

MISSOULA COUNTY ATTORNEY'S OFFICE

ANNUAL REPORT FOR 2019

Greetings from the Missoula County Attorney,



Thank you for your interest in the Missoula County Attorney's Office. 2019 has been a busy year for both our civil and criminal divisions. On January 1, 2019, I began my second four-year term as your elected prosecutor. Throughout the year, we continued to focus on improving our response to victims of crime, increasing the efficiency of the criminal justice system through innovative programs and working together with our justice partners to bring dangerous offenders to justice.

Overall, the number of new crimes being committed is down, though we've taken several major cases to trial. Mental health commitments and new child dependent - neglect cases are stabilizing after steady increases in recent years.

Our prosecution-led diversion program, Calibrate, is the first formal pre-trial diversion docket in the state and works with low-risk offenders to keep them out of the court system, allowing us to focus our resources on violent criminals. We continue in other reform efforts including criminal mediation, conviction review and pretrial supervision in lieu of detention and are proud to partner with the United States Attorney's Office and our law enforcement teams on the Project Safe Neighborhoods initiative.

I appreciate your continued interest and support of the hard-working and talented people in my office. I offer this report as a summary of our efforts over the past year. Please call, stop by or email me at kpabst@missoulacounty.us if you have any questions or concerns.

Kirsten H. Pabst

Missoula County Attorney

The Criminal Division

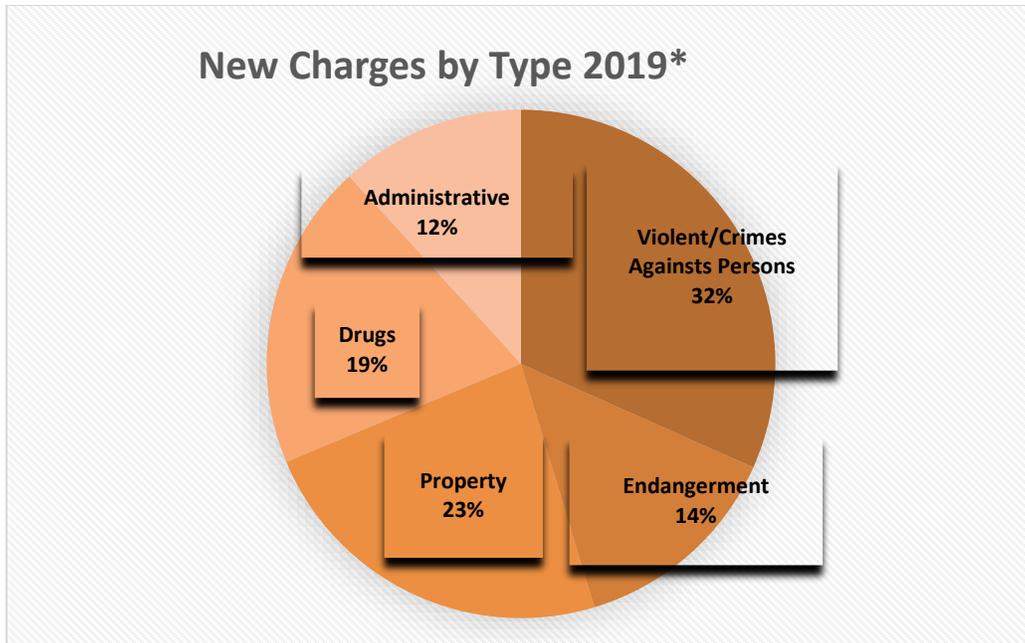
The criminal side of the County Attorney's Office consists of our Special Victims Unit, General Crimes Unit, Juvenile Unit and Justice Court and includes 13 prosecutors, 3 litigation paralegals, 2 discovery paralegals, 2 victim witness coordinators, 3 administrative assistants, an investigator, a full-time supervisor who also carries a caseload, a diversion coordinator and two clinical students.

Crime numbers have dropped in almost every category after a surge in 2018. In 2019, we filed 17 fewer felonies and 9 fewer juvenile petitions than the previous year. Between May 1, 2018 and April 30, 2019, violent crime (homicide, robbery and aggravated assault reports combined) declined in Missoula County by 18.5% when compared to the previous 12 months. Since then, those cases have declined another 11.9%.ⁱ

Methamphetamine continues to be a major crime driver in our region. Consistent with our observations, recent studies confirm a definite link between meth use and violent crime. Meth users are more likely than non-users to perpetrate domestic violenceⁱⁱ and nine times more likely to commit homicide.ⁱⁱⁱ

Crime type	2012	2013	2014	2015	2016	2017	2018	2019
Felonies	662	609	653	662	671	736	764	747
Misdemeanors	1,191	1,199	1,038	1,025	1,182	927	1,334	1318
Juveniles				58	50	104	86	77
Total Criminal cases	1,853*	1,808*	1,691*	1,745	1,903	1,767	2,184	2,142
<small>*doesn't include juveniles formally charged by the County Attorney's Office *Source: Justware Case Management, New Dawn Technologies 2019</small>								

When broken down by types of crime, we've seen a slight shift over the past 12 months. Endangerment crimes have increased slightly. Drugs, crimes against people, and property crimes all held fairly steady. We saw a drop in the percentage of administrative crimes this last year.



Source: Justware Case Management, New Dawn Technologies 2012-2019

****Crime Types for purposes of this chart (exclude traffic tickets).**

Violent/Crimes Against Persons include family violence, non-family violence, homicide, stalking, violation of protective orders, child abuse, kidnapping, robbery, sexual assault, sexual intercourse without consent, sexual abuse of children, possession of child pornography, animal abuse and privacy in communications.

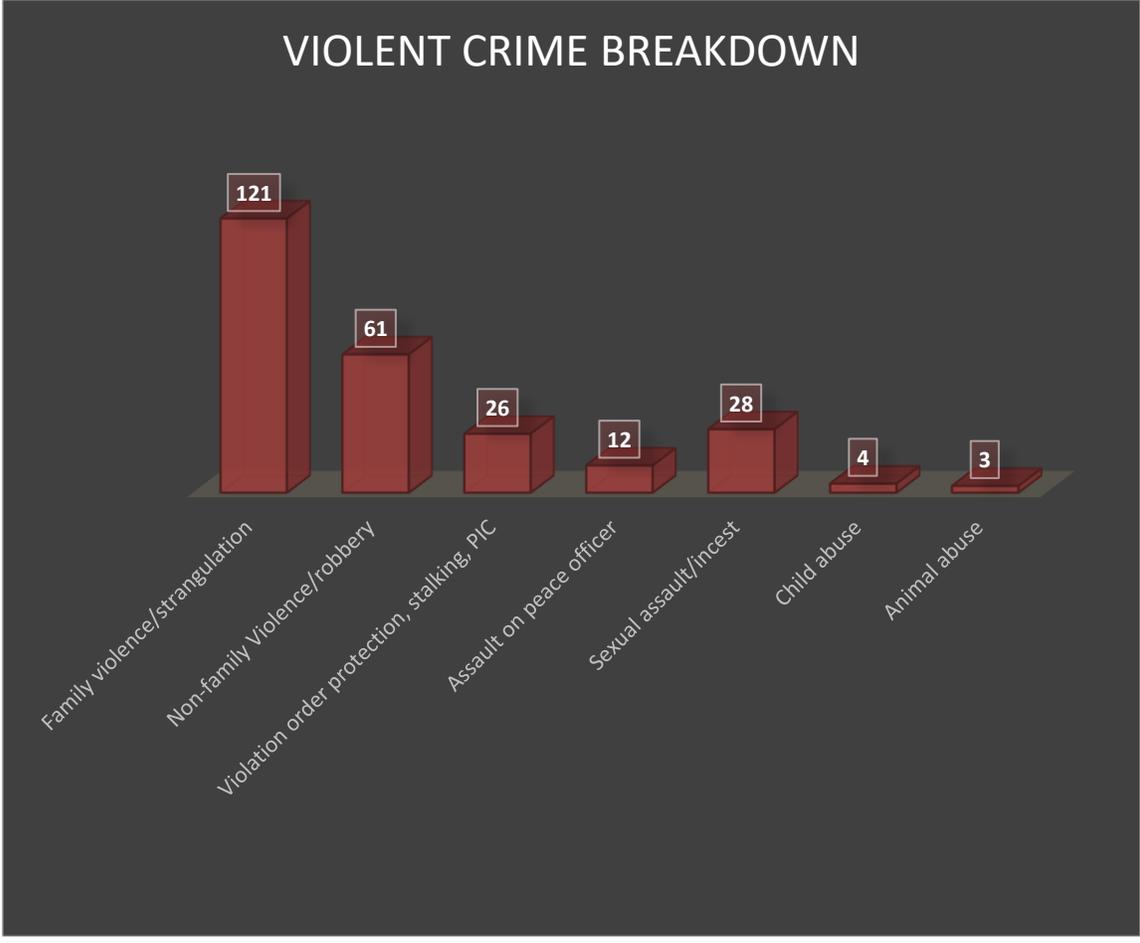
Endangerment Crimes include DUIs-4th or subsequent, criminal endangerment, child endangerment, endangering the welfare of a child, reckless driving, negligent and vehicular homicide/assault.

Property Crimes include theft, burglary, embezzlement, elder exploitation, arson, forgery, trespass and criminal mischief.

Drug Crimes include possession, distribution, production, fraudulently obtaining dangerous drugs and possession of property subject to forfeiture.

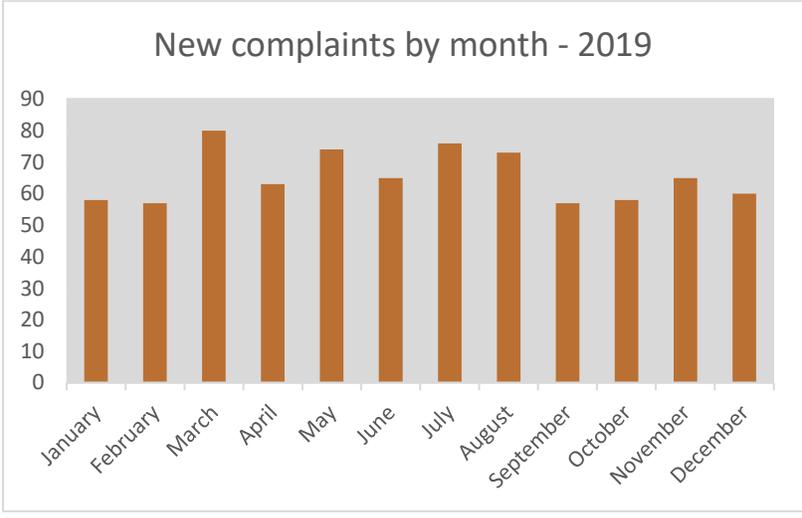
Administrative Crimes include custodial/parenting interference, obstructing justice/peace officer, failure to register as sexual or violent offender, tampering with witnesses/evidence, destruction of a communication device, resisting arrest, escape, bail jumping, disorderly conduct and various weapons violations.

Most of our criminal justice resources are directed at responding to crimes against people. Interpersonal violence, or assault of a partner, family member or child make up almost half of the cases in this category.



Source: Justware Case Management, New Dawn Technologies 2012-2019

We filed new criminal complaints at a fairly consistent rate over the course of the last year, with the most being filed in March (80) and July (76).





The Civil Division

The primary role of our three civil litigation attorneys is to advise the Missoula County Board of County Commissioners, county departments, and local boards, and to defend lawsuits filed against Missoula County. Civil attorneys provide legal analysis and assistance to the commissioners and to over twenty county departments and public boards. One of our attorneys is assigned to almost every county department and division, and citizen board that serves under the Commissioners' oversight, from the County Elections Administrator to the Zoning Board of Adjustment. The relationships our attorneys foster throughout the County help to ensure best professional practices. Our attorneys also provide legal representation to entities pursuant to state law, such as the Missoula City-County Board of Health and rural fire districts.

Often this assistance spans the life of an important issue or project and requires interaction and cooperation with a number of different stakeholders. For instance, last year, one of our attorneys worked with residents, the Public Works Department, the Sheriff's Department, and federal land managers to enact regulations addressing dangerous winter parking issues on Sawmill Gulch Road. Another attorney, working together with the City and homeless advocacy groups, laid the legal groundwork for the Commissioners to donate a portion of land owned by the county for low income housing and homeless assistance. Additionally, civil deputies participate in public meetings where the Commissioners hear and act on important issues.

Our civil attorneys resolve many disputes before they turn into litigation through communication and compromise. Where litigation does occur, our office has continued its inhouse defense model, saving significant tax dollars by defending nearly all claims against the county rather than pay outside counsel defense fees. In 2019, our civil deputies had an active caseload of over twenty civil lawsuits and two administrative proceedings. Our deputies defended a range of types of claims, including personal injury claims arising on County property, disputes over public roads and rights-of-way, disagreements about the scope of state and local regulations, and claims by detention center inmates, to name a few.

Child Protection cases

We are seeing a much-welcomed decline in child protection cases since a peak in 2017 and a continued overall decline in the number of filings over the past several years. This year we filed a total of 109, down from 118 last year. The Missoula County Attorney's Office represents the Department of Public Health and Human Services/Child and Family Services Division [CFS] in child protection cases filed in our county. CFS works with many families on a voluntary basis to provide services to keep families safe. However, when state intervention becomes necessary to protect the health and safety of a child, the County Attorney's Office files a child protection case in District Court.

The primary causes of abuse and neglect of children in our community include parental substance abuse, specifically methamphetamine addiction, exposure of children to dangerous drugs and/or the exposure of children to intimate partner violence. The child's health and safety are of paramount concern in every child protection case.

The Missoula County Attorney's Office reviews and prepares child protection cases for filing and then represents CFS through each case and ensures the state's compliance with Montana statutes. In a child protection case, CFS seeks authority from the District Court to work with a family to address identified safety concerns. The District Court reviews every child protection case. CFS only remains involved with a family if the court grants CFS that authority. Each parent is represented by court-appointed counsel throughout the case. Depending on

MEETING THE NEEDS OF AMERICAN INDIAN CHILDREN

Attorneys Jessica Finley and Kelly Henkel have been working closely with attorneys, judges, and community stakeholders to create and implement an Indian Child Welfare Act [ICWA] Court in Missoula County in 2020, to better meet the needs of American Indian children and Native families. It is the second ICWA court in Montana and only the 6th in the United States.

The ICWA is a federal law which sets specific requirements and heightened burdens in child custody proceedings to protect the best interests of Indian children who are members of, or eligible for membership in, a federally recognized Indian tribe. The ICWA Court is a specialized court and preside over the child protection cases involving Indian children in Missoula County. The ICWA Court includes one designated District Court Judge and a team of regular attorneys, social workers, ICWA specialists and representatives of the Tribal Nations in Montana. The ICWA Court provides regular staffing of each ICWA case to review compliance with ICWA requirements, direct engagement with the child's Tribe and collaboration regarding culturally appropriate services to meet the needs of the family to facilitate safe reunification. The goal of the ICWA Court is to ensure the ICWA is followed and to build better relationships between the state and the child's Tribe to secure better outcomes for the children in our community.

age, the child is also represented by court-appointed counsel and/or a Court Appointed Special Advocate [CASA].

If it is necessary to remove a child from the home to prevent abuse and neglect, CFS looks first to place the child with the other parent, extended family or with a caregiver who has a family-like relationship with the child. If familial placements are unavailable, CFS will look to licensed foster care or emergency shelters as temporary placements.



The goal of most child protection cases is the safe reunification of the family. To achieve safe reunification, CFS makes efforts to support the family and implement services such as in-home family-based services, parenting classes, chemical dependency services, mental health services, case management services, housing support, transportation assistance and facilitating family engagement meetings and treatment team meetings. In some cases, safe reunification is unable to be achieved. The Court will then consider other permanency options for the child such as guardianship or adoption.

Dependent Neglect cases filed	2012	2013	2014	2015	2016	2017	2018	2019
	110	133	130	173	191	195	118	109

Source: Justware Case Management, New Dawn Technologies 2012-2019

Involuntary Commitments in Missoula County

This year we filed fewer petitions for involuntary commitment than last year, but still more than in any of the previous 6 years. In 2018, we saw a huge spike in involuntary commitments, partially in response to loss in community case management services. Thankfully, our commitment numbers are starting to decline. Petitions to commit homeless people increased 10% since last year, totaling 40% of our overall cases.

Involuntary Commitment cases	2012	2013	2014	2015	2016	2017	2018	2019
	111*	115*	231	257	246	240	300	270

*low estimates. The data collection process changed in 2014 to better reflect actual numbers.
Source: Justware Case Management, New Dawn Technologies 2012-2019

Office Notes

Prosecution-Led Pre-Trial Diversion

In September 2019, the Missoula County Attorney's Office launched the prosecution-led pretrial diversion program called Calibrate. Calibrate is a first of its kind program in Montana that identifies low-risk offenders early on and gives them an opportunity to avoid criminal conviction by addressing the underlying causes of criminal behavior such as addiction. Calibrate will save criminal justice dollars and improve chances of offenders succeeding. Ray Reiser, pictured right, has been appointed as Calibrate's coordinator and the program recently enrolled its first participants.



Mediation

In a creative effort to improve criminal justice outcomes and bring closure for both victims and offenders, the Missoula County Attorney's Office initiated a formal criminal mediation program. In one recent example, Lead Criminal Deputy County Attorney Jordan Kilby utilized a criminal mediation to resolve a difficult case involving an assault on a peace officer. The mediation was a success by letting both parties express themselves with the help of a professional mediator. When this tool can be successfully utilized, mediation saves the community significant expenses associated with felony

trials. Criminal mediations are growing in popularity under the theories of restorative justice and reconciliation.

Training

In November, attorneys and staff of the County Attorney's Office participated in a Cultural Humility Training put on by representatives of the National Native Children's Trauma Center (NNCTC) at the University of Montana. The training focused on the role of historical trauma and its current impacts on our communities and the criminal justice system. The incredible work of the NNCTC helps foster understanding, respect, and honoring tribal sovereignty and specific community needs. The training provided tools for our prosecutors to better address trauma-related needs in our community and apply what they learned in our everyday work.

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Selene Koepke, one of our SVU prosecutors, pictured right with Forensic Nurse Practitioner Jacqueline Fee and Detective Nathan Griesse, attended the Training Institute on Strangulation Prevention in San Diego in October. This multidisciplinary training comes on the heels of a statutory change in 2017 adding a new felony offense for strangulation of a partner or family member. The change in law recognized that strangulation is a very dangerous form of abuse and can be an indicator of future lethal violence in abusive relationships. The law provided a new tool to address domestic violence and the training helps make sure that tool is being used effectively.



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Child welfare specialist attorneys Jessica Finley and Kelly Henkel attended the Association of Prosecuting Attorney's Regional Conference on Child Abuse and Neglect in Albuquerque, New Mexico in September.

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Prosecutors Jennifer Clark and Jordan Kilby attended the National District Attorneys Association's week-long homicide course in Scottsdale, Arizona.

Sharing our expertise



Missoula County Attorney Kirsten Pabst, left, was the [Keynote speaker](#), for the Women's Prosecutor's Section of the National District Attorney's Association Board of Directors, presenting *Implementing Organizational Resilience for Prosecutors*, in Austin, Texas in May.

In August, Pabst presented *Resiliency for Military Prosecutors* to the Navy JAG Corps Command, at Bremerton, Washington.

Pabst was also invited to Washington, D.C., by the National District Attorneys Association [NDAA] & Bureau of Justice Statistics, as part of a select prosecution expert panel to develop a National

Prosecutors' Survey. The focus of the ongoing project is to collect accurate and useful data about prosecutors' offices and crime nationwide, to be used for many purposes including reforms, policy decisions and Congressional legislation.

Throughout the year Pabst gave other community presentations including *Prosecution-led Diversion*, for the National Lawyers Guild during the Week Against Mass Incarceration; *Local Innovations in Criminal Justice Reforms*, for the Missoula Senior Forum; and *Criminal Justice Reforms in Missoula County, Montana*, for the Sunrise Kiwanis.

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Chief Civil Deputy Anna Conley taught two six week MOLLI classes at the University of Montana, entitled "Judicial Power in the U.S." and "International Law: Foundations and Current Challenges."

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Prosecutor Brittany Williams gave her annual presentation to criminology students at Sentinel High School. Ms. Williams and Jennifer Clark participated in the Montana Criminal Justice and Reform Interdisciplinary Graduate Seminar as guest instructors. The class was a mix of graduate students from a number of disciplines including law, public administration, social work, history, sociology, and psychology. The goal of the class was to give these future advocates and change agents the information and tools they need to identify and address criminal justice issues in Montana.

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Special Victims Litigator Lacey Lincoln worked with the law school's Trial Practice Class, giving a demonstration on Opening Statement and participating in a panel discussion with other attorneys for the class.

Recognition

The National Prosecutors' Consortium featured Missoula County Attorney's Office – Secondary Trauma Group in its publication on Innovative Programs (August 2019).

The Prosecutor, the magazine of the National District Attorneys Association [NDAA], published *Competency Means Wellness for Prosecutors*, by M. Ashley, which featured Missoula County Attorney's first-of-its-kind Secondary Trauma Program (2019).

Notable cases:

Tiffany Pierce and Augustus Standingrock were each sentenced this year to life in prison for their respective roles in the August 2017 slaying and dismemberment of two young victims.

Caressa Hardy. Prosecutors Brian Lowney and Kirsten Pabst took the Hardy case to trial in May. The jury found Hardy guilty of murdering two of his roommates and then burning the bodies in a fire pit. The deaths were not reported for years, until an eye-witness came forward and testified that she'd witnessed the homicides. The Sheriff's Department, in conjunction with the FBI and Missoula Police, conducted an extensive investigation. Hardy was sentenced to life in prison.

Francis Crowley 32 year-old Francis Crowley was sentenced in Missoula District Court to 30 years in the Montana State Prison with 10 years suspended after abandoning his infant nephew in the wilderness near the Lolo Hot Springs Resort on July 7, 2018. Prosecutor Brittany Williams handled the case.

Jack Eldon Jarvey Prosecutor Ryan Mickelson charged 65-year-old Jarvey with sexual intercourse without consent, three counts of sexual abuse of children and one count of intimidation, for molesting a young girl and forcing her into sex acts with two boys. He was convicted by jury and sentenced to four 100-year sentences.

William Curtis Small Prosecutor Ryan Mickelson charged 57-year-old Small for attempting to rape an unconscious woman on the Missoula County Courthouse lawn in broad daylight. The jury convicted Small and he was sentenced to 20 years in prison, ineligible for parole for 5 years.

Billy Lee Henderson Prosecutors Ryan Mickelson and Brittany Williams handled the case against Henderson. He was charged for keeping his pregnant girlfriend captive in their home for five days, during which she endured round after round of assaults. He was

convicted of aggravated sexual intercourse without consent, eight witness tampering charges, five assault charges, unlawful restraint, strangulation and others. Missoula District Judge Karen Townsend sentenced Henderson to 75 years, with 25 suspended. Henderson will also have to register as a Level 3 sex offender, the gravest of such designations.

Chase Munson Prosecutors Mac Bloom and Jordan Kilby charged Chase Munson with two counts of attempted deliberate homicide for his role in shooting a clerk and customer at the South Avenue Market on Higgins Avenue. Munson was sentenced to 50 years in the Montana State Prison with 10 suspended for the two counts of attempted deliberate homicide as well as several burglaries he committed leading up to the shooting. Jordan argued for the sentence given the severity of the crimes as well as the fear the defendant sparked in the community as a result of the shooting of two random community members. The victims were both veterans and community members who were unknown to Munson.

Shane Pelletier Prosecutor Brian Lowney took Pelletier to trial after charging him for raping a woman he found in a downtown parking garage. The jury convicted him of sexual intercourse without consent and the judge sentenced him to 40 years in prison with 20 suspended and designated him a level 2 sexual offender.

Daniel Grady Prosecutor Brittany Williams charged Grady with negligent homicide and failure to remain at the scene of an accident, after his pickup struck and killed 22-year-old Rebecca Romero. He was sentenced to 10 years in prison and an additional 20 years on probation.

On the docket:

Jonathan Whitworth and **Preston Rossbach** are charged with killing two people and trying to kill a third person during a drug-related incident in a local hotel room. Rossbach's trial is scheduled to begin on March 2, 2020, and Whitworth's trial set to start April 20, 2020. Both are open the public.

Johnathan Bertsch Prosecutors Jordan Kilby and Meghann Paddock are preparing for the Bertsch trial, scheduled to being August 17, 2020. Bertsch faces two counts of Deliberate Homicide and two counts of Attempt - Deliberate Homicide, for allegedly shooting and killing Shelly Hayes and Julie Blanchard, and shooting and severely injuring Casey Blanchard and Montana Highway Patrol Trooper Wade Palmer.

Nancy Wright Criminal Chief Deputy Matt Jennings is prosecuting Wright for allegedly stabbing a neighbor while he slept, killing him. Trial date has not yet been set.

County Attorney's Office news links:

[County Attorney gives keynote spotlighting local trauma program at national conference in Austin, Texas](#)

[Lawsuit underscores opioid impact in Missoula County](#)

[Missoula County seeks more delinquent Smurfit taxes](#)

[Project Safe Neighborhoods Report: Violent crime down in Missoula County](#)

[Hardy sentenced to life for Frenchtown murders](#)

[Judge denies Kaarma's request for new trial](#)

[Missoula Deputy Jessop honored](#)

Other resources

[Missoula County Attorney's Office Website](#)

[Missoula County Attorney's Office Facebook](#)

[Montana Board of Crime Control](#) (statistics)

[Montana Attorney General's Office](#)

[Montana Office of Consumer Protection](#)

[National District Attorney's Association](#)

ⁱ Project Safe Neighborhoods, Missoula & Missoula County

ⁱⁱ [Is methamphetamine use associated with domestic violence?](#), Dowling & Morgan, Australian Institute of Criminology

ⁱⁱⁱ [Methamphetamine Use and Violent Behavior: User Perceptions and Predictors](#), Brecht & Herbeck, U.S. National Institutes of Health's National Library of Medicine