



City of Longview

1525 Broadway
Longview, WA 98632
www.ci.longview.wa.us

Agenda

City Council

Mayor MaryAlice Wallis
Mayor Pro Tem Michael Wallin
Council Member Ruth Kendall
Council Member Angie Wean
Council Member Spencer Boudreau
Council Member Hillary Strobel
Council Member Christopher Ortiz

Thursday, January 19, 2023

6:00 PM

2nd Floor, City Hall

NOTICE IS HEREBY GIVEN, in accordance with RCW Chapter 42.30, that the City Council of the City of Longview, Washington, will conduct a special workshop in the Longview City Hall Council Chamber, 1525 Broadway, Longview, on Thursday, January 19, 2023 at 6 p.m. The topics of discussion follow. Final disposition shall be taken on no other matter.

The City Hall is accessible for persons with disabilities. Special equipment to assist the hearing impaired is also available. Please contact the City Executive Office at 360.442.5004 48 hours in advance if you require special accommodations to attend the meeting.

<https://us02web.zoom.us/j/82394132374>

Telephone options (dial any of the following numbers):

1-253-215-8782
1-346-248-7799
1-408-638-0968
1-669-900-6833
1-301-715-8592
1-312-626-6799
1-646-876-9923

Webinar ID: 823 9413 2374

1. CALL TO ORDER
2. INVOCATION*/FLAG SALUTE
3. ROLL CALL
4. WORKSHOP

23-000801 REVIEW OF THE LAW AND JUSTICE SYSTEM

5. ADJOURNMENT

*** Any invocation that may be offered at the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker.**

NEXT REGULAR COUNCIL MEETINGS:

THURSDAY, JANUARY 26, 2023 - 6:00 P.M.

THURSDAY, FEBRUARY 9, 2023 - 6:00 P.M.

THURSDAY, FEBRUARY 23, 2023 - 6:00 P.M.

NEXT REGULAR WORKSHOP:

THURSDAY, FEBRUARY 9, 2023, - 6:00 P.M. – AMERESCO FACILITY CONDITION ASSESSMENT & ENERGY AUDIT

THURSDAY, FEBRUARY 23, 2023 - 6:00 P.M. - SOLID WASTE RATE SETTING

NEXT SPECIAL COUNCIL WORKSHOP:

THURSDAY, FEBRUARY 16, 2023 - 6:00 P.M. - WASHINGTON WAY COMPLETE STREETS AND BEECH STREET OPEN CHANNEL

City of Longview Misdemeanor Prosecution and Defense

CITY COUNCIL WORKSHOP

JANUARY 19, 2023

Overview

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- ◆ Prosecution and Defense Teams
- ◆ How a Case is Prosecuted
- ◆ Costs
 - ◆ Public Defense Contract
 - ◆ Jail Costs
 - ◆ Other Costs
- ◆ Grants
- ◆ Some Metrics (arrests, convictions/pleas, etc.)

Prosecution and Defense Roles

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◆ Prosecution

◆ 3 Attorneys

- Steve Shuman
- Christopher Eastwood
- Linda Nguyen

◆ 1.5 support staff

◆ Defense

◆ Grimm Law Group

- Mayrie Grimm
- 3 Associates

Misdemeanor Prosecution

Gross Misdemeanors vs. Misdemeanors:

Simple misdemeanors -

- ◆ Carries a maximum sentence of **90 days jail + \$1000 fine**
- ◆ Some of examples of Simple Misdemeanors include: Disorderly conduct, criminal trespass 2nd degree, Resisting arrest, Possession of Shopping Cart, Driving while licenses suspended in 3rd degree, etc.

Gross misdemeanors –

- ◆ Carries a maximum sentence of **364 days in jail + a \$5,000.00 fine**
- ◆ Some examples of Gross Misdemeanors include: DUIs, domestic violence cases, assault in 4th degree, no contact order violations, thefts, obstructing law enforcement, Hit & Run Attended, etc.

Prosecution of a Misdemeanor Case

There are three ways that a defendant may be brought in before the court:

1. They are arrested by the police and held in jail until they can be seen by a judge (typically by the next regular court day).
2. The police cite them and give a date to come and appear before the judge.
3. Police will also often request a summons, which means the defendant may be sent a summons of a court date and time to appear in court.

Court Process

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Arraignment

- ◆ First hearing before the judge
- ◆ Held either in or out of custody. Several things happen at this hearing:
 - a. Judge advises defendant of the charge(s) and of his/her rights.
 - b. Attorney appointed (if they qualify).
 - c. Future court dates are set:
 - Pre-Trial Hearing
 - Readiness Hearing
 - Trial
 - d. Conditions of pre-trial release addressed.
 - CrRLJ 3.2. Defendants shall be released **on recognizance** unless the court finds that such release would endanger the public or not assure future court appearance.

Court Process

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- ◆ Pretrial:
 - ◆ Held to see whether defendant has met with their attorney to discuss the case and to determine if there are any issues that the court needs to address before moving to the Readiness Hearing.

- ◆ Readiness Hearing:
 - ◆ Held to determine whether the case is ready for trial. Three possible outcomes:
 - ◆ Defense or Prosecution is not ready and asks the court for more time.
 - ◆ Defendant accepts the City's offer and the case is set to a plea docket.
 - ◆ Defense and Prosecution announce that they are ready for trial and the case will proceed to the previously set trial date.

Court Process

◆ Trial Setting Process

- ◆ Almost all trial are jury trial and are scheduled for either a Monday or Friday.
- ◆ Between the three jurisdictions (County, Longview, the other cities in the County), 40-60 cases are scheduled for each trial date.
- ◆ Only one case will end up being tried on each trial date.
- ◆ If a case is called ready for trial at the Readiness Hearing, it is placed on a list of all cases ready for trial (typically between 6-10 cases)
- ◆ These cases are prioritized by the court based primarily on how old the case is.
- ◆ The highest priority case that does not get moved to a plea docket prior to trial or otherwise cancelled will go to trial on the trial date.
- ◆ All other cases are put back onto a readiness hearing docket and the process starts again

Court Process

◆ Sentencing

- ◆ Either after a trial or upon entry of a guilty plea, the prosecution will provide a recommendation to the court for the sentence.
- ◆ Judges do not have to follow any recommendation and can sentence the defendant up to the maximum.
- ◆ Recommendations upon entry of a guilty plea take into consideration multiple factors, including the defendant's criminal history, the strength of the facts of the case, the reliability and strength of witnesses, and other relevant mitigating or aggravating factors.
- ◆ Recommendations after trial usually only consider the defendant's criminal history, the seriousness of the crime charged, and other mitigating or aggravating factors.
- ◆ Typically, a sentence will involve some period of jail time or community service time, a requirement for the defendant to not get any further charges, and may include other requirements, such as treatment or attending certain classes.

Bail

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Bail is also often addressed at arraignment (or any other time the defendant ends up in custody). If the suspect is not in custody (either because they already posted bail or they were just cited and released instead of arrested), City does not typically ask for bail.

If suspect is in custody, City generally reviews the following to determine whether to request bail:

- 1) The person's criminal history to see whether they pose a danger to the community
- 2) A defendant's warrant history to determine the likelihood of appearing for future court dates.
- 3) Other factors we may consider include – the nature of the charge, ties to the community, family ties/relationships, etc.

Bail

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The Bail Book

9A.52.080	CRIMINAL TRESPASS-2ND DEGREE	\$500
9A.52.100.1	VEHICLE PROWLING 2ND DEGREE	\$1,000

Theft and Other Unlawful Taking of Property

9A.56.050	THEFT 3	\$1,000
9A.56.060.5	UNLAWFUL ISSUE BANK CHECKS < \$750	\$1,000
9A.56.063	VEHICLE THEFT TOOL MAKE/USE/POSSESS	\$1,000
9A.56.096.5C	THEFT RENTAL/LEASE PROP <\$750	\$1,000
9A.56.170	POSS STOLEN PROPERTY 3RD	\$1,000
9A.56.220	THEFT OF CABLE SERVICE	\$1,000
9A.56.270	SHOPPING CART THEFT	\$500
9A.56.330.1	POSSESSION OF ANOTHERS IDENTIFICATION	\$1,000
19.48.110.1A	INNKEEPER-DEFRAUDING	\$1,000
46.61.740	THEFT OF MOTOR VEHICLE FUEL	\$1,000
46.68.010.5	LIC FEE REFUND-FALSE STMNT	\$1,000
57.08.180	CONNECT TO SEWER OR WATER W/O PERMIT	\$500

Violation of Court Orders

9A.46.040	VIO OF HARASSMENT NO CONTACT ORDER (NON DV, PRE-TRIAL)	\$1,000
9A.46.080	VIO ORDER RESTRICTING CONTACT (NON DV, AFTER CONVICTION)	\$1,000
10.14.170	VIO. OF CIVIL ANTI-HARASS ORDER	\$1,000
26.50.110.1	VIO. OF DV NO CONTACT ORDER or DV PROTECTION ORDER	\$1,000

Obstructing, False Statements to Officers, Etc.

9A.60.045.1	CRIMINAL IMPERSONATION-2	\$1,000
9A.76.020	OBSTRUCT LAW ENFORCEMENT OFFICER	\$1,000
9A.76.030	REFUSE TO SUMMON AID FOR OFFICER	\$500
9A.76.040	RESISTING ARREST	\$500
9A.76.130.2	ESCAPE THIRD DEGREE	\$500
9A.76.130.3A	ESCAPE THIRD DEGREE w/ONE PRIOR CONVICTION	\$1,000

Bail

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It is up to the judge to determine whether bail should be set. By law, the assumption is that a person will be released without bail unless they either:

- a) pose a threat to the community (a standard that requires that the crime they are currently being seen on is of a violent nature) or
- b) pose a “flight risk”, which means there is a risk that they will not appear for future court hearings.

Resolving Cases Outside of Trial

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Diversion

- ◆ Pre-filing Diversion is the process of allowing the defendant to avoid the filing of a charge by agreeing to certain conditions, eg restitution to the victim (eg shoplifting or vandalism)
- ◆ Offered only for non-violent crimes, but is not offered for DUI
- ◆ Has the added benefit of not adding to our contracted public defender's case count of 400 cases per attorney
 - ◆ 2018 – 193 cases
 - ◆ 2019 - 97 cases
 - ◆ 2020 - 82 cases
 - ◆ 2021- 72 cases

Resolving Cases Outside of Trial

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Prior to trial, defense counsel will ask whether prosecution is willing to resolve the case short of trial. This is how most cases resolve and involves the prosecutor making some kind of offer for either an agreed recommendation upon entry of a guilty plea or a Stipulated Order of Continuance.

- ◆ There are several practical reasons for all sides to seek this kind of resolution:
 - ◆ Defendants can avoid the time and cost of defending themselves at trial, the risk of harsher punishment, and the publicity a trial could involve.
 - ◆ The prosecution saves the time and perhaps the expense of a trial.
 - ◆ Both sides are spared the uncertainty of going to trial.
 - ◆ The court system is saved the burden of conducting a trial on every crime charged.

Resolving Cases Short of Trial

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In responding to such requests by defense counsel, the prosecutors use the individual facts and circumstances of each case. These include:

- ◆ The seriousness of the facts of the case.
- ◆ The strength of the facts and how likely the charge is to be proven beyond a reasonable doubt.
- ◆ The defendant's criminal history.
- ◆ Communications, if any, from the victim regarding how they want the case resolved.
- ◆ Evidence of mental health, substance abuse, or other issues which may have caused the defendant to commit the crime.

Regardless of the recommendation made, if the defendant pleads guilty, the judge may sentence them up to the maximum possible sentence.

Resolving Cases Short of Trial

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Stipulated Order of Continuance (or “SOC”)

- ◆ Usually only offered for individuals with little or no criminal history. May be offered as an alternative to dismissing a weaker case.
- ◆ This is essentially a contract between the City and the defendant. If the defendant complies with all of the terms of the agreement, the charges will either be dismissed or in some cases will be amended to a lesser crime.
- ◆ By entering the agreement, the defendant gives up their right to a jury trial and if they do not comply and the agreement is revoked, they will have a short trial consisting solely of the judge reading the police report and determining their guilt based solely on that report.
- ◆ The judge can only accept or reject the agreement, but cannot modify the agreement. It is rare for a judge to reject an SOC agreement.

3 Practical Examples

- ◆ Case 1:
 - ◆ Defendant had two cases, one from 2020 and one from 2022. Both were Theft 3 charges for shoplifting from Walmart (less than \$100). Defendant had a number of miscellaneous prior charges in other jurisdictions.
 - ◆ Offer: PG to the newer Theft, dismiss older Theft, 4 days WC/CS with 360 days suspended, CFTS, NCLV.
 - ◆ Sentence: Judge Imboden followed the City's recommendation.

3 Practical Examples

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- ◆ Case 2:
 - ◆ Defendant charged with Assault 4 DV and had one prior conviction for a similar charge from 2013 and a DUI from 2002 that was dismissed after a deferred prosecution. Defendant is a mother who got into an argument with her adult son over some missing tools and ended up slapping and scratching him.
 - ◆ Offer: Given the facts and criminal history, the offer was for a 12 month SOC, 3 days WC/CS, DV eval/tx, \$107 filing fee, NCLV.
 - ◆ Sentence: Judge Imboden accepted this SOC.

3 Practical Examples

- ◆ Case 3:
 - ◆ Defendant charged with DUI, with a BAC of ~.21. Fairly straightforward encounter with police based on defendant failing to yield to the officer at an intersection. Defendant provided the requested breath samples. No prior DUI history.
 - ◆ Offer: Mandatory minimums on a “no test” DUI (1 day jail, alcohol/drug eval/tx, VIP), NCLV.
 - ◆ Sentence: Judge Hays followed the City’s recommendation.

Jail Time

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- ◆ Prosecution Perspective
- ◆ Defense Perspective

The Longview Public Defense Contract

Public Defender Services

- ◆ The Sixth Amendment gives defendants the right to counsel in federal prosecutions. However, the right to counsel was not applied to state prosecutions until 1963 in *Gideon v. Wainwright*, 372 U.S. 335.
- ◆ Every person charged with a crime has a right to a lawyer, and to have one appointed if he cannot afford to pay for one.
- ◆ Failure to provide a defendant with court appointed counsel would likely result in dismissal of case.
- ◆ Most medium sized cities provide these services via contract with private attorney, appointment off a list of eligible local attorneys, or a combination of both.

The Longview Public Defense Contract

RCW 10.101.005 – Legislative finding:

“The legislature finds that effective legal representation must be provided for indigent persons and persons who are indigent and able to contribute, consistent with the constitutional requirements of fairness, equal protection, and due process in all cases where the right to counsel attaches.”

The court decides whether a defendant is eligible for court appointed counsel using Financial information provided by the defendant and verified by other sources.

In the vast majority of all criminal cases across the state and in other states, a defendant qualifies for court appointed counsel.

The Longview Public Defense Contract

Caseload limits. Over the last 8 years, state law has limited the number of cases that an individual public defense attorney can accept to 400 cases.

“The caseload of a full-time public defense attorney or assigned counsel should not exceed the following:

300 misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this Standard, 400 cases per year.”

(Washington State Supreme Court Standards for Indigent Defense Standard 3.4 Caseload Limits)

The Longview Public Defense Contract

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- ◆ Indigent Cases Assigned to Defense Counsel

- ◆ 2018 – 1467
- ◆ 2019 – 1408
- ◆ 2020 – 1389
- ◆ 2021 – 1037
- ◆ 2022 – 1192

The Longview Public Defense Contract

RFP 2014

- ◆ 5 proposals
- ◆ Contract awarded to The Law Office of Mayrie Grimm and Katherine Gulmert for \$38,333.33 per month (4 attorneys)

2015

- ◆ Contract increased to \$49,583.33 per month (5 attorneys due to increased caseload)

2017

- ◆ Contract extended to end of 2020

2020

- ◆ Contract extended for 2 years; reduced to \$39,833.33 (4 attorneys due to decreased caseload)

2022

- ◆ Contract expired at end of 2022; Council extended for 60 days.

The Longview Public Defense Contract

Proposed 2023-2024

- ◆ Existing contract with a 4% inflation adjustment and a 2 year extension

Costs

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Conflict Counsel Costs

2018	2019	2020	2021	2022
\$20,814	\$11,566	\$1,335	\$16,895	\$19,054

Filing Fee and Jail Costs

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2022 Rates

Court Filing Fees (3rd Quarter 2022)

Type	Filings	Rate	Total
Criminal	480	\$115.14	\$55,267.20
Infraction	455	\$36.39	\$16,557.45

Inmate Bed Rate - \$98.67 per day

Booking Fee - \$78.26

Medical Transport- \$78.26

Jail Costs

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Cowlitz County Jail Costs

2018	2019	2020	2021	2022
\$535,000	\$492,474	\$343,568	\$332,156	\$300,873

Office of Public Defense (OPD) Grants

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Amounts Awarded*

2018 – 2019 \$163,000

2020 – 2021 \$163,000

2022 – 2023 \$140,000

*Amount shown is for two-year period. Each year, half of the total grant amount is disbursed.

Office of Public Defense (OPD) Grants

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Allowable uses:

- ◆ Reimbursement for mandatory continuing legal education (CLE) for defense counsel
- ◆ Expert witness fees
- ◆ Investigator costs
- ◆ Book subscriptions for those criminal defense manuals that are updated annually
- ◆ Transcription of officer interviews
- ◆ Medical records on cases involving an issue of mental capacity
- ◆ Increase public defense attorney compensation

Dispositions

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Key:

- G – Guilty
- GO – Guilty after Deferral
- GV – Guilty DV plead and proved
- C – Committed (Infractions)
- D – Dismissed
- DO – Dismissed with Prejudice
- DW – Dismissed without Prejudice

Dispositions

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Key:

- AM – Amended
- DP – Deferred Prosecution
- AW – Awaiting Sentence
- OD – Deferral (on a stipulated continuance)
- GR – Guilty; Deferred Prosecution Revoked

Numbers

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CR0150660	07/23/2018	07/23/2018	THEFT 3		G	364	359
8Z1090250	11/20/2018	11/06/2018	DWLS 3RD DEGREE	NO VALID OPER LICENSE WITH VALID ID	AM	0	0
8Z1090250	11/20/2018	11/06/2018	DWLS 3RD DEGREE	NO VALID OPER LICENSE WITH VALID ID	AM		
8Z1090250	11/20/2018	11/06/2018	NO VALID OPER LICENSE WITH VALID ID		C	0	0
8Z1090250	11/20/2018	11/06/2018	NO VALID OPER LICENSE WITH VALID ID		C		
CR0150432	04/18/2018	04/18/2018	DWLS 3RD DEGREE		G	0	0
CR0150432	04/18/2018	04/18/2018	DWLS 3RD DEGREE		G	90	85

Arrest Numbers 2018-2022

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	CR	CT	Total	Total of ALL arrests
◆ 2018	923	847	1770	3084
◆ 2019	878	928	1806	3232
◆ 2020	831	707	1538	2346
◆ 2021	806	607	1413	2276
◆ 2022	934	621	1555	2564

CR = Criminal Citations

CT = Criminal Traffic

Questions

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