

Missoula County Attorney's Office

Annual Report - 2015

Introduction

Thank you for your interest in the Missoula County Attorney's Office. It is my honor to represent the citizens of Missoula County as your elected County Attorney. I present to you this (first) Annual Report, detailing some of the challenges and successes of my first year as your elected legal representative. This has been a busy year for our office as we continue to strive toward better service to our citizens and enhanced community safety.

Kirsten H. Pabst

Missoula County Attorney

Our Mission

It is the mission of the Missoula County Attorney's Office to pursue and carry out the administration of justice; to honor the Montana and United States Constitutions and the laws governing our jurisdiction; to protect our community and the environment in which we work and live; to serve victims of crime and protect our most vulnerable citizens—children, the elderly and the disabled; to hold offenders accountable for their crimes and reduce criminal activity through both punishment and rehabilitation; to advance the best interests of our citizens and the county by providing sound legal representation to Missoula County, the Board of County Commissioners and the individual departments within Missoula County; to collaborate with community partners and make appropriate referrals; to communicate with our constituents by sharing information when legally appropriate, foster transparency and actively engage in community outreach, education and prevention; to treat people with fairness, professionalism and compassion; to engage in quality performance review & evaluation and commit to constant professional improvement; and to abide by the highest ethical standards.

2015 Staffing

Missoula County Attorney	Kirsten H. Pabst	
Chief Deputy	Jason Marks	Administration; SVU supervisor
Office Administrator	Lucy Clouse	Office Manager
Assistant Chief Deputy	Suzy Boylan	SVU; Training Coordinator
Assistant Chief Deputy	Jennifer Clark	SVU; Law Enforcement Liaison
Senior Deputy - Criminal	Andrew Paul	Felony Litigation
Senior Deputy - Criminal	Shaun Donovan	Juvenile Offenders; Bad Checks
Senior Deputy - Criminal	James McCubbin	Drug Crimes

Senior Deputy - Criminal	Jordan Kilby	SVU; Investigative Specialist
Senior Deputy - Criminal	Karla Painter	Elder Abuse; Economic Crimes
Senior Deputy - Criminal	Brian Lowney	SVU
Senior Deputy - Civil	Diane Connor	Dependent/Neglect
Senior Deputy - Civil	Erica Grinde	Civil Litigation
Senior Deputy - Civil	John Hart	Civil Litigation
Attorney II - Civil	Jessica Finley	Dependent/Neglect
Attorney II – Criminal	Mac Bloom	Felony Litigation
Attorney II - Civil	Matthew Jennings	Civil Litigation
Attorney II - Civil	Kelly Henkel	Dependent/Neglect
Attorney I - Criminal	Brittany Santorno	Justice Court 1
Attorney I - Criminal	Selene Koepke	Justice Court 2
Attorney I - Civil	Jessica Simons	Involuntary Commitments
Victim Witness Coordinator	Cathy Dorle	SVU
Investigator	Mike Dominick	SVU
Paralegal - Criminal	Jarom Hein	Trial Support; Justware
Paralegal - Criminal	Crystal Franchuk	Trial Support
Paralegal - Criminal	Cori Oller	Discovery
Paralegal - Civil	Sue Stanley	Civil Litigation
Paralegal - Civil	Rose Murphy	Involuntary Commitments
Paralegal - Civil	Tina Phillips	Dependent/Neglect
Paralegal - Civil	Andrea Laine	Civil Litigation
Senior Secretary	Sherie Darnall	Support
Senior Secretary	Marcia Jette	Support
Administrative Secretary	Mikal-Anne Calcaterra	Support
Administrative Secretary	Daniel Ammons	Support
Administrative Secretary	Carol Wolfe	Bad Checks; Restitution
Administrative Secretary	Amy McGhee	Reception

The Prosecution Function

The primary function of the Criminal Division of the Missoula County Attorney’s Office is protection of the community and making Missoula a safe place to work, raise families and live. The Criminal Division is made up of many talented trial attorneys who prosecute violent crimes, sexual crimes, property and financial crimes, drug crimes, juvenile offenders, and DUI/driving death and injury crimes. In 2015, we opened 1,687 new criminal cases.

Crime type	2012	2013	2014	2015
Felonies	662	609	653	662
Misdemeanors	1,191	1,199	1,038	1,025
Total Criminal cases	1,853	1,808	1,691	1,687

Noteworthy Cases



State v. Markus Kaarma – Senior Deputy County Attorney Andrew Paul, Assistant Chief Deputy Jennifer Clark and Senior Deputy County Attorney Karla Painter prosecuted Kaarma for shooting a teenager who was trespassing in Kaarma’s garage. Kaarma believed he was justified in killing the boy, but the jury disagreed. He was convicted of Deliberate Homicide and sentenced to 70 years in the Montana State Prison.

State v. Donald Town – Jennifer Clark prosecuted this Level III predatory sexual offender for sexual abuse of children. Because Town had previously been convicted of sex crimes against children, Clark argued that he should be sentenced to life without the possibility of parole. The Judge agreed and sentenced Town to the Montana State Prison where he will never be able to harm or exploit another child.

State v. Jeffory LaField – Karla Painter prosecuted LaField for his 9th DUI. Because of his long record of driving while impaired, Painter sought leave to have LaField sentenced as a Persistent Felony Officer rather than under the DUI penalties. He is now in prison serving a 20-year sentence, with 10 years suspended.

State v. Rory Castle – Kirsten Pabst argued at Castle’s parole hearing that he should remain behind bars for the remainder of his life. Castle was convicted in 1993 of kidnapping and torturing his ex-girlfriend by tying her up, beating her, pouring gas on her and throwing lit matches toward her. He told the Board of Pardons and Parole that he was ready for a fresh start. Victim Witness Coordinator Cathy Dorle and Pabst convinced the Board to deny parole, citing other instances of Castle’s extreme violence towards women.

State v. Thomas Englert – SVU Prosecutor Brian Lowney successfully argued to the Board of Pardons and Parole that Englert should not be released following his 1983 conviction for Deliberate Homicide. After an elderly woman befriended Englert, he broke into her home, tried to suffocate her, raped her and then fatally stabbed her. He will remain behind bars for at least the next six years.

Working Together with the Attorney General and the Department of Justice

For the past twelve months, we have been working together with the Attorney General’s Office and technical consultant Anne Munch as part of the multi-agency agreement with the U.S. Department of Justice. The County Attorney’s Office is currently in compliance with or exceeding compliance with

every provision of the agreement and, though we will continue the collaborative work with these entities, we are anticipating completion of the DOJ agreement in January 2016. Attorney General Tim Fox recently reported:

“I am now pleased to present to the public our fourth quarterly report covering progress and compliance with the agreements from June 5, 2015 through September 8, 2015. This report shows that our work together has resulted in a drastic decrease in the delays in charging and enhanced communication with victims in sex assault cases in Missoula. The MCAO’s novel approach of placing a prosecutor in the MPD to assist with investigations has proven to be a tremendous asset to sex assault investigations. We are excited that the formation of the Montana Multi-Disciplinary Training team on Sex Assault is off to a great start, with enthusiastic support from the MCAO, MPD and many other key partners within the Missoula community.”

Sexual Crimes with Adult Victims	2012	2013	2014	2015
Referred to MCAO for Prosecution	12	7	10	9
Charged	7	2	6	6

Source: Justware Case Management, New Dawn Technologies 2012-2015; Montana Dept. of Justice

Structural Changes

This is an exciting time for Missoula and Montana because we are breaking ground on great and permanent changes in the area of sexual assault prosecutions. The Missoula County Attorney’s Office is committed to taking the lead and becoming the flagship model for other communities facing similar challenges. To do that, we are examining past practices, studying the nation’s best practices, engaging in specialized training and actively collaborating with our law enforcement and advocacy partners. We’ve implemented several monumental changes including:

- Victim-centered work
- Victim preparation room and parking accommodations for victims
- Victim survey for feedback
- Policy and Procedure Manual to embody trauma-informed approach
- Special Victims Unit with 6.5 full-time employees
- Victim/Witness Coordinator position
- Training Coordinator and training for SVU staff
- Law Enforcement Training Coordinator
- Prevention and outreach efforts
- Office Investigator to build better cases
- Multi-disciplinary collaboration with community partners
- Sharing our successes by teaching other communities

SPECIAL VICTIMS UNIT. The most significant structural change to the office has been the development of our Integrated Special Victims Unit (SVU) within our criminal division. Our SVU prosecutes cases involving more vulnerable victims. We've increased dedicated staff to 6.5 full time employees.

Integrated SVU: Types of Cases Handled
Domestic Violence/Domestic Homicide
Internet Crimes Against Children
Sexual Intercourse Without Consent
Sexual Assault - Adult
Sexual Assault - Child
Human Trafficking
Physical Abuse - Child
Stalking
Violations of Orders of Protection

Historically in this office and others around Montana, one prosecutor at a time, with little or no specialized training, was expected to review, charge, and prosecute most of the cases involving special victims, in addition to his or her own caseload. Now we have a cohesive unit, made up of 4 full-time prosecutors, a supervisor, an investigator and a victim/witness coordinator to manage these time-intensive cases. One prosecutor is designated as an investigative specialist, is co-located at the Missoula Police Department and is primarily responsible for guiding solid investigations, preparing warrants, participating in victim interviews and filing new charges.

The three litigation specialists on this elite team have been receiving focused training and have smaller caseloads so that they can devote the time necessary to successfully prosecute challenging cases. By design, these prosecutors handle fewer cases than other attorneys in the office and only a fraction of the cases handled by sexual violence prosecutors in the past. The SVU meets regularly with detectives who are investigating sexual assault cases and all of its members are actively involved in community collaboration with Just Response and other multi-disciplinary groups.

VICTIM-CENTERED WORK. We began by making a commitment to shifting our focus onto providing victim-centered work. We've always been proud of our litigators' skills in the courtroom and their work teaching for the National District Attorneys Association, the Montana County Attorneys Association and the University of Montana School of Law but now use those same skills in an environment that is trauma informed.

We are working closely with the Montana Attorney General's Office in an effort to become the flagship model for prosecuting cases of sexual assault. We regularly meet and look at cases, statistics, and timelines, with an eye toward identifying gaps or areas needing improvement.

We have welcomed Anne Munch, renowned sexual assault consultant out of Colorado, into our office to coach us on best practices in prosecution. She has made several trips to Missoula over the past year

conducting hands-on workshops, reviewing difficult cases, looking at the efficacy of our new processes and offering trial strategies to help increase convictions.

We've created a new 'softer' conference room and dedicated it as a victim interview and trial preparation area, in an effort to make the criminal justice process and interviews with defense counsel less intimidating for victims. Additionally, our Victim/Witness Coordinator worked with the Missoula Parking Commission to secure free downtown parking for victims.

We've implemented a victim survey. We are seeking constructive criticism and actively listening to victims' feedback so that we can use those comments in constructive ways. One victim recently responded that "the prosecutor made the prosecution process easy to understand . . . and was very good about communicating with me." Another victim said, "It was kind of a scary process but she made it easy and was reassuring . . . she showed me the courtroom. I had a really good experience. I appreciate all of the help I got."

SEXUAL ASSAULT PROSECUTION BEST PRACTICES – We formalized our process to embody an approach that is trauma informed. The Missoula County Attorney's Office, with Assistant Chief Deputy Suzy Boylan deserving most of the credit, working with the Attorney General's office has researched, developed and published the first edition of a sexual assault policy and procedure manual with over 300 pages of best practices for prosecuting sexual assault cases in Montana. It is available on the Attorney General's website at <https://dojmt.gov/wp-content/uploads/SEXUAL-ASSAULT-POLICY-AND-PROCEDURE-MANUAL.pdf>.

The manual has been made available to all prosecutors in the State of Montana. Many of the new policies and procedures are devised to promote timely communication with victims and enhance the prosecutor's understanding of the dynamics of victim trauma.

VICTIM/WITNESS COORDINATOR – We've developed a Victim/Witness Coordinator position and have hired a full-time Victim/Witness Coordinator who works with victims, advocates, law enforcement and our prosecutors to make sure that victims are treated with dignity. Cathy Dorle brings to the office a long history of work with victims and in corrections. She serves as a liaison with other agencies and is the point person for victims at the County Attorney's Office. She has been able to offer services for victims in new areas and works cooperatively with our independent Crime Victim Advocates Office.

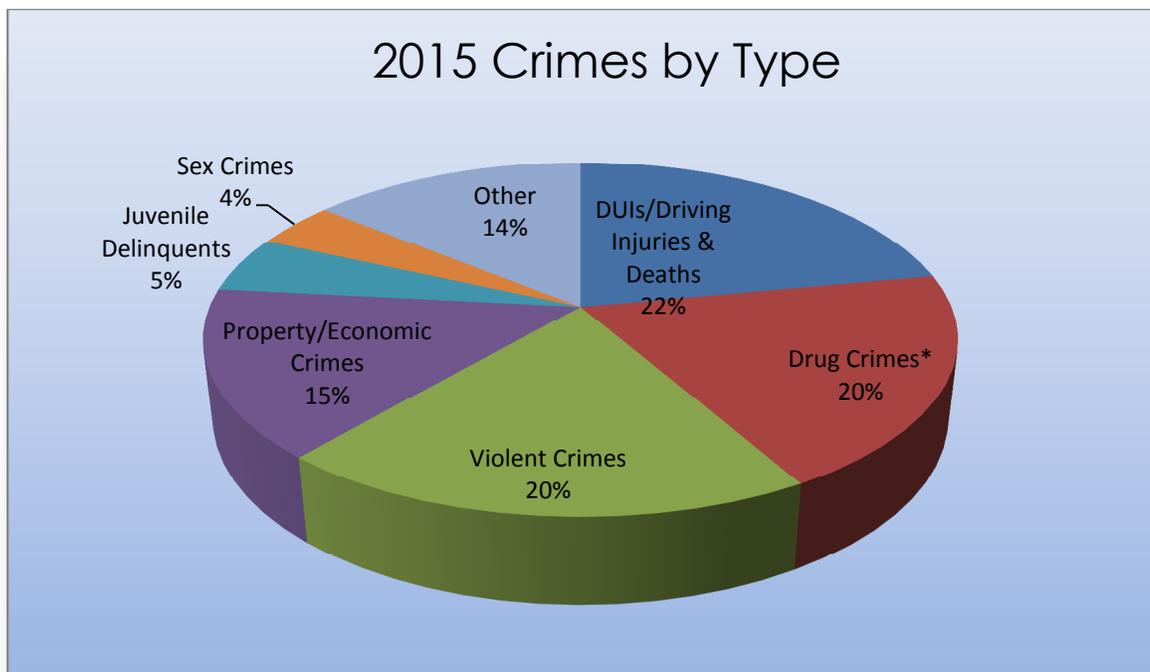
One victim who recently worked with our Victim/Witness Coordinator wrote, "As a victim I am very happy to see that they have created your job and see it working in real time. It was something that was greatly needed and it is encouraging to see it working!"

TRAINING – Training is a new priority for my office. Early into the year, I appointed Assistant Chief Deputy Suzy Boylan as the internal Training Coordinator to ensure that all attorneys receive quality educational opportunities in their respective areas of practice. As a result, all of our SVU attorneys have been engaged in top-notch, on-going training at the state and national levels, geared specifically to prosecuting sexual assault and domestic violence cases. Through our new training program, we've also

secured grant funding for our civil attorneys handling Dependent/Neglect cases to attend relevant training.

LAW ENFORCEMENT PARTNERS – Similarly, I appointed Assistant Chief Deputy Jennifer Clark as our Law Enforcement Training Coordinator to work closely with our law enforcement partners, offering quarterly legal updates and training them on best practices with the goal of increasing convictions for offenders. She also serves as our law enforcement liaison and is available to provide legal guidance to officers out working in the field.

MULTI-DISCIPLINARY COLLABORATION – The Missoula County Attorney’s Office participates with several of our partner agencies to ensure a strong coordinated community response to sexual and violent crimes. We have been long standing members of First Step and Just Response—Missoula multi-disciplinary groups which strategize to improve the criminal justice process. Our staff actively participates in the Multi-disciplinary Team (MDT), Case Review and the Advisory Board. We are similarly working with our partners on exploring the development of a Family Justice Center in the Missoula area.



*Methamphetamine cases are up approximately 15% from 2014; 137 % from 2013
Source: Justware Case Management, New Dawn Technologies 2015

OUTREACH & PREVENTION — We are communicating with our community and engaging in prevention efforts. Our SVU meets regularly with the Missoula Police Department SVU and our other law enforcement partners to communicate about specific cases and improve processes that affect victims overall. Additionally, criminal prosecutors now meet internally on a daily basis and we have opened our daily briefings to advocates and law enforcement from all agencies.

Our attorneys are also frequently going out into the community—the University, schools, civic groups and special events—to help demystify the criminal justice process and to educate the greater jury pool and public about the dynamics and myths surrounding sexual assault and domestic violence. Importantly, we are engaging in many public speaking events to discuss risk reduction and rape prevention.

OFFICE INVESTIGATOR – We have created the position of Office Investigator whose focus is SVU trial preparation. We’ve hired veteran detective Mike Dominick to fill this long-overdue role. He conducts follow-up investigation as necessary for our SVU and is primarily responsible for assisting our litigation attorneys with trial preparation. Mike provides responsive and timely trial prep, often locating absent witnesses or finding facts to present as rebuttal testimony, resulting in more positive outcomes for victims.

SHARING OUR SUCCESSES -- Looking forward, we are offering technical assistance to other counties and planning for continued improvements in our own programs. With the guidance of the Attorney General and Anne Munch, we are developing a curriculum and schedule for a core group of multi-disciplinary professionals to present our local innovations to other communities in Montana who might be facing similar challenges.

Finally, we take pride in our long standing tradition of implementing legislative reforms in the areas of sexual and family violence. We’ve again pinpointed some weak areas in our sexual assault statutes,

Community Outreach Highlights



Montana Multi-Disciplinary Training Team-- Our SVU team is working with the AG’s office to teach best practices in sexual assault prosecutions to other communities.

Not in Our State Summit – County Attorney Kirsten Pabst, with other professionals, presented at a panel entitled *Sexual Assault in Montana – Past, Present and Future*.

Crime Victim Advocate Academy – Pabst and Jennifer Clark spoke to victim advocates about criminal procedure at this annual statewide training for victim advocates

Citizens Law School – Assistant Chief Deputy Jennifer Clark taught Criminal Procedure for the Non-Attorney at the annual class held at the Law School.

Montana Board of Crime Control – Assistant Chief Deputy Suzy Boylan discussed aspects of prosecuting strangulation cases at MBCC’s annual statewide seminar.

including an outdated definition of “incapacitation” and “consent.” We are strategizing with the Montana County Attorney’s Association, the Attorney General’s Office and individual legislators on cooperatively changing the code to better protect victims.

Our Civil Team

Our civil division has been busy. I’ve increased our core litigation unit to three attorneys and two paralegals. We are keeping in-house many cases that used to be hired out to private firms, with the intent of conserving the county’s litigation resources.

In addition to representing the county in lawsuits, our civil division represents and advises various county departments and entities, including the Board of County Commissioners, Human Resources, Public Works, the Health Department, Planning, Fire Districts, the Extension office, Water Board, Library, Museum, School Superintendent, Conservation District, Partnership Health Center and all of the other elected officials in the county.

We have three attorneys, supported by one paralegal, who exclusively handle Dependent/Neglect cases brought by the Department of Public Health and Human Services, Division of Child and Family Services. The number of new civil child abuse and neglect cases has been increasing at an alarming rate. The number of cases filed has increased from 51 per year (2007-2011) to 124 per year (2012-2014). In 2015 we filed more than 170 new child abuse and neglect cases, up 33% from 2014.

Dependent Neglect cases filed	2012	2013	2014	2015
	110	133	130	173

Source: Justware Case Management, New Dawn Technologies 2012-2015

Finally, our civil division has an attorney devoted to filing Involuntary Commitment and Guardianship cases on behalf of the seriously mentally ill, elderly and disabled. These numbers have similarly grown over the past couple of years.

Involuntary Commitment cases initiated	2012	2013	2014	2015
	111*	115*	231	257

*these are low estimates. The data collection process changed in 2014 to better reflect actual numbers. Source: Justware Case Management, New Dawn Technologies 2012-2015

Other Programming

SAFETY TRAINING. The importance of personal safety and security in the work place cannot be overstated. I hired Workplace Defense Expert Casey Gunter, to come to our office and spend a couple of days with us, providing lectures on workplace safety and conducting individualized self-defense training for each employee in his or her unique work area. Additionally, several of our staff attended the recent day-long Active Shooter training, to be prepared on what to do should we encounter an unanticipated attack at the courthouse or our office.

MENTORING PROGRAM. Recognizing the value of experiential learning, a priority for my administration was to implement a comprehensive mentoring program in which senior prosecutors work closely with junior prosecutors on felony trial cases, giving the juniors much needed and highly beneficial trial experience. With the new program, newer prosecutors are assigned to second chair felony trials with more seasoned attorneys, providing necessary assistance to the lead prosecutor but, more importantly, learning how to successfully prosecute difficult cases.

PERFORMANCE EVALUATIONS. In the interest of on-going improvement, we have continued to have informal employee discussions and began having formal employee evaluations. In addition to offering constructive feedback to staff, the administration team has been seeking feedback from staff on how to better manage the office and more efficiently provide legal services to the community.

OBJECTIVES & GUIDELINES MANUAL. Until this year, the Missoula County Attorney's Office did not have a written policy and procedure manual. To promote mutual understanding of our expectations and consistency in enforcement, we've drafted a manual entitled *Objectives and Guidelines*. Though still in draft form, the process of formulating our mission statement and our goals through discussion with the entire staff has provided clarity and renewed enthusiasm for keeping Missoula safe and serving our citizens. The manual is a work in progress.

Because We Care

We have many people at the Missoula County Attorney's Office who gladly donate their personal time to improve the world around us. Collectively the staff contributes hundreds of hours to many different organizations serving diverse populations. Some of these efforts include:

HELPING KIDS. We have a high school JV softball coach; a participant in the Garden City Ballet's Nutcracker; a volunteer with Little Guy Wrestling and at high school wrestling tournaments; an instructor at the Montana TaeKwonDo Academy; and some high school forensic speech and debate judges. One staff person is the assistant band director at a high school, working with the marching and pep bands.

HELPING VICTIMS. We have a volunteer who cooks meals for the YWCA; another who regularly speaks to new advocates at the YWCA; one who helps teach new SARC advocates; two who

presented at the Montana Victim Advocates Academy; and one who serves as a member of the Montana Domestic Violence Fatality Review Committee. One of our staff participated in the *Not in Our State--Summit on Sexual Assault* and is a member of the steering committee for Marsey's Law, an initiative to include a Victim's Bill of Rights in the Montana Constitution.

HELPING AT THE LAW SCHOOL. We have people who serve as judges for the law school's moot court competitions, others who teach sections of the Trial Practice class and another who works with the Women's Law Caucus. Several of our staff serve as teachers and mentors to students enrolled in the clinical program.

TEACHING, PUBLIC SPEAKING and GUEST LECTURING. We have prosecutors who regularly lecture to UM's criminology classes and serve as guest speakers in high school criminology classes. Another person often speaks to civic groups including the Kiwanis and Rotary Organizations. We have people regularly present at the annual Citizen's Law School, Leadership Missoula, UM's MOLLI program for retirees and Women in Law Enforcement.

SERVING THE COMMUNITY. We have staff regularly participating on local boards including the local DUI Task Force, Kiwanis, Big Brothers and Sisters, the executive board of New Lawyers section of the Montana Bar Association, the American Bar Association (ABA) Young Lawyers' Division Council, the Chair of the Young Lawyers Division, the ABA Board of Governors, and the ABA House of Delegates. We have another who volunteers at the Self Help Law Center and another who volunteers at the Humane Society's Critter Camp. One employee helps the Missoula Veterans' Treatment Court.

BEING PART OF THE COMMUNITY. We have people involved in Run Wild Missoula, the Missoula Marathon, co-rec soccer, and the Backcountry Horseman's Council. We also have a talented trumpet player who plays in a funk band and local big band and an ultra-marathoner.

Looking Ahead

We made some real changes in 2015 and experienced many improvements. However, we also recognize that we can always do better. In the next few years, we are looking at implementing some additional new programs. One of these is a Small Business Initiative, to include training geared toward teaching local business owners ways to avoid embezzlement and how to collect on bad checks.

We are also exploring the feasibility of starting a Criminal Mediation program. The Legislature authorized mediation as a mechanism of settling otherwise very expensive criminal cases several years ago but Missoula County has not yet taken advantage of this opportunity which could potentially save significant resources and allow us to focus on more dangerous offenders.