

JOURNAL OF CITY COMMISSION WORK SESSION
April 6, 2021

City Commission Work Session
Civic Center Gibson Room 212

Mayor Kelly presiding

CALL TO ORDER: 5:30 PM

Due to the COVID-19 health concerns, the format of the City Commission Work Session was held in a virtual video-conferencing environment.

ROLL CALL/STAFF INTRODUCTIONS: City Commission members participated electronically via Zoom Webinar: Bob Kelly, Tracy Houck, Mary Sheehy Moe, Owen Robinson and Rick Tryon. City Manager Greg Doyon, Fire Chief Jeremy Jones, Interim Police Chief Rob Moccasin, City Attorney Sara Sexe, Chief Prosecutor Neil Anthon, Deputy Prosecutor Mark Dunn, Legal Administrative Assistant Sandy Ranieri, Legal Secretary Charlotte Graves, Office and Legal Administrative Specialist Michele Haack and Paralegal/Legal Assistant Robin Beatty were present in the Gibson Room, and Deputy City Clerk Darcy Dea was present in the Commission Chambers.

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 as follows:

- Attend in person. The City will be following the Cascade County Board of Health and the Public Health Officer Orders. Masks will be required and social distancing will be enforced. Public following these directives may view and participate in the meeting from the Gibson Room. Please refrain from attending in person if you are not feeling well.
- 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.
- Provide public comments in writing. Submit comments via mail addressed to City Clerk's Office, PO Box 5021, Great Falls, MT 59403 or by email to: commission@greatfallsmt.net by 12:00 PM the day of the meeting.
- The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on cable channel 190, or online at <https://greatfallsmt.net/livestream>.

PUBLIC COMMENT

None.

JOURNAL OF CITY COMMISSION WORK SESSION

April 6, 2021

1. LEGAL DEPARTMENT: STATE OF OPERATIONS

City Attorney Sara Sexe and Chief Prosecutor Neil Anthon reviewed and discussed the attached PowerPoint presentation which included Legal Department: Attorneys and Staff, citations per year and per type, 2020 comparison, comparison of Legal Departments, 2019 citations per prosecutor, citations per prosecutor as of March 24, 2021, a week in the life of prosecutors, additional stressors, assistance from Civil Division, results, Legal Department lawyers' hours, summary of Legal Department staff, and recommendations.

Commissioner Moe inquired about the increase of criminal citations in 2020.

Chief Prosecutor Anthon explained that criminal citations include domestic violence, obstructing and resisting arrest, and requires more preparation time from prosecutors and administrative staff than traffic citations.

City Attorney Sara Sexe reported that outside counsel has been retained to provide Mr. Anthon and Mr. Dunn short-term relief with regard to managing the workload and providing an opportunity for more in office time to prepare and review other cases.

Mayor Kelly expressed appreciation to the Legal Department for its efforts with regard to the work load and stressors. He commented that the presentation is a good overview of the department's understaffing issues.

Commissioner Moe expressed concern with regard to the short-term issues of the Legal Department and she commented that the state of operations is at a crisis point. She expressed interest with regard to how other professions deal with similar kinds of stressors. She suggested that a short-term solution for the mental health issue is having an equivalent of locums or some form of sharing City to City. She pointed out that a long-term solution is a need for additional personnel.

Commissioner Tryon commented that the state of operations is a wakeup call and at a crisis point. He expressed concern with regard to the morale and burn out issue in the Legal Department. Commissioner Tryon concluded that the Legal Department's state of operations is a priority and needs to be considered with regard the Fiscal Year (FY) 2021 budget process.

Commissioner Robinson received clarification that Municipal Court staff is responsible for scheduling Jury and Non-Jury trials and that Jury trials are held in the Commission Chambers for social distancing purposes. Commissioner Robinson expressed support of hiring additional staff members; however, he inquired if volunteers could assist with the work load as well. He expressed concern with regard to the Legal Department's current state of operations being unsustainable. Commissioner Robinson requested that the PowerPoint with Staff's recommendations be provided to the Commission.

City Attorney Sexe explained that the City is currently working with Cascade County Law Clinic Attorneys who need to fulfil their required 50 hours of free legal services.

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Commissioner Houck expressed concern with regard to the Legal Department's state of operations, lack of providing the public with expeditious trials, assuming responsibilities that were previously handled by the Police Department, as well as the recruitment process and budget time frames.

City Attorney Sexe responded that she and City Manager Doyon have discussed different alternatives with regard to correcting the state of operations. She further responded that the Prosecutor position is currently advertised and the Police Department is understaffed as well. City Attorney Sexe announced that she will be retiring in September 2021 and would like to see the issues corrected before she leaves.

Mayor Kelly mentioned that every department has stressors and works hard; however, the state of operations in the Legal Department is a continuation of a problem, in a crisis situation, and needs to be addressed. He commented that City Departments work together, need to be fully staffed and run efficiently. The Commission will await Manager Doyon's recommendations with regard to the Legal Department's state of operations.

Fire Chief Jeremy Jones explained that the Fire Department and Legal Department work together with regard to issued citations for Safety Inspection Certificates (SIC's). He added that the workload of the Legal Department needs to be addressed in order to prevent bottlenecking Public Safety Departments from being efficient.

Interim Police Chief Rob Moccasin commented that whatever the Police Department does affects the Legal Department and addressing the state of operations for both departments is critical.

DISCUSSION OF POTENTIAL UPCOMING WORK SESSION TOPICS

The April 20th work session will consist of a Neighborhood Council #6 update and a TIF Program Allowances update. A topic for the May 4th work session will include an affordable housing update. The May 18th work session will consist of a Neighborhood Council #9 update and a COVID relief and America Rescue Funds update.

ADJOURN

There being no further discussion, Mayor Kelly adjourned the informal work session of April 6, 2021 at 6:50 p.m.

Legal Department: State of Operations

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

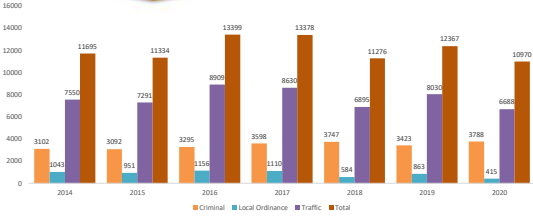
Legal Department: Attorneys

- 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



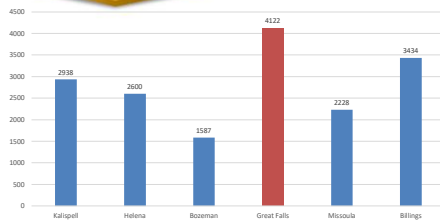
2020 Comparison

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

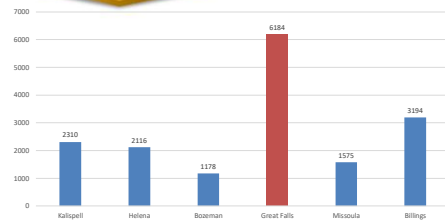
Comparison of Legal Departments

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 . . .



How many trials are currently scheduled?

(as of 3/26/21)

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



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.
- COVID issues

Assistance from Civil Division

- Through March, estimated ¼ of Assistant City Attorney's time
- Handles Appellate Matters
 - Around 20 appeals filed and briefed in 2020, 8 already in 2021
- Handles Driver's License Petition Hearings In District Court
 - 6-10 in 2020
- Reviews Record Requests
 - 1376 requests in 2020
 - 396 requests as of 3/12/21
- Covers open Court/Prisoners when needed

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???

- 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
- Deferred Prosecution Agreements
 - 1608 in 2020
 - 368 as of 3/25/21
 - 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
- Cascade County Law Clinic potential cooperative agreement

Results???

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

Results???

- Lawyers' reluctance to assign administrative work to staff
 - Staff workload
 - Time to assign
 - Results in lawyers performing administrative work

Legal Department lawyers' 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

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

Recommendations

- More staff
 - With new location
 - Room for two additional staff members
 - Critical need
 - Paralegal/Legal Assistant/Investigator
 - Salary and benefits range \$61,195.39 - \$75,494.74
 - With this assistance, prosecutors will have more time for legal versus administrative work



- Prosecutor
 - Salary and benefits range \$85,859.80 – \$106,949.40
- Case management software
 - Build efficiencies with staff
 - Maintain electronic versus paper files
 - Estimated \$50,000
- Additional \$40,000 in outside counsel budget (already budgeted \$10,000)



- Questions???