back to the AP office with no further incident. Upon arrival at the AP office a weapon pat-down check was performed by me, yielding negative results. As [REDACTED] had no form of identification, Seattle Police were called in order to verify HIS identity. The following forms were signed and acknowledged by [REDACTED]: statement of admission, civil demand notice, and the trespass notice. The fragrance gift set and the black Calvin Klein top listed in this report as recovered merchandise have a total market value of \$300.00. The merchandise has been photographed and returned to stock. Seattle Police arrived at the store at approximately 8:30PM. After verifying HIS identity, [REDACTED] was escorted from the premises by Seattle Police at 8:35PM.

While the first case was waiting to be filed, the suspect continued to shoplift at the establishment and was detained again in January 2019. Because no case had been filed or warrant issued in the earlier case, police again released him at the scene. (See excerpt of security report given to SPD, below.)

Once inside the AP office, I conducted a weapon check pat down search and found no items of interest. [REDACTED] did not have any ID in HIS possession, though HE did admit to being stopped at our store several times in the past. Through [REDACTED] case database we were able to identify [REDACTED]. Due to HIS history of attempted theft at our store, the Seattle Police Department (SPD) was still contacted in regard to [REDACTED] trespass violations. SPD Sergeant [REDACTED] informed me via telephone that they did not intend to place [REDACTED] under arrest, and that I should file the case through the Retail Theft Program.

(E) A suspect was detained by security while stealing 22 pairs of jeans valued at \$675. The suspect also had committed a \$130 theft the night before. He told

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

security that he planned to sell the stolen jeans for cash. Seattle police arrived and released him at the scene. (See excerpt of security report below.) The City Attorney's Office did not file the case for five months.

having any. Seattle Police Officers arrived at 6:00:48, identified [REDACTED], was informed that [REDACTED] had shoplifted and got away with the merchandise the night before (February 9th, 2019) on thirteen bags of pistachios worth \$129.87 (KTR INCDT-14866288). It was also discussed the jeans totaled to \$674.77. Before officers arrived, [REDACTED] admitted that he planned to sell all the jeans at once for \$50 in China Town. [REDACTED] admitted to the officers that he sold some of the pistachios and saved some to eat for himself. Seattle Police Officers exited the office at 6:07:30. During this time, [REDACTED] voluntarily signed a one year trespass notice but refused to sign the admission statement for the twenty-two pairs of jeans and the thirteen bag of pistachios. At 6:20:39, [REDACTED] was released from custody and exited onto the level two Pike Street exits without any further incident. All video was retained for the apprehension. All video for the KTR incident with pistachios have also been retained. Total value of admitted theft: \$804.64

As we have seen in the above examples, the time it takes to file and process a case has a major impact on the outcome. The longer it takes to file cases contribute to dismissals, increased impact to the community and additional burdens and impacts to the offenders themselves.

### 3. Dismissals: Four-in-ten non-traffic-related misdemeanor cases filed by the City Attorney's Office achieve no meaningful resolution.

According to data obtained from the Seattle Municipal Court, 42 percent of the non-traffic criminal cases opened in 2017 had no meaningful resolution as of August 2019.

Analysis of 7,081 Criminal Non-traffic Cases Filed by City Attorney's Office in 2017 <sup>5</sup>	
2,943	No meaningful resolution <sup>6</sup>
4,138	Meaningful resolution
2,943 Cases with <u>No</u> Meaningful Resolution (42%)	
820	Dismissed with proof issues
812	Still pending 2 or more years after filing
701	Dismissed for reasons of incompetency <sup>7</sup>
463	Still Pending (369 with outstanding bench warrants)
392	Dismissed "in the interests of justice"
4,138 Cases with Meaningful Resolution (58%)	
2,124	Finding entered (1,179 suspended sentences)
1,106	Dismissed pursuant to negotiated plea
534	Dispositional continuance (agreement to delay case as long as defendant stays out of trouble)

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<sup>5</sup> There were an additional 1,697 cases that were opened in Seattle Municipal Court but where charges were never filed. This analysis assumes that those cases are included in the City Attorney's data on case decline rates, discussed in Section 1. If those cases have not been recorded as declines, the 'no meaningful resolution' category would materially increase.

<sup>6</sup> See methodology for categorization of 'meaningful resolution' below.

<sup>7</sup> These dismissals are required by law. The reason to include them in the 'no meaningful resolution' category is that, according to King County Public Health, all of these defendants are released back into the public, typically within 72 hours of dismissal, without receiving additional treatment or services for their underlying mental health issues.

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

374	Deferred sentence, pre-trial diversion (10), or compromise of misdemeanor (negotiated restitution with victim)
-----	--

*Source: data obtained from Seattle Municipal Court records (2017) - data includes many additional minor categories that are included in the total figures but not included here (i.e., 27 cases dismissed for felony filing would be a meaningful resolution)*

In the Seattle municipal criminal justice system, there are more than 40 possible outcomes for cases. That can make it hard to assess the overall performance of the system. To better track outcomes and performance, this report focuses on the most common possible outcomes and sorts them into two categories: ‘meaningful resolution’ or ‘no meaningful resolution.’ These categories are intended to capture whether the case provides some semblance of closure for the underlying incident, regardless of whether either the victim or defendant feel that it is the right result.

These categories are not meant to assess whether a particular outcome was the right outcome; that effort would require an individual analysis of thousands of cases. Instead, the purpose of this categorization is to better understand the overall efficiency and effectiveness of the system. A well-functioning criminal justice system should have a relatively high rate of meaningful resolution of cases. Here is the categorization used for this report:<sup>8</sup>

‘Meaningful Resolution’	‘ <u>No</u> Meaningful Resolution’
Finding entered - guilty or not guilty	No charges filed (case declined by prosecutor)
Deferred sentence	Case remains pending (2 years after incident) usually with warrant issued
Dispositional continuance	Dismissed for proof issues (including no prosecuting witness)
Dismissed pursuant to negotiated plea	Dismissed due to incompetency of defendant <sup>9</sup>
Pre-trial diversion	Dismissed “in the interests of justice”
Dismissed for felony filing	

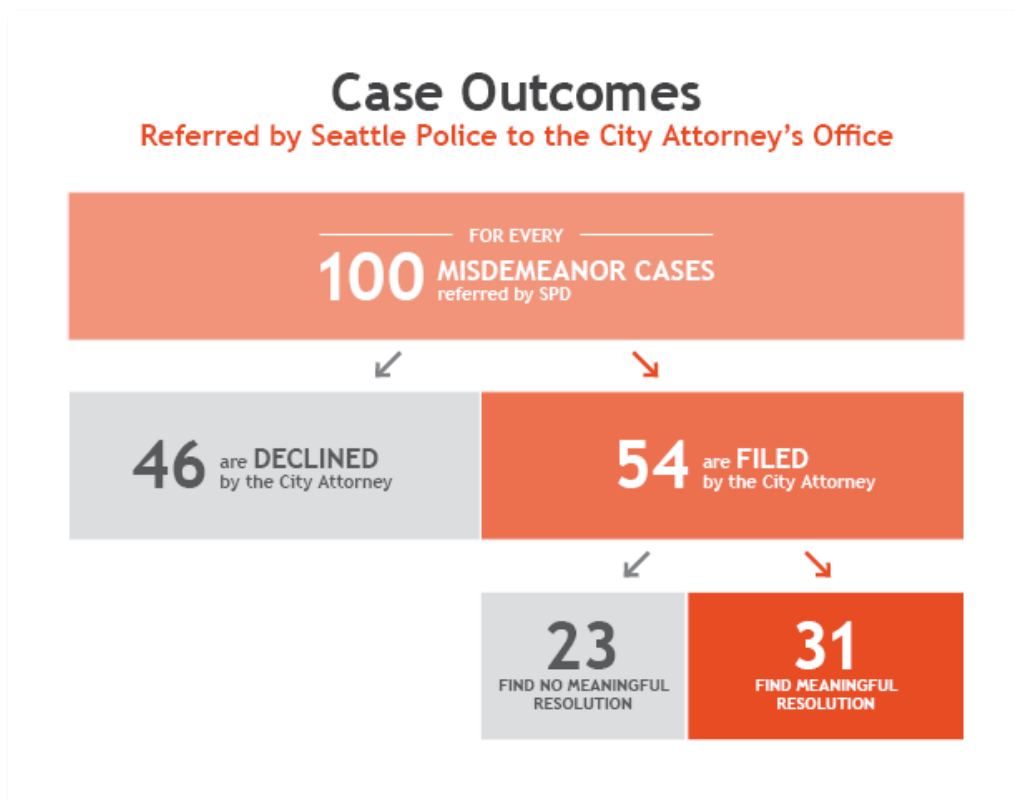
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<sup>8</sup> Any categorization of outcomes from data is subjective and reasonable people will disagree where to draw the line. This analysis attempts to be over-inclusive in the ‘meaningful resolution’ category.

<sup>9</sup> According to Seattle Municipal Court and King County Behavioral Health, almost no defendants whose misdemeanor cases are dismissed for incompetency receive meaningful mental health intervention.

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

Looking at the system as a whole, for every 100 non-traffic misdemeanor cases that Seattle Police send to the City Attorney's Office, only 54 are filed. Of those 54 cases, only 58 percent end in any kind of meaningful resolution such as a finding of guilty or not guilty, a deferred sentence, or a pre-trial diversion (see categorization of meaningful resolution in Section 3, below). In other words, for every 100 cases that Seattle police refer to the City Attorney's Office, only 31 - less than one-third - conclude with a meaningful resolution.



Sources: 2017 Seattle City Attorney's SPAR Report; Data from Seattle Municipal Court on results of cases filed in 2017; Report of the Seattle Municipal Court to the High-Barrier Individual Working Group

The overall low rate of resolution is particularly acute for theft cases. For the 18-month period from November 2018 through April 2019, Seattle Police referred 1,806 cases to the City Attorney's Office through the Retail Theft Program, a program in which larger retailers with their own security forces direct-file misdemeanor case reports with the Seattle Police Department which then reviews them and forwards them to the City Attorney's Office for prosecution. Of those cases, only 202 (11 percent) had achieved a meaningful resolution with accountability for the suspect. Almost half of the cases were not filed and almost half of the cases that were filed remained pending (most with outstanding bench warrants because the defendant never appeared in court).

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

<b>Analysis of 1,806 Retail Theft Incidents Referred to City Attorney's Office from 11/17 to 4/19</b>	
988	Filed by City Attorney's Office (55%)
818	Not filed (45%)
<b>Disposition of 988 Filed Cases</b>	
299	Dismissed
202	Resolved
463	Still Pending (369 with outstanding bench warrants)
<b>Disposition of 202 Resolved Cases</b>	
171	Sentences entered
20	Dispositional continuances
11	Deferred sentences

*Source: data obtained by public disclosure request to Seattle Municipal Court (disposition results as of July 2019)*

Cases grow stale with time: witnesses move away or become harder to find; memories fade; and evidence becomes harder to collect. Even the most serious cases of violence against persons become hard to bring to meaningful resolution after more than a year. The chart below analyzes all assault cases that took place between 2017 and 2018 where the case was filed one year or longer after the incident. The meaningful resolution rate for these cases was 21 percent. Seventy-nine percent of the assault cases that were filed by the City Attorney's Office more than one year after the incident had no meaningful resolution as of September 2019.

<b>Analysis of 92 Assault Cases filed by City Attorney's Office more than one year after incidents arising in 2017-18</b>	
43	Cases still pending (most with outstanding bench warrants after defendant failed to appear at first hearing)
23	Dismissed because of proof issues (e.g., no prosecuting witness)
8	Plead guilty
6	Dispositional continuance
5	Dismissed as part of negotiated plea
3	Dismissed for reasons of incompetency



## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

2	Dismissed “in the interests of justice”
2	Deferred sentence

Source: Seattle Municipal Court data for out-of-custody cases (2017-18)

The victims in the hundreds of cases with delayed filings are often employees. The chart below analyzes the results in 15 assault cases where the case was filed more than one year after the incident. Only two of those cases had received a meaningful resolution for the victims.

Analysis of Select Assault Cases Filed Over One Year After Incident (Cases from 2017-18)			
# Days to File	Crime	Case Status (Sept. 2019)	Victim
666 days	Assault	Pending	Manager of local pharmacy chain in Lower Queen Anne
665 days	Assault	Dismissed “in interests of justice”	Convention Center security guards who tried to remove defendant from bathroom for drug use
526 days	Assault	Pending	Harborview security guards
512 days	Assault	Pending	Salesman at used car dealership
501 days	Assault	Dispositional Continuance	Female bouncer on Capitol Hill
495 days	Assault	Pending	Women in family homeless shelter
487 days	Assault	Dismissed - proof	Downtown property owner who tried to wake up defendant on meth
486 days	Assault	Dismissed - proof	Waitress at restaurant on Capitol Hill
485 days	Assault	Guilty - 40-day jail sentence	Downtown pedestrian by transient male in mental health crisis
480 days	Assault	Pending	Cashier at small Downtown grocery store
438 days	Assault	Dismissed - proof	Security guard at Downtown makeup retailer during theft
434 days	Assault	Pending	Homeowner in West Seattle who confronted

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

			defendant for stealing delivery boxes off his porch
433 days	Assault	Pending	Staff member at church in Ballard after being banned from homeless meal program
402 days	Assault	Dismissed - proof	Police officers following threats to grocery customers off Aurora
388 days	Assault	Pending	Police officer Downtown

*Source: Seattle Municipal Court data for out-of-custody cases (2017-18)*

In short, Seattle's misdemeanor criminal justice system does not provide a meaningful resolution in the vast majority of cases referred by Seattle police. The next chapter further explores some of the consequence of this ineffectiveness and inefficiency.

## 4. Consequences: The dysfunction of Seattle's criminal justice system has real impacts on victims, policing and defendants.

Prolific offenders commit daily crimes in plain sight and cycle through the criminal justice system with no meaningful intervention. Police spend tens-of-thousands of hours developing misdemeanor cases that either never get filed - or the cases sit at the City Attorney's Office for such a long time that they eventually get dismissed. And many businesses that face major issues with crime under-report it because doing so seems fruitless. The dysfunction of Seattle's criminal justice system supports an ecosystem of criminal activity that is taking a toll on Seattle's neighborhoods.

### A. Impacts on Victims

According to a survey of a dozen major retailers, shopping centers and public space managers across the city who see thousands of daily customers or visitors, each estimates that they experience between 10 and 40 security incidents per day requiring a security team response.<sup>10</sup> The most common of these incidents are theft, drug use in bathrooms, and harassment or assault by individuals in a behavioral health crisis. According to one large national retail organization, their Downtown Seattle store annually competes as the number-one or number-two store in the country for theft loss—losses that numbered in the millions every year.

While the costs of added security and stolen merchandise are a major source of concern for those surveyed, most of them identified the most pressing issue as employee safety and morale. It is employees who often face the brunt of these incidents, and the daily grind wears on them quickly. In fact, one company with multiple stores Downtown had implemented counseling services for its employees at those stores.

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<sup>10</sup> In preparation for this report, Scott Lindsay conducted interviews of stakeholders over the period of June through September 2019. They included large retailers, shopping centers, and quasi-public space managers with high volumes of visitors. The stakeholders were selected based on having a high total number of security incidents, willingness to share information, and because they had security teams able to track and report incidents. Most of the stakeholders asked not to be identified in this report because they feared attracting negative attention.

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

Front-line employees are the ones that deal with the hardest and messiest assignments like cleaning up bathrooms after someone has used intravenous drugs or trying to stop a prolific offender from stealing hundreds of dollars of store merchandise. And it is front-line employees that are often physically assaulted in the course of their work. (See excerpt of police report below.)

██████████ stated that he observed ██████████ and two other suspects inside the business selecting a couple merchandise items from the shelves. ██████████ was then seen transferring the items to the unidentified suspects who had left the business, bypassing all points of purchase not paying for the item. The two suspects then came back inside the business, selected another item which was transferred to ██████████ (See Property Taken). ██████████ was then seen via surveillance walking out the business with the item, bypassing passing all

For 7428 Printed On Jan-05-2017 (Thu.)

Page 7 of 46



### SEATTLE POLICE DEPARTMENT

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(1203-3 ROBBERY-BUSINESS-BODYFORCE)

points of purchase not paying for the item. During that time, ██████████ and ██████████ identified themselves as loss prevention and attempted to detain ██████████. While attempting to detain him, ██████████ threw a punch with a closed fist towards ██████████, hitting ██████████ on the left cheek.

Many large organizations reported that while they had a great deal of respect for Seattle police, they did not have confidence that the police alone could effectively deal with the chronic crime they face every day. As a result, most organizations stated that they only reported extraordinary incidents to the police. On average, the organizations indicated that they reported to police fewer than one incident per day, and some reported fewer than one per week. Conservatively, that is less than 5 percent of the overall crime they respond to, and a fraction of the total crime that occurs.

Uwajimaya is the largest Asian grocery store in Seattle and a major attraction for the Chinatown-International District. Uwajimaya's management states that they have seen a significant increase in theft and security incidents in the past six years and it has had a major impact on their business, employees and customers. They estimate they have between 10 and 20 security incidents per day.

Records show that Uwajimaya reports less than one incident to police per day. But even those reports show very little return for their efforts. Of the 261 cases that Uwajimaya referred for prosecution through the Retail Theft Program in 2018 (including detailed reports with an admission from the suspect, statement from security and evidence collected), only 11 had resulted in a guilty plea or pre-trial

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

diversion as of July 2019. That is a meaningful resolution rate of four percent of the total reported and 11 percent of cases that were referred to the City Attorney's Office. (See breakdown of case results below.)

Uwajimaya Reported 261 Theft Cases Through the Retail Theft Program in 2018	
261	Total RTP Theft Cases Reported (2018)
166	Cases held by SPD because they did not meet City Attorney Office filing standards (\$ threshold)
95	Cases referred to City Attorney by Police
Of 95 cases referred to City Attorney's Office	
44	Declined or never filed (as of July 2019)
28	Pending with bench warrants outstanding
11	Dismissed
8	Guilty plea
3	Pretrial diversion
3	Dismissed for incompetency

Source: data from Seattle Police Department on Retail Theft Program and publicly available case information from Seattle Municipal Court

In an illustrative incident, a woman was detained for theft by Uwajimaya security. She admitted to stealing and Uwajimaya sent the case to police through the Retail Theft Program. It was promptly approved by the Seattle Police Department and forwarded to the City Attorney's Office. The case was not filed until nine months later. In the interim, the defendant had committed at least one additional crime and was on Seattle Municipal Court probation. When the Uwajimaya case was filed, a summons was sent to 77 S. Washington St. She did not appear, a bench warrant was issued, and the case remains pending.

IN THE MUNICIPAL COURT OF THE CITY OF SEATTLE  
KING COUNTY, WASHINGTON

THE CITY OF SEATTLE, )  
Plaintiff, ) CASE NO: 637756  
vs. ) INCIDENT NO: 18-297605  
CRYSTAL [REDACTED], )  
Defendant. ) **CRIMINAL COMPLAINT**

On or about July 8, 2018, in the City of Seattle, King County, Washington, the above-named defendant did commit the following offense(s):

Count 1

Commit the crime of theft/stealing by knowingly obtaining or exerting unauthorized control over the property of UWAJIMAYA with the intent to deprive the owner of such property.

Contrary to Seattle Municipal Code Section(s): 12A.08.060(A)(1)-1

Dated: April 6, 2019  
Assistant City Attorney

In September 2018, Uwajimaya virtually stopped reporting any theft cases through the Retail Theft Program for nine months.

Uwajimaya is not alone. One major national retailer in Downtown Seattle stated that they experienced on average about 15 security incidents requiring a security response per day, principally shoplifting. But that establishment reported only 30 shoplifting incidents through the Retail Theft Program in all of 2018 and did not report any incidents through the tool in the first four months of 2019.

In addition to frustrating victims who are targeted daily, the under-reporting of chronic criminal activity can significantly impact neighborhood crime statistics. In the Chinatown-International District, for example, two major retailers, Uwajimaya and Goodwill, have historically been responsible for the bulk of crime reports. After Uwajimaya stopped reporting theft incidents through the Retail Theft Program in September 2019 there was an immediate impact on the neighborhood's overall crime statistics. Crime data and trends are often aggregated (e.g., a single theft incident is equivalent to a more serious crime like homicide or aggravated assault). Theft reports represented between 75 and 90 percent of all crime reporting in 2016 through 2018 for Chinatown-International District. Therefore, the drop in theft reporting has had an outsized impact on overall crime data.

Meanwhile, for Downtown Seattle, organizations from the public safety survey reported that crime has gotten significantly worse for them in the past three years. Indeed, person-crime numbers (robbery, assault, etc.) increased 43 percent from 2016 to 2018. But theft reports (principally driven by retail reporting through the Retail Theft Program) showed only a one percent increase over the same period. As a result, overall crime in Downtown is reported as only having increased a modest six percent over that period.

Police resources are allocated based on crime data. As the failure of the criminal justice system distorts crime reporting, it has a real-world impact on how precious police resources are allocated, potentially exacerbating crime.

## B. Impacts on Policing

Most of the work that Seattle police put into investigating misdemeanor crimes that *are* reported is wasted in the municipal criminal justice system.



The bulk of daily police work is responding to calls for service from the public or proactively “on-viewing” criminal activity, investigating those incidents, and then writing police incident reports for misdemeanor crimes.

The process of creating an incident report and submitting it to the City Attorney’s Office for prosecution is labor-intensive. When a crime occurs and the police are involved, the police will often take between 1-3 hours interviewing witnesses, collecting evidence (e.g., video of the incident, weapons used or merchandise stolen), and processing the suspect (screening the arrest at the precinct and transporting the suspect to the King County Jail). The police officer then returns to the police precinct and writes a report summarizing his or her investigation and preserving physical and digital evidence. According to the Seattle Police Department, the average time to complete the paperwork for a basic misdemeanor is 2 hours. The entire process can take upwards of 3-5 total officer-hours. When a patrol shift is short-staffed, as is often the case, the officer must complete the report at the conclusion of the shift while on overtime.

In total, officers complete approximately 12,000 misdemeanor non-traffic police reports per year, but less than one-third (~4,000) of those ever result in a meaningful resolution. At an average of 5 hours of officer time per completed misdemeanor report referred for prosecution, that translates to roughly 40,000 officer-hours per year spent on solving and reporting crimes that are declined or result in no meaningful resolution.

Here is one illustrative basic misdemeanor incident and the officer efforts involved (also see police report excerpted below):

- Officer dispatched to north-end home-improvement retail establishment for shoplifting suspect in custody.
- Officer identifies the suspect and determines that he has two outstanding warrants from Seattle for felony reckless burning and misdemeanor theft.
- Officer searches suspect and discovers drug paraphernalia and scales for drug distribution.

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*“The main problem that I have is the lack of prosecution that results from the hard work that we do as a department. It is beyond frustrating to put hours of work into a case to find that they either dismissed the charges or gave them a very easy plea deal. Many of these cases involve dangerous felons which we as officers put ourselves in danger to apprehend.”*

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■ **Seattle Police officer**, quoted in *Final Report of Seattle Police Retention and Recruitment Workgroup*, August 2019

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## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

- Officer arrests suspect and transports him to North Precinct to have arrest screened by a sergeant.
- Officer transports suspect to King County Jail.
- King County Jail declines to book suspect because of medical condition (abscess).
- Officer transports suspect to Harborview and waits with him while he is medically cleared.
- Officer transports suspect to King County Jail and books him.
- Officer returns to North Precinct and completes misdemeanor arrest incident report, referring case to the City Attorney's Office for theft and the warrants.

In total, this arrest, booking and prosecution referral likely took eight or more hours (depending on how long was spent at the hospital).

I arrested [REDACTED] for the theft and his two warrants. I read [REDACTED] his full Miranda Warnings and he nodded his head up and down in a sign that he understood his rights. I escorted [REDACTED] and his backpack that he wore during the theft to the front of my patrol vehicle and conducted a search incident to arrest. I located in the backpack a scale, multiple empty small plastic baggies that is consistent with the sale of narcotics, a kit that contained syringes cooking tools and a glass "meth" pipe was located in his pocket. All items were placed into a brown paper bag.

I placed [REDACTED] in the back of my patrol vehicle and transported him to the North precinct.

Sgt. [REDACTED] screened the incident and arrest.

I transported [REDACTED] to the king County Jail where he was medically declined for an abscess.


I transported [REDACTED] to Harborview Medical Center and waited for him to get medical treatment.

During the time in the hospital I asked [REDACTED] why he was stealing and he stated to get some money. I asked him where he was planning on selling it and he stated the "blade" (4th and Pike).

[REDACTED] was checked by the medical staff at HMC and released. I then transported [REDACTED]

For 6245 Printed On Jan-02-2019 (Wed.) Page 7 of 27

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**SEATTLE POLICE DEPARTMENT**  
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GO# 2019-550  
ARREST -  
MISDEMEANOR BY  
PATROL

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him back to King County Jail. [REDACTED] was booked into King County Jail for SMC 12A.08.060 - Theft, misdemeanor warrant for "Theft," amount of bail \$1,000 out of Seattle, and Felony warrant for "BW Reckless Burning 1D, amount of bail \$5050.00.

In the criminal justice system, here is what followed:

- City Attorney's Office filed a complaint the following day for theft.
- Defendant was released on personal recognizance within 36 hours of arrest.
- Case was continued several times, defendant stopped appearing for court hearings, and bench warrant was issued.
- Case remains pending with bench warrant outstanding.

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

Officers are well-aware of the extreme impact of some prolific offenders, but also know that the criminal justice system will do little to support them if they make an arrest.

In the case below, an officer detained Matthew B., an individual with 21 cases in Seattle Municipal since 2017. The officer noted that Matthew was a “rapacious thief and constant presence on the Blade (3<sup>rd</sup> Avenue between Pike and Pine).” While investigating Matthew for walking down the city’s busiest sidewalk at 9:30 a.m. with an armful of stolen goods, the officer also dealt with a woman in crisis yelling threats at people walking by and then got called to break up a nearby fight.

After getting a positive identification on Matthew for the theft and an admission that he had just sold stolen goods across the street from the victim store, the officer decided he had to release the suspect and send a written report to the City Attorney’s Office because Matthew’s drug-related abscesses would have precluded booking at King County Jail.

Back at the West Precinct, the officer completed a multi-page misdemeanor referral for prosecution and transmitted that to the City Attorney’s Office. He then completed two crisis templates for the tertiary incidents as well as a *Terry* stop template (a form explaining why he had reasonable suspicion to stop Matthew). (Police report excerpted at right and below.)

SEATTLE POLICE DEPARTMENT  
GENERAL OFFENSE HARDCOPY  
SEATTLE LAW DEPT RELEASE COPY  
(2303-0 THEFT-SHOPLIFT)

REFERRED-CITY ATTNY  
LAW DEPT BY PATROL  
OFFICER

13 INCIDENTAL PROPERTY DAMAGE: (DESCRIPTION AND VALUE)  
[ ]

14 VEHICLE IMPOUNDED? [N]  
STORAGE LOCATION: [ ]

15 INITIAL INCIDENT DESCRIPTION / NARRATIVE:  
(BOTH IN-CAR AUDIO VIDEO AND A BODYCAM WERE USED DURING THIS INCIDENT.)

On 2/27/2019, at approximately 0924, I was employed by the Seattle Police Department as a uniformed Police Officer wearing a full departmental Class B uniform with duty belt. I was working as Unit 1-Mary-3, conducting an unrelated search for a Fraud/ Carpool suspect (GC# 2019-72299), when I observed Suspect, Matthew B. walking down the sidewalk on The Blade (1500 blk 3 Av) with three leather belts in his left hand. All three belts still had the plastic display rack hooks and the price tags from (1419 3 Av) still applied.

is a rapacious thief and constant presence on The Blade.

is about 6'01, with dirty blonde hair and beard. He was wearing a denim shirt, over a grey hoodie. He wore a floral print baseball hat beneath the hoodie. He wore a pair of Levi 511 jeans (W 34; L 30) with a manufacturer tag, and a security tag, still applied. Beneath the jeans, wore a pair of black Adidas bottoms, with the security tag applied. He wore brand new green Adidas shoes, with white toe caps.

I detained and asked him where the belts had come from. said that he had just taken them out of his friend's suitcase. pointed out a nearby female, who was clearly in crisis. She was yelling at passing females about how disgusting and ugly they were. This unidentified female, had massive amounts of makeup crudely smeared about her face. She covered her pelvic area and legs with nothing but a pair of see through stockings.

I asked the female if she would be willing to show me what was inside her suitcase. She opened the suitcase, which contained dirty clothes. She acknowledged that was her friend, but said that had the belts in hand when she first saw him. The unidentified female then became highly enraged without warning. She screamed that she wanted to sue me because I was not her daughter, amongst other deranged statements.

said that I was welcome to take the belts back to , that he had merely found them. I took up on the suggestion, and took them. \*\*Other officers and I then responded to a fight one and a half blocks to the north, involving a highly agitated male in Crisis\*\*.

Page 39 of 64

## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

After responding to the fight, I then went to [REDACTED]. I took the belts inside, where staff stated that a White male with blonde hair and a beard, wearing denim, and green shoes had stolen multiple belts, a pair of jeans and a sweatshirt earlier in the morning. A clerk noted that the male steals from [REDACTED] all the time.

Witness [REDACTED] (Merchandise Coordinator) said that she had seen the suspect take the belts, jeans and sweatshirt, and then exit the store without paying for the items.

I transported [REDACTED] to The Blade, where she positively identified [REDACTED] as the suspect.

I read [REDACTED] the Miranda Warnings and the Washington State Custodial Advisement, both of which he stated he understood.

I did not place him in handcuffs. [REDACTED] had large abscesses on his legs actively weeping blood. This, in combination with patrol staffing levels, made a physical arrest impractical. Since the blood had seeped into the pants with security tags, I did not seize those.

[REDACTED] said that he did not remember stealing a sweatshirt, but noted that he had already sold the jeans outside the 3 Av/ Pike St Starbucks for \$8.00.

Sgt. [REDACTED] approved a Charge by Officer (CBO). I provided [REDACTED] a business card, with the incident number. I explained the CBO Program to [REDACTED] who stated he understood.

[REDACTED] said that he lived in [REDACTED] housing ([REDACTED]), and had no job, but came to downtown to simply "hangout". (In fact, [REDACTED] is a well known participant in Organized Retail Theft. The proceeds of which he likely uses to purchase illegal drugs with.)

SFD #A4 arrived to treat [REDACTED] AMR, in turn, responded to transport [REDACTED] to the hospital. I returned to [REDACTED].

(Notably, in the 10 minutes that I had been absent from the [REDACTED], they had fallen victim to three different shoplifters.)

Enc 2224 Printed On Mar 24, 2019 / Ed 1 Page 22 of 22

That case was not filed by the City Attorney's Office until one month later when Matthew B. was arrested for shoplifting at the same store. In that incident, the officer noted that no case had been filed from the first incident. In fact, Matthew B. also had a second case from three months prior that was yet to be filed, in addition to multiple suspended sentences which could have been revoked if the City Attorney's Office had filed any of his cases in a timely fashion.

Frustration with situations like these is one of the factors that has led to growing morale issues among Seattle police. According to the Seattle Police Department, Seattle had a net loss of 41 officers in 2018

despite robust efforts to hire new officers and retain existing officers. The bulk of the officers who left were mid-career individuals who departed to other police departments in the Seattle area.<sup>11</sup> Chief Carmen Best described the police exodus as a "crisis" and stated: "Officers need to hear that the work they do is valued. We are the highest paid agency in the state, but it's not the money, and it's not the work hours, it's really being supported. Officers need to feel that - with the tough job that they are doing - that city leaders want them here and want them doing the job."<sup>12</sup>

<sup>11</sup> See Final Report of Recruitment and Retention Workgroup (August 2019), [https://durkan.seattle.gov/wp-content/uploads/sites/9/2019/09/SPDRecrRetain\\_Report\\_vFinal.pdf](https://durkan.seattle.gov/wp-content/uploads/sites/9/2019/09/SPDRecrRetain_Report_vFinal.pdf)

<sup>12</sup> Interview on King 5 News, August 2019.

## C. Impacts on Vulnerable Defendants

Filing delays and slow case speeds mean individuals struggling with homelessness and behavioral health issues are often trapped in a repeat cycle in the criminal justice system. According to King County Jail Health, 45 percent of all bookings into King County Jail in 2017 were of homeless individuals.<sup>13</sup> In total, homeless individuals were booked into the jail 16,173 times that year. The great majority of those bookings were of individuals who were booked multiple times during the year. Of the approximately 12,000 homeless individuals in King County, two-thirds live in Seattle, so it is probable that significantly more than 50 percent of all Seattle police jail bookings were of people experiencing homelessness.

One of the major reasons why individuals experiencing homelessness are booked into jail so frequently is because they often fail to appear for court hearings. This is understandable. If you do not have a home and are struggling to survive on the streets, you may not ever receive a summons, let alone prioritize appearing for a court date one month away. These challenges are significantly compounded for individuals with serious behavioral health issues.

According to the Seattle Municipal Court, there are approximately 7,500 failure-to-appear bench warrants outstanding for criminal non-traffic cases. In fact, 65 percent of individuals fail to appear at their initial court intake hearing, triggering warrants.<sup>14</sup>

There is no breakout of the “failure to appear rate” for vulnerable individuals suffering from homelessness or behavioral health issues. However, using the King County Jail data and estimating that roughly half of Seattle Municipal Court warrants relate to individuals suffering from homelessness and/or behavioral health issues, would lead to a rough estimate of 3,750 warrants outstanding for this population. The Seattle Municipal Court did conduct an analysis of 168 prolific offenders in the misdemeanor criminal justice system—most of whom did fit the homelessness/behavioral health profile. For that sample population, 76 percent received warrants on their cases during a two-year stretch, averaging over seven warrants per person. Three individuals had over 30-plus warrants each.<sup>15</sup>

Every time a warrant is issued, it means that the defendant is subject to arrest by police officers and incarceration until they can see a judge. While Seattle police do

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<sup>13</sup> “Estimates of Homeless Individuals Served by Public Health’s Jail Health Services and Health Care for the Homeless Network (2017),” Report by King County Jail Health Services (un-dated).

<sup>14</sup> Data obtained from Seattle Municipal Court.

<sup>15</sup> “Approaches to Addressing Needs of High Barrier Individuals at Seattle Municipal Court,” SMC Report to the High-Barrier Individual Working Group, May 2019.



## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved


not actively search for persons with low-level warrants, they do run warrant checks when they encounter individuals on other matters.

For defendants who commit low-level crimes that may not be appropriate for incarceration, the proliferation of warrants means that they are more likely to be incarcerated than if the matter was resolved expeditiously.

For example, in July 2017, Brian M., a homeless man with mental health issues was transported to Harborview after being assaulted. After being treated by doctors there, he refused to leave and punched a security guard in the chest, causing temporary pain. Seattle Police were called and arrested him, but King County Jail refused to book him, citing medical reasons (a common practice discussed in *System Failure 1*). Brian was then released back to the streets outside of the jail. (See excerpt of police report below.)

HMC staff provided medical discharge paper work for A/[REDACTED]. A/[REDACTED] was then transported by AMR #904 to KCJ. A/[REDACTED] was then rejected by KCJ. I then had AMR contact Swedish Hospital and they reported HMC is the only hospital that will treat his injuries. I repeatedly asked A/[REDACTED] if he would like to go back to the hospital and he declined.

For 5371 Printed On Jul-26-2017 (Wed.) Page 8 of 25

	<b>SEATTLE POLICE DEPARTMENT</b> GENERAL OFFENSE HARDCOPY SEATTLE LAW DEPT RELEASE COPY (1313-0 ASSLT-NONAGG)	GO# 2017-272630 OPEN
<p>I then had AMR pull out of the Jail and had an additional unit arrive to assist with safely releasing A/[REDACTED]. A/[REDACTED] was provided a business card and case number and informed that because he was rejected from the jail, had already been discharged from HMC, and declined to go to the hospital after being rejected from YSC he was being released from custody with charges for assault requested. His personal belongings were returned and he was informed he was free to leave. This call was screened on scene at HMC by SGT Murray 4729.</p>		

Brian had no further jail bookings or misdemeanor cases in Seattle over the next 18 months. Eighteen months later, in January 2019, the City Attorney's Office filed an assault charge against him for the Harborview incident. A summons was issued to an address where he does not live or receive mail. He did not show for his court appearance, and Seattle Municipal Court issued a "no PR" (no personal recognizance) bench warrant. That means the next time Brian encounters Seattle Police and they run his name, it's likely he will be arrested and incarcerated for 24-48 hours before he can see a judge for a pretrial hearing on a case that happened over two years ago.



## Declines, Delays, and Dismissals - Why Most Seattle Misdemeanor Cases Never Get Resolved

Another example is the case of Robert L., who stole Star Wars and Pokemon action-figures from a drug store on August 18, 2017. Robert was identified as homeless and his medical condition suggested a substance-use disorder.

Seattle police told him they would request charges but were releasing him at the scene instead of booking him into jail. The principal officer completed the report and transmitted it to the City Attorney's Office the same day. (See excerpt of police report at right.)

The report was printed by the City Attorney's Office four days later, on August 22, 2017, but the case was not filed until March 2019, over a year-and-a-half after the theft. (See criminal complaint at right.)

For Robert and Brian and other individuals struggling with homelessness and behavioral health issues, responding to cases from criminal incidents that occurred a year or more earlier is impossible for all practical purposes. That means they are more likely to get incarcerated than if the system had proceeded expeditiously and with pragmatic accommodations for their status (i.e., not sending mail to an address where the defendant does not live).

The proliferation of warrants for old cases may also have the effect of deterring vulnerable individuals from contacting the police when they are victims of crime. After all, who would risk calling the police if it could unintentionally lead to your own incarceration.

In short, vulnerable individuals who are involved in misdemeanor criminal activities are plainly unable to navigate Seattle's criminal justice system. This leads to results that compound the troubles in their lives - cycles of arrest-incarceration-release with obligations that they cannot manage.

15 INITIAL INCIDENT DESCRIPTION / NARRATIVE:  
[On 08-18-17 I was working uniformed patrol in the city of Seattle as 2-George-3. At approximately 1634 hrs I was dispatched to a shoplift call at 2400 S Jackson ST, Walgreens. The complainant was identified as Loss Prevention, [REDACTED]. The suspect was identified as Robert [REDACTED].  
During a routine records check of [REDACTED] I located two warrants.  
Upon arrival, I contacted [REDACTED]. He relayed that [REDACTED] took merchandise  
For 4086 Printed On Aug-22-2017 (Tue.) Page 5 of 15



SEATTLE POLICE DEPARTMENT  
GENERAL OFFENSE HARDCOPY  
SEATTLE LAW DEPT RELEASE COPY  
(2303-0 THEFT-SHOPLIFT)

GO# 2017-305918  
REFERRED -CITY ATTN  
LAW DEPT BY PATROL  
OFFICER

from the store, and exited the store passing all points of sales with the merchandise with no attempt to make payment. [REDACTED] contacted [REDACTED] outside of the store, and recovered the merchandise. The merchandise was described as Pokemon and Star Wars figurines amounting to \$95.71.

THE CITY OF SEATTLE, )  
Plaintiff, )  
vs. )  
ROBERT [REDACTED], )  
Defendant. )  
CASE NO: 641624  
INCIDENT NO: 17-305918  
CRIMINAL COMPLAINT

On or about August 18, 2017, in the City of Seattle, King County, Washington, the above-named defendant did commit the following offense(s):

Count 1

Commit the crime of theft/stealing by knowingly obtaining or exerting unauthorized control over the property of WALGREENS with the intent to deprive the owner of such property.

Contrary to Seattle Municipal Code Section(s): 12A.08.060 (A) (1)-1

Dated: 3/16, 2019

Laurie A. Bowe  
Assistant City Attorney  
Laurie A. Bowe WSBA # 21918

Defendant Information:  
ROBERT [REDACTED]  
Address: 77 S WASHINGTON ST

## Conclusion

The *System Failure* reports are an attempt to force a conversation about the undeclared crisis in Seattle's criminal justice system. Data from the principal participants in that system show that it churns through thousands of non-traffic misdemeanor cases every year but produces few meaningful resolutions and even fewer successful behavioral interventions.

By declining, delaying and ultimately dismissing nearly two out of every three cases that are transmitted by the Seattle Police Department, the City Attorney's Office is undermining Seattle's \$500 million investment in its criminal justice system, resulting in dysfunction that does little to resolve the chronic crime issues in Seattle neighborhoods.

It bears repeating: in many instances the criminal justice system may not be the appropriate place to resolve underlying issues that are often the root causes of criminal activity. Seattle is a national leader when it comes to developing innovative approaches for people struggling with behavioral health disorders. These approaches should complement and be integrated into a functioning criminal justice system.

Seattle can and must do better.

## Appendix: Methodology

*System Failure, Part 2* is principally based on data obtained from the Seattle Police Department, Seattle City Attorney's Office and Seattle Municipal Court through public disclosure requests. Because Seattle's municipal criminal justice system relies on three separate arms of government, all with their own data sets, it has historically been difficult to understand how the system is performing.<sup>16</sup> Indeed, this is the first report in Seattle that attempts to analyze large sets of criminal cases from incidents through outcomes.<sup>17</sup>

Some of the data sets used in the report cover different time periods. In order to examine the dispositions of cases filed by the City Attorney's Office, I principally examined data reports from 2017 in order to allow time for those cases to reach resolution. In order to get a timely sense of incident reporting trends, I looked at data from 2017 through early 2019. My thinking in using data from different years was to be both as accurate and relevant as possible. For all data sets, available data from prior years suggest that the data I used for analysis is representative.

Importantly, some prior examinations of Seattle misdemeanor case-filing decisions include traffic or driving-related criminal offenses. I have excluded all traffic crimes from this report because they are not relevant here and skew the data. For example, virtually all DUI-related cases referred by Seattle police are filed by the City Attorney's Office. When that data is aggregated with data for the handling of other routine criminal cases like theft, assault, and harassment, it tends to obscure the low filing and high dismissal rates for non-traffic criminal offenses. If, after release of this report, there are competing statistical claims, they probably relate to what crime categories are included in the underlying data.

As in the first *System Failure* report, this report provides some illustrative examples of crimes and the response of the criminal justice system based on publicly available court and police records. I have attempted to de-identify individual defendants. All of the case files obtained for this report are publicly available via the Seattle Municipal Court, King County District Court, or King County Superior Court online electronic case filing systems.

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<sup>16</sup> Lack of transparency within municipal criminal justice systems is a widespread problem that has garnered increased national attention in the past five years. See <https://www.nytimes.com/2018/03/21/opinion/missing-criminal-justice-data.html>

<sup>17</sup> The only other report to conduct a large-scale data examination of misdemeanor cases was issued in 2018 by Seattle University in conjunction with the Seattle Police Department. It examines arrests, referrals, and charges, but did not examine outcomes and did not significantly address case declines or delays. See Jackie Helfgott, *et. al. Trends in Misdemeanors Arrests, Referrals, & Charges in Seattle* (Oct. 2018).