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District Attorney Report to the City of The Dalles

In 2019, The Dalles Municipal Court stopped taking criminal cases. Due to the increase in caseload that it would cause to the Wasco County District Attorney's Office (WCDA), the City of The Dalles and Wasco County created an Intergovernmental Agreement (IGA). In the IGA, The City of The Dalles agreed to give \$80,000 with incremental increase each year to the WCDA budget. The City is not required to give that money. The District Attorney's Office is a County office that prosecutes crimes under State statutes. The office receives referrals from City, County, and State Law Enforcement Agencies.

This report is not meant to be solicitous. Rather, it is meant to inform the City Council about the operations and structure of the office, caseloads, and statistics.

Budget

The majority of the funding for the office comes from the County, with the State providing some funds through grants and paying the salary and benefits for the Elected District Attorney, as a State employee. Currently, the WCDA Office's budget is approximately \$1.13 million. A little more than \$100K comes from grants to victim advocacy. The budget includes the salaries and county benefits for all Deputy District Attorneys and Office Staff, as Wasco County employees. It does not include the salary and benefits to the elected District Attorney, as a State employee. The City's contribution to the budget is approximately 8% of the total budget. The IGA does not fully fund a deputy district attorney position, but it does fully fund any staff position.

Prior to 2021, the IGA financed a Paralegal position at WCDA. The paralegal was the highest paid non-attorney position in the office. The individual in that position left the office just prior to the administration change. A paralegal is a position more suited for a civil firm, and not a prosecutor's office, so I made the decision to terminate that position. Given an increase in the budget from the county, I was able to add another Deputy District Attorney and another Chief Legal Secretary. Without the money from the IGA, one of those two positions will have to be cut.

Current Office Positions

The Wasco County District Attorney's Office currently consists of eleven (11) staff members. The office staff breaks down as follows: four attorneys, including the elected DA, two victim advocates, an office manager/chief legal secretary, two chief legal secretaries, a discovery clerk, and an office assistant.

Though there is no Bar standard for maximum caseloads for prosecutors, the American Bar Association (ABA) has released standards for maximum caseloads for Criminal Defense Attorneys. Per the ABA standards, a felony criminal defense attorney should carry no more than 150 cases per year, a misdemeanor attorney should carry no more than 400 non-traffic cases per year, and a juvenile attorney should carry no more than 200 cases per year. These numbers should not be used as firm numbers, but just as a rough guideline to the amount of cases a criminal attorney should carry without being overwhelmed or burnt out.

Beyond caseloads, our attorneys and staff are required to participate in State mandated requirements of all District Attorney offices (some of which are unfunded) such as the Multi-Disciplinary Team for both adults and juveniles, tracking and reporting U Visas, tracking and reporting Bias crimes, policy requirements, Sexual Assault Response Team reviews, Child Fatality Reviews, and keeping up with our Grants which fund victim services. One attorney is on call every weekend to respond to law enforcement questions and go the crime scenes, if needed. I personally staff cases with the Wasco County Juvenile Department, even when nothing is ever filed with the court.

The Life of an Adult Criminal Case: A justice system flowchart

1. Incident. An incident occurs within Wasco Co in which a public safety response may be needed.
2. Response. Emergency Communications triage the communication and determine which responding agency is best suited to respond to the incident (police, fire, medical).
3. Law Enforcement. The appropriate law enforcement agency responds.
 - a. If probable cause exists (more likely than not than a certain individual committed a specific crime), then police may arrest the person or issue a citation.
 - b. Police may send recommendations to the District Attorney's Office without issuing a citation or arresting the individual.
 - c. Police also have the option of providing service referrals or take no action.
4. County Jail NORCOR. Individuals taken into custody or arrested on a warrant may be booked into NORCOR where they are given a risk assessment.
5. Pre-Trial Release
 - a. Defendants may be held until their first Court appearance (Arraignment). If a defendant is held, then the judge will see the defendant the next business day on the in-custody WebEx docket.
 - b. If the individual meets the mandated release criteria in the Presiding Judge's Order, then the defendant will be released with an order to appear three weeks later on the Monday out-of-custody docket

6. Intake and Case Review
 - a. Law enforcement will send reports and gathered evidence to the District Attorney's Office.
 - b. Office staff will create a file with the recommended charges, reports, and other evidence needed for the prosecutor assigned to the case.
 - c. The assigned prosecutor will review the evidence and make a decision about what charges should be filed.
 - d. If the prosecutor declines prosecution on a matter, then the prosecutor will notify the arresting officer with an email or disposition memo.
 - e. If a felony is charged, the case will be set and presented to the Grand Jury to make a decision on whether the case should be indicted
 - f. If the case involves a victim, the victim advocates will make every effort to notify the victim(s) about a charging decision, get the victim's opinion on release of the defendant, assist with any services a victim may need, and inform the victim of upcoming court dates. The victim advocates and attorneys will make efforts to stay in contact with victims through the life of the case.
7. Initial Court Appearance
 - a. At the first court appearance, a defendant is given the opportunity to invoke the Constitutional right to have an attorney. Many defendants are provided court-appointed attorneys. Some retain their own attorney.
 - b. If a Defendant is in custody, the prosecution gives a release recommendation to the judge, and defense will argue for release. It is ultimately up to the judge to release a defendant with court-ordered conditions or set a bail amount. A victim will also have the opportunity to give an opinion to the judge concerning release.
8. Grand Jury
 - a. If a case needs to go to Grand Jury, prosecutors will make sure the proceeding is scheduled in an appropriate period.
 - b. District Attorney Staff will coordinate with witnesses, the court, and grand jurors to ensure there is space and time for all cases that need to be indicted.
 - c. Victim Advocates will assist with victim, doing all they can to make the victims comfortable in a court like setting.
9. Defense and Discovery
 - a. After a defendant is arraigned and has a defense attorney, District Attorney Staff will work with defense to make sure all discovery (reports, audio/video, witness lists) is sent to the defendant's attorney.
 - b. The defense attorney will review the discovery and meet with defendant to assess strengths and weaknesses to the case.
10. Court and Disposition
 - a. Defendants can go to trial or accept a plea bargain. The vast majority of charged cases result in a plea bargain.
 - b. Options for case resolution outside trial include, but are not limited to
 - i. Conviction with incarceration
 - ii. Conviction with probation

- iii. Diversion (probation conditions that will result in dismissal if those conditions are met)
- iv. Civil Compromise (agreement on property cases to pay a victim an agreed upon sum to avoid conviction)
- v. Entry into one of the 7th Judicial District Specialty Courts
- vi. Guilty Except Insanity (GEI). Requires commitment to the Psychiatric Security Review Board.

c. Trial

- i. If convicted, then the defendant will be sentenced by the judge
- ii. Defendant can be found not guilty if the State cannot prove the charge beyond a reasonable doubt
- iii. Trial is risky for both sides, because it takes the result out of the attorney's hands. Trials also create appeal issues that may make a case drag on for a victim, even after the trial is concluded.

11. Probation/Incarceration

- a. Several agencies will still be involved with a case after it has resolved.
 - i. Courts and the District Attorney's Office monitor bench/misdemeanor probation and certain diversions.
 - ii. Courts will collect fines and restitution, then pay the restitution to a victim.
 - iii. Parole and Probation monitor felony and certain misdemeanor probation, as well as Community Work Service.
 - iv. NORCOR is staffed by the Sheriff's Office
 - v. Prisons are operated by the Oregon State Department of Corrections
- b. If a probationer violates the terms of their probation, then the District Attorney's Office, courts, and defense attorneys may be involved in the case again.
 - i. A formal probation violation (PV) will result the District Attorney's office filing a motion for the PV, arraignment, appointment of an attorney, discovery process, and plea negotiating (similar to a new case).
 - ii. When a probation violation occurs, the result could be more jail time, or depending on the conviction, a revocation of probation with prison time.
 - iii. In some instances, when probation violations are the result of addiction or mental health issues, the probationer may have the option of joining one of the 7th Judicial District Specialty Courts to avoid a probation revocation.

Court Dockets

Our attorneys are in court every day. Every Monday, there are three out-of-custody defendant dockets. At 8:30am, new arraignments. At 10:30am, trial call and felony plea dockets. At 2:30pm, misdemeanor plea dockets. These dockets are in person, and always conducted in the large, upstairs courtroom of the Wasco County Courthouse.

There are in custody dockets every day the court is open at 1:15pm, which are open to the public, and can be observed via WebEx.

Every Wednesday morning, we have Grand Jury. These proceedings are not open to the public and the location varies, based on court and county space needs.

On Thursdays, we have our specialty courts. Both courts are open to the public in the basement courtroom. At 9:30am, Judge Ostrye presides over the Treatment Court. At 2:15pm and 4pm, Judge Olson presides over the Aid and Assist and Mental Health Court respectively. At 2:15pm, he takes status on those defendants who have been charged with a crime, but are mentally ill and cannot aid and assist in their own defense. At 4pm, he hears the participants in the Mental Health Court program. Both judges sit in The Dalles on the 1st and 3rd Thursdays of the month, and sit in Hood River on the 2nd and 4th Thursdays, appearing via video.

Referrals and Cases by Law Enforcement Agency

Our three main law enforcement partners are Oregon State Police (OSP), Wasco County Sheriff's Office (WCSO), and The Dalles City Police (TDCP). The charts below give a seven-year window into the amount of referrals to the Wasco County District Attorney's (WCDA), the amount of criminal cases filed, and the rate at which cases are filed, sorted by the three law enforcement agencies.

Referrals by Agency	2017	2018	2019	2020	2021	2022	2023
Total	1215	1325	1536	1521	1443	1590	1553
OSP	309	360	328	242	277	248	234
WCSO	412	426	404	363	304	430	366
TDCP	510	613	842	970	889	973	935

Criminal Cases Filed by Agency	2017	2018	2019	2020	2021	2022	2023
Total	768	898	954	980	953	1047	1026
OSP	262	313	259	195	219	201	196
WCSO	241	272	192	162	179	276	212
TDCP	286	396	533	670	607	644	636

Charge Rate by Agency	2017	2018	2019	2020	2021	2022	2023
Total	63.2%	67.8%	62.1%	64.4%	66.0%	65.8%	66.1%
OSP	84.8%	86.9%	79.0%	80.6%	79.1%	81.0%	83.8%
WCSO	58.5%	63.8%	47.5%	44.6%	58.9%	64.2%	57.9%
TDCP	56.1%	64.6%	63.3%	69.1%	68.3%	66.2%	68.0%

Case Increases from The City of The Dalles


The charts below summarize the increase in workload WCDA has received from TDCP. The first chart is similar to those above, indicating the increase in referrals and cases from the city. The line for misdemeanors was added, as those are the cases that would have otherwise gone to the Municipal Court in the past. The second chart shows the increase in the percentage of the WCDA workload that comes from The Dalles City Police. In my entire time in office, more than 60% of our law enforcement referrals and charged cases have come from the TDCP.

	2017	2018	2019	2020	2021	2022	2023
Total Cases Charged	768	898	954	980	953	1047	1026
Total Cases Charged from City Referrals	286	396	533	670	610	644	636
Total Misdemeanor Cases Charged from City Referrals	174	281	412	557	519	502	505
Percent of City Cases Charged	56.1%	64.6%	63.3%	69.1%	68.6%	66.2%	68.0%

City Referrals	510	613	842	970	889	973	935
Total Referrals from all agencies	1215	1325	1536	1521	1443	1590	1553
Percent of WCDA cases charged from city referrals	37.2%	44.1%	55.9%	68.4%	64.0%	61.5%	62.0%
Percent of WCDA cases referred from the city	42.0%	46.3%	54.8%	63.8%	61.6%	61.2%	60.2%

Conclusion

This report should give the City Council a better understanding of the WCDA operations and workload. If the City decides to terminate the IGA with WCDA, Wasco County will be forced to make a decision on cutting a current position. Regardless of the Council’s decision, WCDA will work closely with our city partners, and make all efforts to continue to review and prosecute all the referrals that come to the office.



Matthew Ellis
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