

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

PRESENT: Chair Leatta Dahlhoff and Councilmembers Peter Agabi and Angela Jefferson.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Police Chief Jon Weiks, and Fire Chief Brian Hurley.

Others: Thurston County Prosecuting Attorney Jon Tunheim and Thurston County Prosecuting Attorney's Office Chief of Staff Christy Peters.

**APPROVAL OF
MINUTES:
AUGUST 9, 2022:**

MOTION: **Councilmember Jefferson moved, seconded by Chair Dahlhoff, to approve the August 9, 2022 minutes as published. A voice vote approved the motion.**

**UPDATE FROM
THURSTON
COUNTY
PROSECUTOR'S
OFFICE:**

City Attorney Kirkpatrick introduced Jon Tunheim, Thurston County Prosecuting Attorney, to provide an update on the services provided to the City of Tumwater by the Thurston County Prosecuting Attorney's Office.

Mr. Tunheim said the review will provide some updated data in response to the committee's prior questions. Responses are pending from the Mental Health and Veterans Courts. He introduced Christy Peters, Chief of Staff for the Prosecuting Attorney's Office, to provide a summary of data on Tumwater cases.

Ms. Peters said the court system is experiencing a slow transition in the number of cases. August 2022 statistics are different than August 2021 statistics. In March 2020, gross misdemeanor domestic violence referrals totaled 119. Non-domestic assaults, DUIs, and thefts totaled 415 referrals. In 2021, the office received referrals of 102 domestic violence incidents while non-domestic violence offenses totaled 304 reflecting a reduction of 25% in non-domestic crimes. The number of domestic violence cases was similar in both in 2020 and 2021. However, through the end of June 2022, referrals for domestic violence totaled 67 cases reflective of an increase in the last several months of the data range than during the period of January and February 2022. The number of domestic violence referrals is anticipated to exceed 2020 cases with the forecast of approximately 150 incidents reflecting an increase in 25%. Non-domestic violence referrals are similar to 2020 and 2021 trends with 128 referrals through the end of June. Domestic violence continues to increase in Thurston County, the state, and nationally. However, not increasing are DUIs, non-domestic violence assaults, and gross misdemeanor thefts. Tumwater's numbers are consistent with incidents occurring in Thurston County and throughout

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Washington State.

Ms. Peters said the time invested on Tumwater domestic violence cases is much more extensive than non-domestic violence referrals. A victim's advocate is assigned to all domestic violence cases. Additionally, dependent upon the nature of the case, children may be involved requiring additional time. A typical DUI involves the officer and possibly a witness and a toxicologist depending upon the circumstances surrounding DUI testing.

Commissioner Jefferson asked whether there has been an increase in property crimes as the data reflects an increase in property crimes while there have been minimal prosecutions. Ms. Peters explained the distinction between felony and non-felony property crimes. The statistics shared previously are exclusive to Tumwater misdemeanor and gross misdemeanor crimes. Often, local retailers are not reporting lower level property theft. Property crimes publicized in the media are typically larger cost retail thefts. Today, the jail's booking policy is still in place since the pandemic. The jail has set a high bar for booking suspects. The jail will book suspects involved in violent crimes. Property crimes are not an automatic booking. Those types of cases are included in the COVID backlog as the office is short by four deputy prosecutors. Most prosecutor offices in the state and across the country are continuing to experience capacity issues with a high rate of vacant positions. Consequently, referrals involving assaults, sexual assaults, and domestic violence assaults are the priority cases. Today, the jail is under 50% capacity and operates under a cap. The most serious property crimes are lower in priority than a person crime. Governor Inslee has indicated some announcements will be forthcoming on October 31, 2022 on guidance for the state, which will affect some of the public health policies. Those changes affect the jail and the Prosecutor's Office.

Mr. Tunheim explained that the jail, under the classification of public health and the CDC, is considered a congregate care setting because of the number of people within one facility. As such, the jail falls under stricter guidelines for public health than other public facilities. The Thurston County Jail is currently under those restrictions that were enacted by the Health Department. Those standards will likely relax allowing the jail to open up to other types of bookings.

Mr. Tunheim updated the committee on activities of the therapeutic courts. Thurston County has an excellent portfolio of therapeutic courts in Superior Court to include Drug Court and a subset of the court handling serious DUI offenders (3 or more DUI offenses). Discussions are underway to establish a DUI Court in District Court to address DUI offenders who have not met that serious threshold of offenses. In District Court, the primary therapeutic courts are Mental Court and Veterans Court. The Drug and DUI Courts are the most robust courts and have been in existence since the late 1990s. A

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significant drop was experienced in referrals to the Drug Court during the early years of the pandemic as all courts closed and only cases involving violent crimes were prosecuted. Property crimes typically can result in the defendant referred to Drug Court as some individuals are driven to feed their addiction and often commit property crimes. Over the years, the Drug Court shifted its focus from first-time offenders to high-risk or high-need offenders, or those most likely to reoffend if no intervention occurs to address substance use disorder. Research reflects that the return on investment for Drug Courts is much higher.

During the pandemic, 50 referrals to Drug Court were received with 40 of those cases resulting in a signed contract to participate in Drug Court. In 2021, graduations from Drug Court averaged 75% of the participants. In 2019, the recidivism rate of successful graduates was only 9%. Those individuals who participated in Drug Court but did not graduate experienced a recidivism rate of 32%, which is lower than untreated individuals who typically have a 60-70% recidivism rate. The data is consistent with national research which reflects that all participants in Drug Court (both graduates and non-graduates) reduce their risk of recidivism.

In 2020, Drug Court graduates increased with the recidivism rate of graduates increasing to 12% with non-graduates experiencing a recidivism rate of 44%. The data reflects that many of the individuals did not complete the program or other factors were at play to explain why the recidivism rate increased.

Councilmember Jefferson asked about the length of the Drug Court program. Prosecutor Tunheim said the average program is 18 months and varies with the timeline dependent on the completion of different phases in the program.

Councilmember Agabi asked how individuals are determined as a high-need or high-risk participant. Prosecutor Tunheim advised that the process includes assessment tools. Attorneys are responsible for assessing the case to determine if the individual would be a good candidate for Drug Court, such as an individual's history of violence, whether the person is addicted or is selling drugs for profit, or is committing property crimes for profit. If a nexus can be satisfied between the criminal behavior and substance use disorder, the case is referred to the appropriate therapeutic court. The Drug Court Director conducts a formal screening of each individual utilizing a risk and need assessment tool to complete an objective assessment to determine whether the individual would be considered high-need or high-risk. The individual is also assessed as to whether they could participate in a group setting (suitability screening). The Mental Health assessment process is similar with some variations to include a review by the assessment professionals to determine if the individual would be a good candidate for Mental Health Court. The process will be adding the victim

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advocate in the group assessment.

The pandemic has contributed to a significant backlog of cases with most of the cases pertaining to property crimes. Although property crimes are typically not prosecuted at this time, it is only temporary. The issue is not declining to prosecute as staff is working through a backlog of cases. Approximately 1,800 felony referrals are included in the backlog. The accumulation occurred partly because of booking standards as previously outlined, as well as the courts closing. All hearings on any case with the individual not in custody were halted as well. The secondary challenge is the turnover in personnel with the office experiencing resignations. Deputy prosecutors are under a union contract, which is scheduled for renegotiation this year for a new contract. Wages and benefits issues are anticipated to be addressed. The office was granted some additional positions using ARPA funds. Recruitment is underway to fill those positions. Once the positions are filled, the first action is to address the backlog of cases.

Crime is generally on the increase in all areas of the state, which is worrisome, as King and Pierce Counties have experienced a significant increase in violent crime. Thurston County generally follows the same trends several years later. Mr. Tunheim said he is concerned the county may experience an increase in violent crime and continues to take an aggressive stance on violent crime.

Mr. Tunheim said the Blake decision constituted a shift in public policy as the ruling affected the constitutionality of the possession statute. The immediate impact to Thurston County was addressing pending and past convictions for possession. Several deputy prosecutor positions funded by the state have been assigned to the project. The focus began with individuals with pending charges for possession, which were dismissed immediately followed by individuals who had been convicted of possession. The sentencing system identifies individuals with a prior conviction of a controlled substance when sentenced for a new crime. Consequently, since the ruling was retroactive when the statute was initially adopted, the office reviewed sentences for a non-drug crime that had included a prior drug-related charge. Those individuals were resentenced because the prior drug charge could no longer be considered. A mass influx of those cases required prosecutors to return to court for resentencing actions with those efforts continuing today. The policy shift dictates that possession of a controlled substance in the state is now a misdemeanor that can only be prosecuted after two diversion referrals. Unfortunately, no county in the state has implemented a diversion program to address the new policy. In Thurston County, the intent is to utilize the Law Enforcement Assisted Diversion Program (LEAD) as the diversion program for the county. Additionally, no tracking mechanism is available to track diversion data statewide. Prosecution for possession crimes is essentially non-existent at this time. During the 2023 session, the Legislature is anticipated to

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determine the long-term approach for possession-related crimes.

Chair Dahlhoff asked for verification that Tumwater crimes are not necessarily committed by a Tumwater resident but committed within the City limits of Tumwater. Prosecutor Tunheim affirmed the crime does not speak to the residency of the individual only that it occurred in the City. Chair Dahlhoff said the Council is interested in viewing trends in Tumwater and that the next step of data compilation could include crimes committed by residents of Tumwater versus those who do not live in Tumwater. Prosecutor Tunheim said similar data strategies are the goal for the Prosecutor's Office as data countywide presents the same issues as offenders may be visiting from another county but committing crimes in Thurston County.

Ms. Peters advised that staff from the Prosecuting Attorney's Office are reviewing the Tumwater City criminal code at the request of City Attorney Kirkpatrick for potential changes to align with current state statutes.

City Attorney Kirkpatrick reported the committee will receive a briefing on the potential updates to the code before the end of the year.

**CONTRACT
RENEWAL –
TUMWATER
PROSECUTION
SERVICES:**

City Attorney Kirkpatrick reported the contract with Thurston County Prosecuting Attorney's Office expires at the end of 2022. The long-standing relationship has been very effective and staff recommends continuing the contract. Staff drafted a proposed contract for consideration reducing the compensation amount for the next two years. Staff requests the committee recommend the City Council approve the proposed contract with the Thurston County Prosecuting Attorney's Office.

MOTION:

Councilmember Jefferson moved, seconded by Councilmember Agabi, to place the Interlocal Agreement with the Thurston County Prosecuting Attorney's Office for Prosecution Services on the September 20, 2022 City Council Agenda with a recommendation to approve and authorize the Mayor to sign.

Ms. Peters reported on the partnership with the Tumwater Police Department to afford new police officers the opportunity to visit and observe court proceedings as a training opportunity for new officers. She invited members to contact her if interested in attending any of the courts. Mr. Tunheim encouraged members to attend a Drug Court graduation.

City Attorney Kirkpatrick offered to forward information on the date and time of court graduations.

**ADDITIONAL
ITEMS:**

Councilmember Agabi reported he recently participated in a ride-along with a Tumwater Police Officer. As a resident of Tumwater for the last 16 years, the experience was eye opening. He complimented Police Chief Weiks for

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the work of police officers. During the drive through some neighborhoods, he observed residents who were walking who waved to the officer, which is an unusual situation. It appears the Tumwater Police Department participates in community policing and it is working. He asked that the Police Department emphasize and amplify community policing so that residents are aware that police officers not only police situations, but also are friends where information and greetings can be shared.

Councilmember Agabi said he was surprised that individuals shoplifting from local retailers can steal merchandise and flee with no repercussions, as the retailer does not pursue those individuals.

Councilmember Agabi asked about the staffing level of the Police Department. Police Chief Weiks advised that the department has 33 commissioned police officers with one position vacant. Councilmember Agabi said that during the retail theft incident, he was able to talk with officers. They indicated they were working overtime. He suggested that the amount of overtime reflects the need for more FTEs on the police force.

Chair Dahlhoff noted the budget process included some additional officer positions. She questioned whether the request is for additional FTEs as no source of funding for additional officers has been identified. Councilmember Agabi responded that his comments speak to the issue because his request is not for additional FTEs, as his proposal is for the next biennium to add six officer positions based on feedback from officers as to the adequate staffing level required for the Tumwater Police Department.

Police Chief Weiks advised that the department completed a staffing report, which will be presented to the committee in early 2023. The department budget request included a request for three additional officers in 2023 and 2024. The Mayor's proposed budget includes one police officer position plus two tentative positions to address attrition caused by future retirements in 2023 and 2024. The committee's agenda in January 2023 is scheduled to include discussions on police staffing and a review of the Strategic Staffing Report developed by the department's Management Analyst.

City Administrator Doan noted that an important element of community policing is telling the story and helping the community understand police duties and how to interact with police officers. At the beginning at the pandemic, one position deferred was the Police Specialist position. That position was involved in community outreach and worked with leadership and officers on conveying the story of policing in Tumwater. The proposed Mayor's budget includes filling that position enabling the ability for the department to convey community-policing information to the community. In terms of staffing for the department, the Chief submitted a proposal for additional staffing; however, the proposal moving forward includes a Detective Sergeant, a new position, and 2+ officers (replacement officers)

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as it requires approximately a two-year process to hire an officer until the officer is ready to perform duties. The replacement positions are intended to fill future vacancies during the next several years. The City proposes to fund all police vehicles and equipment with the intent to fill additional positions at the end of two years as attrition occurs. The department has been asked to review with the committee the right number of police officers needed for the Tumwater Police Department considering the significant residential growth trends, potential revenue sources, annual increases in expenses, and downstream impacts when additional positions are added.

Police Chief Weiks added that overtime is typically not driven by the number of officers, but rather the nature of the calls for service. A larger organization generally results in more requests for vacations. Some of the overtime is generated by police officer specialties when responding to different types of calls for service.

Chair Dahlhoff reported the next meeting is scheduled on October 11, 2022. She asked whether the agenda would include an update from Tumwater HOPES. City Administrator Doan said staff is contacting Chris Hawkins at the Thurston County Department of Health and Social Services, who serves as the supervisor for the program about possibility providing the presentation.

Chair Dahlhoff referred to Councilmember Jefferson's questions to follow-up on roles and responsibilities of the school district with respect to School Resource Officers. City Administrator Doan affirmed the committee's meeting schedule includes the item for future discussion.

ADJOURNMENT: With there being no further business, Chair Dahlhoff adjourned the meeting at 9:02 a.m.

Prepared by Valerie L. Gow, Recording Secretary/President
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