



Work Session Meeting Agenda
2 Park Drive South, Great Falls, MT
Virtual Meeting by Zoom
April 06, 2021
5:30 PM

Due to the COVID-19 health concerns, the format of the City Commission meeting will be held in a virtual video-conferencing environment. City Commission members and City staff will attend the meeting via a remote location, using a virtual meeting method.

In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation. Public participation is welcome in the following ways:

- Attend the virtual meeting utilizing Zoom Webinar. Attendees must register in advance for the Commission Meeting: https://us02web.zoom.us/webinar/register/WN_058XkgdGRNa05oVokE5N5Q
- After registering, you will receive a confirmation email containing information about joining the webinar by Zoom.
- Participate by phone. Attendees must register in advance for the Commission Meeting using the link above. After registering, you will receive a confirmation email containing information about joining the webinar by phone. If you do not have internet access you may contact the Great Falls Public Library prior to the meeting at 453-9706 and they can assist with registration. This would need to be done by 5:30 on the evening of the meeting. The Mayor will provide direction during the meeting on how to alert staff that you have comments for the agenda item.
- Attend in person. Masks are recommended and social distancing will be enforced. Public may view and participate in the meeting from the Gibson Room. Please refrain from attending in person if you are not feeling well.
- Provide public comments in writing. Comments may be sent via mail to City Clerk, PO Box 5021, Great Falls MT 59403 or by email to: commission@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Please ensure that comments arrive before 12:00 PM on Tuesday, April 6, 2021. Due to tracking and dissemination requirements, written communication must be received by that time in order to be shared with the City Commission and appropriate City staff for consideration during the agenda item; and, will be so noted in the official record of the meeting.

CALL TO ORDER

PUBLIC COMMENT

(Public comment on agenda items or any matter that is within the jurisdiction of the City Commission. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and either your address or whether you are a city resident for the record.)

WORK SESSION ITEMS

1. Legal Department: State of Operations - Sara Sexe.

DISCUSSION POTENTIAL UPCOMING WORK SESSION TOPICS

ADJOURNMENT

City Commission Work Sessions are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Work Session meetings are re-aired on cable channel 190 the following Thursday morning at 10 a.m. and the following Tuesday evening at 5:30 p.m.

UPCOMING MEETING SCHEDULE

Work Session -- Tuesday April 20, 2021 5:30 p.m.

Commission Meeting -- Tuesday April 20, 2021 7:00 p.m.

Legal Department: State of Operations

Sara Sexe, City Attorney
Neil Anthon, Chief Prosecutor
Mark Dunn, Deputy Prosecutor

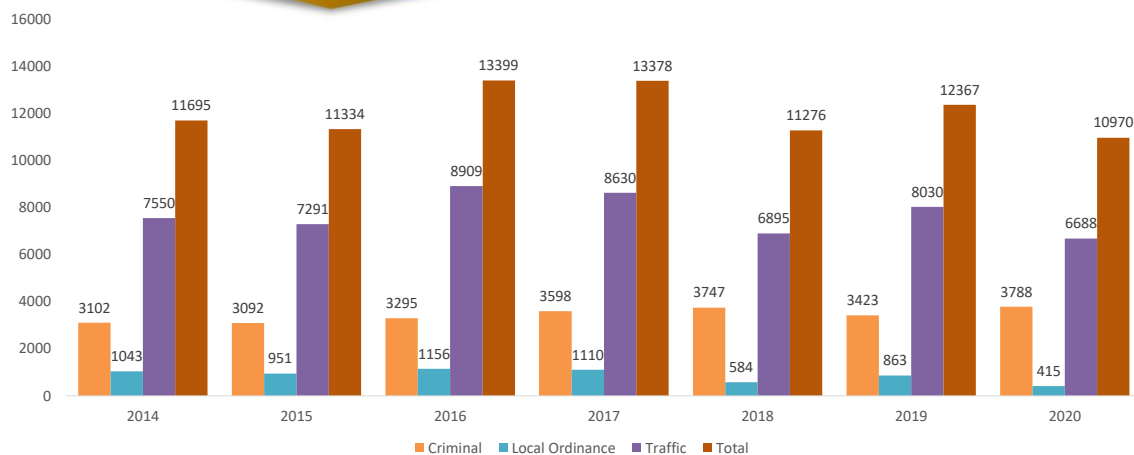
Legal Department: Attorneys

- Sara Sexe, City Attorney
- TBD, Deputy City Attorney
- Neil Anthon, Chief Prosecutor
- Mark Dunn, Deputy Prosecutor
- TBD, Prosecutor

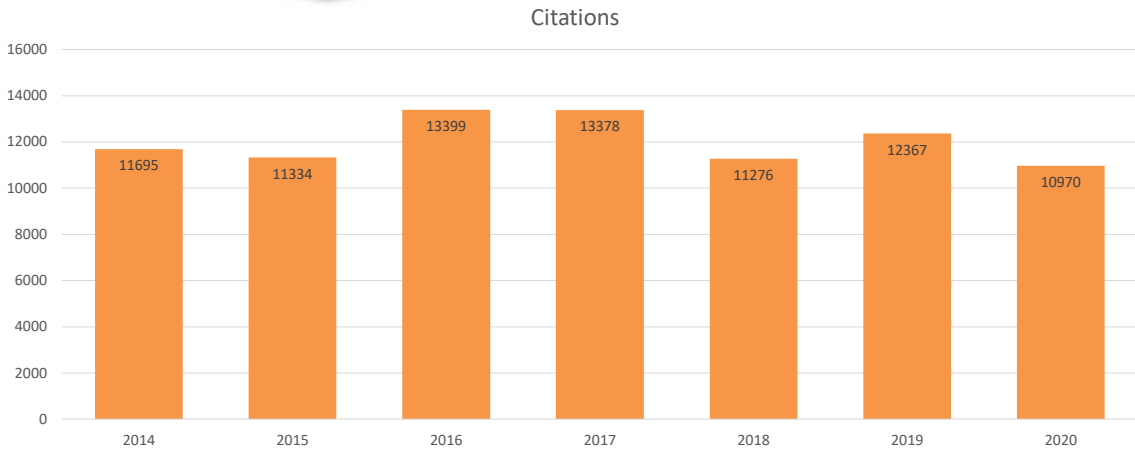
Legal Department: Staff

- Sandy Ranieri, **Administrative Assistant**
- Charlotte Graves, **Legal Secretary**
- Michele Haack, **Office and Administrative Specialist**
- Robin Beatty, **Paralegal/Legal Assistant**
- Roman Jacobson, **File Clerk, part time**

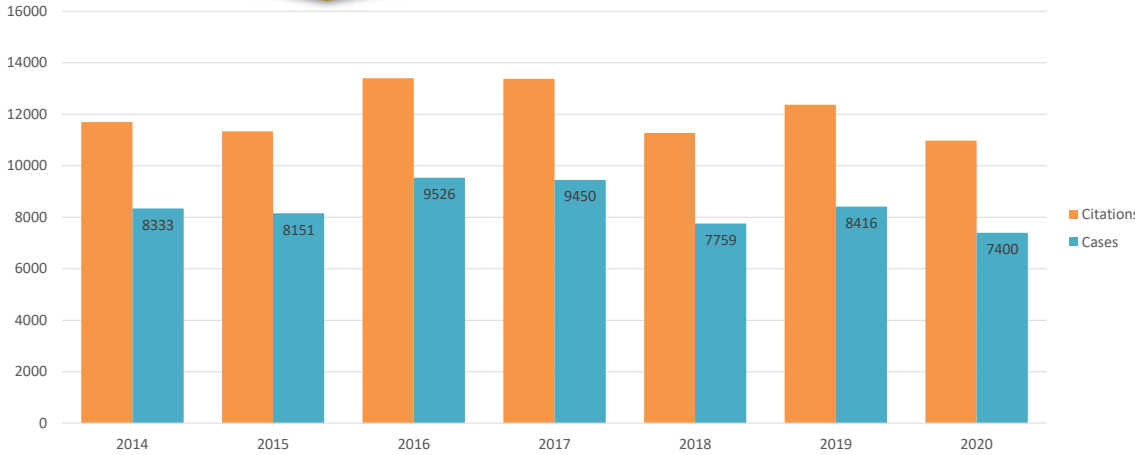
Citations per year and per type



Citations per year



Cases vs. Citations



2020 Comparison

City	Population	2020 Citations
Kalispell	24,565	4,620
Helena	33,124	4,231
Bozeman	49,831	4,713
Great Falls	58,434	10,970
Missoula	75,516	9,451
Billings	109,577	15,970

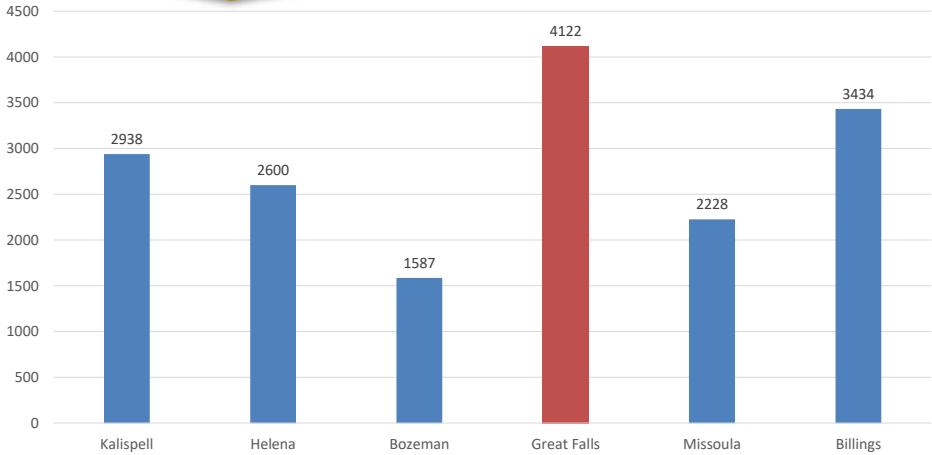
2019 Comparison

City	Population	2019 Citations
Kalispell	24,565	5,875
Helena	33,124	5,199
Bozeman	49,831	6,349
Great Falls	58,434	12,367
Missoula	75,516	13,367
Billings	109,577	17,169

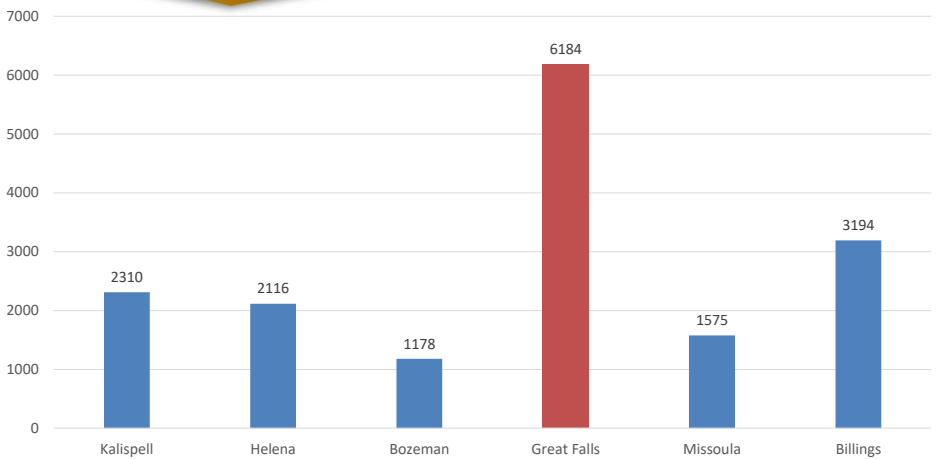
Comparison of Legal Departments

Jurisdiction	Criminal Attorneys	Civil Attorneys	Staff	Total
Kalispell	2	2	1 1/2	5 1/2
Helena	2	2	4	8
Bozeman	4	5	4	13
Great Falls	3	2	4 1/4	9 1/4
Missoula	6 (plus 1 intern)	3	10	19
Billings	5	4	9	18

2019 Citations per Prosecutor



Citations per Prosecutor, as of March 24, 2021



A week in the life of prosecutors . . .





Monday Morning

- 9:30 – Omnibus Hearings
 - 36 Scheduled (3/29/21)
- 9:30 – Jury Confirmation Hearings
 - 17 Scheduled (3/29/21)
- 10:00 – Change of Plea Hearings
 - 2 scheduled (3/29/21)
- 10:30 – Open Court



Monday Afternoon

- 1:30 – Prisoner Arraignments
 - 16 scheduled (3/22/21)
 - Cannot start until District Court ends
- Mental Health Court
 - ??????

Tuesday Morning

- 9:00 – Possible Video Appearances
- 9:30 – Prisoner Arraignments and Open Court

Tuesday Afternoon

- Hearings on Motions
 - Suppress/dismiss –
 - Require subpoenaed witness testimony
- Petition to Revoke Hearings
- Status Hearings
- Appearances
- Sentencing Hearings

Wednesday Morning

- 9:00 - Possible Video Appearances
- 9:30 - Prisoner Arraignments
- No Open Court on Wednesday

Wednesday – Jury Day

- Jury Trials begin between 9:00 and 10:30 am
 - Usually last all day, sometimes two days
 - 2 prosecutors are in trial the entire time
- Multiple Jury Trials are set for a single day
 - Prosecutors and witnesses need to be prepared
- Bench Trials may also be scheduled at the same time
 - Depending on Court staffing, those trials may still proceed
 - Multiple cases all set for 10:30 am

Wednesday – Non-Jury Day

- On a Bench Trial Wednesday multiple trials set every 15 minutes
 - 10:30 am – 11:45 am
 - 1:30 pm – 3:30 pm
- Any delay or lengthy trial will delay all other trials for the day
- 28 bench trials set for 4/14/21

Thursday - Jury Day

- 8:45 am – Prisoner Arraignments
- 9:30 am – Open Court
- 10:30 am – Trials
 - Jury Trials - 4 scheduled (4/1/21)
 - Start between 9:00 – 10:30 am, last all day, 2 prosecutors
 - Bench Trials – 10 scheduled (4/1/21)
 - May proceed, depending on court staffing

Friday – Jury Day

- 9:30 am – Prisoner Arraignments & Open Court
- 10:30 am – Trials
 - Jury Trials - 13 scheduled (4/2/21)
 - Start between 9:00 – 10:30 am, last all day, 2 prosecutors
 - Bench Trials – 5 scheduled (4/2/21)
 - May proceed at same time, depending on Court staffing

When prosecutors are not in Court...

- Review File, Order Evidence, Prepare Initial Subpoenas
 - Done in every case that is set for trial
- Make Plea Offers
- Review and Sign Off on Discovery
- Draft Motions and Briefs

When prosecutors are not in Court....cont.

- Respond to
 - Defense Counsel's questions
 - Contact from Pro Se Defendants
 - Contact from victims/witnesses
 - Questions from Court
 - Questions from Other City Departments
 - Citizen questions

When prosecutors are not in Court....cont.

- Assist Great Falls Police Department
 - Assist with charging decisions
 - Answer questions re: investigations
 - Prepare search warrants/investigative subpoenas
- Deferred Prosecution Agreements
 - 1608 in 2020
 - 368 as of 3/25/21

When we are not in Court....cont.

- Review Evidence – photos, videos, 911 calls, etc.
- Keep track of requested evidence, request follow up
- Review all incoming paperwork received from Municipal Court/Defense Counsel/Pro Se Defendants
- Discuss cases with other attorneys to assist in decision making

When prosecutors are not in Court....cont.

- Process Warrant Requests
 - 457 warrant requests in 2020
 - 98 warrant requests as of 3/12/21
- Review pertinent case law & conduct legal research
- Staff meetings & Attorney meetings
- Answer staff questions & handle staff issues

When prosecutors are not in Court....cont.

- Answer subpoena questions & deal with scheduling issues
 - Continuances for witnesses who are unavailable
 - Review cases with missing witnesses
 - 9542 subpoenas issued in 2020
 - 3142 subpoenas issued as of 3/26/21

When prosecutors are not in Court....cont.

PREPARE FOR TRIAL!!!

Read reports, watch videos, listen to 911 calls, interview & prep witnesses, review juror questionnaires, prepare & respond to motions in limine, prepare voir dire, opening statement, direct examination questions, cross examination questions, closing arguments....



How many trials are currently scheduled?

(as of 3/26/21)

- 97 bench trials
- 274 Jury trials
 - Through June 2, 2021



Assistance from Civil Division

- Through March, estimated $\frac{1}{4}$ of Assistant City Attorney's time
- Handle Appellate Matters
 - Around 20 appeals filed and briefed in 2020, 8 already in 2021
- Handle Driver's License Petition Hearings In District Court
 - 6-10 in 2020
- Review Record Requests
 - 1376 requests in 2020
 - 396 requests as of 3/12/21
- Open Court/Prisoners when needed

Other Commitments

- DUI Task Force
- Mental Health Local Advisory Counsel
- Crisis Steering Committee
- Law Enforcement Education/Training
 - Testimony training for new officers
 - Regular updates/briefings
 - Legislative updates

Other Commitments, cont.

- Mandatory CLE Hours
- Pro Bono Hours/Lunch with Legal
- Other Trainings
- Speaking engagements (Citizen's Academy, etc.)
- Other Meetings
- Assist Civil Division



Additional Stressors

- Assuming responsibilities that used to be handled by other departments:
 - Review and copying Watchguard videos
 - Downloading and copying photos from Zuercher
 - 339 cases in 2020, 70 cases as of 3/15/21
 - On March 25, Criminal Division was advised that audio will be downloaded to evidence
 - Additional duties absorbed by Criminal Division



Additional Stressors

- Increased number of Jury Trials and represented Defendants
- MT Supreme Court cases
 - Limited ability to waive jury trials for failure to appear
 - Holding that prosecutors will be witnesses if they speak with witnesses or defendants
- Jail overcrowding and inability to arrest suspects
 - Lead to more defendants with multiple pending cases



Additional Stressors

- Cases are becoming more adversarial
 - Increased motions, motions in limine, discovery disputes
- Cases are continued multiple times
 - Requires City to re-subpoena witnesses, which causes frustration and lack of cooperation
 - Clogs the docket and may cause speedy trial issues in other cases



Additional Stressors

- Cases are becoming more complex
 - More charges, more witnesses, etc.
 - More evidence available that has to be reviewed and provided
 - Surveillance video, Watchguard video, 911 calls, GFFR/GFES reports, photographs, interview audio/video, etc.



Additional Stressors

- COVID issues
 - COVID precautions slow down the process
 - One person at a time for open court
 - Continuances due to COVID concerns
 - Still dealing with the backlog from Court shutdown and CCDC COVID outbreak



Results???

- Currently, the Criminal Division staff processes more citations than counterpart cities
 - 4,122 citations per prosecutor (2019)
 - Next highest is Billings with 3,434 (2019)
 - 3,657 citations per 3 prosecutors (2020)
 - After resignation of former Deputy Prosecutor raised to 6,184 (assuming 2020 numbers)
 - Next highest is Billings with 3,194 (2020)



Results???

- Unsustainable
- Unable to provide desired level of service to community
- Potential for details to fall through the cracks
- Claims by defendants' counsel



Results???

- Legal Department lawyers' hours
- Lawyers' reluctance to assign administrative work to staff
 - Staff workload
 - Time to assign

Excess hours

- Attorneys began recording actual hours worked upon implementation of remote work
 - April 1, 2020 through March 1, 2021 (92% of year)
 - 1,889 additional lawyer hours over 2080/12 month schedule
 - 191 hours short of an additional lawyer
 - Recognize that attorneys don't work a 40 hour week

Results???

- Currently, the Criminal Division triages cases and acts more reactively than proactively
- Examples:
 - Witnesses are contacted/interviewed the day before or day of trial
 - Supreme Court case will adversely affect this process
 - Evidence may be missed resulting in suppression of the evidence and/or dismissal of cases
 - Restitution for victims may be missed



Results???

- Great Falls offers initial deferred prosecution agreements
 - Higher than any other large city
- More reliance on plea agreements
 - Case load affects whether attorneys have the time to prepare for and go to trial on close cases
- Burnout of attorneys and staff




Results???

- Change in processes that reduces workload but does not provide the best service to the public
 - ex: amending DWS to No Valid DL if Defendant gets a valid driver's license
 - No longer making those offers because of the time it took and extra work it created

Summary of Legal Department Staff

- Closest two cities in population
 - Bozeman – staff of 13
 - Missoula – staff of 19
- Great Falls has 9 ¼
- Now, with job vacancies 7 ¼

Functions & Duties of the Prosecutor



The prosecutor is an administrator of justice, a zealous advocate, and an officer of the court. The prosecutor's office should exercise sound discretion and independent judgment in the performance of the prosecution function.

ABA Standard 3-1.2, Criminal Justice Standards for the Prosecution Function



Functions & Duties of the Prosecutor

The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict. The prosecutor serves the public interest and should act with integrity and balanced judgment to increase public safety both by pursuing appropriate criminal charges of appropriate severity, and by exercising discretion to not pursue criminal charges in appropriate circumstances. The prosecutor should seek to protect the innocent and convict the guilty, consider the interests of victims and witnesses, and respect the constitutional and legal rights of all persons, including suspects and defendants.

ABA Standard 3-1.2, Criminal Justice Standards for the Prosecution Function



Legal Department

- Commitment to providing the City of Great Falls with professional and quality legal advice to help protect the health, safety, welfare and civil rights of all.

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- Questions???