

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of Commissioners
Mark McCauley, County Administrator

FROM: James Kennedy, Prosecuting Attorney
Philip C. Hunsucker, Chief Civil DPA
Melissa Pleimann, Civil DPA
Ariel Speser, Civil DPA

DATE: January 21, 2025

RE: Prosecuting Attorney's Office 2025 Civil Division Work Plan Presentation

STATEMENT OF ISSUE:

The Jefferson County Prosecuting Attorney's Office presents their 2025 Civil Division Work Plan.

ANALYSIS:

The Prosecuting Attorney would like to have a workshop with the BoCC to provide an overview of the department with a focus on the 2025 Civil Division Work Plan. A copy of the PowerPoint Presentation for the workshop is attached.

FISCAL IMPACT:

Other than the time spent during the workshop, no financial impacts of the workshop will be required.

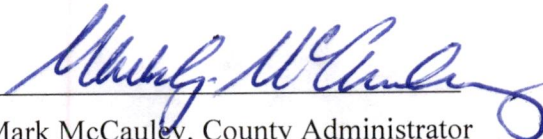
RECOMMENDATION:

Conduct the workshop.

DEPARTMENT CONTACT:

Philip C. Hunsucker, Chief Civil DPA

REVIEWED BY:

 1/17/25
Mark McCauley, County Administrator Date



*Jefferson County Prosecuting
Attorney's Office
2025 Civil Division Work Plan
Presentation
January 21, 2025*

Presentation by
James Kennedy, Prosecuting Attorney
Philip C. Hunsucker, Chief Civil DPA
Melissa Pleimann, DPA
Ariel Speser, DPA

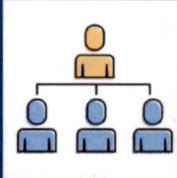
January 21, 2025



Introductions and Agenda

January 21, 2025

Agenda



PAO's Statutory Duties,
Organization & Criminal Division



The Civil Division is the County's
Law Firm



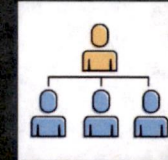
Civil Litigation



Significant PAO Civil Division
Priorities for 2025



January 21, 2025



Prosecuting Attorney's Statutory Duties & PAO Organization

Chapter 36.27 RCW (Prosecuting Attorney)



RCWs > Title 36 > Chapter 36.27

Complete Chapter

[HTML](#)

[PDF](#)

Chapter 36.27 RCW

PROSECUTING ATTORNEY

Sections

HTML	PDF	36.27.005	Defined.
HTML	PDF	36.27.010	Eligibility to office.
HTML	PDF	36.27.020	Duties.
HTML	PDF	36.27.030	Disability of prosecuting attorney.
HTML	PDF	36.27.040	Appointment of deputies—Special and temporary deputies.
HTML	PDF	36.27.045	Employment of legal interns.
HTML	PDF	36.27.050	Special emoluments prohibited.
HTML	PDF	36.27.060	Private practice prohibited in certain counties—Deputy prosecutors.
HTML	PDF	36.27.070	Office at county seat.
HTML	PDF	36.27.100	Statewide drug prosecution assistance program—Created.
HTML	PDF	36.27.110	Statewide drug prosecution assistance program—Advisory committee—Selection of project director.
HTML	PDF	36.27.120	Statewide drug prosecution assistance program—Personnel—Review of assignments—Supervision of special deputies.
HTML	PDF	36.27.130	Felony resentencing.

Authority of Prosecuting Attorneys

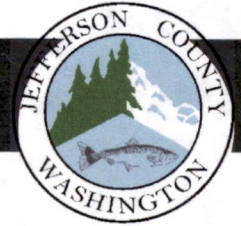


RCW 36.27.005

Defined.

Prosecuting attorneys are attorneys authorized by law to appear for and represent **the state** and **the counties** thereof in actions and proceedings before the courts and judicial officers.

The Prosecutor Appoints All the Lawyers for the County



RCW [36.27.040](#)

Appointment of deputies—Special and temporary deputies.

The prosecuting attorney may appoint one or more deputies who shall have the same power in all respects as their principal. Each appointment shall be in writing, signed by the prosecuting attorney, and filed in the county auditor's office. Each deputy thus appointed shall have the same qualifications required of the prosecuting attorney, except that such deputy need not be a resident of the county in which he or she serves nor a qualified elector therein. Each deputy appointed must be a citizen of the United States or a lawful permanent resident. The prosecuting attorney may appoint one or more special deputy prosecuting attorneys upon a contract or fee basis whose authority shall be limited to the purposes stated in the writing signed by the prosecuting attorney and filed in the county auditor's office. Such special deputy prosecuting attorney shall be admitted to practice as an attorney before the courts of this state but need not be a resident of the county in which he or she serves and shall not be under the legal disabilities attendant upon prosecuting attorneys or their deputies except to avoid any conflict of interest with the purpose for which he or she has been engaged by the prosecuting attorney. The prosecuting attorney shall be responsible for the acts of his or her deputies and may revoke appointments at will.

Two or more prosecuting attorneys may agree that one or more deputies for any one of them may serve temporarily as deputy for any other of them on terms respecting compensation which are acceptable to said prosecuting attorneys. Any such deputy thus serving shall have the same power in all respects as if he or she were serving permanently.

The provisions of chapter [39.34](#) RCW shall not apply to such agreements.

The provisions of RCW [41.56.030](#)(12) shall not be interpreted to permit a prosecuting attorney to alter the at-will relationship established between the prosecuting attorney and his or her appointed deputies by this section for a period of time exceeding his or her term of office. Neither shall the provisions of RCW [41.56.030](#)(12) require a prosecuting attorney to alter the at-will relationship established by this section.

The Prosecutor Appoints All the Lawyers for the County



***State ex rel. Banks v. Drummond*, 187 wn.2d 157 (2016):**

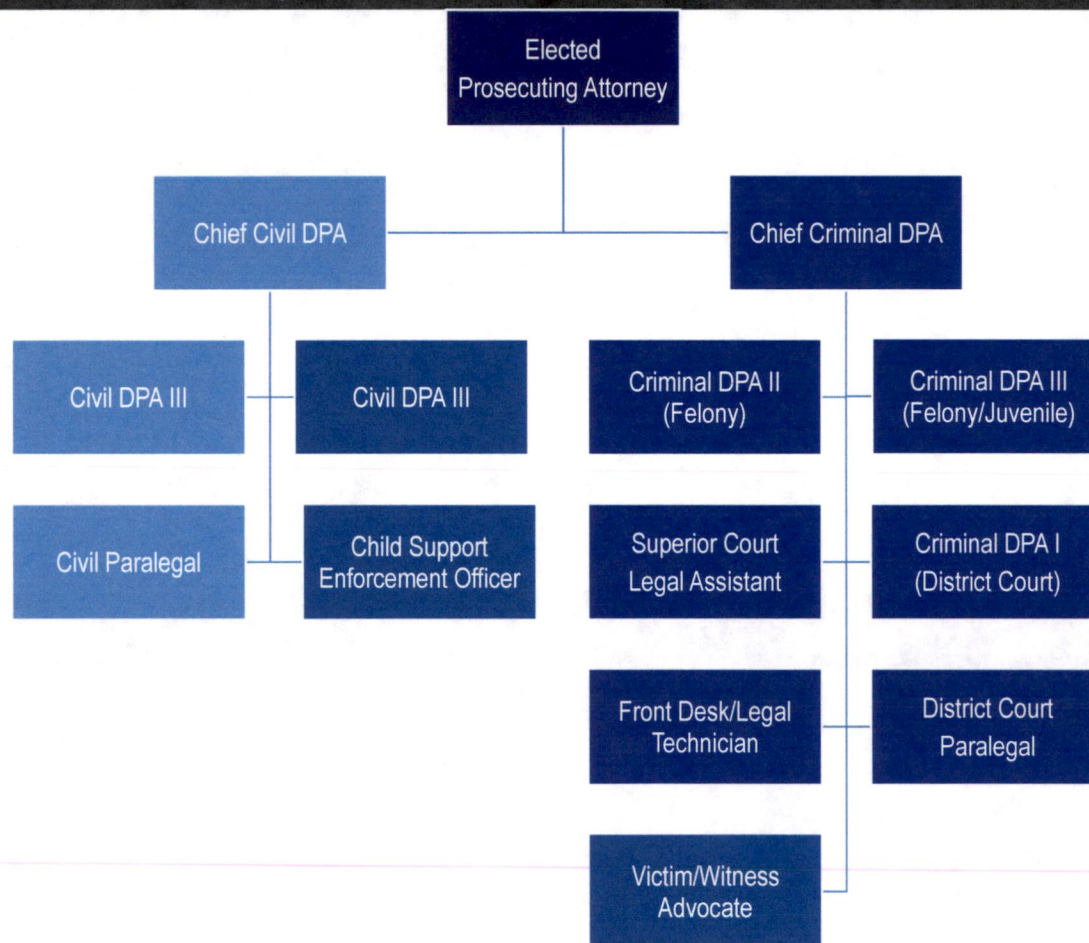
Washington State Supreme Court held that county's board of commissioners did not possess statutory authority to appoint outside counsel over the objection of the able and willing prosecuting attorney to provide legal services to the county.

- Under Revised Code of Washington (RCW) [36.32.200](#), the board did not have the authority to freely hire outside counsel.
- The statutes setting forth the board's general powers also did not authorize the hiring of outside counsel when the prosecuting attorney is available.

PAO Organization Chart (Criminal and Civil)



- Oversees Both Criminal and Civil Divisions
- Primarily Represents the State/City of PT in Criminal Matters
- Primarily Represents the County
- Partially Grant Funded
- "DPA" means Deputy Prosecuting Attorney





January 21, 2025

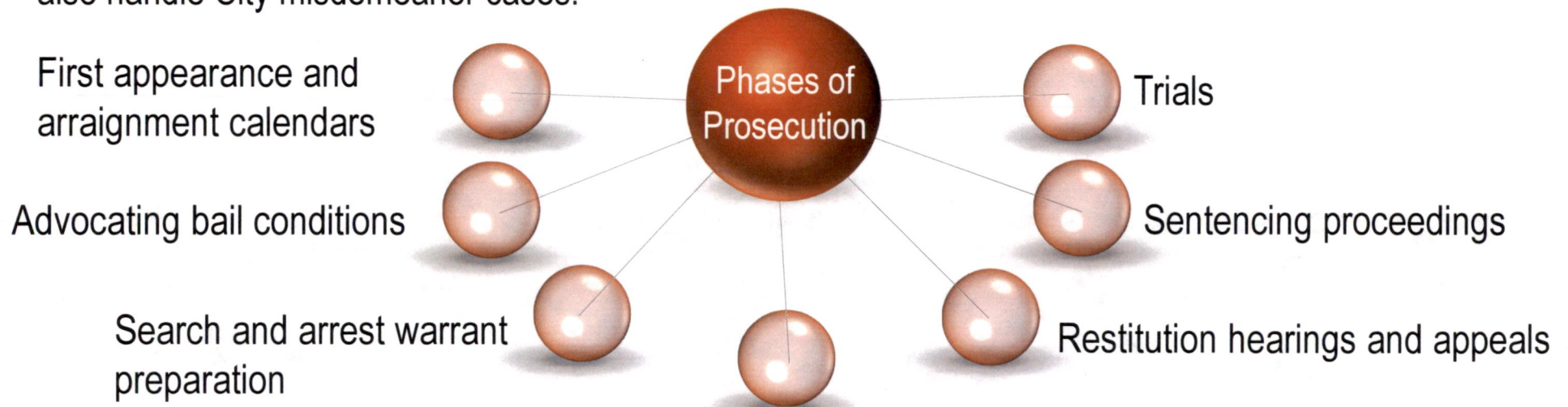


Overview of the Criminal Division

The Criminal Division of the PAO for Jefferson County



We represent the State of Washington in all felony, misdemeanor, juvenile offender, and infractions prosecutions in Jefferson County, except for offenses which occur in the National Park. The Criminal Department reviews all felony, gross misdemeanor, and misdemeanor cases for legal sufficiency. Charges are then filed in either Superior or District courts. Through a ILA funded by the City of Port Townsend, we also handle City misdemeanor cases.



Legal advice to law enforcement officers actively engaged in case investigation

Criminal Division Responsibilities



- The mission of this department is to protect people and protect property through just application of the criminal laws.
- The department works closely with all federal, state, and municipal law enforcement agencies, other prosecutors' offices, the courts, and the private bar.
- The department employs a team approach when charging and prosecuting criminal cases, which typically consists of a trial attorney, a legal assistant, and the services of the victim-witness coordinator.

Criminal Division Purposes



1 We ensure accountability for the commission of criminal acts by individuals.

- Prosecutors must serve the interests of justice.
- The office represents the community as a whole.
- Criminal prosecution is specialized work.
- Requires technical knowledge of the rules of investigating crimes, evidence, courtroom procedure, and criminal law.

2 We help victims.

- Requires sensitivity and compassion.
- The office employs trauma informed practices when dealing with the needs of victims of crime.
- Needs of crime victims addressed by the Victim Services Coordinator.
- The Victims Services Coordinator is the central contact for all victims, and assures that their concerns for safety, restitution and sentencing are brought to the attention of the judge at the appropriate time.

Rights of victims, survivors, and witnesses. (RCW 7.69.030)



Washington State Crime Victims' Rights

- To access to medical assistance without unreasonable delay.
- To reasonable protection from harm or threats due to your cooperation with law enforcement.
- To access to medical assistance without unreasonable delay.
- To reasonable protection from harm or threats due to your cooperation with law enforcement.
- To be given court dates.
- To be present in court during trial.
- To testify as early as possible in a court hearing.
- To a secure waiting area during court.
- To make a victim impact statement to the Judge at sentencing. The statement may be in person, in writing, or given by a representative.
- To be informed of the final disposition of the case.
- To have stolen or personal property returned as soon as possible.
- To have restitution ordered.
- To present a statement at any hearing about a pardon or change of sentence.

Additional Child Victims' Rights

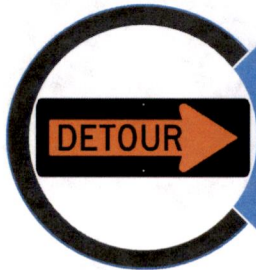
- To have the case explained so that the child understands it.
- To have a victim advocate present at all interviews and court proceedings.
- To have an advocate with the child prior to and after court testimony.
- To not have names, addresses or photos disclosed to the public without permission.
- To have an advocate tell the prosecutor about the child's ability to cooperate with prosecution.
- To have an advocate tell the prosecutor about the child's ability to understand court proceedings.
- To have an advocate tell the prosecutor about the potential effect of the case on the child.
- To referrals for services that assist the child and/or their family with the impact of the crime.
- To give a child's parents/guardians the name, address, and phone number of a local crime victim/witness program.
- To have law enforcement interviews done by personnel trained to interview child victims.

Examples of Crimes Prosecuted by the Criminal Division



- Assault
- Attempt to Elude
- Burglary
- Child Molestation
- Custodial Assault
- Cyber Harassment
- Delivery/Manufacture of Controlled Substance
- Domestic Violence
- DUI
- Driving without Driver's License
- Failure to Register as a Sex Offender
- Failure to Transfer Title
- Fishing Violations
- Forgery
- Fugitive from Justice
- Harassment
- Hates Crimes
- Hit and Run
- Identity Theft
- Indecent Exposure
- Intimidating a Public Servant
- Intimidating/ Tampering with a Witness
- Kidnapping
- Littering
- Malicious Mischief
- Minor in Possession
- Manslaughter
- Murder
- Negligent Driving
- No Valid Operator's License
- Obstructing a Law Enforcement Officer
- Operating a Motor Vehicle without Ignition Interlock
- Physical Control
- Possession of Child Pornography
- Possession of Stolen Firearm
- Possession of Stolen Property
- Possession of Stolen Vehicle
- Providing Liquor to Minors
- Rape
- Rape of a Child
- Reckless Endangerment
- Reckless Driving
- Residential Burglary
- Resisting Arrest
- Robbery
- Stalking
- Taking a Motor Vehicle without Permission
- Theft, including Timber Theft
- Trip Permit Violations
- Unlawful Hunting Big Game
- Unlawful Imprisonment
- Unlawful Possession/Use of Controlled Substance
- Unlawful Possession/Use of Firearm
- Unlawful Possession of Drug Paraphernalia
- Vehicular Assault/ Homicide
- Vehicle Prowling
- Violation of Protection Orders

Alternatives to Prosecution



Diversion Programs



Therapeutic Courts



Restorative Justice

Criminal Division: Committees and Staff Groups



- Behavioral Health Advisory Committee
- Behavioral Health Consortium
- Law Enforcement Assisted Diversion
- REAL Team
- Juvenile Offender Information Network
- Multi-Disciplinary Team
- Therapeutic Courts
- CAC Advisory Committee
- Community Coordinated Response Team
- Olympic Peninsula Narcotics Enforcement Taskforce



January 21, 2025



The Civil Division
is the County's
Law Firm

Civil Duties of the Prosecuting Attorney (RCW 36.27.020)



- 1 Legal adviser to the legislative authority
- 2 Legal adviser to the county government
- 3 Appear for and represent the county in civil actions
- 4 Prosecute all civil actions in which the county may be a party
- 5 Defend all suits brought against the county

Outside of Civil
Litigation, Civil
Division lawyers
are **advisors**,
without decision
making authority.

**Lawyers don't make policy
decisions.**

**Lawyer's advice is
confidential must be
protected from disclosure.**

Legal Advice Must be Kept Confidential



Washington State
Office of the Attorney General

AGO 2017 No. 5 - Aug 3 2017:

1. Are the members of the governing body of a public agency prohibited by the Open Public Meetings Act from disclosing information shared during executive sessions that are properly called under the Open Public Meetings Act?

Brief Answer: Yes. Participants in an executive session have a duty under the OPMA to hold in confidence information that they obtain in the course of a properly convened executive session, but only if the information at issue is within the scope of the statutorily authorized purpose for which the executive session was called.

2. Are the members of the governing body of a public agency prohibited by the Code of Ethics for Municipal Officers from disclosing information shared during executive sessions that are properly called under the Open Public Meetings Act?

Brief Answer: Yes. RCW 42.23.070(4) prohibits a municipal officer from disclosing confidential information learned in an executive session or otherwise using such information for personal gain.

3. If the law prohibits public officials from disclosing information exchanged during executive sessions, would a violation of that prohibition constitute a misdemeanor under RCW 42.20.100 and/or "official misconduct" under RCW 9A.80.010?

Brief Answer: It is conceivable that facts could arise under which the disclosure of information learned in an executive session under the OPMA might constitute a misdemeanor under one or the other of the cited statutes. But such cases would be difficult to prove and should rarely arise.

4. Under what circumstances, if any, may the governing body of a public agency exclude an elected member from executive session because of concerns about confidential information?

Brief Answer: A governing body may ask a court to enforce the confidentiality of an executive session through a writ of mandamus or injunction, pursuant to RCW 42.30.130. It is unlikely that a governing body would ordinarily have the authority to exclude one of its members from attending an executive session without such an injunction, but we do not rule out the possibility that some governing bodies may be authorized to do so pursuant to the statutes or local charters under which specific governing boards may operate.



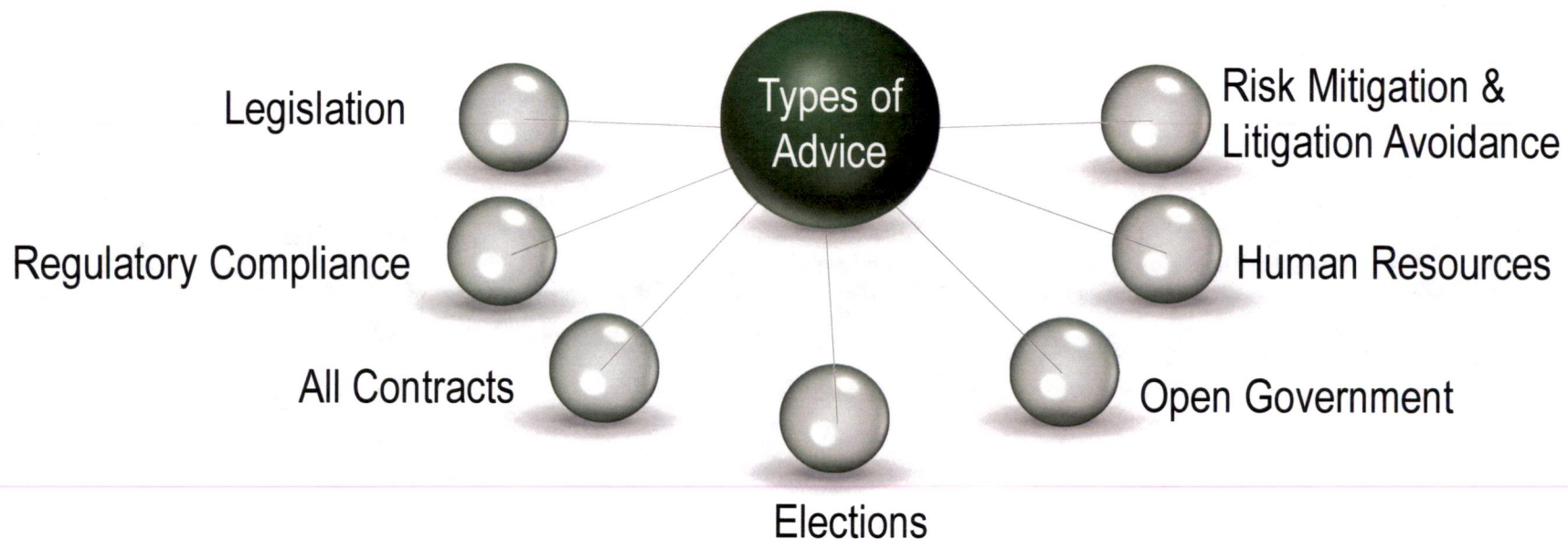
Legal Advice

January 21, 2025

The PAO Civil Division is the Law Firm for Jefferson County



The Civil Division provides a wide range of legal advice to all elected officials, county offices and departments, and independent boards and commissions. Elected officials include the Assessor, Auditor, Clerk, County Commissioners, District Court Judges, Prosecutor, Sheriff, Superior Court Judges, and Treasurer





Risk Mitigation and Litigation Prevention

January 21, 2025

Risk Mitigation and Litigation Prevention

- (1) Legal Review of Legislation
- (2) Legal review of Contracts
- (3) Settlement of cases and disputes
- (4) Pre-defense to claims against elected, officers, employees, and volunteers
- (5) Interface with Washington Counties Risk Pool (Hunsucker is the County's alternative director and is on the Executive Committee)



January 21, 2025

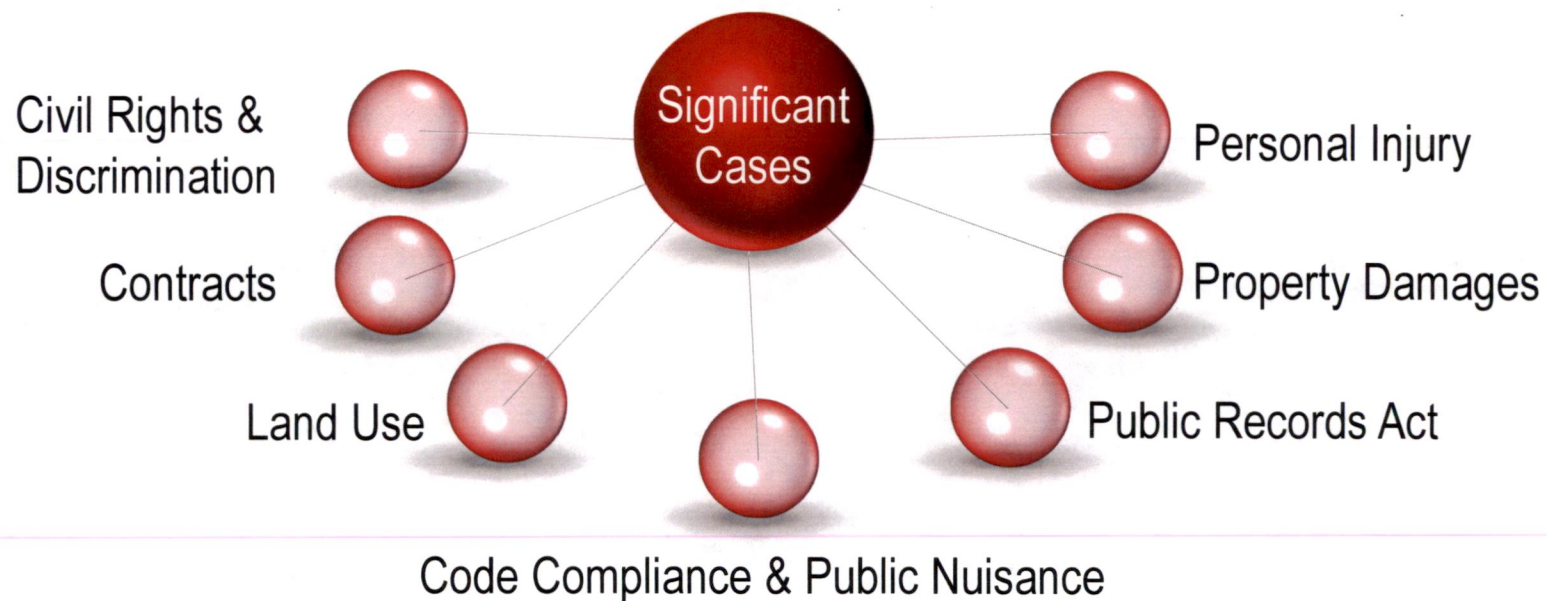


Civil Litigation

Representation in Civil Litigation



The Civil Division provides a wide range of legal advice to all elected officials, county offices and departments, and independent boards and commissions. Elected officials include the Assessor, Auditor, Clerk, County Commissioners, District Court Judges, Prosecutor, Sheriff, Superior Court Judges, and Treasurer



List of Civil Litigation Handled by the Civil Division



- Damages (civil rights, contracts, discrimination)
- Injunctions
- Writ of Review
- Civil Litigation Appeal
- Public Records Act
- Land Use Petition Act
- Growth Management Hearings Board
- Board of Tax Appeal
- Hearing Examiner Cases
- Code Enforcement
- Public Nuisance
- Solid Waste Cases
- Involuntary Treatment Act
- Extreme Risk Protection Orders
- Firearms Restoration
- Quiet Title Actions
- Tax Foreclosure Actions
- Civil Forfeitures
- Motions to Vacate Convictions
- Relief from Duty to Register as a Sex Offender
- Vehicle Impounds
- Dangerous Dog

Child Support Enforcement



- Statistics show that for families of children receiving child support, the child support is over 50 percent of the family's income.
- The Civil Division has a contract with the state to enforce child support for Jefferson County. The county gets grant funds for our efforts.
- The Civil Division runs an aggressive program for getting absent parents to comply with their court-ordered child support obligations—or face contempt of court proceedings.

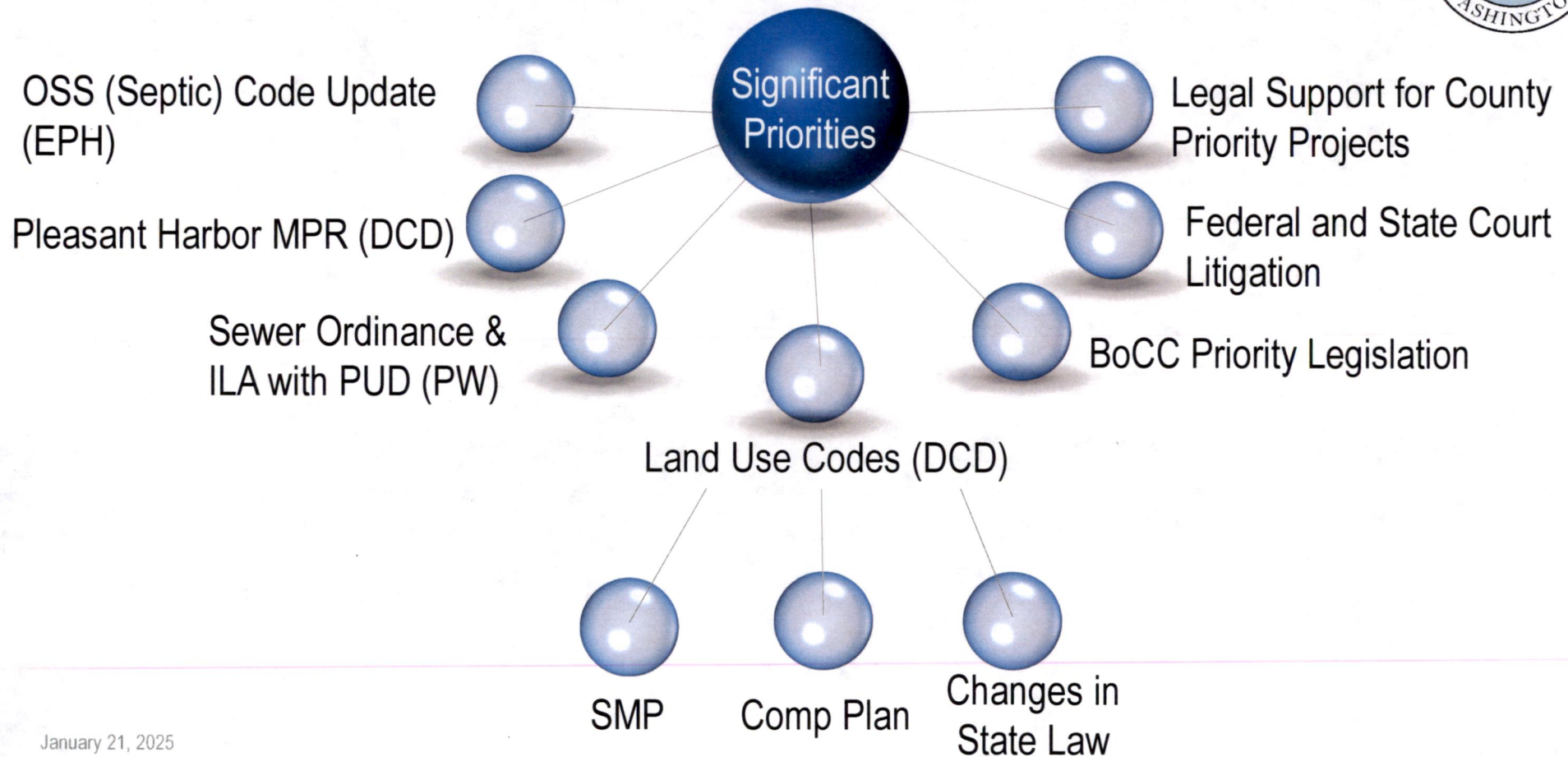
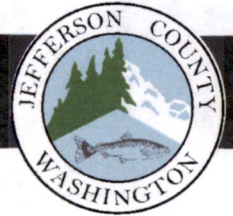


January 21, 2025



SIGNIFICANT PAO CIVIL DIVISION PRIORITIES FOR 2025

Significant PAO Civil Division Priorities for 2025





Thank you

James Kennedy, Prosecuting Attorney
Philip C. Hunsucker, Chief Civil DPA
Melissa Pleimann, Civil DPA
Ariel Speser, Civil DPA

Executive Sessions

RCW [42.30.110](#)

Executive sessions.

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW [5.60.060](#)(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;