

## AGENDA

DES MOINES CITY COUNCIL  
PUBLIC SAFETY/EMERGENCY MANAGEMENT COMMITTEE  
City Council Chambers  
21630 11th Avenue S, Des Moines, Washington  
Thursday, April 4, 2024 - 5:00 PM

**Public Safety/Emergency Management Committee:** Chair Traci Buxton; Vice Chair  
Yoshiko Grace Matsui; Harry Steinmetz

### CALL TO ORDER

### AGENDA

- Item 1. APPROVAL OF MARCH MEETING MINUTES  
[PSEM Mar 7 Agenda minutes](#)
- Item 2. ACCREDITATION UPDATE (PD)
- Item 3. PUBLIC SERVICE RECOGNITION WEEK (5-11 MAY) (PD)
- Item 4. CRIME STATISTICS OVERVIEW (PD)  
[Crime Statistics & Updates](#)
- Item 5. 2024 HAZARD MITIGATION ANNEX (EM)
- Item 6. DANGEROUS DOG CODE UPDATE  
[Animal Code Committee Memo Final](#)

### ADJOURNMENT



Public Safety/Emergency Management (PSEM)

Agenda

March 7, 2024

5:00-5:50pm

Committee Members:

Chair Mayor Buxton, Deputy Mayor Steinmetz, Vice Chair Grace Matsui

Council Present:

Jeremy Nutting, Matt Mahoney, and Gene Achziger

Staff Present:

Police Chief Tim Gately

Emergency Management Director Shannon Kirchberg

Acting City Attorney Matt Hutchins

Clerk: Taria Keane

Administrative Coordinator: Laura Hopp

Executive Administrative Analyst: Rochelle Caton

Director of Community/ Administrative Services: Bonnie Wilkins

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1. Call to Order, Chair Buxton
  - Meeting called to order at 5:02pm
  
2. Approval of February Meeting Minutes
  - Motioned by Deputy Mayor Harry Steinmetz
  - Seconded by Vice Chair Grace Matsui
  
3. 2024 Leadership Retreat Recap (PD)
  - Chief Gately acknowledged Forthcoming Proclamation for Stephen J. Underwood and the somber day this anniversary is.
  - 2024 Annual Leadership Retreat was an opportunity for continuity of departmental growth and excellence.

#### 4. Flock & Safety Cams Update (PD)

Chief Gately- 12 of 16 cameras active. Awaiting permitting delays from L & I. Traffic safety cameras is delayed by back end software work. Anticipated for April 2024 to begin 30 day "warning period."

#### 5. 2024 Debris Management Annex (EM)

-Shannon Kirchberg- Assign roles and responsibilities to appropriate departments, in preparation for a potential debris management situation. Plan updated every 5 years.

#### 6. 2024 EOC TTX – Extreme Weather Event (EM)

-Shannon Kirchberg- EOC Extreme weather "mock exercise" was executed in November 2023 to build preparedness of the team for potential threats and hazards. This is to test and validate plans, policies, procedures and capabilities. Thank you to all volunteers and contributing staff.

#### 7. Fireworks on Premises Ordinance (PD)

Acting City Attorney Matt Hutchins- Draft brought to committee: Property owners can be cited for civil infraction as it becomes their responsibility of the activity on their physical property. Preferred option is to cite the individual that is physically lighting fireworks but this approach has been minimally effective as it's challenging to determine who is responsible- when no one claims responsibility. This avenue give officers to another tool. Chief-Officers are trained to use discretion and use minimal to gain compliance in all situations.

Kent has similar ordinance

Majority in favor of bringing draft ordinance to full council.

#### 8. PD Goals & Strategies (PD)

Chief- Accreditation standards to achieve:

Retention, recruiting and succession. Safety and wellness of officers and

staff, and finally technology and equipment needs. Will further share "DMPD culture" as requested by Deputy Mayor Steinmetz.

Motioned to Adjourn by Deputy Mayor Harry Steinmetz  
Seconded by Vice Chair Grace Matsui  
Adjourn 5:51pm.



# **Crime Statistics & Updates**

## **2023 Review**

## **2024 First Quarter Comparison**

Des Moines Police Department

Chief Tim Gately  
Assistant Chief Mark Couey  
Crime Analyst Patti Gosch



# National Incident-Based Reporting System (NIBRS)

## GROUP A OFFENSES

Committed to relentlessly fighting crime with trust and care

### Crimes Against Persons (9.6%):

#### **Assault Offenses**

- Aggravated Assault
- Simple Assault
- Intimidation

#### **Homicide Offenses**

- Murder
- Nonnegligent Manslaughter
- Negligent Manslaughter
- Justifiable Homicide

#### **Human Trafficking**

- Commercial Sex Act
- Involuntary Servitude

#### **Kidnapping / Abduction**

#### **Sex Offenses**

- Rape
- Sodomy
- Fondling
- Incest
- Statutory Rape

### Crimes Against Property (32.6%):

#### **Atsion**

#### **Bribery Burglary/Breaking and Entering Counterfeiting**

#### **Destruction/Damage/Vandalism of Property Embezzlement**

#### **Extortion/Blackmail**

#### **Fraud Offenses**

- False Pretenses / Swindle / Confidence Game
- Credit Card / ATM Fraud
- Impersonation
- Welfare Fraud
- Wire Fraud
- Identity Theft
- Hacking Computer Invasion

#### **Larceny / Theft Offenses**

- Pocket Picking
- Purse Snatching
- Shoplifting
- Theft from Building
- Theft from Coin Operated Machine or Device
- Theft from Vehicle
- Theft of Motor Vehicle Parts or Accessories
- All Other Larceny

#### **Motor Vehicle Theft**

#### **Robbery**

#### **Stolen Property Offenses**

### Crimes Against Society (2.3%):

#### **Animal Cruelty**

#### **Drug / Narcotic Offenses**

- Drug / Narcotic Violation
- Drug Equipment Violation

#### **Gambling Offenses**

- Betting / Wagering
- Operating / Promoting / Assisting Gambling
- Gambling Equipment Violation
- Sports Tampering

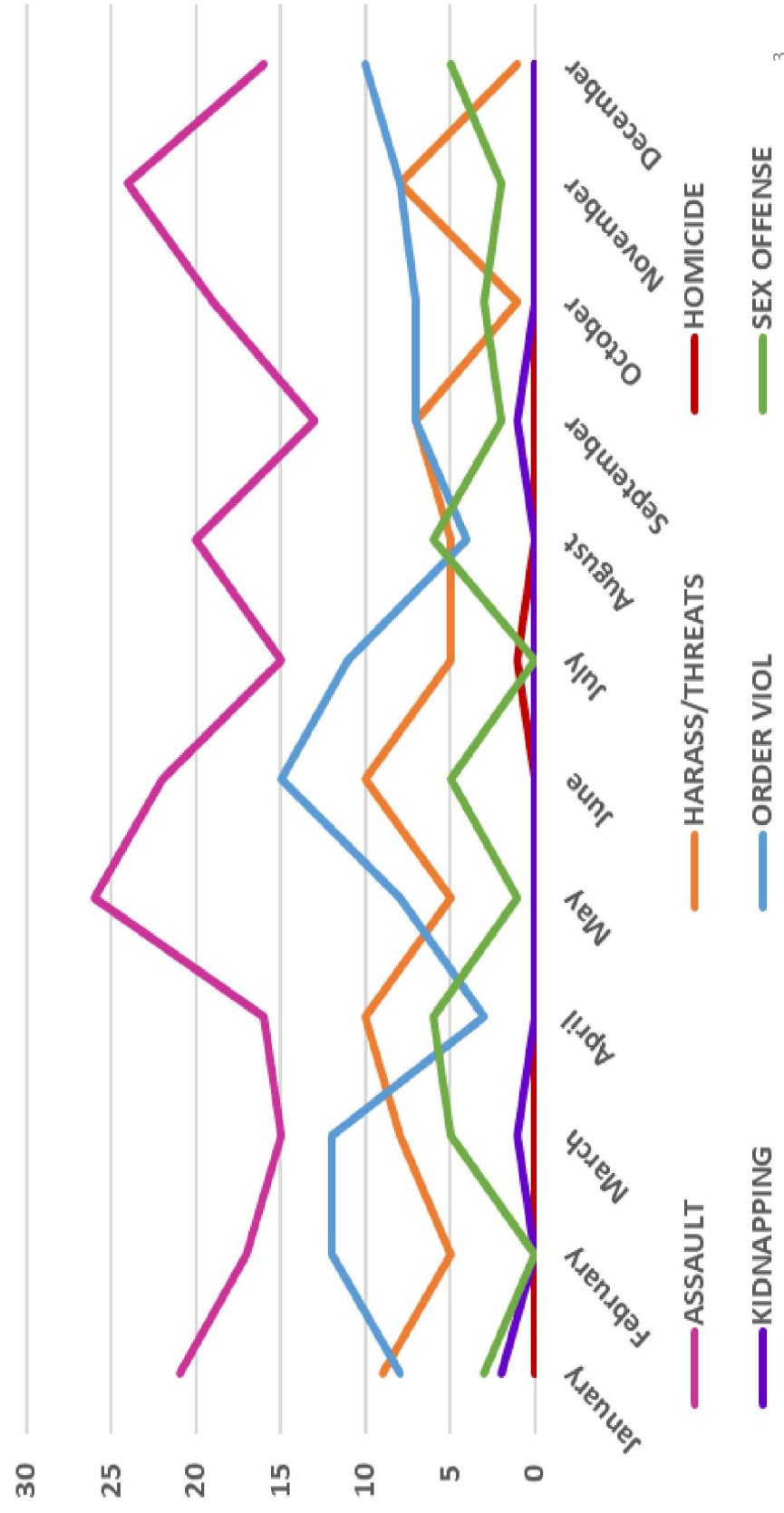
#### **Pornography Obscene Material**

#### **Prostitution Offenses**

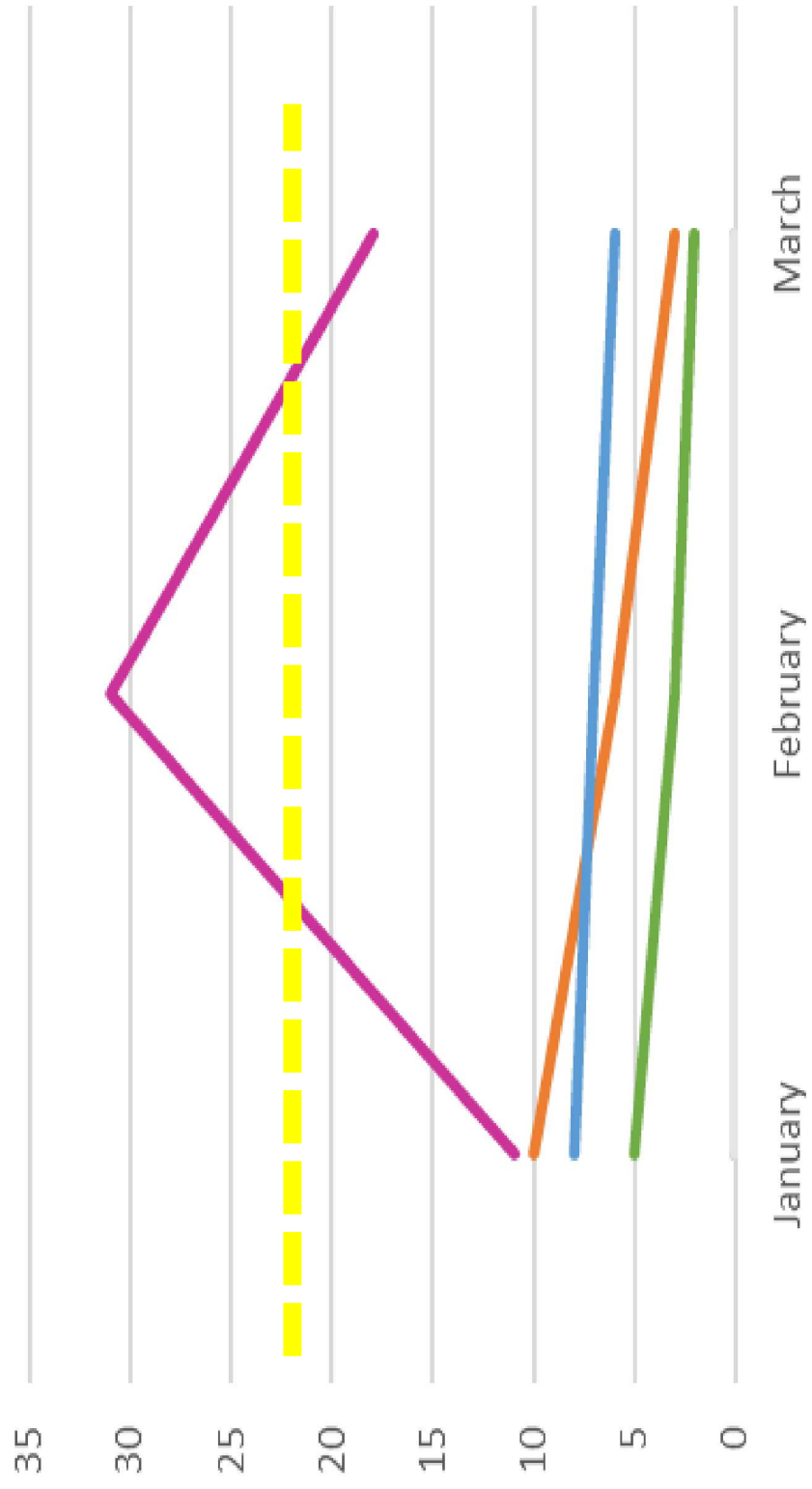
- Prostitution
- Assisting or Promoting Prostitution
- Purchasing Prostitution

#### **Weapons Law Violations**

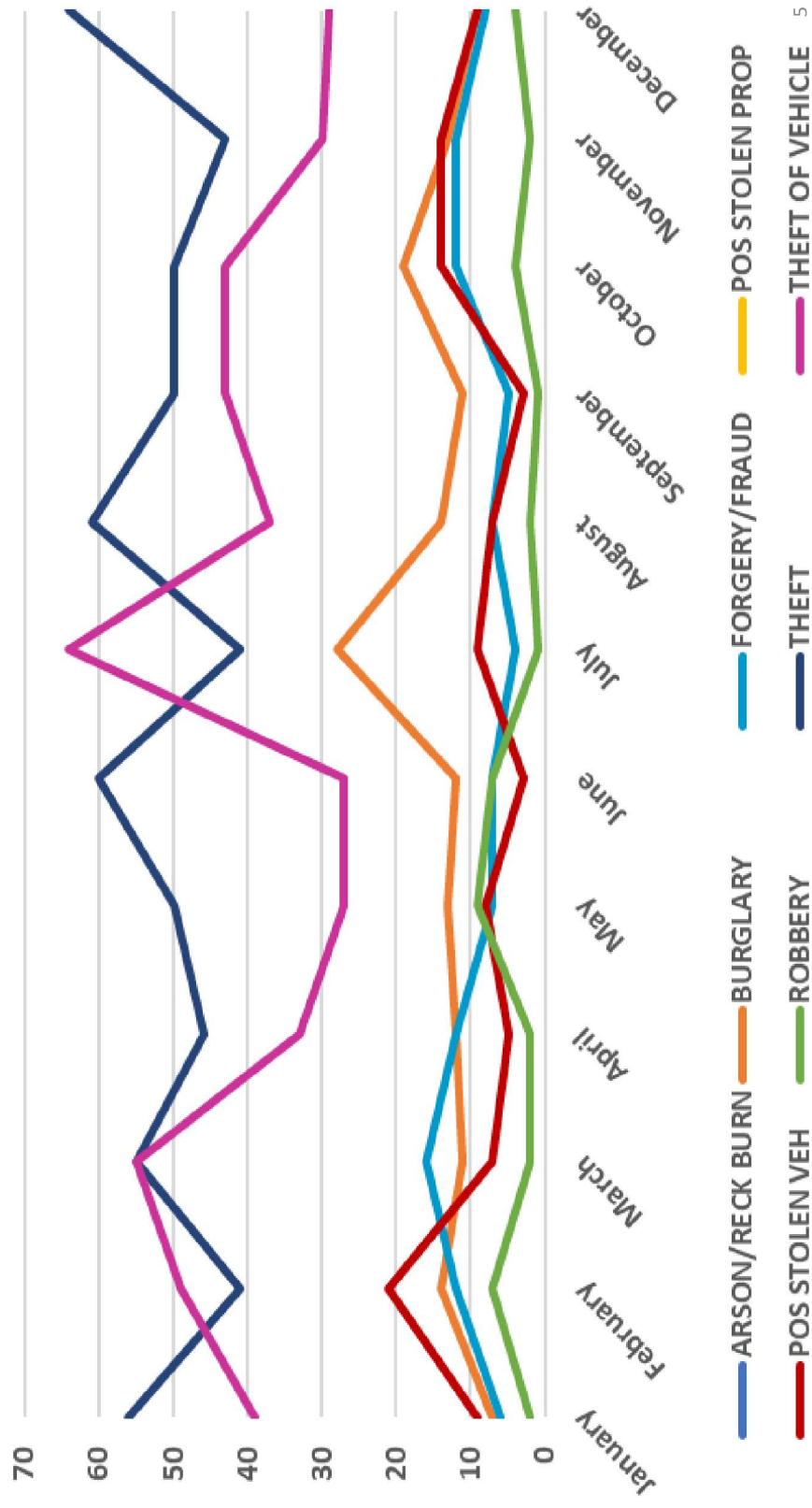
## 2023 NIBRS Group A: Crimes Against Persons



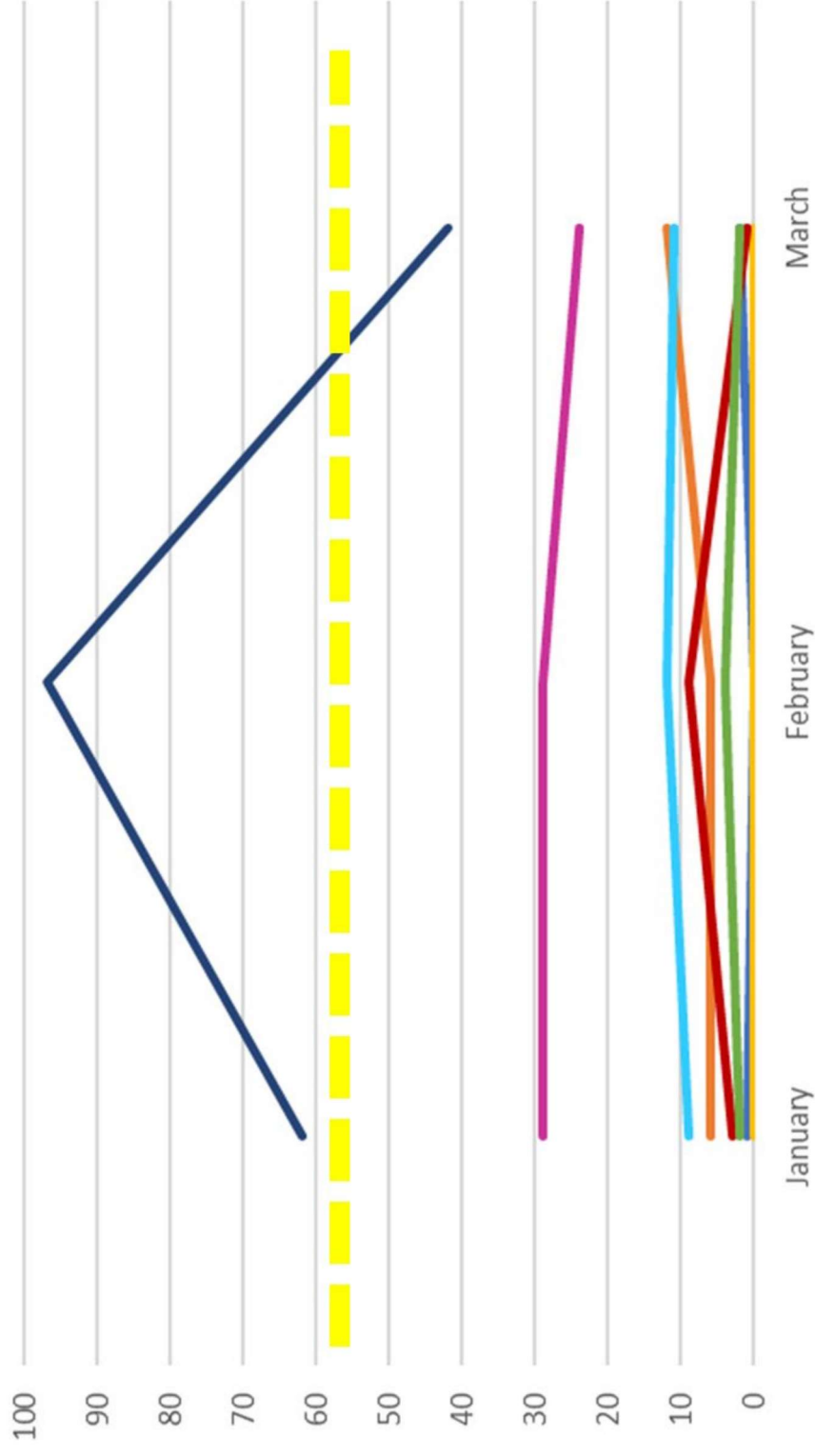
### 2024-1st Qtr NIBRS Group A: Crimes Against Persons



## 2023 NIBRS Group A: Crimes Against Property

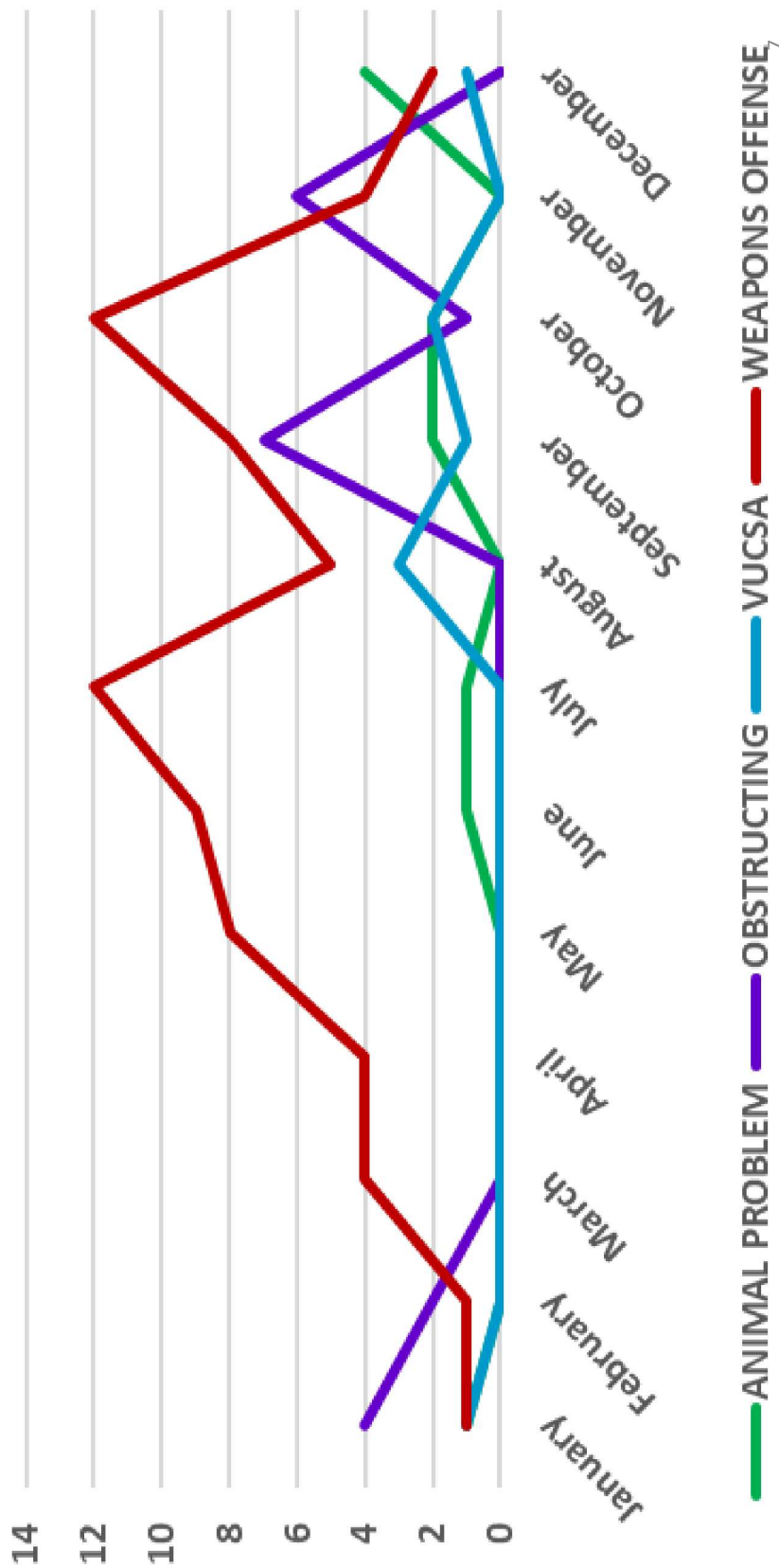


## 2024-1st Qtr NIBRS Group A: Crimes Against Property



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## 2023 NIBRS Group A: Crimes Against Society



### 2024-1st Qtr NIBRS Group A: Crimes Against Society





# National Incident-Based Reporting System (NIBRS)

## GROUP B (49.6%)

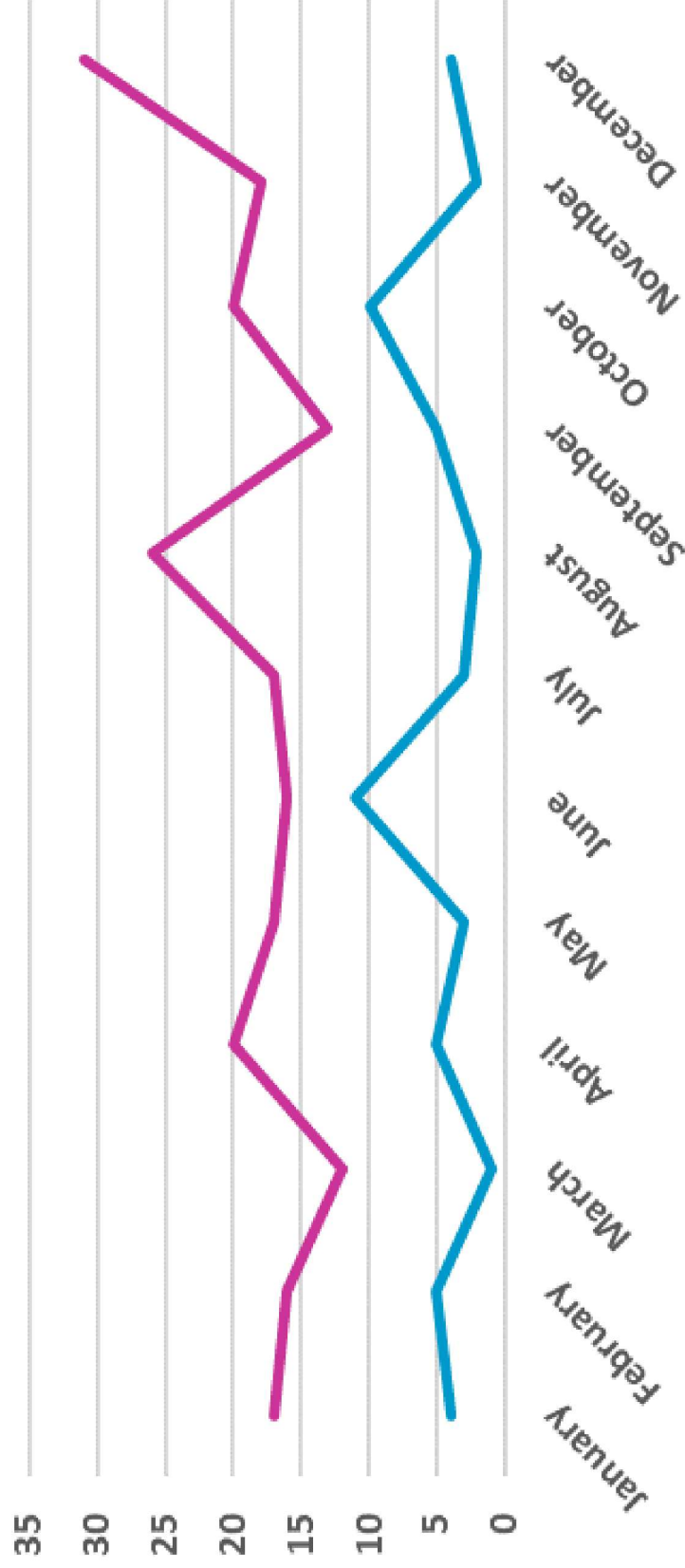
### OFFENSES (28.4%)

Curfew / Loitering / Vagrancy Violations  
Disorderly Conduct  
Driving Under the Influence  
Family Offenses, Nonviolent  
Liquor Law Violations  
Trespass of Real Property

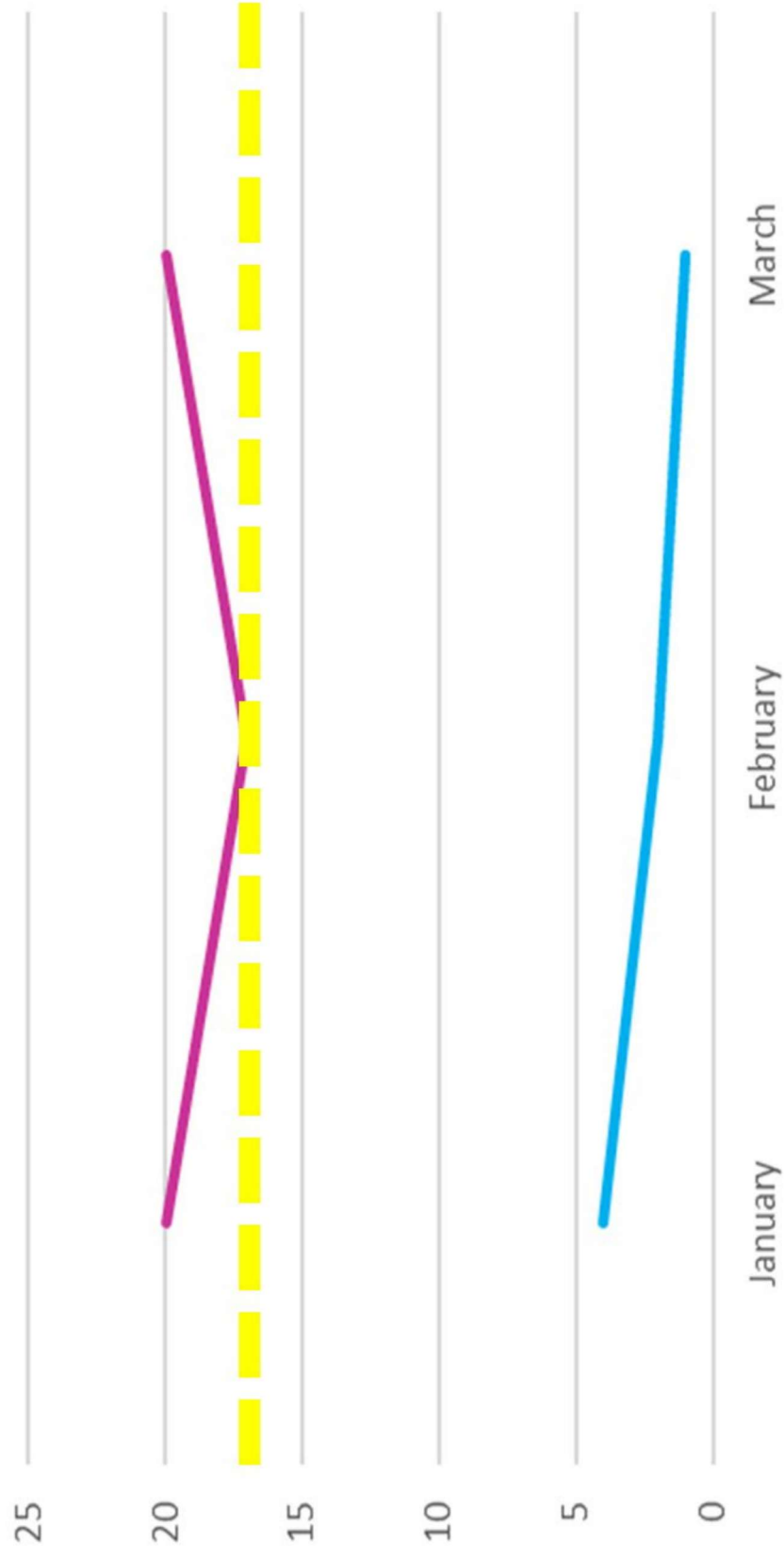
### All Other Offenses (21.2%):

- Warrants
- Missing Persons
- Mental Health
- Traffic Accident
- Traffic Offenses
- Malicious Mischief

## 2023 NIBRS Group B Offenses

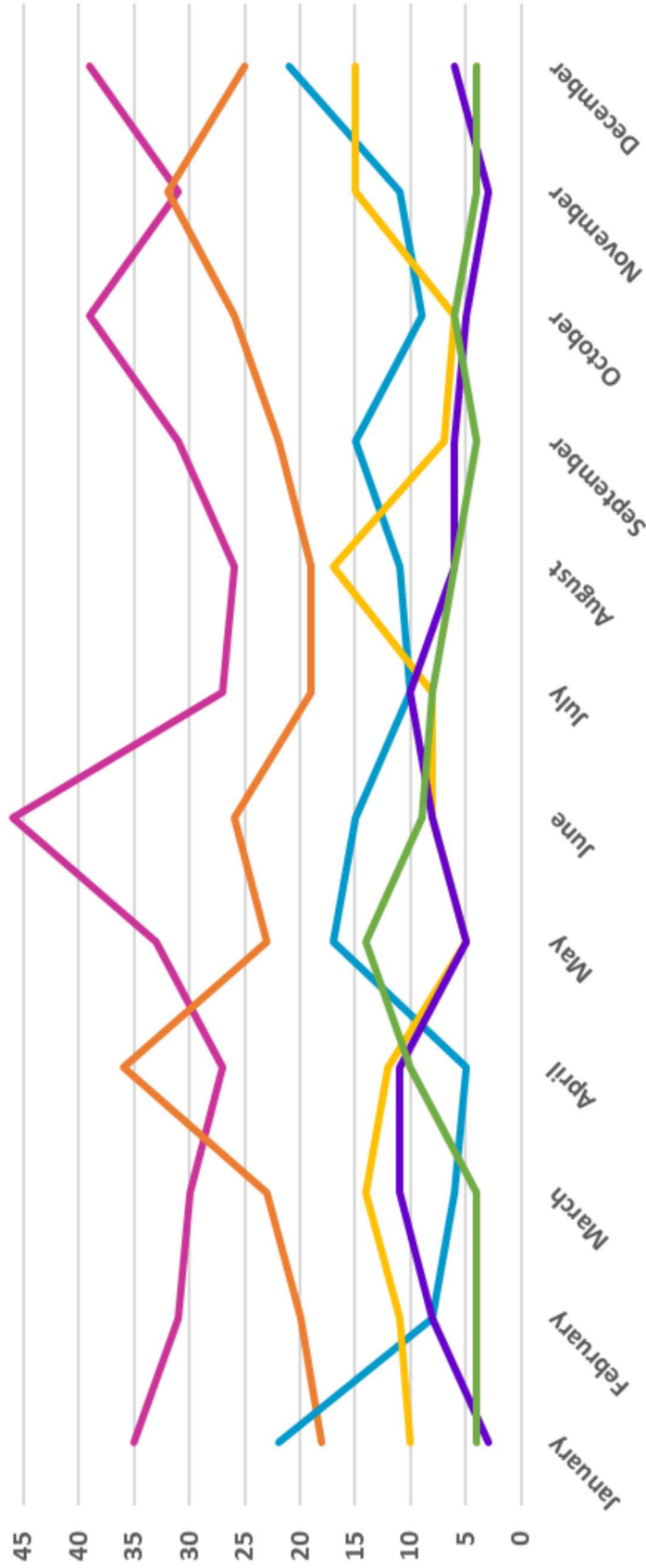


## 2024-1st Qtr NIBRS Group B Offenses

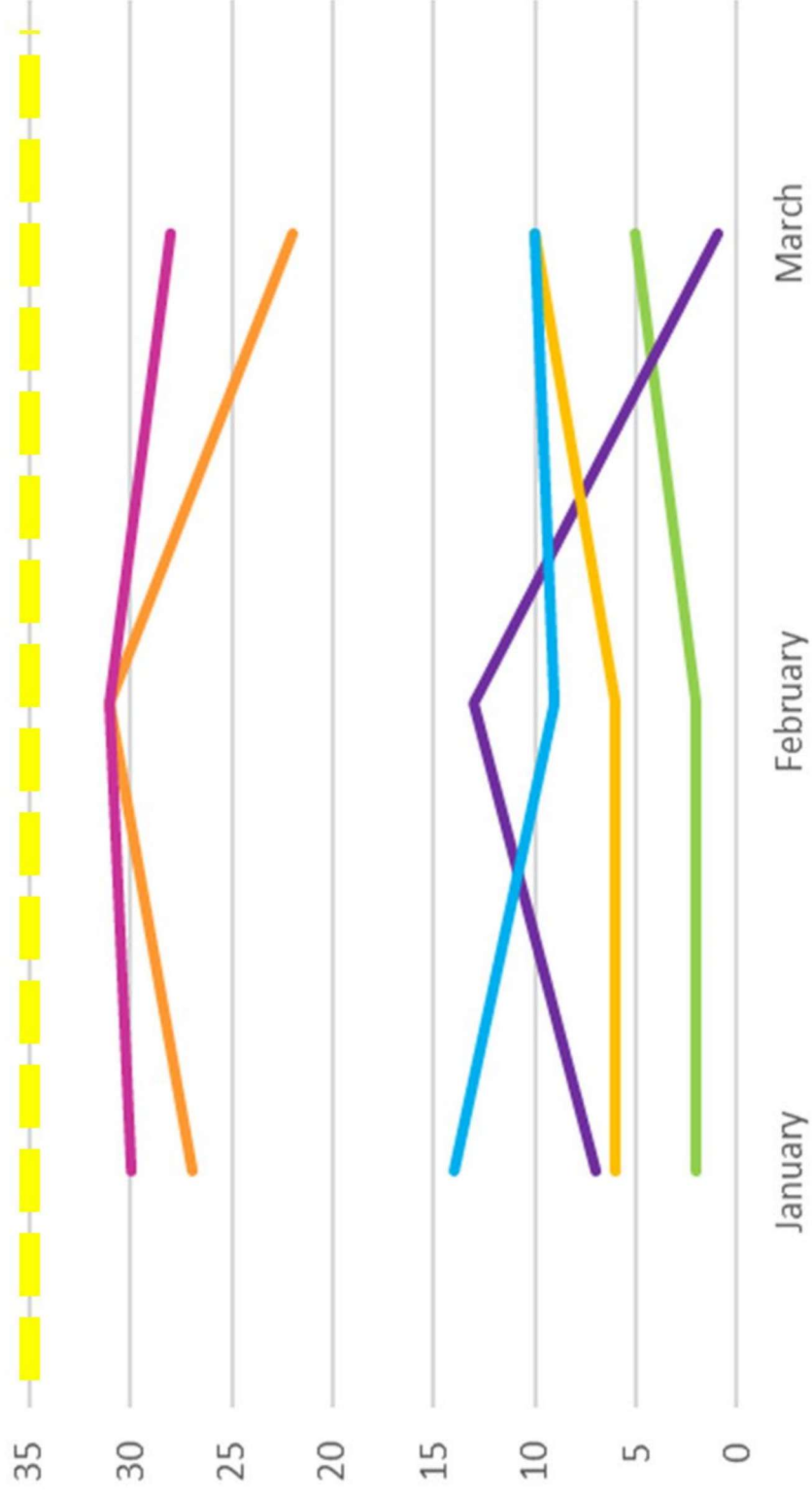


Committed to relentlessly fighting crime with trust and care

### 2023 NIBRS: Group B - All Other Offenses



# 2024-1st Qtr NIBRS Group B - All Other Offenses







## **Recruitment Efforts      [www.JoinDMPD.com](http://www.JoinDMPD.com)**

- 150 New Entry Police Officer Applicants
- HIRED 2 Entry Level Officers
- IN BACKGROUND
  - 5 Entry Level Officers
  - 2 Lateral Officers – 1 In State; 1 Out-of-State
- INTERVIEW SCHEDULED
  - 3 Lateral Officers – All In State
- HIRING PROGRESS IMPROVEMENTS
  - Oral Board interviews once a week to process flow of applicants
  - Chief's interviews are being scheduled within 1 week of applicant being placed on an eligibility list
  - \$40,000 is currently the highest hiring bonus in the State of Washington
    - Significant increase in interest for lateral officer applicants



## Records Unit

### 2023 Cases Completed

- Regular 3,346
- Supplements 3,478
- Online 885

### Concealed Pistol License (CPL)

Processed 389

Warrants Entered 720

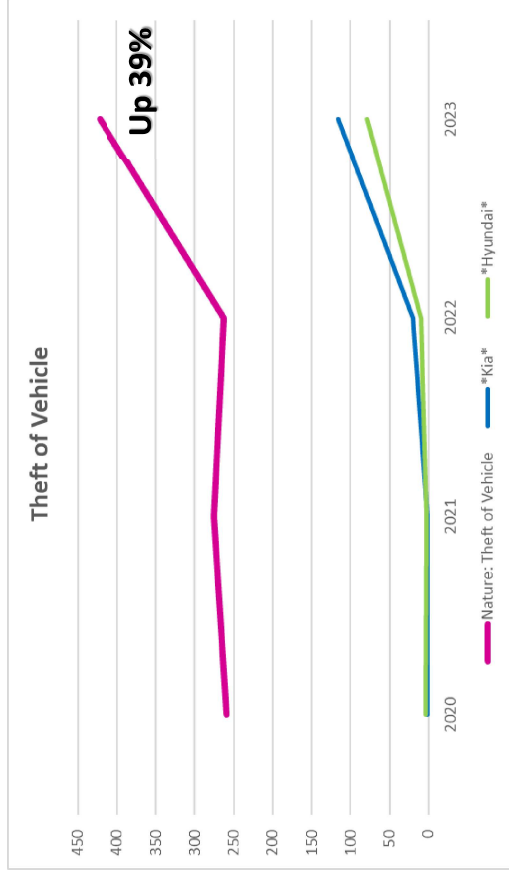
Orders 792

Transcriptions 154

2023	January	February	March	April	May	June	July	August	September	October	November	December	Total
	Regulators Cases	263	272	306	240	274	293	291	280	274	293	276	284
Supplements	347	318	306	298	336	352	249	256	226	309	263	218	3,478
Online Cases	77	74	96	69	66	74	76	49	67	77	82	78	885
CPLs Processed	31	44	46	29	32	25	31	22	29	39	33	28	389
Warrant Entered	77	44	56	49	56	46	37	95	75	56	61	68	720
Orders	64	64	69	55	77	61	82	78	69	61	55	57	792
Transcriptions	8	15	22	13	15	15	13	11	14	14	8	6	154



## Patrol & Auto Theft



Des Moines, WA Police Department

January 26 · 📍

Kudos to our dedicated Patrol Teams for their unwavering commitment to keeping our community safe! Today, their quick response and collaboration with the owner of a stolen car led to a successful recovery within hours.

Working closely with the owner, we were able to track and locate the vehicle in a neighborhood apartment complex. The suspect, who had outstanding warrants, including a no-bail escape from the Department of Corrections community custody, has been safely apprehended... [See more](#)





## Patrol Case Examples

- Mental Health Crisis
  - Subject making threats with a knife to a healthcare worker. Subject had a history of hallucinations and had been using marijuana. De-escalation was unsuccessful.
  - Officer deployed less lethal munitions, and a Taser to bring subject under control.
  - Subject admitted to Western State Hospital.
- Found Child
  - DMPD Officers responded to a report of a 8-yo “Found Child” running along Pacific Hwy in his underwear. Child was non-verbal.
  - DMPD Later advised WSP had also located a small child nearby. Child was also non-verbal .
  - Photos showed a resemblance, they were brother and sister.
  - Father was located, CPS was notified.
- Robbery with Gun
  - Property from a Robbery of a Tukwila business was recovered by DMPD Officers.
  - While collecting the evidence, a Robbery of an Auburn business occurred involving similar description.
  - Four subjects were arrested for both after a pursuit.
- Shooting at the Marina
  - Reports of 8-10 shots being fired in the parking lot. Located 6 casings and 3 fragments.
  - Witness stated shooter was one of a group of seven near the restrooms drinking and partying.
  - Witness stated it did not appear there was an intended target for the shooting.



## **Criminal Investigations**

- December 2023 : Driver of a stolen vehicle repeatedly rammed DMPD patrol vehicle, injuring the officer. Driver was not captured.
- Driver was later identified and found to have four outstanding warrants, to include the DMPD incident, showing a propensity for violence (Robbery, Assault, Burglary, and others).
- Through investigation, Detectives located the Driver and other criminal associates at a business in Kent.
- A coordinated effort was employed by Patrol Officers and Detectives to safely take Driver into custody without threat to the community.





## **Criminal Investigations**

- February 2024 : After a lengthy investigation and trial, Yourhighness Jeramiah Bolar has been convicted of killing 31-year-old Andrew Carter. (Redondo Square parking lot on Oct. 28, 2018.)
- Bolar will be sentenced May 10<sup>th</sup>, 2024.



# **Crime Statistics & Updates**

## **2023 Review**

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Assistant Chief Mark Couey  
Crime Analyst Patti Gosch

**Matthew Hutchins, Acting City Attorney**  
**21630 11th Avenue So., Suite C**  
**Des Moines, WA 98198**

**OFFICE OF THE  
DES MOINES  
CITY ATTORNEY**

# Memo

**Date:** March 29, 2024  
**To:** Public Safety and Emergency Management Committee  
**From:** Tara Vaughn, City Prosecutor  
**Re:** Proposed Changes to the Animal Code

The purpose of this agenda item is to brief the Counsel on proposed changes to the animal code which are intended to provide for more effective enforcement of the code as intended.

The current version of the City's animal code was enacted in 2014 and prohibits and punishes certain nuisance conduct by domestic animals, as well as dogs found to be dangerous or potentially dangerous. Dangerous dogs are those that have bitten or attacked humans or other domestic animals without provocation, inflicting serious injuries to the victim or death to the animal. Dangerous dogs also include dogs that have been found potentially dangerous and subsequently bite or attack humans or domestic animals. The animal code requires abatement of such violations by the owner or keeper to prevent further dangerous incidents. When violations occur and/or abatement is not successful in preventing further situations, the code allows the City to punish non-compliance by impoundment of the animal, removal of the animal from the City, euthanasia, and/or civil and criminal citations. These code provisions are essential to public safety.

Recently, an issue arose when a well-known animal law attorney was retained on a case and asserted that his interpretation of our animal code did not comport with due process as it did not explicitly allow for appeal of cited violations. While we do not agree with this interpretation, if the Court were to agree it would prevent the City from enforcing certain sections of the code as intended to ensure public safety.

Given the dangers posed by nuisance animals and dangerous/potentially dangerous dogs, we believe it would be best to explicitly elucidate an appeal process for sections where due process requires one. We would also like to take this opportunity to simplify and clarify certain sections that will better enable the City to enforce the provisions of the animal code. The draft ordinance contains the following alterations that staff hopes will enable Des Moines Police and animal control to enforce the code as it was intended:

Changes to the definition section of the animal code:

- Include a contracted animal control officer in the definition of animal control authority.
- Clarify and simplify the definition of “dangerous dog”; and removes the requirement that the City prove that a bite or attack was “aggressive.”
- Clarify the definition of “domesticated animals” to include “domestic animals” and make the language easier to understand.
- Clarify and simplify the definition of “potentially dangerous dog” so that it is easier for both officers and citizens to understand what actions would cause a dog to be declared potentially dangerous.
- Clarify the definition of “provocation” to make it easier for an officer to know whether a dog acted with or without provocation when determining if there is probable cause to declare the dog dangerous or potentially dangerous.
- Clarify and simplify the definition of “vicious” by including “vicious propensities” in the definition and making the terms easier for both officers and citizens to understand what actions qualify as vicious.

Changes to nuisance sections of the animal code:

- Clarify and simplify the list of violations that are prohibited and punishable under the code by labeling them public nuisances so as to match language used elsewhere in the code.
- Consolidate the sections relating to vicious behavior into one, more succinct section, enabling officers to better decide whether an animals actions would qualify it as an animal with vicious propensities and enforce abatement.
- Give more specificity to what qualifies as an animal making unreasonable noise so that officers are better able to determine whether noise(s) are punishable under the code.
- Relabel an animal declared a public nuisance as a nuisance animal for simplicity and clarity, and change language requiring “convictions” to “committed” violations to comport with the legal language of civil infractions.

Changes to the appeal section of the animal code:

- Add language that makes the appeal process applicable to any section of the animal code that does not already provide for one.
- For the purposes of due process arguments that might be made by attorneys, allow an appeal to be filed up to 10 days after notice of the infraction, rather than 48 hrs.
- Lay out the legal burden of proof for appeals of notices of infractions.

Changes to dangerous and potentially dangerous dog sections of the animal code:

- Allow probable cause for a dangerous or potentially dangerous dog declaration to be made upon a complainant's oral statement, not just their written statement.
- Allow additional legal methods of providing notice of the declaration for a dangerous or potentially dangerous dog, to wit posting the notice at the owner or keeper's property or by leaving it with a person of suitable age at the property.
- Prevent legal issues on appeal by elucidating when service of a declaration is deemed completed.
- Allow police officers, in addition to animal control officers, to enforce immediate impoundment when a dangerous dog subsequently bites a person or domestic animal; allow officers to kill such a dog if it is uncatchable for impoundment.
- Clarify and simplify the section that provides for a defense to a dangerous/potentially dangerous dog declaration when the victim was unlawfully trespassing on the owner or keeper's property, or was provoking or abusing the dog.

Other changes to enable enforcement of the code as intended:

- Simplify the language on late fees for pet licenses.
- Add veterinary hospitals to the list of establishments who must comport with chapter licensing requirements and allows an appeal denial or revocation of their license.
- Add that a designee of the Chief of Police, in addition to the Chief himself, may enforce any other legal or equitable relief to abate violations of the animal code.
- Grant immunity to police officers, in addition to animal control officers, for their actions taken pursuant to enforcing the code.

The intent of the draft ordinance is to simplify the code to give proper notice to animal owners of conduct that is subject to punishment, to enable law enforcement and animal control to better enforce the provisions of the code, and to close obvious loopholes that would allow owners to sidestep liability for their animal's conduct when it endangers others or that threatens to public safety.

Legal staff proposes incorporating the changes attached below into a draft ordinance to be presented to counsel.

#### 8.04.020. Definitions.

As used in this Title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

...

"Animal control authority" means the animal control division of the Police Department, or contracted animal control agency, acting alone or in concert with King County animal control division for enforcement of the animal control laws of the City, county, and state, and the shelter and welfare of animals.

...

"Dangerous dog" means a dog that ~~according to the records of the appropriate authority~~:

(1) Has inflicted severe injury on a human being without provocation on public or private property; or

(2) Has killed a domestic animal, or other animal protected under federal, state, or local rules, without provocation while off the owner's or keeper's property; or

(3) Has been previously ~~found~~ declared to be potentially dangerous, the owner or keeper having received notice of such declaration, and the dog ~~again aggressively~~ subsequently bites, attacks, or endangers the safety of human beings or domestic animals without provocation.

"Domestic" or "Domesticated animals" means those ~~domestic beasts~~ animals such as any dog, cat, rabbit, horse, mule, donkey, bovine animal, lamb, goat, sheep, hog, or other animal including fowl made to be domestic.

...

"Potentially dangerous dog" means:

(1) A dog that ~~when unprovoked~~:

(a) ~~Has inflicted~~ inflicted one or more bites on a human being or a domestic animal or other animal protected under federal, state, or local rules, either on public or private property without provocation; or

(b) ~~Has Chases~~ chased or ~~approaches~~ approached a person upon a street or a public grounds in a menacing fashion or apparent attitude of attack without provocation, ~~or a dog with a known propensity, tendency, or disposition to attack without provocation, to cause severe injury, or to cause injury or otherwise threaten the safety of humans, domestic animals, or other animals protected under federal, state, or local rules~~; or

(c) Has entered upon another person's property without the permission of that person and chased or approached a person in a menacing fashion or apparent attitude of attack without provocation; or

(2) A dog that has displayed the propensity, tendency, or disposition to attack without provocation, or to cause injury or otherwise threaten the safety of humans, domestic animals, or other animals protected under federal, state, or local rules; or

(23) An offspring, older than eight weeks, later born to of a dog found to be a dangerous dog that has previously been declared a dangerous dog.

...

"Provocation" means a threatening or aggressive act that would reasonably incite a dog of stable temperament to react in self-defense, includes including taunting, teasing, or willfully causing undue pain, and/or unlawful entry upon or into the property of the owner or keeper. "Provocation" does not include actions taken to defend oneself, other humans, animals, or property. "Provocation" does not include the mere act of approaching a dog or the owner or keeper's property, without further harmful action or unlawful trespass.

...

"Vicious" or "Vicious animalspropensities" means to an animal other than a "dangerous dog" or "potentially dangerous dog"

displaying the characteristics or propensity to do an act that might endanger the safety of a person, animal, or property of another, including but not limited to attempting to bite a human or domestic animal or a disposition ~~to mischief or~~ of fierceness as might occasionally lead to attack on human beings or other animals without provocation whether in play or outbreak of untrained nature.

...

#### **8.04.030. Dog and cat licensing.**

...

(3) The annual license fees, including late penalties, are set by Resolution of the City Council. A late penalty is charged on all licenses issued after March 1st of each year and an additional late penalty is charged on all licenses issued after May 1st of each year. A dog or cat acquired during the year shall be licensed within 30 days from the date of its acquisition, and in such cases the late penalties are charged only on licenses issued after such 30-day period and an additional late penalty is charged after 90 days ~~in which to comply with these licensing requirements from the date of acquisition if the animal remains unlicensed.~~

...

#### **8.04.140. Denial of license - Appeal.**

No applicant shall be issued a kennel, pet shop, shelter, veterinary hospital, or grooming parlor license that has had such license revoked or refusal to renew and until such applicant meets all applicable requirements established by this chapter. A decision to revoke, refusal to renew, or denial of a license under this chapter may be appealed to the Hearing Examiner. Such appeal shall be brought within 10 days of such decision and in accordance with the Hearing Examiner Code.

**8.04.210. ~~Violations to be abated~~Public Nuisances - Animals.**

~~For the purposes of this chapter, the following are violations of this chapter and are abated as provided in this chapter~~The owner or keeper of any animal shall not allow such animal to be, or become, a public nuisance, do any act deemed a public nuisance, or otherwise violate this chapter. The following are declared to be public nuisances and are a violation of this chapter:

(1) A public nuisance relating to animal control known at common law or in equity jurisprudence;

(2) A domesticated animal running at large;

(3) A domesticated animal, whether licensed or not, that runs at large in a park, or enters a public beach, pond, fountain, or stream therein, or upon a public playground or school ground,~~except that. this~~This subsection shall not apply to a person using a trained seeing eye, guide, or service dog, to animal shows, exhibitions, or organized dog training classes when at least 24 hours' advance notice has been given to the Chief of Police by such persons requesting to hold such animal shows, exhibitions, or dog training classes;

(4) An animal that enters a room or immediate area where food is stored, prepared, served, or sold to the public, except that this subsection shall not apply to a guide dog for a blind or hearing impaired person or to a service dog for a physically disabled person;

(5) An animal that enters a public building or hall, except that this section shall not apply to a guide dog for a blind or hearing impaired person, to a service dog for a physically disabled person, to veterinary offices or hospitals, shelters, or to animal shows, exhibitions or organized dog training classes when at least 24 hours' advance notice has been given to the Chief of Police by such persons requesting to hold such animal shows, exhibitions, or dog training classes. This section shall not prohibit a person from walking or exercising an animal, or visiting a public building or hall with an animal when such animal is on a leash or in an enclosure and proper safeguards are taken to protect

the public and property from injury or damage by the animal; however, the owner of the animal shall assume all risk and liability for injury or damage that could be caused by the animal;

(6) A domesticated animal that chases, runs after, or jumps at vehicles using the public streets;

~~(7) A domesticated animal that habitually snaps, growls, snarls, jumps upon, or otherwise threatens persons lawfully using the public streets;~~

(~~8~~7) An animal that ~~has exhibited~~exhibits vicious propensities ~~and that constitutes a danger to the safety of persons, property, or other animals~~whether off its owner or keeper's premises or lawfully on such owner or keeper's premises that is not securely controlled by leash or confined or not in control of a person of suitable age and discretion to control or restrain such animal;

~~(9) An animal with vicious propensities when not on its owner or keeper's premises and not securely controlled by leash or confined or not in control of a person of suitable age and discretion to control or restrain such animal;~~

(~~10~~8) A domesticated animal which howls, yelps, whines, barks, or makes other oral noises, in such a manner as to disturb person(s) or a neighborhood to an unreasonable degree, including but not limited to, making such noises unabated for fifteen minutes or more, or during the hours of darkness;

(~~11~~9) A domesticated animal that enters upon another person's property without the permission of that person;

(~~12~~10) An animal staked, tethered, or kept on public property without prior written consent of the Chief of Police;

(~~13~~11) Animals kept, harbored, or maintained and known to have a contagious disease unless under the treatment of licensed veterinarian;

(~~14~~12) Animals running in packs;

(~~1513~~) Domestic animals trespassing on private or public property so as to damage, destroy, or despoil any property.

**8.04.250. ~~Animal declared a public nuisance~~Nuisance Animal - Abatement.**

An animal that has been the subject of three (3) ~~convictions of a committed~~ violations of this chapter occurring on separate dates in a period of 365 days or an animal that bites or attacks a person or persons without provocation twice within a five-year period is a public nuisance and shall not be kept within the City. The Chief of Police shall follow the procedures set out in DMMC 8.04.260 in order to abate such animal. After the completion of such abatement procedures, an animal subject to removal from the City as provided in this section that is found within the City shall be impounded and treated as an unredeemed animal with no right of redemption by its owner or keeper.

**8.04.260. Abatement of nuisances - Procedure - Appeal.**

The following procedure shall apply to the abatement of animals subject to removal, to animals not redeemable because subject to cruelty, and to kennels, pet shops, and shelters in violation of DMMC 8.04.040 through 8.04.120, and appeal of any other action taken under this Title for which no appeal process has been specified:

(1) Notice shall be directed to the owner or keeper of such an animal by the Chief of Police or the Chief's designee, stating the action to be taken, the basis for action, and the availability of an appeal, as provided in subsection (2) of this section. Such notice shall be served personally, or by postage paid certified mail, return receipt requested, or by posting at the last known residence or place of business of the owner or keeper. Such notice shall constitute a final order unless the owner or keeper files a written notice of appeal within ~~48 hours~~10 days of the receipt of the notice or posting of the notice.

(2) An appeal from the notice ~~of abatement of nuisance~~ shall be brought to the ~~Hearing Examiner~~Des Moines Municipal Court. ~~Such appeal shall be brought within 10 days of such decision and in accordance with the Hearing Examiner Code; provided, however, that appeal from the decision of the Hearing Examiner shall be directly to King County superior court upon a writ of certiorari and within the time provided for appeal to superior court from a decision of the City Council under the Hearing Examiner Code~~ Failure to exhaust this administrative appeal process shall be a bar to further action in superior court. Any appeal taken from the decision of the Des Moines Municipal Court shall be in accordance with the Rules for Appeal of the Decisions of Courts of Limited Jurisdiction as presently constituted or as may be subsequently amended and designated. During the pendency of such appeal the animal shall either be confined or, as an alternative, the owner shall post adequate monetary security to guarantee he will confine the animal. The ~~Hearing Examiner~~Des Moines Municipal Court shall have the discretion to order either alternative, and shall have discretion to revoke the recognizance should the owner violate any provision thereof. In the event the animal is confined during the appeal to superior court, the owner shall, as a condition of such appeal, post a cost bond in an amount equivalent to the cost of maintaining the animal during the pendency of the action in superior court. Such bond shall be posted either within 10 days of commencing the action or within 10 days of revocation of the recognizance, such as the case may be.

(3) If the Des Moines Municipal Court finds by a preponderance of the evidence that the action taken or proposed to be taken by the City was justified, the order shall be upheld, and the owner or keeper shall be responsible for all costs and fees as designated in this Title.

(4) If the Des Moines Municipal Court does not find by a preponderance of the evidence that the action taken by the City was justified, the order shall be rescinded.

(35) Failure to fully comply with a final order shall be a misdemeanor and, further, the Chief of Police or the Chief's designee, shall be empowered to act to abate such nuisance or cruelty violation and the person failing to comply with such order shall become indebted to the City for all damages,

costs, and charges incurred in the removal of such animal. Such damages, costs, and charges shall become a civil debt against the person failing to comply and shall be collectible in the same manner as any other civil debt owing to the City.

(46) Whenever such a public nuisance constitutes or reasonably appears to constitute an imminent or continuing danger to the public, the Chief of Police or the Chief's designee shall have authority to summarily and without notice abate the same by reasonable means. If the subject animal can be safely impounded, the Chief of Police or the Chief's designee shall do so, and the owner or keeper thereof shall become indebted to the City for all damages, costs, and charges incurred during the process of abatement. If the animal cannot be safely impounded, the Chief of Police or the Chief's designee shall have authority to slay such animal. The expense of such abatement shall likewise become a civil debt against the owner or keeper of such animal. Such summary abatement shall not limit criminal prosecution for the original violation.

#### **8.04.270. Additional enforcement.**

Notwithstanding the existence or use of any other remedy, the Chief of Police or the Chief's designee, through the City Manager may seek legal or equitable relief to enjoin acts or practices and abate conditions that constitute a violation of this chapter or other regulation adopted in this chapter.

#### **8.16.030. Findings and declaration - Probable cause.**

The animal control authority may find and declare an animal potentially dangerous or dangerous if it has probable cause to believe that the animal falls within the definition set forth in DMMC 8.04.020. For the purposes of this chapter probable cause may include:

(1) The written complaint or oral statement of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition in DMMC 8.04.020; or

...

**8.16.040. Declaration - Service to owner in writing.**

The declaration shall be in writing, and shall be served on the owner or keeper in one of the following methods:

(1) Certified mail with return receipt requested to the owner's or keeper's last known address, if known; or

(2) Personally; or

(3) By leaving a copy of the notice at the house of the owner or keeper's usual abode with some person of suitable age and discretion then resident therein; or

(4) By posting a copy of the notice conspicuously on the owner or keeper's property if the animal control officer has a reasonable belief that the owner will return to the property within forty-eight hours. Service under this method shall be deemed completed 48 hours after the date of posting; or

(35) If the owner or keeper cannot be ~~located~~-served by ~~one~~-any of the first ~~two~~-four methods, by publication in a newspaper of general circulation. Service under this method shall be deemed completed 24 hours after the date of publication;

(46) The owner or keeper of any animal found to be a potentially dangerous or dangerous dog under this section shall be assessed all service costs expended under this subsection.

**8.16.050. Declaration - Information required.**

The declaration set forth in DMMC 8.16.040 shall state at least:

...

(5) The availability of a hearing in case the person ~~objects~~-wishes to appeal the declaration, if a request is made within five days;

...

**8.16.140. Immediate impoundment - Conditions warranting.**

...

(2) In addition to such impound, the owner or keeper of such animal shall be deemed guilty of a criminal offense and assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC 8.16.200; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later. The owner or keeper of any dog impounded under this subsection may redeem such dog from the animal control authority only upon proof of a valid special license and registration, proof that all required conditions under this chapter have been met, and payment of \$20.00 per day for each day such dog has been in the control of the animal control authority; provided, however, that in the event the owner or keeper has not redeemed such dog within ~~10~~ 20 days of being notified of the impound, the dog shall be destroyed in an expeditious and humane manner and the owner or keeper shall be assessed an additional civil penalty in the amount of \$50.00 for the cost of destroying such dog.

**8.16.150. Impoundment for biting.**

If a dog classified as a dangerous dog bites a person or another domestic animal, such dog shall be immediately impounded by the animal control authority or police authority, placed in quarantine for the ~~proper~~ length of time as set forth in 8.04.280(1), and thereafter destroyed in an expeditious and humane manner. Any such animal which is deemed uncatchable by the animal control authority or police authority may be killed by such official if no other reasonable means of capture is available or such animal continues to be a threat to persons or domestic animals. Reasonable means of capture may include the use of tranquilizers which, depending upon the animal's age, size, and physical condition, may cause death. The owner or keeper of any dangerous dog impounded and destroyed pursuant to this section shall be assessed, in addition to the actual costs of the quarantine, a civil penalty in the amount of \$20.00 per day for each day such dangerous dog is quarantined by the animal control authority and in the amount of \$50.00 for the cost of destroying such dangerous dog.

**8.16.160. Dogs exempted - Effect of trespass or tort.**

The requirements of this chapter related to potentially dangerous and dangerous dogs shall not apply to dogs registered for use by law enforcement officials for police work, whether or not such animal is maintained at its handler's residence, or to animals held in quarantine by a licensed veterinarian. Further, dogs shall not be declared potentially dangerous or dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a ~~willful-malicious~~ trespass or other intentional tort upon the premises occupied by the owner or keeper of the dog or was inside a fenced area upon the premises occupied by the owner or keeper of the dog without the express or implied consent of owner or occupier of the property, or was ~~tormenting~~provoking, abusing, or assaulting the dog or has, in the past, been observed or reported to have ~~tormented~~provoked, abused, or assaulted the dog or was committing or attempting to commit a crime.

**8.16.190. Immunity.**

The City, the animal control authority, and any ~~animal control~~ officer executing the responsibilities set forth in this chapter shall be immune from all civil liability for an action or actions taken pursuant to this chapter, or for failure to take action to enforce the provisions of this chapter. It is not the purpose or intent of this chapter to create on the part of the City, its officers, employees, agents, or volunteers a special duty or relationship toward a specific class of individuals. This chapter has been enacted for the safety and welfare of the public as a whole.