



City of Seattle

Mayor Jenny A. Durkan

September 30, 2020

Councilmembers -

In August 2020, City Council [voted](#) to “defund the Navigation Team.” As stated by Council, “this cut is expected to result in discontinuing the Navigation Team’s operations” and “would result in layoffs in HSD.” Council was undoubtedly aware of the Mayor’s strong objection to this approach, as it effectively would eliminate the City’s ability to bring unsheltered individuals inside or remove encampments posing public health or safety risks. The Mayor subsequently vetoed the legislation citing concerns about eliminating the current approach without a new plan for the City to address encampments.

During deliberations regarding the 2020 Revised Budget compromise legislation, the Mayor’s Office put forward operational changes to the Navigation Team supported by both the Executive and some members of Council that could have been achieved this year. Rather than consider these changes Council voted last week to affirm its position to eliminate the Navigation Team.

As you know, the Human Service Department’s Navigation Team currently consists of employees who coordinate all work across departments regarding encampments and includes employees that oversee contract outreach, and those who assist individuals with storage, housing and service referrals and coordination of requests with other departments. In recent years, the employees of the Navigation Team have been on the frontlines of helping individuals in our city’s most dangerous encampments and working in circumstances like the historic snow storm or recent wildfire smoke.

Council’s vote to eliminate the Navigation Team means the City must suspend its work and will no longer be deploying staff to conduct outreach or address unauthorized encampments until the Council restores funding for these positions. Since March, the Navigation Team has focused primarily on outreach, making over 660 site visits for outreach, distributing COVID-19 kits, conducting over 1,500 garbage pickups, and making over 580 referrals to shelter. It has always worked to coordinate outreach with other service providers and among City departments. In effect, Council has determined the only City alternative to the Navigation Team are patrol officers from the Seattle Police Department (SPD), which raises additional staffing, logistical, and legal challenges as noted below.

As Council was advised by the Human Services Department (HSD), the Council’s actions effectively return the City to a pre-2017 model, which was an uncoordinated City response to encampments by service providers and siloed city departments. These circumstances contributed to the filing of the *Hooper v. City of Seattle* lawsuit, which was litigated over five years and cost the City taxpayers over \$1 million to defend.

Despite Council’s clear actions and intent, many Councilmembers continue to suggest that encampment removals can continue. This is not accurate. With approximately 16,000 requests for service, City Council

eliminated the only positions available to perform and coordinate this work. The court in *Hooper* relied on the availability of the trained Navigation Team to meet the constitutional requirements for addressing encampments on public property. Historically, service providers have been unwilling to do work in encampments that are the most dangerous, and no service provider has committed to doing outreach and services necessary to remove encampments.

While some Councilmembers have suggested that patrol officers from the Seattle Police Department could continue to address or remove encampments, this is not a workable or sustainable solution. At this moment in history, it would be the wrong approach to remove system navigators, field coordinators and individuals who are trained or have experience working with people experiencing homelessness and rely only on patrol officers. That is exactly the kind of work we are working to shift away from the Seattle Police Department. This exposes the City to additional legal issues and challenges.

As you know, the Navigation Team follows the MDARs, which are the City's personnel guidelines, policies, and procedures regarding encampments. In *Hooper*, the City successfully relied on the MDARs to demonstrate its constitutional compliance to Judge Martinez. Under the MDARs, there are certain baseline requirements to conduct a removal. These requirements, which include training of personnel, outreach, notice to an encampment, and preservation of property, are tied in several respects to constitutional standards established over the last decade by federal courts. The Court in *Hooper* relied on this legal precedent as well. We can surely agree that Council's intent was not to have patrol officers play a new role of conducting storage of property or referrals to housing.

It is true that in some instances under the MDARs, primarily significant obstructions of public property or immediate health and safety hazards, obligations such as notice and property preservation are relaxed. Even in these circumstances, however, the City has endeavored to provide as much protection to individuals and their property however feasible (for example, giving 24 hours-notice, continuing to provide outreach, assisting individuals on site with storage of their property). In *Hooper*, the City successfully demonstrated its constitutional compliance to Judge Martinez, who upheld the legality of the MDARs. (*Hooper* has since been dismissed, but the City faces a similar pending lawsuit in state court, *Kitcheon v. City of Seattle*).

The comprehensive training of both SPD and HSD personnel to conduct the work associated with compliant removals was important to Judge Martinez's ruling in *Hooper* that the City could, lawfully, continue to address unauthorized encampments on public property. Where other cities have had their efforts to remove encampments and obstructions curtailed by litigation, the Navigation Team's work essentially had prevailed in the federal court. Without a Navigation Team to do this work when urgent public health and safety measures necessitate it, the City's ability to do the work likely will be subjected to new litigation and challenges.

To the extent Council was not briefed in Executive session by the City Attorney's Office and outside counsel, we are hopeful you are able to do so. It certainly informed the Executive on the untenable situation we are currently faced with – the elimination of the Navigation Team and the lawful process, validated by a federal court, for addressing encampment removals. New approaches to encampment removals not tested in court face significant legal risk and uncertainty. But not addressing these unsafe conditions also poses great legal risks, because of the City's obligation to address the public health and safety concerns both to people living in the encampments and to the surrounding communities impacted by it.

Notwithstanding these concerns, the Executive will carry out Council's clear intent to eliminate the Navigation Team and immediately suspend its operations effective today. Accordingly, the focus of the Navigation Team over the next 30 days will be to close out its work, including determining how to return or dispose of property currently in storage.

Looking ahead to 2021, the Mayor included as part of the Executive's budget submittal additional changes to the size and focus of the City's outreach team and continues to believe the City must play a centralized role. We are committed to exploring ways to improve the City's response to unauthorized encampments – directly and through contracted service providers – but as described above, this work must be performed consistent with established legal parameters.

If you have any questions, please don't hesitate to follow up with me directly.

Sincerely,

Casey

Casey Sixkiller
Deputy Mayor
City of Seattle