

MISSOULA COUNTY ATTORNEY'S OFFICE

ANNUAL REPORT FOR 2020

Hello from desk of the Missoula County Attorney

This year presented some unique challenges for my office, county government and the entire justice system. COVID ground the already slow criminal process to a standstill, as we worked with our judicial counterparts to re-write the workflow—historically dependent on in-person participation—to accommodate remote charging, appearances, testimony, and public participation.

Additionally, the murder of George Floyd sparked protests and difficult discussions about race and justice at the Missoula County Courthouse and around the country. We are deeply committed to examining inequality in the justice system and greater community and will continue to make every effort to remediate damage caused by centuries of discrimination.

While local, state and national officials responded to the pandemic, Missoula experienced a significant rise in violent crime. While we fight hard to hold violent offenders accountable, we are also making strides toward a community-wide response to meth. Missoula Substance Abuse Connect received a \$248,000 grant to address pervasive meth addiction by bringing together a coalition of diverse nonprofit and governmental entities with the mission of implementing a comprehensive local meth prevention and treatment plan.

I was honored to be appointed to the Executive Committee of the National District Attorneys Association [NDAA] Board of Directors, a high-level group that responds to national crisis and guides criminal justice policies. I also chair NDAA's Well-being Task Force, an active group that offers training, resources and a weekly informative blog to prosecutors around the country.

We continue our efforts to improve the justice system through thoughtful criminal justice reforms, such as our mold-breaking prosecution-led diversion program. We also reinforce our pledge to work together with our criminal justice partners through Project Safe Neighborhoods, Just Response, Rocky Mountain HIDTA and other multi-disciplinary teams. Working better together improves communication, reduces inefficiencies and strengthens policies, designed to protect the people who live in this great county.

Thank you for your interest in our office and the Missoula County Attorney's Office Annual Report for 2020. Please call the office at 406-258-4737 or email me at kpabst@missoulacounty.us if you have any questions or concerns.

Stay well.



Kirsten H. Pabst
Missoula County Attorney

The Criminal Division



Approximately every 12 hours a new felony is committed in Missoula County. The criminal division of the County Attorney's Office serves to maintain public safety by holding serious offenders accountable. Additionally, we strive to use limited justice dollars efficiently to help reduce the number and severity of offenses over the long term, which requires engaging in reform efforts like prosecution-led diversion, pre-trial release, conviction integrity, criminal mediation and others. While bringing violent criminals to justice, we are also exploring new ways to rehabilitate lower-risk offenders so they can keep their jobs, maintain cultural connections, parent their kids and give back to the community. Finally, we embrace the goals of restorative justice: involving victims in the reparation process and obtaining restitution whenever possible.

COVID and local crime rates

Violent crime, specifically domestic violence, has significantly risen since the Spring [nationally](#) and [locally](#), reversing the positive trend in late 2018 and 2019. Prior to COVID, we had a 25% drop in violence. In late spring, when COVID-related restrictions went into place, we started seeing statistically significant increases in inter-personal violence and crimes of endangerment, which include strangulation, high-speed chases, felony DUIs and exposing children to dangerous drugs. In April through June, for example, aggravated assaults were up 31% over last year and the next quarter, July through September, we saw 65% more aggravated assault arrests than last year. Interestingly, fewer misdemeanors and tickets were filed into Justice Court and the number of juvenile delinquent cases was down, in part because of COVID-related school closures.

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Crime by year

Crime type	2012	2013	2014	2015	2016	2017	2018	2019	2020
Felonies	662	609	653	662	671	736	764	747	739
Misdemeanors*				7519	7708	7569	7637	6202	4521
Juveniles**				58	50	104	86	77	58
Total Criminal cases				8239	8429	8409	8487	7026	5318

Source: Justware Case Management, 2020; Full Court Enterprise, Missoula County Justice Court.

*Misdemeanors--note that the calculation for misdemeanors has changed resulting in a higher but more representative snapshot of local crime, and now includes all misdemeanors filed into Justice Court, including traffic tickets, whether or not a new prosecution case is opened in our office. **Juveniles formally charged by the County Attorney's Office weren't tracked until 2015.

The drug trade's devastating impact on our community

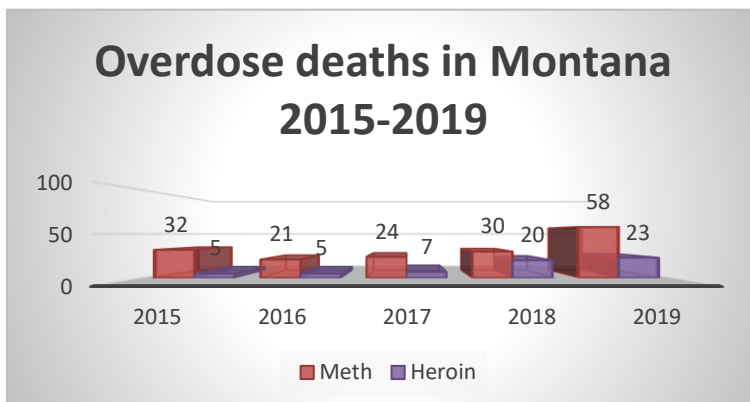
Methamphetamine continues to be a major crime driver in our region, though we are seeing a steady increase in heroin too. According to the Rocky Mountain HIDTA 2020 Threat Assessment, drug abuse crimes increased by 29% from 2014 to 2018, and the amount of meth seized by our task forces nearly doubled over the last 5 years.

Throughout Montana, the number of meth-related overdose deaths increased 81% since 2015 and heroin overdoses

deaths increased by 360%. In 2019, HIDTA investigated 20 multi-state drug trafficking organizations (DTOs) and 20 local DTOs across Montana, with the majority of drugs coming into Montana from Washington, California and Nevada. 7 cases investigated

were identified as money laundering organizations (MLOs). 2 MLOs were determined to be criminal gangs using violent tactics and 5 MLOs engaged in sophisticated laundering schemes. Firearms seized by investigative task forces increased 94% since 2012. Our office works closely with the US Attorney's office and the High Intensity Drug Task Force to disrupt DTOs in our community.

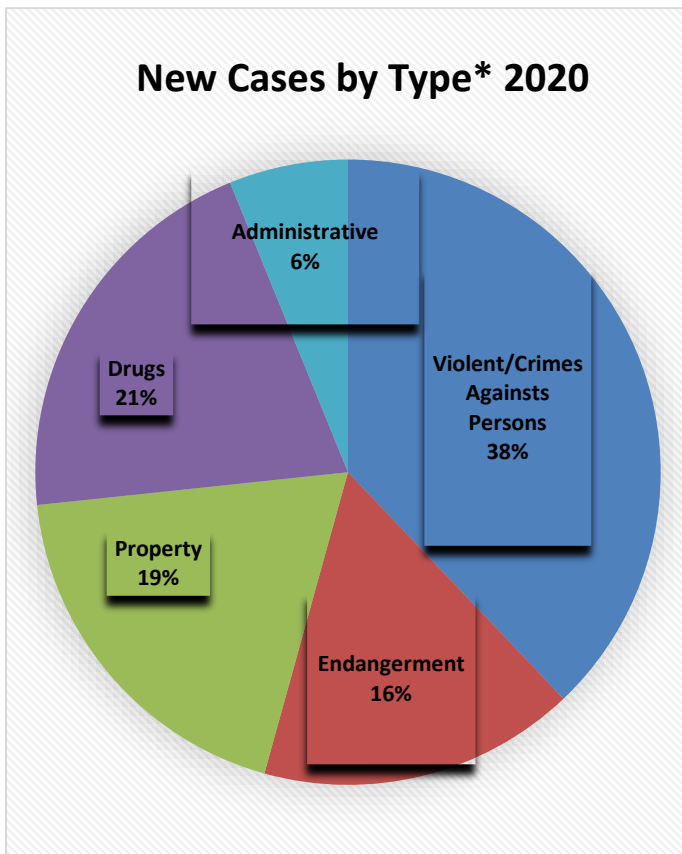
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Source Rocky Mountain HIDTA 2020 Threat Assessment

Crime by type

We filed more cases involving crimes of violence and endangerment than in previous years—with marked increases beginning in May—and fewer property crimes and administrative crimes, such as failure to register or obstructing a peace officer. Felony drug prosecutions remain fairly constant as the use, abuse and sale of dangerous drugs—predominantly meth and heroin—continue to drive most other crime categories.



Case type categories:

Violent/Crimes Against Persons include interpersonal 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 and arson.

Property Crimes include theft, burglary, embezzlement, elder exploitation, 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 evidence, destruction of a communication device, resisting arrest, escape, bail jumping, disorderly conduct and various weapons violations.

* Crime Types for purposes of this chart do not include traffic tickets

Source: Justware Case Management, New Dawn Technologies 2020

Criminal Justice Reforms

We continue to look at ways to improve the criminal justice process to make it more fair and more efficient. Some of our reform efforts include Calibrate, Montana's first formal Prosecution-Led Pretrial Diversion program, our conviction integrity initiative, our criminal mediation program and efforts at bail reform and pre-trial release for lower-risk offenders. We've modified our procedures to reduce overall detention time and stopped prosecuting misdemeanor marijuana cases, diverting resources to higher priority crimes. We've offered incentives for those charged with driving while license suspended to encourage them to take necessary steps to get a valid license. Our office also supports and works with Missoula's alternative courts like Drug Court, Veteran's Court, Mental Health/Co-occurring Court and ROAD Court.

Calibrate—Prosecution-led Pre-trial Diversion program

The Calibrate Pretrial Diversion Program is a prosecution-led diversion program based in the Missoula County Attorney's Office, started in 2019, with Ray Reiser as coordinator. The program identifies low-risk individuals early in the criminal justice process and gives them an opportunity to avoid the consequences of a criminal conviction. Efforts are made to include victims in decisions collecting restitution is a priority. In the past 12 months, participants in Calibrate paid a total of \$21,706.70 in restitution, which goes directly to victims.

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In addition to making financial reparations, participants commit to addressing the root issues by engaging in individualized case plans, which might include conditions like performing community service, taking a parenting class or obtaining relevant counseling. Upon successfully completing the plan,

the criminal charge is permanently dismissed. Calibrate reduces the number of justice-involved people in our community, improves participants' chances of being successful in the future and saves taxpayer dollars.

Although the program is prosecution-led, referrals to the Calibrate Program come from defense attorneys, law enforcement officers and staff at the detention facility. Once referred, they undergo a screening process to determine whether they are eligible to participate. COVID-19 forced the Calibrate Program to pivot to the use of video conferencing technology which has made it easier for rural clients to participate.

In 2020, 42 people entered the Calibrate Pretrial Diversion Program, twice the number we had originally anticipated. 11 people have already successfully completed the program, 2 were unsuccessful, and, at the end of 2020, there were 32 participants enrolled, a number that continues to grow. Significantly, during 2020 the total number of days that participants were enrolled in Calibrate Pretrial Diversion, rather than being in jail, on pre-trial supervision or on probation, was 7,564.



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The result is that both the county and the state save significant resources, which can then be reallocated to higher-risk offenders. Studies show that *both* groups—low-risk participants and high-risk parolees—perform better and are less likely to reoffend under this scenario.

The County Attorney's Office's commitment to victims' rights and restorative justice shines through in the day-to-day operations of the Calibrate Program. We are proud of its success.



The Civil Division

The civil division consists of three units: Civil Litigation Unit, Child Protection Unit, and Involuntary Commitment Unit and is made up of 8 attorneys, a coordinator, 2 paralegals and 2 administrative assistants.

Civil Litigation Unit

The primary role of the 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, 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 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, Missoula Conservation District, and rural fire districts.



Our office continued its in-house defense model, saving significant tax resources by defending several claims against the county, rather than pay outside counsel defense fees.

The pandemic had a profound impact on nearly every county function and process. Beginning in March, our civil attorneys spent significant time assisting the Commissioners and county staff to develop ways to deliver basic public services timely and remotely

and still comply with Montana's expansive open government and public participation requirements. Our attorneys worked with county law enforcement and emergency operations personnel to ensure the public safety of citizens who rely on the essential government services those county employees provide 24/7. This included helping develop procedures and safeguards to keep detainees healthy at the county detention center and release those that did not require detention during a pandemic. Before the primary election in June and the general election in November, our attorneys collaborated with Elections Administration staff to lay the groundwork for a safe, legal and transparent election that saw record voter turnout but no significant issues. Our civil division worked with the City-County Health Department and Board of Health through the worst public health crisis in a century.

Our office continued its in-house defense model, saving significant tax resources by defending several claims against the county, rather than pay outside counsel defense fees. The Montana Supreme Court ruled in favor of Missoula County on three notable decisions in 2020. In one, the Court ruled the Missoula County could retain about 5 million dollars placed in trust during the city's dispute with Mountain Water. A second case confirmed a public access easement to the Bitterroot River that had been dedicated to the public in 1960. The final Supreme Court decision clarified that subdividers are required to comply with Montana's sanitation laws before filing land divisions with the Missoula County Clerk and Treasurer.

Child Protection cases

We continue to see an overall decline in the number of child protection cases filed in Missoula County since a peak in 2017. This year, we filed a total of 94 cases, down from 109 cases last year. The primary causes of abuse and neglect of children in our community continue to include parental substance abuse, specifically methamphetamine addiction, exposure of children to dangerous drugs and/or the exposure of children to intimate partner violence.

Child Dependent Neglect	2012	2013	2014	2015	2016	2017	2018	2019	2020
Number of cases filed by year	110	133	130	173	191	195	118	109	94

Source: Justware Case Management, New Dawn Technologies 2012-2020

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 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 represents CFS through each case and ensures the

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state's compliance with Montana statutes. The Court will then consider other permanency options for the child such as guardianship or adoption.

The Missoula County Attorney's Office Child Protection Unit is works closely with

programs and agencies in our county and state invested in ensuring the safety of children, helping parents address safety concerns and bettering the child welfare system including the Missoula County Family Treatment Court, Missoula ICWA Court, Missoula County Just Response Multidisciplinary Team and Montana Supreme Court Improvement Program.

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. Missoula ICWA Court is a specialized court and presides over the child protection cases involving Indian children in Missoula County. The goal of the Missoula 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. The restrictions of COVID-19 have impacted Missoula ICWA Court's ability to travel to the Tribal Nations in Montana this year to personally build relationships however the Missoula ICWA Court has been successful in its efforts to maintain virtual contact with tribal representatives and incorporating representatives of children's Tribes in the staffing of each ICWA case.

Involuntary Commitments in Missoula County

When a community members suffers a serious mental illness that results in them being a danger to themselves or others, State law requires a petition for involuntary commitment, so they can receive the medication, therapy and/or assistance they need.

In 2020, we filed 5% more petitions for involuntary commitment than we filed in 2019. A larger number of respondents were very ill, evidenced by the large increase in the number of contested court hearings and in the number that were ultimately committed to the Montana State Hospital.

Involuntary Commitments	2012	2013	2014	2015	2016	2017	2018	2019	2020
Number of cases filed by year	111*	115*	231	257	246	240	300	270	284

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

Source: Justware Case Management, New Dawn Technologies 2012-2020

We also work with local resources to divert mental health cases for local treatment. 75% of our diversions were successful, allowing 53 people to remain in the community. Our local facilities continue to be invaluable. Additionally, approximately 65% of respondents were emergently detained at a local facility or regional crisis house, instead of the state hospital, while their petitions were pending, at significant cost savings.

Office Notes

Two Deputy Missoula County Attorneys recognized for excellence in prosecuting domestic violence

On October 9, 2020, SVU prosecutors Ryan Mickelson and Selene Koepke received awards for Domestic Violence Prosecutors of the Year. October is Domestic Violence Awareness months and the County Attorneys Office sponsored an awards ceremony to recognize outstanding contributions to keeping victims of inter-personal violence safe.

Hearty Congratulations to all of the recipients:

Detective Nate Griesse & Detective
Rebecca Potton – Missoula Police
Officers of the Year
Detective Rebecca Birket – Sheriff
Deputy of the Year
Helia Jazayeri - Pro Bono Legal Services
Attorney of the Year
Ryan Mickelson & Selene Koepke –
Prosecutors of the Year
Brittany Simanton – Victim Witness
Coordinator of the Year
Kim Harvey – Advocate of the Year
Pam Greer – Volunteer of the Year
Beverly Sitton – Educator of the Year
Jacqueline Towarnicki – Healthcare
Provider of the Year



Working together to fight meth: Missoula Substance Abuse Connect

November 20, 2020. MISSOULA—Missoula Substance Abuse Connect, a coalition created to develop a comprehensive community plan to reduce substance abuse, including methamphetamine-related violent crime, in Missoula County, received a \$248,000 federal grant as part of an overall initiative to fight violent crime.

Missoula Substance Abuse Connect is a coalition of more than 40 non-profit, business and government organizations working to reduce demand for meth by developing a drug prevention, treatment and recovery support plan for the community. The coalition was organized through the leadership of United Way and Project Safe Neighborhoods

“This is an incredible opportunity for our community to collaborate on one of the most pressing challenges of our time—methamphetamine. Working together, we can prevent youngsters from ever using meth, provide local treatment for those struggling with addiction and prosecute and bring to justice drug dealers who come here to push meth,” said County Attorney Pabst.

(PSN), a U.S. Department of Justice initiative reinvigorated two years ago to reduce violent crime through enforcement and prevention.

“Drug enforcement is more effective if done in partnership with prevention and treatment programs that reduce demand. An epidemic of substance abuse – particularly meth use – is overwhelming local courts, jail and hospitals and is ravaging families. We must break this terrible cycle by providing greater access to effective prevention and treatment programs and support for people in recovery,” said Susan Hay Patrick, executive director of United Way of Missoula County. Missoula Substance Abuse Connect will be managed by United Way of Missoula County and a volunteer board of business and community leaders. Project leaders are recruiting an executive committee and working group from among the 40 public and private coalition member organizations. For more information about Missoula Substance Abuse Connect, contact Susan Hay Patrick, CEO, United Way of Missoula County, susan@MissoulaUnitedWay.org; 406-360-0596.

Public Trust seminar

Missoula County Attorney Kirsten Pabst, along with colleagues John Belton, District Attorney, Lincoln and Union Parishes (LA), and Dave Sunday, District Attorney, York County (PA), gave a panel presentation on Procedural Justice and Trust Building for Prosecutors, at the summer National District Attorneys Association conference on *The Challenge of Change: Prosecutors Leading the Way*.

Enhancing public trust requires we make sure participants *understand* their rights and responsibilities; feel like the process is *fair* regarding race, gender, sexual orientation; have a voice, or the opportunity to share their experience; and are treated with *respect* and dignity. Kirsten Pabst said, “It is such



an honor to work, share and present with such high-level national leaders, all deeply committed to criminal justice reform."

County Attorney Pabst was appointed to the National District Attorney's Association

ARLINGTON, VA – On July 31, the National District Attorneys Association unanimously selected Missoula County Attorney Kirsten Pabst to its Board of Directors as a Vice President of its Executive Committee. Pabst started her career as a prosecutor 25 years ago and has worked with the NDAA for the past 20 years as a trial instructor.

Formed in 1950, NDAA is the oldest and largest national organization representing state and local prosecutors in the country. With more than 5,000 members representing over two thirds of the state and local prosecutors' offices, NDAA is recognized as the leading source of national expertise on the prosecution function and is a valuable resource for the media, academia, government, and community leaders. NDAA's mission is to provide state and local prosecutors with the knowledge, skills, and support they need to ensure that justice is done and that public safety rights are protected. On being selected, Pabst said,

"What an honor to be chosen to work with such dedicated leaders. Criminal justice is at a crossroads on so many levels—racial inequality, gender inequality, mass incarceration—and it is exciting to be in a position to effect positive policy changes, not just at the local and state level, but nationally."

NDAA President Nancy Parr said, "Pabst was chosen because of her leadership and long-standing commitment to criminal justice reforms and prosecutor wellbeing initiatives. We welcome her expertise and look forward to working with her."

Prosecutor Well-being column takes off



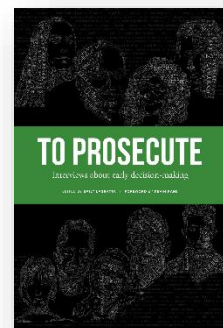
The President of the National District Attorney's Association appointed Kirsten Pabst as Chair of NDAA's new Well-being Task Force, which consists of a group of prosecutors working to improve the profession. The task force publishes a weekly blog called, [In Recess](#), which is available to the public by signing up for a free account. The task for also hosts a webinar series, and will offer trainings, retreats and resources.

On Pabst's selection as chair of the task force, NDAA President Nancy Parr said, "When I listened to Kirsten at our May 2019 Board meeting describe with such passion the secondary trauma program she started in her office, I made a note that I would ask her to lead a similar project for all of our prosecutors. We will be better prosecutors and better people serving all of our citizens if we have tools to assist us with our own wellbeing." The new task force aims to enhance the wellbeing, resiliency and growth for individual prosecutors, prosecution organizations and the profession as a whole.

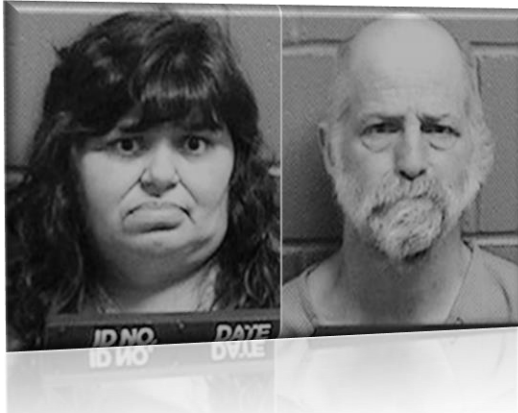
"I am so honored to be involved in this important project," Pabst said. "Prosecutors everywhere have seen and experienced firsthand the damage resulting from years of unchecked exposure to secondary trauma, ranging from addiction, burnout, health decline and even suicide. We are implementing necessary change for the wellbeing of our prosecutors and support staff to make this critical work more sustainable for prosecutors across the country."

To Prosecute, by Emily LaGratta

The Missoula County Attorney's Prosecution-Led Diversion program is featured in this new book. NDAA partnered with Emily LaGratta on this great new resource for prosecutors. [To Prosecute](#) is a collection of approximately 20 interviews with senior prosecutors from around the U.S.--including Missoula County Attorney Kirsten Pabst-- on early decision making and diversion.



Notable cases:



Angela and Malcolm Cobler were sentenced to 10 years in the Montana State Prison for abusing their two adopted children, locking them up and failing to provide food and a toilet. Prosecutor Lacey Lincoln worked together with social workers and Detective Crystal Crocker to bring these two to justice.



Jonathan Whitworth and Preston Rossbach were responsible for the execution-style murders of Jason Flink and Meghan McLaughlin, who were unknown to the defendants and happened to be in their path. Rossbach was convicted after a 10-day jury trial and sentenced to 60 years in prison with 10 suspended. Whitworth was sentenced to 100 years with no parole for 30 years. Lead prosecutor Jordan Kilby and Deputy Brittany Williams handled the case.



Johnathan 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. Bertsch pleaded guilty to all crimes charged and is awaiting forensic evaluation and sentencing.

On the docket:

Charles Covey, aka Jesse Nitsy, is facing a deliberate homicide charge for allegedly pushing a man out of his wheelchair and killing him with a blunt instrument. Lead Attorney Brian Lowney is prosecuting the case. Trial has not yet been set.

Christopher Newrider, faces deliberate homicide charges for allegedly shooting and killing Sundance Hernandez in a parking lot of an apartment complex. The case is set for omnibus hearing late February and Lead Attorney Jordan Kilby is the prosecutor.

Angela Tess Fallan, is currently being held in the Missoula County Detention center on \$250,000 dollar bail for allegedly shooting a man in the head. Prosecutor Meghann Paddock is working on the case. No trial date has been set.

Zakai Houck, is charged with one count of deliberate homicide for allegedly shooting a man in the head Monday evening while they were together in a moving car near the Miller Creek area. Houck is being prosecuted by Chief Deputy Matt Jennings. Houck is being held on a \$2 million bond pending trial, currently set to begin in June.

Darnell Reevis, is facing deliberate homicide charges after allegedly killing her uncle by beating him with a bat. Deputy County Attorney Mac Bloom is prosecuting the case, set for trial on June 4, 2021.

Inquest into the death of Jesse James Kale Brown was killed when Missoula Police Officers responded to a 911 call reporting domestic violence. Because Mr. Brown was in law enforcement custody, state law mandates a Coroner's inquest be conducted, which has not yet been scheduled.

Nancy Wright Chief Deputy Matt Jennings is prosecuting Wright for allegedly stabbing a neighbor while he slept, killing him. Jury trial is scheduled to begin March 22, 2021.

County Attorney's Office news links:

[We must work together to ensure justice for all](#), Missoula County elected officials statement in response to the killing of George Floyd

[Missoula County Attorney appointed to National Board](#)

[NDAA launches well-being task force](#)

[Missoula County files suit against the Department of Corrections](#) for breach of contract

[Violence and drugs dominate](#), in weekly report

[Pabst to chair national well-being task force](#)

[Couple sentenced to prison in horrendous child abuse case](#)

[Motel Murderer Jonathan Whitworth Sentenced to 100 years](#) |

[Preston Rossback sentenced for his role in homicides](#)

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](#)

[Department of Corrections Biennial Report](#)