Legislation Text

File #: 21-0201, **Version:** 1

TO:
Honorable Mayor and Members of the City Council

THROUGH:
Bruce Moe, City Manager

FROM:
George Gabriel, Assistant to the City Manager

SUBJECT:
Consideration of Continuing the Analysis of Transferring Prosecution Services of State Misdemeanors Utilizing the Los Angeles County District Attorney, and Potentially Contracting with the City of Redondo Beach for Prosecution and Homeless Court Services (City Manager Moe).
DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:
Staff recommends that the City Council discuss and provide direction regarding transferring prosecution services of State misdemeanors utilizing the Los Angeles County District Attorney, and potentially contracting with the City of Redondo Beach for prosecution and homeless court services.

FISCAL IMPLICATIONS:
There are significant fiscal implications associated with transferring prosecution services from the County to Redondo Beach, and participating in Redondo's homeless court. Los Angeles County currently offers prosecutorial services to the City at no cost. At the time the City Council agenda packet went out on July 14, the Redondo Beach City Attorney's Office had not provided a cost estimate for prosecution and homeless court services. Hermosa Beach contracts with Redondo Beach for prosecution services at an annual cost of $200,004. That amount does not include participation in Redondo's homeless court. However, the Redondo City Attorney has indicated that Redondo will provide such services to Hermosa in the future.

Manhattan Beach City Councilmembers have requested that the City explore grant funding opportunities for homeless court services. Countywide Measure H funds, which are now administered locally through the South Bay Cities Council of Governments (SBCCOG), may be utilized for that purpose. Applications for the next round of Measure H grant funding are due to SBCCOG on August 10.

BACKGROUND:
At the March 16, 2021, meeting, City Council directed staff to agendize Council consideration of homeless court and an analysis of potential funding sources for various homeless services. Upon contacting the City of Redondo Beach, the Redondo Beach City Attorney indicated it would consider providing homeless court services contingent on Manhattan Beach contracting with Redondo Beach

for prosecutorial services. The Los Angeles County District Attorney currently provides prosecutorial services for the City of Manhattan Beach. Should the City of Manhattan Beach seek an alternative source to prosecute state law misdemeanors committed within city limits, the City must first receive consent from the Los Angeles County District Attorney.

Staff provided a report on the matter at the June 1, 2021, City Council meeting (Attachment #1). In the analysis, staff indicated that homeless court services were offered by the City of Redondo Beach City Attorney's Office, specifically by their City Prosecutor. The City of Redondo Beach is one of ten cities in Los Angeles County that prosecutes state misdemeanors occurring in their jurisdiction. Alternatively, the Los Angeles District Attorney's Office prosecutes felony crimes and misdemeanor crimes for the City of Manhattan Beach. This difference is particularly relevant to the City's consideration of adding homeless court services, as the primary crimes homeless individuals may be charged with are state misdemeanor crimes.

Government Code section 41803.5 provides:

> "(a) With the consent of the district attorney of the county, the city attorney of any general law city or chartered city within the county may prosecute any misdemeanor committed within the city arising out of violation of state law. This section shall not be deemed to affect any of the provisions of Section 72193.
>
> (b) In any case in which the district attorney is granted any powers or access to information with regard to the prosecution of misdemeanors, this grant of powers or access to information shall be deemed to apply to any other officer charged with the duty of prosecuting misdemeanor charges in the state, as authorized by law."

City staff sent the City of Redondo Beach a non-binding letter of intent for homeless court service and/or prosecution services. At their May 18, 2021, meeting, the City of Redondo Beach City Council authorized Redondo Beach City Attorney Mike Webb to explore offering prosecution services (including homeless court) to the City of Manhattan Beach.

At the June 1, 2021, meeting, Manhattan Beach City Council directed staff to continue exploring homeless court, identify necessary funding and perform a cost-benefit analysis. Additionally, Council directed staff to provide information on the process to request the authority from the Los Angeles County District Attorney to prosecute state law misdemeanors. This report provides information to assess if the City Council would like to continue staff's analysis.

DISCUSSION:

As indicated in the background section, the City can consider adding homeless court services by contracting with the City of Redondo Beach. However, the City must first receive the consent of the Los Angeles County District Attorney to prosecute state misdemeanors. Given the complex nature of assessing this effort staff gathered data to understand current prosecution practices, the process of receiving consent from the District Attorney, effectiveness of homeless court, and a cost/benefit analysis.

Prosecution Analysis

The District Attorney (DA) is an elected county official established by Government Code Section

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§26500-26543. The DA is responsible for the prosecution of criminal violations of state law and county ordinances occurring within the county in which elected. The elected District Attorney, George Gascón, is in charge of the office that prosecutes felony and misdemeanor crimes that occur within Los Angeles County. The Los Angeles District Attorney's Office prosecutes felony crimes and misdemeanor crimes in unincorporated areas and in 78 of the county's 88 cities, including the City of Manhattan Beach. Some notable cities that are responsible for conducting their own prosecution include: Burbank, Hawthorne, Inglewood, Long Beach, Los Angeles, Pasadena, Redondo Beach, Hermosa Beach, Santa Monica, and Torrance.

The Manhattan Beach Police Department's Administration and Investigations Bureau is responsible for filing cases with the District Attorney. To understand the scope of activity between the Police Department and the District Attorney, staff has provided the number of cases referred to the DA by case type (Attachment #2). In 2019 and 2020, the City referred 1,010 and 594 misdemeanor cases, respectively. Staff is unable to determine if these cases were filed or prosecuted by the DA following referral.

On December 7, 2020, George Gascón was sworn into office and issued nine Special Directives which outline new policies and procedures for the Los Angeles County DA's Office. Most notably, DA Gascón issued Special Directive 20-07 titled, "Misdemeanor Case Management" (Attachment #3). The directive listed numerous misdemeanor charges that will be declined or dismissed before arraignment and without conditions by the DA unless "exceptions" or "factors for consideration" exist. The crimes include: trespassing, disturbing the peace, criminal threats, drinking in public, public intoxication, under the influence of controlled substance, driving without a valid license, driving on a suspended license, drug and paraphernalia possession, minor in possession of alcohol, loitering, loitering to commit prostitution, and resisting arrest.

Exceptions and factors for consideration listed in Special Directive 20-07 include repeat offenders in the preceding 24 months; however, misdemeanors such as drug and paraphernalia possession, minor in possession of alcohol, drinking in public, public intoxication, under the influence of controlled substance and loitering to commit prostitution do not have exceptions or factors of consideration identified. As a result, these types of cases will not be considered for prosecution by the DA's office.

Based on the directive, staff estimates that 702 misdemeanor cases from 2019 - 2020 may have been impacted had the directive been in effect. Thus far, MBPD estimates that 61 cases have been dismissed or declined since December 2020. As indicated in attachment #2, MBPD has referred a total of 154 misdemeanor cases to the District Attorney from January - April.

Please note, the Redondo Beach City Attorney has indicated that Redondo will not prosecute all Municipal Code violations on behalf of the City of Manhattan Beach. However, Redondo Beach indicated that it might consider prosecuting specific Municipal Code violations on a limited basis. Most, if not all, Manhattan Beach Municipal Code violations are processed as administrative citations. Occasionally in the past, MBPD has referred certain Municipal Code violations to the District Attorney (e.g. boating, beach violations).

Process

Per City Council direction, staff has attempted to locate information on the process to request the authority to prosecute state law misdemeanors from the Los Angeles County District Attorney. Given

the unique nature of the request, staff has not found any information regarding the process. Staff is aware that the City of Beverly Hills is exploring establishing a City Prosecutor's Office but will take up the matter in the fall.

Should City Council direct staff to request consent from the DA, staff would likely send an official letter to the DA indicating Council direction. If consent is provided, a contract with the City of Redondo Beach would be provided for City Council consideration at a future City Council meeting.

Effectiveness of Homeless Court

The Homeless Court Program is an informal diversion program for homeless individuals. The program requires that homeless individuals participate in services such as mental health counseling, substance abuse treatment and housing placement as required by Judge Rene Gilbertson. Housing navigators give the attorneys recommendations and updates on each participant, and the attorneys will ask the judge to make the appropriate orders to get the participants to work towards becoming housing ready. Judge Rene Gilbertson encourages the participants while ensuring accountability for participants not following her orders.

The homeless court program has been viewed as a success in Redondo Beach and has provided an additional tool to incentivize homeless individuals to seek housing options. Since December 2019, the City of Redondo Beach has had 50 individuals participate in homeless court and 15 have successfully been housed as a result of the process. Currently, the City of Redondo Beach has 20 active participants in the homeless court program.

Based on the City of Redondo Beach's homeless count conducted by the Los Angeles Homeless Services Authority in 2020, Redondo Beach's homeless population is substantially larger than Manhattan Beach. Redondo Beach totaled 176 individuals experiencing homelessness while Manhattan Beach totaled 15 individuals. Upon conducting an unofficial count by MBPD in April 2021, the Police Department identified about 7 individuals. Some of those individuals may benefit from a homeless court program depending on whether a crime has been committed.

To further determine the effectiveness of a homeless court program, staff compiled the number of individuals that were categorized as transients (i.e. no known address) and committing crimes from July 2020 - July 2021. Staff identified 59 instances of individuals cited by MBPD.

Considerations

Beginning in 2017, the City has dedicated a tremendous amount of resources to address homelessness. In that time, the City has explored all tools and achieved successful results. Most notably, the City reduced the number of homeless individuals from 41 in 2018 to 15 in 2020.

In assessing whether the City should proceed with providing homeless court services, the City Council must weigh the benefits of providing these services vis-a-vis broader implications on the City's prosecution efforts.

Homeless Court

The City continues to take an active role in addressing homelessness, strategically and regionally. In doing so, the City has ensured public safety while also assisting homeless in obtaining the services needed, and respecting their rights, through the use of Harbor Interfaith Services. Given the small number of homeless individuals that regularly reside in Manhattan Beach, the City Council must

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determine if the program is worthwhile considering the limited participants the City would have in any homeless court program.

Direct Prosecution of Misdemeanor Crimes
As previously indicated, Special Directive 20-07 has implications on the City's handling of state misdemeanor crimes, and has had implications locally and countywide. Furthermore, some cities in Los Angeles County have indicated concerns with the Special Directives as having a potential impact to public safety, and have adopted resolutions expressing a "Vote of No Confidence" in DA Gascón. The City of Manhattan Beach City Council adopted a similar resolution at the May 18, 2021, meeting. If the District Attorney provides the City of Manhattan Beach consent to prosecute state misdemeanor crimes, the City would not be subject to Special Directive 20-07, and could contract with another entity to prosecute state misdemeanors. . However, it should be noted that the presiding judge of any case still retains the power to dismiss or decline a case.

Costs
The costs associated with direct prosecution and homeless court are significant and uncertain. The City of Manhattan Beach does not currently expend funds toward District Attorney services. The DA's service is funded through County General Fund revenues, which include countywide property tax and sales tax revenues. Therefore, should the City prosecute state misdemeanor crimes, these costs would have an impact on the City's budget as a new expenditure.

As indicated in the fiscal implications section, at the time the City Council agenda packet went out on July 14, the City of Redondo Beach City Attorney's Office had not provided a cost estimate for prosecution and homeless court services. Once this information is provided, staff will provide the City Council with a further analysis.

For reference, staff has provided the contract agreement the City of Redondo Beach has with the City of Hermosa Beach (Attachment #4). The City of Hermosa Beach pays a flat monthly fee of $16,667 to Redondo Beach for Prosecutor Services. This totals $200,004 annually. Given the population of Hermosa Beach in comparison to Manhattan Beach, it should be reasonably expected that the City of Manhattan Beach would likely expend more than the City of Hermosa Beach.

CONCLUSION:
Staff recommends that the City Council discuss and provide direction regarding transferring prosecution services of State misdemeanors utilizing the Los Angeles County District Attorney, and potentially contracting with the City of Redondo Beach for prosecution and homeless court services.

Options the City Council may consider include:
1. Discontinue analysis of contracting with the City of Redondo Beach;
2. Apply for Measure H grant funds by August 10, 2021, to fund homeless court services specifically, in addition to funds dedicated toward outreach provided by Harbor Interfaith Services;
3. Report back to the City Council once the City of Redondo Beach provides a cost estimate for prosecution and homeless court services;
4. Contact Los Angeles County District Attorney's Office to obtain County requirements for seeking consent to prosecute state misdemeanors.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. June 1, 2021 Staff Report
2. Cases Referred to District Attorney from 2015 - 2020
3. Special Directive 20-07 - Misdemeanor Case Management
4. City of Redondo Beach and Hermosa Beach Prosecution Contract
5. SBCCOG Measure H Grant Funding Call for Projects