



Prosecuting Attorney - Operations 00100.841.

Mission Statement

Seek the just result.

Function

The Criminal Division prosecutes virtually all felonies committed in Clallam County and all gross misdemeanor and misdemeanor offenses committed in unincorporated Clallam County and the incorporated Cities of Port Angeles and Sequim. Additional duties are set forth in RCW 36.27.020. The Civil Division provides legal advice to the County organization acting by and through its duly authorized constituents and appears for and represents the County in civil proceedings in which the County is a party. Additional duties are set forth in RCW 36.27.020.

The Support Staff Division is comprised of administrative professionals who assist attorneys in the delivery of legal services. Through formal education, training, and experience, support staff possess knowledge and expertise regarding the legal system and substantive and procedural law which qualify them to do work under the supervision of an attorney. Support staff are responsible for carrying out a variety of day to day functions in the office such as directly assisting attorneys, preparing pleadings and other documents, filing paperwork with the court, answering calls, scheduling appointments, and maintaining case files. Support staff multitask effectively and have strong organizational skills and attention to detail.

Trends/Events

Trends - Criminal Division

- The PAO is still contending with an attorney shortage. Currently, we are down two (2) felony level DPAs and one (1) misdemeanor level DPA. This attorney shortage mandates the triage of cases filed to the most serious, violent and person crimes in order to be maintained by limited DPAs.
- The onboarding of body cameras for CCSO and SPD has led to greater transparency in the criminal justice system.
- Mental illness continues to be inextricably intertwined with the criminal justice system. Competency evaluations are continuing to be ordered by the courts, which result in significant delay in time for trial calculations given the wait times at Western State Mental Hospital. This also impacts the delay on justice for the victims/survivors and the community.

- Drug use continues to feature prominently in many of the cases charged within the court system. Clallam County continues to be 2nd highest in the State per 100,000 for overdose death rates; only after Gray's Harbor, higher than King County and Snohomish and Pierce.
- Prosecutions for Possession with Intent to Deliver are with increasing frequency yielding large amounts of fentanyl in pill, powder, and chalk form. Cocaine and crack appears to be experiencing an upswing as well.
- The re-criminalization of Possession of a Controlled Substance (POCS) as a gross misdemeanor as compared to a class C felony offense focused on harm reduction and urges use of diversionary programs. As the statutory "fix" does not make it possible to send those charged into a diversionary program due to lack of due process for violations, the PAO is choosing to charge these cases rather than divert them. The number of POCS cases referred this year is 30. The filing of such charges does not occur until we have the confirmatory lab results back. Due to the backlog at the WSP lab, this could be 4-6 months down the road from the original arrest.
- The State Supreme Court's decision in State v. Blake has and will continue to require a re-deployment of attorney and staff resource within the prosecuting attorney's office. We are routinely contending with petitions to vacate convictions, sentences, resentences, requests for refunds and appeals. One Deputy Prosecuting Attorney is assigned per month (in addition to their regular caseload) to handle Blake matters. To provide a sense of scale, and by way of example only, in 2024, we've received 163 cases through June.
- The Clallam County Sexual Assault and Abuse Investigation Protocols were changed this year requiring all interviews of trauma survivors, not just children, be done at the CAC or a soft interview room with a DPA present. These interviews occur at all hours and not just during the weekdays; they occur in the evenings and on weekends, when necessary. This has a direct impact on attorney workload within the prosecuting attorney's office. (Seven Deputy Prosecuting Attorneys and one Victim Witness Coordinator have been qualified as child forensic interviewers and assist law enforcement with the interviews.) By way of example only, Deputy Prosecutor Attorneys were present in person, and often times with little to no notice, for the majority of the 55 interviews conducted at the Child Advocacy Center (CAC) from January – June 2024. This does not include those interviews that were conducted at the soft interview room at SPD for which we are also present.
- State law regarding juvenile offenders has shifted, with a renewed emphasis on rehabilitation. New legislation requires re-sentencing juvenile offenders who were sentenced years ago as adults. These hearings can require extensive preparation time, often involve expert witnesses, and are extremely time-consuming.
- The exaggerated portrayal of forensic science on crime television shows such as CSI: Crime Scene Investigation continue to influence jurors, who have come to expect an unrealistic level of forensics in law enforcement investigations and the prosecution's case-in-chief as a pre-condition to finding guilt.

- The ever-changing capabilities of cell phones, internet, and apps continue to expand the realm of investigations through google searches, trap and traces, cell phone downloads, GPS location and the like. This is ever changing and each DPA needs to stay apprised of the changes in order to best advise law enforcement and be able to deal with all issues that may arise in trial. This also serves as a serious impact on computer and cloud storage and exchange of information from law enforcement to the PAO. The terabytes of information that MUST be exchanged is immense and we have found that some law enforcement agencies do not have the capabilities to exchange this information as we require. The exchange of one hard drive costs upwards of over \$100 per hard drive. If there are multiple co-defendants and multiple hard drives per co-defendant, the cost is exponential to both law enforcement and the PAO.
- The prosecuting attorney's office continues to actively collaborate with fire departments and police departments for processing of incendiary fire scenes. Two of our Deputy Prosecuting Attorneys are now specialty trained in relation to the crime of Arson.
- Personalized trauma informed decline meetings with victims and survivors when a case is not prosecuted. These meetings do not count towards active cases but still take time for the review and for the meeting to explain the reasons and make sure the victim/survivor are aware of services available even without a prosecution.
- Trauma informed and victim centric prosecutions continue with full awareness and support of the vicarious trauma to those working cases including, but not limited to: Deputy Prosecuting Attorney's, Legal Assistants, and Victim Witness Coordinators.
- Increase in juvenile crime and charges by the PAO.
- The change in the pursuit law allows for law enforcement to pursue suspects again and we are already seeing more elude cases.

Events (first six months of 2024) - Criminal Division

- 253 cases referred to Superior Court (525 all last year).
- 711 cases referred to District Court I (1540 all last year).
- 57 cases referred to District Court II (145 all last year).
- 290 cases referred to Juvenile Court (290 all last year).
- The Superior Court backlog is 183 (July 2024); 122 new referrals/purposeful delay and 61 more awaiting further information (July 2024).
- The District Court (I and II) backlog is 455 (July 2024); 254 new referrals/purposeful delay and 201 additional awaiting further information, blood/tox results, or evaluation (July 2024).
- The Juvenile Court backlog is 60 (July 2024); 55 new referrals/purposeful delay; and 5 additional waiting further information, blood/tox results, or evaluation. (July 2024).
- Resolved two murder cases. State v. Jones and State v. Ojeda both resolved via a plea to Murder-2 and Murder-1 respectively.
- Resolved a controlled substance homicide case from the prison; State v. Lauren Smith and State v. Christopher Williams.
- Charged one murder case (State v. Aline Jones).
- Provided two (2) on-site responses to officer involved shooting/homicides/suspicious death scenes to provide real time legal support for law enforcement. These are multiple day responses that usually involve at least two Deputy Prosecuting Attorney's.

- Presented trainings for law enforcement and community groups on topics such as legislative updates, child forensic interviewing, lay testimony, expert witness requirements and testimony, strangulation, controlled substance homicides, court process and victim rights. The prosecuting attorney's office is available for trainings as requested by law enforcement and fire departments.
- Along with OPNET and Clallam Bay Prison, presented on the lethality of fentanyl to three (3) schools.
- Participated in multiple training to include topics such as: District Court and Superior Court prosecutions, new legislation, lab trainings on DNA, juvenile offender re-sentencings, childhood trauma, strangulations, evidence collection, Rapid DNA, body cams, U and T Visas, understanding systemic racism in the law, controlled substance homicides, fentanyl lethality, drug trends, arson, homicide, cold cases, appeals, implicit bias, victim's rights, and DV and SA prosecutions.
- Participated in six multi-disciplinary team (MDT) meetings.
- Participated in two peer reviews for child forensic interviewers.
- Participated in two quarterly STOP grant meetings.
- Provided regular appearances on local radio KONP with education about the criminal justice system.
- Participated in 20 OPNET meetings.
- One DPA assigned to serve as our Internet Crimes against Children (ICAC) representative and advisor of law enforcement.
- One DPA assigned to serve as the liaison for the Trueblood decision and implementation of fines imposed against the State for not complying with statutory guidelines for competency services.
- One DPA assigned to serve as liaison and working member of the Mental Health Court.
- One DPA assigned to advise OPNET and prosecute OPNET cases.
- One DPA assigned to assist WSP in researching criminal history for firearm purchases.
- Prepared 9 appeals for the Court of Appeals. 8 more appeals requiring briefs in the next couple of months. Prepared 12 appeals from District Court to Superior Court. Oral argument before the Court of Appeals on 5 occasions thus far this year.
- Prepared and sent press releases on cases of community concern.
- Administered written annual and probationary performance evaluations.
- Provided 24/7/365 communication and collaboration with law enforcement and OPNET on investigations of most Class A felonies, adult and child sexual assaults, suspicious deaths, overdose deaths and officer involved shootings. This also included advisement to KCIRT – Kitsap Critical Incident Response Team – law enforcement from several jurisdictions that respond to officer involved use of force and shootings.
- Prepared responses to the Indeterminate Sentence Review Board for potential release of sex offenders; included contact with survivor, locate and contact with original investigators, review of all materials and preparation of letter with recommendation.
- Prepared several responses to the Risk Review Board and Public Safety Review Panel for Western State Mental Hospital (WSH) for several not guilty by reason of insanity defendants and presented objections to the court. This included outreaching to all survivors of the homicides or assaults, contacting the original case investigators, preparing recommendations, reviewing all relevant materials and preparation for hearing.

- Implementation of electronic discovery and sharing with law enforcement and the defense bar.

Trends - Civil Division

- There has been a continued high demand for legal advice from county offices, departments, boards, and commissions.
- There has been a significant increase in the number of petitions for 14-day involuntary treatment (ITA) commitments in the first half of 2024. The PAO has received 14 petitions and conducted 2 contested hearings to date in 2024. This significant increase is primarily based upon changes in practice at OMC. Additionally, it is anticipated that the number of ITA petitions will increase exponentially when the Jamestown Healing Clinic opens.
- The number of citizens seeking to have their firearms rights restored and seeking to have prior convictions vacated continues to be steadily high. Additionally, recent changes to RCW 9.41.040 in July 2023, contain unfunded mandates which require the PAO to locate and contact victims and parties protected by protection orders in every petition for restoration of firearm rights.
- The PAO Civil Division continues to work with DCD, CCSO, and HHS/EH on code enforcement policy, practice, and practical enforcement of the county code. Regularly attend departmental meetings, advise the relevant departments, and identify problem cases for further legal action. In addition, the PAO has discussed cases for the filing of injunction actions with DCD code enforcement. The PAO is currently engaged in planning discussions with DCD to develop a voluntary abatement program to address nuisance properties with value owned by persons with financial and other problems which make owner clean up difficult or impossible.

The PAO Civil Division has started attending planning meetings for the upcoming Charter Review Commission process and will be providing legal counsel to the Commission starting in January 2025.

The Civil Division has seen a sharp increase in legal action requests from the BoCC/County Administrator. Of particular note, legal work related to the emergency operations center and Joint Public Safety Facility in the form of meetings, legal advice, document review, negotiation and document drafting, have been significant. Additionally, given the grant timing and issues with project “partners” it is anticipated that this project will likely require significantly more resources from the civil division over at least the next year.

Events (first six months of 2024) - Civil Division

- The Civil Division continues to be engaged in cases that have resulted from the decision in State v. Blake, including policy development, drafting order templates, and participating in a statewide work group. The Felony Division is handling individual requests to vacate convictions pursuant to Blake, while the Civil Division handles Blake related policy issues, class-action litigation, and reimbursement management and review of agreements with the administrative office of the courts for reimbursement to the county and the Superior Court Clerk.

- Responded to over 200 requests for legal advice. Requests have been received from every Department and from several boards and committees. The Civil Division has received 206 legal action requests as of 7/12/24, which is very similar to the 243 requests received by the same time last year.
- Single Bed Certifications from Peninsula Behavioral Health and West End Outreach Services had been significantly reduced in the past due to OMC's prior refusal to issue single bed certifications until recently. However, ITA hearings have sharply increased since January of 2024 with the PAO receiving and reviewing 14 petitions for involuntary treatment and conducting 2 recent ITA hearings in Superior Court.
- Litigation - Handled ongoing Environmental Health matters in District Court and litigation before the Clallam and Kitsap County Superior Courts. Ongoing work with outside counsel Keller Rohrback related to increased activity in opioid litigation.
- Land use related disputes and litigation in the form of LUPA actions have sharply increased. Clallam County currently has an active LUPA action pending in Kitsap County. Legal analysis, advice and litigation requests from DCD continue to be significant and are increasing. The Civil Division is engaged in review and advisement of DCD related to the upcoming GMA comprehensive plan update.
- Complex litigation is also generally on the rise. The Civil Division remains involved in five appeals to the Board of Tax Appeals currently with the County Assessor as our departmental client. Additionally, the Civil Division currently is representing the county in two separate PRA lawsuits in Clallam and Kitsap Counties.
- Policy Work Group continues to update County Policy.
- Presented trainings to boards and committees addressing topics including, but not limited to, Open Public Meetings Act and Public Records Act and presentations on first amendment auditors.
- Attended Public Records Reviews with the whole public records team and conducted monthly evaluations of responses for public records staff member.
- Attended weekly Clallam County Board of County Commissioner Work Sessions and Regular Meetings
- Civil Division Legal Assistant continues to make great progress on records management.
- Destroyed in excess of 400 case files that were eligible for destruction under applicable archive retention schedules.
- Administered written annual performance evaluations.

Trends - Support Staff Division

- The Legal Assistants have been required to learn and incorporate another new software program - Axon Justice Premier. The incorporation of both Legal Files and Justice Premier have changed procedures broadly.
- With the District Division continuing to operate with one less Legal Assistant, the Felony Legal Assistants have taken on more of the District assignments. This has required them to learn a new set of procedures for the District Court. On average, about 60 hours per month are spent on District Division work by non-District Division support staff.
- Additional Legal Assistant support work continues to be required on Blake cases (163 through July) which are not tallied as new referrals or new cases charged.

- The Civil Division Legal Assistant devotes time to responding to Public Records Requests. Many of the requests are for discovery-intensive cases, which require considerable time to locate and upload. In 2023, we received 118 Public Records Request. From January June 2024, we have received 65 Public Records Requests.

Events (first six months of 2024) - Support Staff Division

- The Clallam County Sheriff's Office, Port Angeles Police Department, and Sequim Police Department have been sharing body cam videos, photos, and audio clips electronically with our office through Axon (evidence.com). The office is preparing to share the same evidence with defense attorneys beginning July 2024.
- Four Legal Assistants participated in the annual WAPA Support Staff Training.
- Between January and June 2024, Legal Assistants have processed 1,311 referrals.
- Between January and June 2024, support staff have located and destroyed 975 case files that were eligible for destruction under the retention schedule.
- Promoted one Legal Assistant to Lead Legal Coordinator. The Lead Legal Coordinator will promote greater consistency between the criminal divisions, ensure internal training and deskbooks are high quality and updated, and provide support where needed.

Goals

Goals - Criminal Division

- Conduct timely review of all criminal referrals made to the Prosecuting Attorney's Office by law enforcement.
- Continue to gain proficiency in the use of Legal Files, and now Axon/Evidence.com, our new digital discovery platform for viewing audio/visual evidence, body cam footage and some
- Update processes and procedures for monitoring and reporting statistics using Legal Files.
- Cross-train attorneys and staff within the Criminal Division.
- Collaborate with law enforcement to submit information electronically, including the high amount of data held on cell phones and computers.
- Collaborate with defense attorneys to receive electronic discovery with the eventual goal of being virtually paperless.
- Expand the scope of Prosecuting Attorney's Office trainings afforded to all branches of tribal,
- Destroy all records that are beyond archive retention requirements.
- Hire and train two (2) felony level DPAs and one (1) misdemeanor level DPA.
- Attract, retain, and support employees to advance career service in the Prosecuting Attorney's Office.
- Maximize trauma support for employees of the Prosecuting Attorney's Office through the challenging cases we prosecute.
- Collaborate with the county to address any budget shortfall without compromising either public safety or the quality of justice for the citizens of Clallam County.
- Continue to collaborate with law enforcement to ensure public safety and quality of justice.
- Re-evaluate compensation for all positions to ensure the office remains competitive in the labor market.

Challenges - Criminal Division

- The Criminal Division is currently down 30% of its attorney resource. There are three open unfilled deputy prosecuting attorney positions, two of which have been vacant for over a year.
- Remediating the backlog of criminal referrals that have accumulated due to COVID-19 and attorney staffing shortages.
- Limitation in the county's technology infrastructure has hampered our ability to convert from paper to electronic practice and combat the "CSI effect". The inability to download discovery on our computers as they run out of space routinely. The inability to handle the amount of electronic discovery forthcoming from cell phone and computer downloads is only going to increase as more and more people carry more than one phone and the amount of data pools increases.
- The increase in serious crime has had a disproportionate impact on attorneys and staff workload within the office's Criminal Division.
- The lack of childcare resources within the community has emerged as a significant challenge for one or more employees of the office.
- The increase of CAC interviews due to the changed protocols requiring a DPA at each interview of a trauma survivor regardless of age.
- The increasing difficulty to maintain a work life balance while sustaining vicarious trauma on a daily basis.
- The inability to use Victim Witness Coordinators after hours or on the weekends due to their change from salaried employees to hourly severely impacts our ability to meet victims/survivors/witnesses where they are at due to schooling, work, or other obligations.
- Changes in caselaw requiring in custody defendants to appear in person and not over Zoom takes an extreme amount of time waiting for the in custody defendants to appear in court and extends the length of dockets exponentially.
- Lack of one point of entry with magnetometers for the courthouse makes every day a challenge for security. While there are security personnel present, the people within the courthouse are not screened through a magnetometer and it is only a matter of time before something bad happens. DPAs and VWCs are not always the best liked in the criminal justice system and so are at higher risk of assault/harassment by others.
- Juvenile law has changed over the past several years, making investigation of juvenile crimes more difficult and leaving many juvenile crimes unsolved.
- Due to the attorney shortage; there have been some rearranging of caseloads. Our half time appellate deputy has been pulled back into more cases and less appeals. This switch has necessitated that we contract with an outside appellate attorney to complete appellate work for our office. Thus far this year he has filed 5 briefs to the Court of Appeals and is working on 3 more. Also, our juvenile DPA has taken on a caseload in Superior Court which necessitates her having to split her time between two courts.

Goals - Civil Division

- Provide quality advice to the county and county departments on diverse legal issues that arise in all county departments.

- Assist the county in updating development regulations and specifically those pertaining to storm water and shorelines and advise DCD in the comprehensive plan update process.
- Train county staff on the ever-changing rules regarding open government and public records compliance.
- Re-evaluate compensation for all positions to ensure the office remains competitive in the labor market.
- Destroy all records that are beyond archive retention requirements.
- Cross-train attorneys and staff within the Civil Division.
- Review and revise county policies through participation in the Policy Work Group.

Challenges - Civil Division

- Not being alerted by clients as to the existence of a matter until after it has developed into a problem with attendant liabilities.
- Preventing and/or mediating intramural disputes between county officials and/or department heads.
- Negotiating the myriad of ethical dilemmas that present when intramural disputes between county officials and/or department heads occur.
- The significant increase in land use related disputes, and issues present many extremely complicated legal questions which require an inordinate amount of attorney time in research, writing, and litigation representation.
- The significant increase in demand for legal advice, document review and drafting, and negotiations for the BoCC related to large multiple partner public works/construction projects.
- The lack of childcare resources within the community has emerged as a significant challenge for one or more employees of the office.
- Employee retention has been a challenge with the recent loss of two civil attorneys and an ongoing challenge in finding qualified attorneys to fill the currently vacant position.

Goals - Support Staff Division

- Fill the open Legal Assistant position in the District Division.
- Implement a Legal Assistant job series (Legal Assistant I, Legal Assistant II, Legal Assistant III), consistent with what has already been done in other county departments, in order to remain competitive with other county offices and support a career service model.
- Re-evaluate compensation for all positions to ensure the office remains competitive in the labor market.

Challenges - Support Staff Division

- The implementation of body worn cameras has increased the discovery submitted to our office, which has created extra work for the legal assistants. The video footage will need to be documented, stored, and duplicated for defense. Additionally, we have acquired and are learning a new software program (Evidence.com) in order to efficiently store and access electronic discovery such as body worn camera videos.

- Discovery is received through multiple methods from our law enforcement agencies which leads to additional time spent by support staff ensuring all discovery is presented to the assigned Deputy Prosecuting Attorney for review and sent to the defense attorney when the case is charged. Monitoring for additional discovery is required throughout the course of the case.
- Cases with significant discovery require an inordinate amount of legal assistant time. Documents need to be bates stamped (numbered), copied for defense, and uploaded electronically for attorney access. Media needs to be uploaded for attorney access, copied and labeled appropriately for defense.

Workload Indicators

	2022 Actual	2023 Actual	6/30/24 Actual
Criminal Division:			
Felonies Filed	401	324	149
Felony Hearings	4279	3240	1347
Felony Trials (Bench & Jury)	29	18	4*
Juvenile Offenses Filed	102	137	101
Juvenile Offenses Referred	227	292	170
Juvenile Hearings	906	1,181	524
Juvenile Truancy Hearings	142	130	179
Juvenile Drug Court Hearings	204	290	207
District Court Crimes Filed	1079	807	516
District Court Referrals	1547	1602	768
District Court Trials (Bench & Jury)	12	3	3*
District Court Prefile Diversion	12		
District Court Prefile Diversion Completions	5		
Civil Division:			
Public Record Requests	119	118	65
Legal Action Requests - Excluding Public Works	412	370	177
Legal Action Requests - Public Works	28	40	13
Forfeitures	4	1	0

*through May 2024

Grant Funding Sources

1. Washington State Legislature and Its Committees
2. Department of Justice (Federal)

Revenues

	2022 Actual	2023 Actual	6/30/24 Actual	2025 Budget
Taxes	0	0	0	0
Licenses and Permits	0	0	0	0
Intergovernmental Revenues	100,711	105,140	54,348	138,248
Charges for Goods and Services	177,120	186,242	99,923	268,048
Fines and Forfeits	1,579	1,030	200	1,200

Miscellaneous Revenues	2,704	1,752	840	3,200
Other Financing Sources	0	0	0	0
Transfers In	0	0	0	0
General Tax Support	2,581,404	2,446,671	1,349,673	3,012,783
Total	2,863,519	2,740,835	1,504,983	3,423,479

Expenditures

	2022 Actual	2023 Actual	6/30/24 Actual	2025 Budget
Salaries and Wages	1,936,756	1,863,672	972,891	2,353,098
Personnel Benefits	731,566	697,121	361,278	849,314
Supplies	20,050	18,396	6,701	16,016
Other Services and Charges	175,147	116,357	164,113	138,798
Intergovernmental Services	0	0	0	0
Capital Outlays	0	7,792	0	0
Debt Service - SBITA	0	37,498	0	66,253
Transfers Out	0	0	0	0
Total	2,863,519	2,740,835	1,504,983	3,423,479

Staffing

	2022 Actual	2023 Actual	6/30/24 Actual	2025 Budget
Full Time Equivalents	24.10	24.10	23.10	23.10