



Where Life is Sweet

Mayor and Members of the City Council
STAFF REPORT
For the Meeting of October 13, 2025

Title/Subject

Misdemeanor Case Distribution

Summary and Background

Summary

The decision of how to proceed with misdemeanor criminal cases cited by Hermiston Police Department is being brought before City Council. Due to state-wide attorney shortage, the Hermiston Municipal Court has been unable to establish a contract for a public defense attorney. Because of this, it is proposed that all misdemeanor cases be sent to the Umatilla County District Attorney's Office/Umatilla County Circuit Court to be handled effective January 1st, 2026.

Background

In January 2024, the Hermiston Municipal Court resumed jurisdiction of A Misdemeanors. In March 2024 the primary contracted defense attorney opted to not renew his contract with the City. A Request for Proposal (RFP) was published and a new defense attorney and the City agreed upon a contract. In February 2025, the primary contracted defense attorney notified Court Administrator Viles that she would not renew her contract due to health and family priorities. In March 2025 an RFP was published. The RFP was shared with the local attorney bar association, the Oregon State Bar Center job listing site and emailed to their members, as well as being shared with the National Association for Public Defense. One attorney submitted a proposal, but it did not include the required information as stated in the RFP. As of October 2025, HMC did not have a primary contracted defense attorney and is utilizing the contracted secondary defense attorney.

In April 2024, the contracted City Prosecutor opted to end his contract with the City to pursue a different full-time job. An RFP was published with no response. In July 2024 the City was able to establish a contract with our current City Prosecutor. City Attorney Tovey had to fill in for the 2-3 months we did not have a City Prosecutor.

Challenges

The difficulty finding criminal attorneys is not a dilemma unique to Hermiston Municipal Court. There are over 5,000 individuals in the state of Oregon that have been charged with a criminal case and do not have a public defense attorney appointed to them ([Oregon Circuit Courts Unrepresented Individuals](#)). Both Umatilla County and Morrow County have had deputy district attorney positions open in their offices for at least a year.

In the past 5 years Oregon has gone through significant reform in public defense services. In 2018, the Sixth Amendment Center published their report and evaluation of Oregon's public defense representation. The Sixth Amendment Center found that the structure of Oregon's public defense system managed by the Oregon Public Defense Services Commission was a flawed system that incentivized attorneys to take on as many cases as possible and to do so quickly, which was in conflict with their ethical duties to provide due process rights to their clients. The report by the Sixth Amendment Center had many other findings and was the driver behind the changes and reform that have occurred in the past 5 years.

One of the changes was to the number of cases a defense attorney can take in one year and the amount paid for a full caseload. For the 2023-2025 biennium the Oregon Public Defense Commission (OPDC) has determined that 300 misdemeanor cases is a full caseload for the year for one full time defense attorney. OPDC has also determined that the annual pay for 1 full time defense attorney is \$213,085 for one year.

While Hermiston Municipal Court (HMC) does not contract with the Oregon Public Defense Commission for public defender services as the Circuit Courts do, Court Administrator Viles has received frequent feedback from local attorneys that HMC does not pay close to what OPDC does and that is why attorneys do not respond to the RFPs. OPDC pays approximately \$710 per misdemeanor case. HMC pays approximately \$450-\$500 per case. Municipal courts on the west side of the state pay \$250-\$400 per misdemeanor case. Because there are fewer attorneys willing to practice on the east side of the state, municipal courts pay more for services.

Proposed Solution

Effective January 1st, 2026, send all misdemeanor cases to Circuit Court to be prosecuted by the Umatilla County District Attorney's Office.

Advantages:

1. Hermiston Municipal Court operations costs would decrease in the next fiscal year.

Disadvantages:

1. Because the DA's office handles all levels of cases, low-level misdemeanor cases may not be a priority. This may result in cases not being filed at all and offenders not being held accountable. Or cases may be filed up to 23 months after the offense date.

City Manager Smith, City Attorney Tovey, and Court Administrator Viles met with Umatilla County District Attorney Dan Primus to discuss the transfer of cases. District Attorney Primus advised his office is short 4 attorneys at this time, but that they would do their best to handle the cases. He also advised that the defense attorney shortage is being felt in Circuit Court as well, with Judges advising misdemeanor cases may be dismissed since there are not enough defense attorneys to appoint to the defendants.

Sending all unfilled misdemeanor cases to Circuit Court would not mean HMC would no longer handle criminal matters, the Court will still continue with criminal case operations until all filed criminal cases are closed. Criminal case operations would slowly wind down and would likely be completely terminated by 2032. Until all criminal cases are finished the City would still need to have a part-time contracted Prosecutor and a contracted Defense Attorney, but the cost would be significantly less.

Tie-In to Council Goals

N/A

Fiscal Information

Sending misdemeanor cases to Circuit Court will result in a decrease of approximately \$50,000-\$100,000 to the court budget in the next fiscal year.

Alternatives and Recommendation

Alternatives

- A. Publish an RFP for defense services equal to the rate and maximum caseload OPDC pays defense attorneys. Defense services would cost the City approximately \$400,000 for FY25-26. *(Current budget \$150,000)*

Advantages:

1. Criminal cases would remain with the Hermiston Municipal Court.
2. The City Prosecutor files approximately 90% of the cases that are cited by HPD.
3. Cases are filed with HMC within a matter of weeks, typically not longer than 3 months meaning offenders are held accountable more quickly.
4. Misdemeanor cases from HPD are less likely to be dismissed as part of negotiations on felony cases.

Disadvantages:

1. A significant cost increase for HMC/City (\$254,000 increase in expenses for FY25-26)
2. Anticipated additional increased costs for the City Prosecutor, Judge, and City Attorney to equitably match the rate of the Defense Attorney.
3. Publishing an RFP for defense services equal to the rate and caseload OPDC does not guarantee an attorney will take the contract.

- B. Effective January 1, 2026, send all misdemeanor cases to Circuit Court to be prosecuted by the Umatilla County District Attorney's Office.

Advantages:

1. Hermiston Municipal Court operations costs would decrease in the next fiscal year.

Disadvantages:

2. Because the DA's office handles all levels of cases, low-level misdemeanor cases may not be a priority. This may result in cases not being filed at all and offenders not being held accountable. Or cases may be filed up to 23 months after the offense date.

Recommended Action/Motion

Motion to send all misdemeanor cases to Circuit Court for potential prosecution effective January 1, 2026

Submitted By:

Jillian Viles, Municipal Court Administrator