

**TUMWATER PUBLIC HEALTH AND SAFETY COMMITTEE
MINUTES OF MEETING
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CONVENE: 8:00 a.m.

PRESENT: Chair Tom Oliva and Councilmembers Michael Althausser and Leatta Dahlhoff.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Finance Director Ursula Euler, Fire Chief Scott LaVielle, Police Chief Jon Weiks, and Recording Secretary Valerie Gow.

**THURSTON
COUNTY PUBLIC
DEFENSE
UPDATE OF
INDIGENT
DEFENSE
SERVICES
RENDERED:**

Patrick O'Connor, Director, Thurston County Public Defense, briefed the committee on the status of indigent defense services provided by Thurston County for the City.

Mr. O'Connor introduced José Vargas, Fiscal Manager, Thurston County Public Defense, and Verda Hess, Accounting Assistant, Thurston County Public Defense.

Mr. O'Connor reviewed an expense graph of a three-year period from 2017 through second quarter 2019. From 2017 to the present, there has been a steady decline in expenditures, specifically in the use of contract attorneys. The City's contract is for two full-time public defenders and one legal assistant who exclusively serve Tumwater defendants accused of misdemeanor and gross misdemeanor crimes in the City of Tumwater.

Mr. O'Connor said he was appointed as the Director of Thurston County Public Defense in summer 2017. At that time, some of the work was outsourced because of internal capacity and the sharing of workload between Thurston County Public Defense public defenders serving Thurston County District Court and the City of Tumwater. At that time some contracted capacity was utilized because of the volume of cases from Thurston County. Today, the two public defenders exclusively serve the City of Tumwater. Cost savings have been approximately \$15,000.

Mr. O'Connor reviewed a graph of expenditures by category from 2017 to the present. Today, the office has sufficient capacity to handle some of the higher number of cases. Some of the expense categories include travel associated with providing public defense services, investigation as required by the Washington State Supreme Court to ensure anybody accused of a crime in the City of Tumwater has access to the case being investigated, and professional membership of each attorney with the Washington State Bar Association. Salaries and benefits for 2019 are on track with the contract. However, some adjustments might be necessary to account for cost of living increases for staff.

Mr. O'Connor reviewed a graph on the type of case assignments from

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2017 through second quarter 2019. Public Defense is working on overhauling data collection to help identify the types of cases for the entire county as well as for the City. The office of Public Defense is on pace to comply with the rules of indigent defense with the two attorneys assigned to the City of Tumwater. The maximum number of cases per year is 800. Cities and counties in the state must comply with the Washington State Supreme Court Standards for Indigent Defense. The Public Defense Office operates within those standards.

In terms of trends, second quarter 2019 represents a decrease in the number of clients. Cases are tracked monthly and information could be provided to the committee on a monthly basis.

Councilmember Althaus mentioned the City's request to the Prosecutor's Office to reduce the priority of prosecuting third-degree driving while suspended cases. He asked whether that has had a tangible affect on the caseload. Mr. O'Connor replied that based on the assignment type, Public Defense has documented 62 incidents of driving without license this year. Thurston County has adjusted its practice in compliance with the City's request; however, some individuals with certain types of prior offenses continue to be charged. The 62 documented incidents include all categories of driving without license ranging from the first degree to the third degree.

Councilmember Dahlhoff asked whether diversion opportunities through the court have impacted Tumwater's numbers. Mr. O'Conner said the county's First Look Program is focused for adult felonies in Superior Court. Public Defense clients are not eligible for that program, but they are eligible for Mental Health Court, Veterans Court, and Therapeutic Courts. There have been some successful entries but not presently because any misdemeanor that is charged from City of Tumwater would be charged in Thurston County District Court. Continuing conversations could focus on other ways to serve the community through additional resources or connection to services. A defendant that might have a substance abuse disorder but has been arrested for a misdemeanor crime would not be eligible for Drug Court or the First Look Program. However, the office continues to seek avenues to help those individuals become stable. Those conversations continue with respect to ways to serve that population.

Feedback from the two public defenders has been positive. They both like the process through the Nisqually Indian Tribe in terms of access to clients in the jail.

Mr. O'Conner and the committee discussed and reviewed the types of case assignments in 2019 and potential trends of certain types of offenses. The contract with the City only pertains to adult offenders and

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not juveniles, although Thurston County Public Defense also serves juveniles. Mr. O'Connor offered to provide information on trends in juvenile offenses. The office is focusing on developing a better process for the collection of data. Public Defense and the Thurston County Prosecutor's Office are in the final stages of negotiation to acquire a new case management system shared between the offices. The system will be able to provide much more data, as well as document trends for both adult and juvenile offenses.

Phil Griffith, Lead Attorney, Thurston County Public Defense, reported on feedback from the City of Tumwater assigned public defenders. The City's mandatory booking process for theft in third degree has resulted in offenders booked for theft in the third degree and transported to the Nisqually Jail, which increases the amount of time public defenders must spend at the jail, as well as affecting the budget. Most people charged with low-level thefts are not typically booked into jail unless the person has multiple warrants. Police Chief Weiks noted that the City has no mandatory booking policy in place for theft in the third degree. Most offenders are cited and released.

Chair Oliva asked about the percentage of cases proceeding to trial. Mr. O'Connor reported that most of the criminal cases are resolved and never proceed to trial. Over 95% of all criminal cases never proceed to a trial.

Mr. O'Connor reported he would follow up and provide more data on trends to Director Euler.

**THURSTON
COUNTY
PROSECUTING
ATTORNEY'S
OFFICE UPDATE:**

Christy Peters, Chief of Staff, Thurston County Prosecutor's Office, provided the update on behalf of Thurston County Prosecutor Jon Tunheim.

The City contracted with Thurston County Prosecutor's Office for the provision of prosecution services. One major factor for the contract was the increase in the number of domestic violence cases and the lack of cases proceeding to court. Domestic violence cases that were proceeding to resolution in the City were much lower per capita than other cities in the county, as well as in Thurston County as a whole.

The City and the Thurston County Prosecutor's Office initiated discussions because Thurston County has specially trained prosecutors in domestic violence. Additionally, the City desired victim advocacy services for victims of domestic violence, which was also a service offered by the Prosecutor's Office.

The Prosecutor's Office is not subject to the caseload cap imposed by the Washington State Supreme Court. The Prosecutor's Office caseload

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is much higher than the Office of the Public Defense. The Thurston County Prosecutor's Office considers all City cases as a whole and typically does not match cases to specific prosecutors. However, the Prosecutor's Office does have some prosecutors trained in DUIs, as well as a domestic violence attorney for all City of Tumwater cases.

In 2018, the Thurston County Prosecutor's Office received 704 cases for the City of Tumwater. The office has experienced an increase of approximately 100 more cases. Over 600 cases were charged. In 2018, 236 people were charged with third-degree driving while suspended. At the end of August 2019, the number was 62, which speaks to the goal of reducing the number of third-degree driving while suspended cases except for the most serious cases.

Public Defense and Thurston County Prosecutor's Office are working with the Treatment Sales Tax Team for Thurston County to explore a domestic violence treatment court for District Court. Defendants from the City of Tumwater would benefit if the person qualifies for the court. The treatment court model would focus on the highest concerning District Court domestic violence offenders with weekly check-ins and treatment. The State of Arizona has led the nation on domestic violence courts. Thurston County Prosecutor's Office has been working with the cities of Tucson and Phoenix on their respective models. Ms. Peters said she anticipates announcing the pilot project in January 2020.

The City of Tumwater has the ability through Thurston County Prosecutor's Office to file repeat DUI offenders through Superior Court. Last year, several repeat violators from the City of Tumwater were identified. Dependent upon the timeline, a third DUI charge can result in a felony if convicted. A concerning repeat offender who does not meet the felony threshold can be referred to the DUI Court for ongoing treatment, which covers a two-year process.

Several years ago, the Legislature added a new sexual assault protection order. Thurston County Prosecutor's Office is beginning to experience more filings of sexual assault protection orders and more violations of those orders. Those cases typically involve child molestations, rape, or other crimes under the jurisdiction of Superior Court. Thurston County Prosecutor's Office is now prosecuting violations of sexual assault protection orders in District Court. Next week, a trial is scheduled for a Tumwater defendant who is a registered sex offender for violating a sexual assault protection order.

One City of Tumwater domestic violence case that went to trial involved a violation of a no-contact order with the defendant continually contacting the victim at the victim's workplace in violation of the order. The jury found the defendant guilty and the court imposed 60 days in

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jail and renewed the no-contact for an additional five years. Another domestic violence court case in 2019 was very serious with the defendant continuing to visit the victim's home. The defendant had a significant violent criminal history. He was only committing misdemeanor crimes as he was not successful in breaking into the home. He was arrested for the misdemeanor charge and tried. Because of his extreme violent criminal history, the court imposed six months on the no contact violation. While in jail, the defendant continued to try and contact the victim and committed subsequent violations, which elevated the crime to a felony. He was found guilty of the felony and sentenced to prison for three years.

Ms. Peters cited several serious DUI convictions, involving individuals driving in Tumwater.

Ms. Peters shared that she followed up with many deputy prosecutors who have worked on City of Tumwater cases and received positive feedback from the prosecutors, specifically that they enjoy working with City of Tumwater law enforcement as they receive good response from the Police Department.

Ms. Peters advised that the current contract is through 2020. The current caseload is acceptable with good coverage. The only cost changes in the future would pertain to a cost of living increase. Caseload numbers have remained consistent.

Ms. Peters shared additional information on the upgrade to a data system to enable sharing of information between Public Defense and Thurston County Prosecutor's Office. The new system will be cloud-based to reduce cost and increase efficiency.

Councilmember Althaus commented that improvements in data collection would hopefully result in more granular data.

Ms. Peters added that juvenile crimes for the entire state have decreased. Because of the availability of community alternatives and court diversions, the number of juvenile offenses has decreased dramatically. On average in 2019 to date, only 10 to 12 youths have been detained. Juveniles who are in custody are considered extremely dangerous.

**TUMWATER
SCHOOL
DISTRICT & CITY
OF TUMWATER
INTERLOCAL
AGREEMENT
FOR**

Fire Chief LaVielle reported the City has worked with the Tumwater School District over the last several years to identify school facility sites for emergency facilities. The Tumwater School District asked the City to develop an interlocal agreement to assign different City facilities to serve as an alternate family reunification location if the School District was required to evacuate a school near a City facility. The agreement has been reviewed by the City Attorney. The agreement is ready for

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EMERGENCY USE OF FACILITIES: review and approval by the Council.

Staff recommends the committee move the Interlocal Agreement to the City Council for consideration.

CONSENSUS: **The Public Health and Safety Committee recommended the City Council approve the Interlocal Agreement between Tumwater School District and City of City of Tumwater for Emergency Use of Facilities.**

OTHER BUSINESS: City Administrator Doan described the services provided and the different prosecution service contracts the City has with Thurston County. Each January, staff reviews all the contracts to ascertain the level of service and any service issues.

City Administrator Doan reviewed the committee's October 8, 2019 agenda:

- SWAT Interlocal Agreement
- Code Enforcement Update
- Fireworks Update
- Fire Regionalization – next steps

ADJOURNMENT: **With there being no further business, Chair Oliva adjourned the meeting at 9:00 a.m.**