

# Missoula County Attorney's Office

## ANNUAL REPORT FOR 2017

### *Introduction*

2017 was a busy year for the Missoula County Attorney's Office. As your elected prosecutor, I oversee the civil and criminal divisions of the Missoula County Attorney's



Office. The office employs 42 people, including 22 attorneys, an office administrator, 6 legal assistants, 9 paralegals, 3 victim witness coordinators and an investigator.

Our office is responsible for prosecuting all felony offenses that occur within the city of Missoula City and Missoula County. Additionally, our talented attorneys represent the State of Montana in child

protection cases, involuntary commitments, and guardianship cases. Our civil litigation team represents Missoula County in claims filed against the County and advises all departments within the County, including the Board of County Commissioners. We work together with our community and law enforcement partners to offer citizens an efficient, responsive and effective prosecutor's office.

In 2017 we saw an increase in the number of adult felony cases and we filed twice as many juvenile delinquency petitions as the previous year. Additionally, we initiated a record number of child protection cases.

Once again, I offer this Annual Report as a summary of our efforts at the County Attorney's Office over the past year and a preview of the priorities we've set for 2018. Thank you for your interest in our work and do not hesitate to contact me if you have concerns or suggestions on ways to continue to improve efficiency. My door is always open.

*Kirsten H. Pabst*

**Missoula County Attorney**

## The Criminal Division

The primary function of the Criminal Division of the Missoula County Attorney's Office is to enhance community safety through enforcement of the criminal laws. The talented prosecutors within the Criminal Division of the Missoula County Attorney's Office are assigned to specialized units within the division including our Special Victims Unit (sexual and violent crimes), General Felony Unit (property, DUI driving deaths, etc.), Justice Court (misdemeanors), Drugs, Financial Crimes (embezzlement and elder exploitation) and Juvenile Delinquency. In 2017, the office prosecuted 1,767 new cases. We filed 736 adult felony cases – 65 more than 2016-- and twice as many juveniles.

Every 12 hours, a new felony is committed in Missoula County. Every day, on average, a new child protection or involuntary commitment case is opened in Missoula County. Many of the crimes and petitions for protective custody are drug-driven as discussed previously.

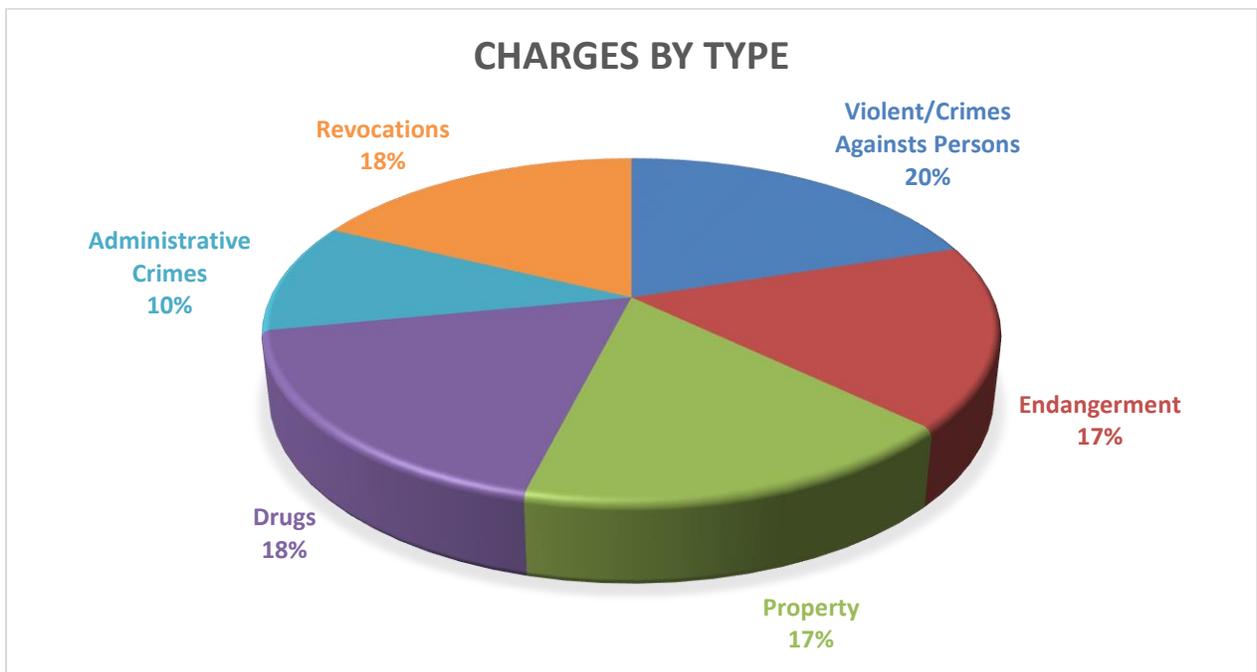
Crime type	2012	2013	2014	2015	2016	2017
Felonies	662	609	653	662	671	736
Misdemeanors	1,191	1,199	1,038	1,025	1,182	927
Juveniles				58	50	104
<b>Total Criminal cases</b>	<b>1,853</b>	<b>1,808</b>	<b>1,691</b>	<b>1,745*</b>	<b>1,903*</b>	<b>1,767*</b>
*Includes juveniles formally charged by the County Attorney's Office.						
*Source: Justware Case Management, New Dawn Technologies 2012-2017						

## *Breakdown of Charges in District Court in 2017\**

We categorize charges into 6 basic categories as follows:

1. **Violent Crimes/Crimes Against Persons** include family violence, non-family violence, 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.
2. **Endangerment Crimes** include DUIs, criminal endangerment, child endangerment, endangering the welfare of a child, reckless driving, negligent and vehicular homicide/assault.
3. **Property Crimes** include theft, burglary, embezzlement, elder exploitation, arson, forgery, trespass and criminal mischief.

4. **Drug Crimes** include possession, distribution, production, fraudulently obtaining dangerous drugs and possession of property subject to forfeiture.
5. **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.
6. **Revocation Proceedings** involve allegations that a probationer has violated the terms of a previous judgment including compliance violations, non-compliance violations and the commission of new crimes.



\*does not include traffic, paraphernalia or Justice Court tickets.

\*Source: Justware Case Management, New Dawn Technologies 2012-2017

### Crimes Against Persons Breakdown by Count

The Missoula County Attorney's Office filed the following charges into District Court in 2017:

- 132 counts violation of an order of protection
- 76 counts violation of privacy in communications
- 49 counts partner or family member assault
- 48 counts assault with a weapon
- 31 counts assault/aggravated assault

- 17 counts assault on a peace officer/assault with a bodily fluid
- 11 counts robbery
- 10 counts unlawful restraint
- 8 counts deliberate homicide
- 8 counts assault on a minor
- 8 counts sexual intercourse without consent
- 8 counts aggravated burglary
- 5 counts sexual abuse of a child/possession of child pornography
- 4 counts strangulation (new statute)
- 4 counts animal abuse/assault on a police dog
- 2 counts sexual assault
- 2 counts intimidation
- 1 count kidnapping
- 1 count stalking

### Notable Cases & Updates

#### **Emmanuel Gomez**

Emmanuel Gomez hit, kicked, and beat his girlfriend for months before he murdered her and dumped her body in Pattee Canyon in sub-freezing temperatures. Kirsten Pabst and Jordan Kilby successfully argued that Gomez should serve a life sentence without the possibility of parole so he will live out his remaining days behind the walls of the Montana State Prison.

#### **Becky Richards**

At her parole hearing this year, Seeley Lake woman Becky Lynn Richards finally admitted she shot her husband Jim after 25 years of claiming innocence. A Missoula jury convicted her of Deliberate Homicide in 1992 despite her claim that he committed suicide. The Montana Board of Pardons and Parole agreed with Deputy County Attorney James McCubbin and denied her parole. She will remain behind bars at the Montana Women's Prison for a least three more years.

#### **Albert Gaub**

Kirsten Pabst convinced the parole board at a recent hearing that 76 year-old Gaub should remain behind bars. Gaub was convicted of repeatedly molesting a 4 year-old child while working at a daycare. The board took note that Gaub had not completed sexual offender treatment while in custody and had never taken responsibility for his crimes.

#### **Markus Kaarma**

Lead Attorney Jen Clark led the prosecution team that convicted 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. The Montana Supreme Court recently upheld that conviction.

### **Erik Nugent**

Deputy County Attorneys Ryan Mickelson and Jen Clark prosecuted 47 year-old Erik Nugent for drugging and sexually assaulting several girls between the ages of 12 and 17. They argued that Nugent should be sentenced to 100 years in prison because of his predatory behavior. The Court agreed and imposed 100 year sentence with none of it suspended.

### **Nathanial Lake**

Prosecutors Suzy Boylan and Brian Lowney took Lake to trial for raping a woman at a public park in Missoula. The jury found him guilty and Lake was sentenced to 40 years with 20 suspended.

### **Wesley Smith**

County Attorney Kirsten Pabst and Brittany Williams handled the case against Smith for forcing his step-daughter to strip for him. He was also convicted of assault on a minor for putting chili powder in a toddler's mouth and guilty of assaulting his then-wife. The brave child testified against Smith and they jury believed her. The Judge imposed a 100-year sentence, but suspended 80 years and ordered Smith to complete sexual offender treatment.

## **The Civil Division**

Filings for child protective custody are at all time, record-breaking highs. We have four attorneys dedicated to working together with the Department of Public Health and Human Services to make sure that the most vulnerable victims of the drug epidemic—children of drug addicts—are cared for and safe. In 2017, we filed 195 new Dependent/Neglect cases in Missoula County.

Notably, of the 240 involuntary commitment petitions that were filed this year, more than 1/3 of the respondents were homeless. Because case management so often makes the difference between well-managed mental illness and homelessness, we are very concerned about recent cuts in services for the mentally ill and are bracing for the long-term effects of such a significant loss of essential services.

<b>Dependent Neglect cases filed</b>	2012	2013	2014	2015	2016	<b>2017</b>
	110	133	130	173	191	<b>195</b>

Source: Justware Case Management, New Dawn Technologies 2012-2017

<b>Involuntary Commitment cases initiated</b>	2012	2013	2014	2015	2016	<b>2017</b>
	111*	115*	231	257	246	<b>240</b>

\*low estimates. The data collection process changed in 2014 to better reflect actual numbers.

Source: Justware Case Management, New Dawn Technologies 2012-2017

## *Notable Cases*

**M2Green settlement.** Senior Deputy County Attorney Anna Conley represented the Missoula County Commissioners in filing suit against M2Green this summer, for back-taxes, and filed suit on behalf of the Missoula City County Health Department for clean up of community decay caused by years of systemic lapses. In the tax litigation, Conley successfully negotiated a settlement with Seattle-based Wakefield Kennedy, LLC for \$967,632.51, approximately 89 percent of what M2Green owed in back taxes, penalties and interest on the affected parcels. The community decay case remains pending.

**Mountain Water.** Senior Deputy County Attorney Matt Jennings represented Missoula County's interest in the Mountain Water litigation, initiated by the City. Jennings was able to ensure that the County's interest in Mountain Water's unpaid taxes would not be lost in the transition of the company.

**Former Smurfit-Stone wastewater discharge permit.** Senior Deputy County Attorney John W. Hart represented Missoula County working together with the Clark Fork Coalition and the Confederated Salish & Kootenai Tribes in litigation to revoke the wastewater discharge permit at the former Smurfit-Stone mill site. Hart successfully argued that it was no longer necessary to allow current or future mill site owners the right to discharge vast quantities of industrial wastewater directly into the Clark Fork River.

## Office Notes

### Awards

#### **Secondary Trauma Group**

Kirsten Pabst joined clinical social worker Andrew Laue, LCSW, and created the first of its kind secondary trauma program for prosecutors, designed to educate staff on the impact of trauma and provide tools to manage the effects of secondary trauma, enhance resilience and increase employee longevity. Hailed as an innovative success, the National Association of Counties (NACo) recognized Pabst and Laue with a **National Achievement Award** and, additionally, a **100 Brilliant Ideas in Government Award**.

*“Congratulations on receiving the National Association of Counties Achievement Award for your leadership on the Secondary Trauma Group. Montana is lucky to have Kirsten serving county employees who work with victims. Keep up the good work.”*

– Senator Jon Tester

**Deputy County Attorney Karla Painter** received a recognition award from the United States Postal Service for her assistance in prosecuting a complex mail-fraud case.

**Deputy County Attorney Mac Bloom** received special recognition from the United State Forest Service for his work in bringing members of a poaching ring to justice.

**Senior Deputy Matt Jennings** was recently recognized by the Missoula County Board of County Commissioners for his professionalism in representing the Missoula County in the Mountain Water litigation.

### Outreach

**Charity & Volunteerism.** Our office proudly participates in several local charity events throughout the year. Employees participate in the Big Brother and Sisters Bowl for Kids Sake, Special Olympics Torch Run, Polar Plunge and are involved in many other charity events.

Additionally, employees held a competitive but friendly inner-office food drive competition in which Team Kale took on Team Cake to see who could muster the most donations, ultimately donating over twelve boxes of food to the Missoula Food Bank.

The office organized a clothing exchange with donations given to Hellgate H.S. Families in Transition.

County Attorney Pabst volunteered at the Special Olympic State Games and for Opportunity Resources.

**Public Speaking.** Several attorneys in the office regularly engaged in public education outreach efforts. Jen Clark is a frequent instructor at the People's Law School and is a clinical supervisor with the Alexander Blewitt School of Law.

Kirsten Pabst gave recent presentations to Kiwanis, Rotary, the Western Montana Bar Association and Leadership Missoula.

Our attorneys are frequent guest lecturers at local schools, the University of Montana, the Montana County Attorney's Association, the YWCA, the Montana Victim Advocate Academy and various civic organizations. If you are interested in having an attorney speak to your group, please contact our office at 405-258-4737.

## *Legislative Changes*

The most recent legislative session brought several changes to statutes that affect daily operations at the County Attorney's Office. We have updated our practices to incorporate new mandates. One of the most positive improvements is the change in the laws governing prosecution of sexual assault. Our office was very involved in the drafting, lobbying and passage of the new statutes which better protect victims of sexual assault and encourages important conversations about consent.

Other changes include modification of the Persistent Felony Offender process—Montana's version of the "Three Strikes" rule. Also, the process for revoking a probationer's sentence for violating the terms of his or her judgment is more challenging with the new legislation. In addition, there is a new provision that allows a person to have old misdemeanors expunged under very narrow circumstances. We are working with our criminal justice partners to adapt our work flow to accommodate these new policies and objectives.

## *Next Up*

**Calibrate – Prosecution-Led Formal Diversion Program for Low Risk Offenders.** Last year, we announced our intention to explore the feasibility of starting Montana's first formal prosecution-led pre-trial diversion program. County Attorney Pabst and Office Administrator Lucy Clouse have been working with the Association of Prosecuting Attorneys and community stakeholders for the past 12 months to make this project a reality. In January, Pabst and Clouse will meet with representatives from the Center for

Court Innovation Court Treatment Programs and tribal Justice Exchange, along with local agency representatives from Missoula Correctional Services, the Office of the Public Defender, Flathead Reservation Reentry Program, Missoula County Detention Facility and local law enforcement to put the finishing touches on the new program.

Other states have successfully screened low-risk, first-time, non-violent offenders and “diverted” them from the criminal justice track and into a service-based, case management system offering supervision, addiction treatment, mental health services and an educational component---at significant cost savings. Data from other states with prosecution-led diversion programs tells us that investing in rehabilitation early in lieu of paying the high price of incarceration later saves resources and allows reallocation of criminal justice dollars to rehabilitate higher risk offenders. In short, these programs save money and increase community safety.

## *On the docket:*

**Pierce and Standingrock.** We are preparing for several complex trials in 2018. Tiffanie Pierce & Augustus Standingrock will each face trial for Deliberate Homicide. Pierce and Standingrock allegedly killed and dismembered a teenage girl and young man and participated in the attempted homicide of another Missoula woman.

**Hardy.** Caressa Hardy, a.k.a. Glenn Dibley, similarly faces two counts of Deliberate Homicide. Hardy allegedly killed two roommates in 2013 and took possession of one victim's financial assets. That trial is also scheduled to go before a jury in 2018.

**Bayford.** James Bayford will go on trial for his role in the Testicle Festival shuttle crash that killed 33-year-old Vannessa Anderson and 36-year-old Donny Barlow. In addition to two counts of Negligent Homicide, Bayford also is charged with six counts of felony Criminal Endangerment because of the injuries sustained by six other people in the shuttle.

**Richmond.** Jamison Richmond is scheduled to go to trial on April 4, 2018, on 2 counts of Attempted Deliberate Homicide for allegedly breaking into the home of his estranged wife in Frenchtown and trying to shoot her and another man. Richmond allegedly pistol-whipped the woman, then pointed the gun at her chest and pulled the trigger, but it did not fire.

## *Links and 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](#)