

AGENDA: Yellow Springs Justice System Task Force Meeting

Tuesday May 08 2018

YS Bryan Center Community Center Council Chambers

Please Turn Camera On to Record Meeting

7:00 Agenda Review

Meeting Guidelines; assign timekeeper

Approve Minutes from April 10 2018 meeting

Updates on Council Actions: Judith

Citizen Concerns (if not already on agenda) 3 minutes/speaker

7:15 Review Proposed Mayor's Court Recommendation #3 (Provide Public Defender to indigent persons in Mayor's Court) to Council; if time allows, also review Proposed Mayor's Court Recommendation #2 (Establish a Diversion and Restorative Justice Program in Mayor's Court).

7:45 Working Groups Reports

Police Working Group: Pat, Bill, Kate

Data Analysis Group: John, Al, Beth

Disparate Impact on the Poor: Judith, Al, Kate

Surveillance Issues: Ellis, Bill, Steve

8:00 New Business

Process regarding recommendations to Council

Consider JSTF priorities for remainder of 2018

8:50 Agenda planning: June meeting

9:00 Adjourn

Justice System Task Force(JSTF) Meeting—10 April 2018

The meeting began at 7:04 pm. Members present: J. Booth, B. Crandall, P. Dewees, K. Hamilton, John Hempfling, Judy Hempfling(Village Council Representative), E. Jacobs, S. McQueen, A. Schlueter and D. Turner. The meeting was led by P. Dewees.

Also in attendance at the meeting were: S. Tulecke, P. Conine (Village Mayor), R. Mark, L. Curliss, and K. Odiorne.

Before addressing the agenda, there was a discussion of the timing needed for the meeting packet preparation. For material to be included in the packet for committee members it must be received by the Thursday prior to the Tuesday committee meeting.

Three announcements were made: B. Crandall is a new committee member. Money has been committed for body cams for our police officers. And, it was noted that the resolution to be voted on at this meeting was listed in the YSNews as required by committee rules. Only one response was received in writing.

K. Hamilton served as timekeeper.

The minutes of the March meeting were accepted.

Comments were made from the floor about village policing. K. Odiorne recommended a permanent Citizen's Review Board to monitor police actions. He also suggested a select committee to review body cam videos that contain sensitive materials. S. Tulecke reported that he had obtained information from community "victims" who had police contact. He suggested that a "Police Victims Advocacy Group" was needed to assure police accountability.

The Mayor's Court Subgroup resolution, passed at the last meeting, was brought to the table for a second vote. The one response to the YSNews public listing of the resolution was favorable. No response from the Police Department was received.

L. Curliss read the resolution. Judy H. asked that the data in the resolution be verified. B. Crandall shared data obtained from the Police Department by the Data Analysis Subgroup. The data show that about 40% of the cases have an unknown court assignment, neither Mayor's Court nor Xenia Court identified. Mayor P. Conine gave her reaction to the resolution. Her comments included: 1) we have a new police chief, 2) we have a new mayor and new officers, 3) she has met with YSPD resource person and the Greene County prosecutor with positive results for collaboration, 4) the number of cases sent to Xenia has decreased, 5) she shared a concern about the increased costs that would result. Her conclusion was that the resolution would result in too fast a change.

Judy H. suggested that time be allowed for a transition period. D. Turner suggested that the Village Council could make this determination.

Judy H. moved, and E. Jacobs seconded, that the resolution be amended to allow a six-month period for implementation.

The resolution was voted on as amended with nine (9) in favor and one opposed.

Two more resolutions will be brought to the JSTF by the Mayor's Court Subgroup in upcoming meetings.

John H. recommended that indigents be given access to a public defender.

Reports of Working Groups:

Police Working Group. 1) Field training manual has been updated. All new hires will go through YS field training. On-line training through LEXIPO has up to 10 scenarios/month with testing for each officer. 2) The search for an effective instrument for implicit bias continues. 3) Drug control issues = the law must be enforced. The relationship with the community on this must be improved. The group suggests that this is a closure report. What should be done now?

Judy H. added that de-escalation training is missing, and our chief is experienced in this.

Data Group. The group is working on the data which have been obtained from the YSPD for the years 2010-2017. Because so many data fields were blank, it was felt that more diligence was needed in the YSPD concerning in house documentation.

Disparate Impact on the Poor Group. K. Hamilton reported and indicated that a description of the problem is the first focus. Some of the topics being researched are the national income disparity and alternatives to bail. The YSPD Staff meeting will be attended to work with them concerning these issues.

Surveillance Group. Council needs to give approval before any surveillance procedures are undertaken. A proposal to this effect will be presented to the JSTF. Currently the YSPD has a license plate reader. They will be purchasing body cams. A policy on body cam use is needed.

New Business. The JSTF Leadership Group has been Judy H., P. Dewees and E. Jacobs. It is recommended that E. Jacobs become the permanent chair of the JSTF and S. McQueen the alternate. B. Crandall and A. Schlueter be the packet organizers who submit the required materials to the YSNews. Material must be in the packet to be considered at a meeting. B. Crandall will be the agenda planner.

P. Dewees was recognized for her skill in summarizing JSTF actions.

It was moved, seconded and approved that the new leadership team begin as identified above.

The meeting was adjourned at 8:55 pm.

JSTF Priorities Discussion

May 08 2018

This document provides an initial list of priority items based on the Village Council 2016 Resolution establishing the JSTF and items provided by the individual Working Groups.

Village Council Resolution Establishing a JSTF

Task Force research regarding current practices and policies will include but not be limited to:

- Mayor's Court: its history and value; what cases currently come to the Court; types of cases that legally can be heard by the Mayor and how the Mayor follows up on cases
- How Mayor's Court differs from the County court
- Types of citations issues by the YSPD; flow path of what happens
- Police policies and practices: what police officers do during their shifts; chain of command; roles; state of police policies.
- Exercise and role of police officer discretion
- What types of cases are the police investigating and how they are investigated.

The Task Force will research best practices, innovative approaches, and justice systems reforms which will include, but not be limited to;

- Possibilities regarding pre-prosecution mediation and restorative justice practices that could strengthen the role of Mayor's Court
- The role of a prosecutor in Mayor's Court
- New developments in municipal policing practices that address institutional racism
- Methods of ameliorating the disparate impact of the justice systems practices on the poor
- Alternative municipal policing approaches to drug control
- Best practices regarding police and youth, including educational programs
- Best practices in supporting Police/Community relationships

Working Group current priorities/tasking

Mayors Court:

1. Misdemeanors to Mayors Court
2. Public defender for indigents
3. Diversion program in between first contact with PD and MC
4. Not charging civil cases as criminal cases

Police Working Group Work Plan for 2018

1. Research best practice, challenges and outcomes of Community/Police Collaborative Groups, Advisory Boards and Police Review structures in other communities.

2. Continue to support and advocate for police training initiatives that support YS Community values outlined in the “Vision for Local Policing” adopted by the Village Council in 2017.
3. Identify a minimum of one Public Forum on some aspect of Policing.

Data Analysis Group

1. Extend analysis of YSPD citation data: provide more complete data on which citations were sent to Mayor’s Court, which to Municipal Court, and which to Juvenile Court.
2. Design and carry out an analysis to extend the previous report on YSPD warnings and citations (the one that looked at gender, race, and age over a 10 year period). Questions to be addressed in that analysis include:
 - Has there been a change over time?
 - Is there a statistically significant difference between current and former officers?
 - Were any of the officers outliers relative to rest of the department?

The analysis would include data from 2017. We would seek input from JSTF before moving forward.

3. Provide data analysis in support of questions/issues raised in JSTF meetings/Working Groups.

Ameliorating Disparate Impact on the Poor

The goal of creating a system driven not by profit, but by fair practices, is one that we can address here on a local level, as follows:

- identify where in our local justice system inequities exist
- explore feasible methods of amelioration to present to Council.
- Tasks include:
 - Describe the problem on a national and local level
 - Research potential solutions
 - Develop recommendations for Council

Surveillance

(no information received from this Working Group)

JUSTICE SYSTEM TASK FORCE

V5 – 4.10.18

MAYOR'S COURT SUBCOMMITTEE

IMPLEMENTATION OF 2018 PLAN OF WORK

RECOMMENDATION #1

As adopted on 3.12.18, and amended by JSTF on 4.10.18;
JSTF voted to make this recommendation to Council on 4.10.18

STATEMENT OF NEED:

To use Mayor's Court to the fullest extent possible. Now, many Village misdemeanor cases are being handled by the Xenia Municipal Court.

WHY IS CHANGE NEEDED?

1) YS Police officers are citing misdemeanor cases to Xenia Municipal Court rather than YS Mayor's Court. One estimate is that 2/3rds of our cases go directly to Xenia for disposition. While some misdemeanor cases are required to go Xenia Municipal court, these are exceptions per state law. Accused persons, especially village residents, are not getting the opportunity to have their misdemeanor case heard by the judge they elected (the Mayor).

2) Persons appearing in Mayor's Court have a choice regarding how the case proceeds. If they accept the Mayor's ruling, it stands. If they think it is not fair or correct under the law, the person can appeal to Xenia Municipal Court. Also, if a person wants a jury trial, they can choose to have the case removed to Xenia Municipal Court. When the police charge cases directly to Xenia Municipal Court, these choices are not available to the accused.

3) Yellow Springs taxpayers pay about \$56,000/year for a Mayor's Court. It currently handles about 250 cases/year. In the past, the volume has been much higher when more cases were charged by YSPD to Mayor's Court. YS taxpayers would get the full benefit of their tax dollars if YS Mayor's Court handled more cases.

4) YS citizens want to dispense justice in a way that seeks to change behavior in a less punitive, less burdensome, more restorative manner than some perceive to be administered at the county level. This can occur only if the cases come to Mayor's Court.

5) The burden on the accused who have to go to Xenia is high. Administration of cases in Xenia Municipal Court is more time consuming, costly, and burdensome - for the accused and victims than if the case remained in Yellow Springs.

6) Collateral consequences to the poor, young offenders, persons with mental state challenges will be much different if the case is handled locally rather than in Xenia. For example, the Mayor can set court costs, fees, and fines at a much lower level in YS than in Xenia. Further, YS has the opportunity to implement a diversion/restorative justice program if we have enough cases to justify one.

HOW WILL THIS CHANGE OCCUR?

It could occur in one of two basic ways.

The first, is through personnel management techniques and action. Personnel management is the responsibility of the Chief of Police, who can direct and supervise officers to charge cases to Mayor's court and also the Village Manager, who supervises the Chief. The VM can ask the Chief to report at least quarterly as to the number and types of cases (with citations to law) going Mayor's Court and to Xenia Municipal Court. This report is a useful management tool. If the report shows that YS-eligible cases are going to Xenia, then a notation should be added to explain why that happened (e.g, new officer error, companion to a felony case, 2nd OVI within lookback, DV case required to go to Xenia). If a pattern is developing that YS-eligible cases are going to Xenia then management action can occur to correct officer charging patterns.

The second way is for Council to announce that the foregoing is the policy of the Village. Passing a resolution to this effect will make their intention clear to the VM and to the Chief. This policy can be the basis of employee evaluations on this issue.

RECOMMENDATION

On March 12, 2018, the Justice System Task Force voted to recommend to Council that it pass a Resolution regarding the Village's charging policy directing the police to charge all misdemeanor cases into Mayor's Court that legally can be charged into Mayor's Court. On April 10, 2018, the JSTF voted to recommend to Council that this recommendation be implemented within six (6) months. The draft Resolution for Council's consideration would direct the Village Manager and Chief of Police to make the change just described therein

[FORM OF RESOLUTION FOLLOWS]

COUNCIL OF THE VILLAGE OF YELLOW SPRINGS

YELLOW SPRINGS, OHIO

RESOLUTION #_____

ADOPTING A POLICY REQUIRING THE CHARGING OF MISDEMEANOR CASES INTO
MAYOR'S COURT (UNLESS OTHERWISE REQUIRED BY STATE LAW)

Whereas, it is the policy of this Council to handle as many misdemeanor cases as possible in the Yellow Springs Mayor's Court, which has been established under the Village Charter and supported financially by the taxpayers of this community specifically for this purpose; and

Whereas, the Justice System Task Force has made a recommendation that action be taken to change the current pattern of police charging Mayor's court-eligible cases to the Xenia Municipal Court; and

Whereas, Council favors implementing criminal justice locally and consistent with our Guidelines for Policing and, whereas, Council believes that we can only achieve this if justice is administered locally to the greatest extent possible.

NOW, THEREFORE, BE IT RESOLVED THAT:

Section 1. The Village Manager is directed to work with the Chief of Police to ensure that all misdemeanors that can be charged to Mayor's Court are charged to Mayor's Court, unless jurisdiction is otherwise placed in another court by law.

Section 2. The Village Manager is directed to report to Council on a quarterly basis the number and types of cases (by name and code section) that are being charged into Yellow Springs Mayor's Court and how many to other jurisdictions, particularly Xenia Municipal Court.

SO RESOLVED this _____ day of _____, 2018 by a majority of a quorum of the Council of the Village of Yellow Springs, Ohio, at a regularly scheduled public meeting.

ATTEST:

President of Council

Clerk of Council

DISCUSSION DRAFT ONLY FOR JSTF – V1 – 4.2.18

**JUSTICE SYSTEM TASK FORCE
MAYOR’S COURT SUBCOMMITTEE
IMPLEMENTATION OF 2018 PLAN OF WORK**

RECOMMENDATION #2

STATEMENT OF NEED #2: To establish and operate a Diversion and Restorative Justice (DRJ) Program in Mayor’s Court

WHY IS CHANGE NEEDED?

- 1) Pre-conviction resolutions to cases are the best opportunity to change behavior before putting a conviction on a person’s record. This is particularly important for first time or infrequent offenders.
- 2) A DRJ program will provide a different quality of justice with a goal of healing relationships and creating understanding rather than being primarily punitive in nature.
- 3) A DRJ program can put offenders in touch with service providers (e.g, social, veteran’s or mental health services, police outreach worker) to get at the root cause of and to change the behavior at issue.
- 4) Collateral consequences for convictions have multiplied exponentially in the past couple of decades and DRJ can reduce these. Convictions often have a multiplier effect, but even one conviction can disqualify a person for housing, employment, college, student loans, driving privileges and so forth, all of which contribute to poverty. One’s debt to society is not “paid” when the case ends and the fines or other sentence terms are complete. The burden of collateral consequences is particularly harmful to young offenders or those unable to cope with the complexity of the situation. A diversion program can achieve the desired result without impoverishing people or contributing to burdening people long term with collateral consequences. In addition, collateral consequences are one of the major contributing factors to mass incarceration.
- 5) Convictions are a particular burden on the poor and a diversion program can relieve that while providing consequences.
- 6) As discussed in the next section, the attorney who will implement the DRJ program is also providing a “check and balance” in the local criminal justice system. The secondary benefit of DRJ is that it will provide a higher level of professionalism in YS Mayor’s Court than in the past to ensure that the law is being followed and legal rights respected. New or inexperienced officers will have a lawyer to review and present cases. This dynamic provides training to

taxpayers already pay for this service, whether it is offered in Xenia or in Yellow Springs. If the Public Defender will not make the assignments, the Village would have to hire a lawyer to be present in Mayor's Court twice a month to provide public defender services. This service is estimated to cost about \$3000-4000 a year for a public defender to attend Mayor's Court.

RECOMMENDATION: That the JSTF authorize two or three persons to meet with Arthur Seidel, the Greene County Public Defender, to work out details for public defender assignments to YS Mayor's Court. If there is good reason why assignments cannot be made to YS Mayor's Court, then we recommend that the Village include in Mayor's Court budget an amount to pay for a public defender.

END OF RECOMMENDATION

JUSTICE SYSTEM TASK FORCE

MAYOR'S COURT SUBCOMMITTEE
IMPLEMENTATION OF 2018 PLAN OF WORK

RECOMMENDATION #3

STATEMENT OF NEED #3: To provide indigent persons in Mayor's Court with a public defender for M1-M4 charges.

WHY IS CHANGE NEEDED?

The 6th Amendment of the U.S. Constitution guarantees the right to a fair trial and due process in criminal cases. The U.S. Supreme Court has interpreted this to mean that indigent persons in misdemeanor criminal cases where jail time can be imposed are entitled to legal counsel. *Argersinger v. Hamlin*, 407 U.S. 25 (1972). M4 through M1 crimes carry the potential for imprisonment.

The right to a public defender is not available in Mayor's Court at this time. Persons wanting a public defender are told that their case has to be transferred to Xenia Municipal Court. This is not a necessary or desirable outcome for the accused, especially citizens who pay to have a Mayor's Court available to them for all cases. Public defenders, usually private attorneys taking cases on a contract basis, already travel to take cases in Xenia and Fairborn Municipal Court. They are not employees assigned to a specific court. Yellow Springs' Mayor's Court could be serviced in this way by the Public Defender's office.

HOW WILL THIS CHANGE OCCUR?

Either the Greene County Public Defender can assign a contract attorney (public defender) to be present twice a month for YS Mayor's Court or the Village could hire an attorney to come to Mayor's Court twice a month to represent indigent persons and authorize a certain number of hours for follow up. This is estimated to take 2-4 hours a month.

WHAT WILL THIS COST?

The Public Defender assigns attorneys to handle these cases and pays \$100 per misdemeanor case. Right now the police are sending very few M1-M4's to Mayor's Court, so it is unknown how many could be heard here. In any event, Greene County

taxpayers already pay for this service, whether it is offered in Xenia or in Yellow Springs. If the Public Defender will not make the assignments, the Village would have to hire a lawyer to be present in Mayor's Court twice a month to provide public defender services. This service is estimated to cost about \$3000-4000 a year for a public defender to attend Mayor's Court.

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END OF RECOMMENDATION