



CITY OF BILLINGS MUNICIPAL COURT & JUSTICE SYSTEM OPERATIONAL REVIEW

FINAL DRAFT REPORT

March 22, 2024



This document contains the best opinion of the authors at the time of issue.

This Document is prepared by CGL Companies, LLC

Distribution limited to the City of Billings.

Copyright © 2024 CGL Companies, LLC

This work was created in the performance of work for the City of Billings, Montana. Any copyright in this work is subject to the Government's Unlimited Rights license as defined in FAR 52-227.14. The reproduction of this work for commercial purposes is strictly prohibited. Nongovernmental users may copy and distribute this document in any medium, either commercially or noncommercially, provided that this copyright notice is reproduced in all copies. Nongovernmental users may not use technical measures to obstruct or control the reading or further copying of the copies they make or distribute. Nongovernmental users may not accept compensation of any manner in exchange for copies.


All other rights reserved.



TABLE OF CONTENTS

1. EXECUTIVE SUMMARY	4
Methodology	5
Summary of Opportunities & Recommendations	6
2. BACKGROUND & CURRENT STATE	16
3. ISSUE ANALYSIS & RECOMMENDATIONS	22
1. Implementing a Second Judicial Division	23
2. Impact of Jail Overcrowding on Justice and Safety	25
3. Integration of Criminal Justice Information Systems	28
4. The Vital Role of Court Technology	30
5. Prosecutor's Case Management System	33
6. Defendants with Active Cases in Multiple Courts	34
7. Court Processes, Efficiency, and Early Resolution	35
8. Capacity for Continuous Improvement	40
9. Defendant Failure to Appear and Failure to Comply	42
10. Cases Involving Family Violence & Protective Orders	44
11. Cases Involving Mental Competency	46
12. Cases Involving Driving without Insurance	48
13. Prosecution Based Diversion Programs	49
14. Criminal Justice Coordinating Committee	51
15. Stillwater Court Building Security	54
APPENDIX A: LIST OF DOCUMENTS AND DATA PROVIDED OR OBTAINED	58
APPENDIX B: INTERVIEWS	60
APPENDIX C: REFERENCES	62
APPENDIX D: STILLWATER BUILDING FLOOR PLAN MARKUPS	65

EXECUTIVE SUMMARY



1



Section 1 EXECUTIVE SUMMARY

The review conducted for the City of Billings assesses current operations of the municipal court and justice system, focusing on areas of operational efficiency, agency coordination, technology, best practices, facilities, and detention among others.

This report identifies and discusses the issues, opportunities, and recommendations developed through the review process for the City and justice agencies to consider when developing future plans and programs.

Methodology

To assist in our review, we requested a large amount of information from the City. This included descriptive information about justice processes, case statistics, system summaries, and other documents of operations and programs. A list of the documents and data that the City provided for this project is provided in Appendix A.

We supplemented the written documentation and data provided by the City with information gained from extensive interviews with representatives of criminal justice agencies and other key justice system stakeholders.

These interviews centered on internal perspectives of key issues, successes, and areas for improvement in the municipal justice system. Those we interviewed provided valuable insight into the unique challenges faced by criminal justice agencies in Billings. A list of the individuals interviewed for this project is provided in Appendix B.

In addition to interviews, the project team conducted an on-site visit with representatives of criminal justice agencies and other key justice system stakeholders, including a tour of court and detention facilities and observation of court proceedings. The visit provided firsthand exposure to facility related issues, the approach to operations, and the delivery of justice related services and programs. In addition to the information obtained through interviews, observations and documents provided by the City, project team members obtained additional information from the Montana Supreme Court, and Montana Legislature via agency websites.

In analyzing the information obtained through the methods described above, our team identified several areas where attention appears to be needed and/or opportunities appear to exist for improvement. This served as the basis for the development of the information presented in this report, including analysis of the issues, and recommendations for the City and justice system agencies to consider for implementation moving forward.

Summary of Opportunities & Recommendations

The issues, opportunities, and recommendations identified in this review and presented in this report are consolidated into 15 areas. **Below is a summary of the 15 areas presented with formal recommendations for each.** This information is taken from the more detailed Issue Analysis & Recommendations section of this report. It is advisable to review the Issue Analysis section as it contains detailed analysis and additional recommendations that provide helpful insight and context.

- **Implementing a Second Judicial Division:** The ongoing expansion of the Court to a two-judge model can enhance the quality and efficiency of justice services by increasing judicial availability, allowing more time for courtroom interactions, offering more flexibility for scheduling, and providing more opportunities for walk-in appearances.
 - **Recommendation:** The Court should consider assigning cases to judicial officers based on an alphabetical division (defendant last name). This distribution of judicial workload will have the benefit of retaining the original judge for defendants with multiple or recurrent cases. Workload should be monitored for balance and adjustments made as needed.
 - **Recommendation:** The Court should consider developing schedules for the two divisions in a manner that promotes judicial availability for restraining orders and other matters that may require judicial attention on an immediate or walk-in basis.
- **Recommendation:** Given the doubling of judicial resources and calendar capacity, the Court should consider modifying schedules in a manner that allocates more time per case on calendars to promote positive courtroom experience and justice outcomes.
- **Recommendation:** Judges should coordinate to promote consistency in their delivery of justice such as similar sentencing for similar offenses.
- **Recommendation:** The City should consider funding additional staff positions necessary for the operation of the added court division. Needs for the new division appear to include the functions of a judicial assistant and bailiff.
- **Impact of Jail Overcrowding on Justice & Safety:** A limiting factor affecting the justice system is the non-availability of jail services when needed due to overcrowding and the prioritization of detainees in federal and felony cases. The lack of available jail space when needed is threatening the effectiveness of court decisions and the judicial system's role in addressing criminal behavior and community safety.
 - **Recommendation:** The City should be proactive in seeking additional jail capacity in conjunction with Yellowstone County.
 - **Recommendation:** The City and other jurisdictions should consider the Arraignment Center concept or similar collaborative approaches when considering jail facility options.
 - **Recommendation:** The Court should consider assessing current jail usage to determine if adjustments can be made to sentencing and release practices that may yield capacity for use in other cases.
 - **Recommendation:** The Court should consider investigating opportunities to maximize the use of alternatives to incarceration in areas such as electronic monitoring, home detention, probation, community service, etc.



- **Recommendation:** The City of Billings and Yellowstone County should consider conducting a justice system population analysis to better understand who is currently occupying jail beds and for how long. Such analysis will also identify process inefficiencies through the identification of case and offender profiles, model future population projections from current practices, and demonstrate variations to projections utilizing the effect of systematic changes in policy.
- **Recommendation:** The City should consider fully funding pre-trial monitoring services.
- **Integration of Criminal Justice Information Systems:** Municipal criminal justice agencies in Billings use technologies that are not connected yet are capable of integration needed to exchange information. Leveraging this capability can yield substantial benefits in terms of efficiency, access to justice, and justice outcomes.
 - **Recommendation:** Justice agencies should consider utilizing a workgroup consisting of justice agency representatives and technology professionals to identify the information needs of each agency, determine the integration standards of the systems involved, develop strategies, and implement solutions.
- **The Vital Role of Court Technology:** The Court recently received a new case management system known as Full Court Enterprise (FCE). Opportunity exists to explore the features and capabilities of FCE to automate functions and improve efficiency.
 - **Recommendation:** The Court should consider exploring the maximum level of support that the Montana Supreme Court and manufacturer of FCE can provide including training, identifying the capabilities of FCE to further automate functions and improve efficiency, identifying potential for local modifications to the system, opportunities to support and provide input for broader technology initiatives, and plans for system upgrades.
 - **Recommendation:** Given that FCE is used widely throughout Montana and the nation, the Court should aggressively pursue networking with other courts to identify best practices on use of the system and exploitation of system capabilities. The Court may also want to leverage their position as Montana's largest municipal court to facilitate conversation among FCE users.

Executive Summary

- **Recommendation:** The Court should consider developing an ongoing plan for automation (Court Automation Plan) that leverages the full capabilities of FCE and other technologies to streamline processes and eliminate manual processes. The plan and its implementation should be coordinated by a workgroup including the Court Administrator as the lead, along with court supervisors, essential court operational staff, and a representative from the City's technology department.
- **Prosecutor's Case Management System:** The prosecutor's information system known as Prosecutor by Karpel (PbK), is not currently connected and exchanging information with the Court's case management system known as FCE. Transfer of information between these two systems could create opportunities for procedural changes that could speed up the resolution of cases.
 - **Recommendation:** Similar to and in alignment with recommendations regarding other technology platforms such as FCE in this report, the Prosecutor's Office should network with other users of PbK and engage in activities to explore, plan, and leverage the capabilities of the system to exchange information, eliminate manual processes, and streamline operations.
- **Defendants with Cases in Multiple Courts:** It appears common in Billings for individuals to have active and prior cases in multiple courts creating issues that hinder the effectiveness of the justice system. Based on interviews with judges of the District Court, greater information sharing, communication, and coordination among courts would improve justice outcomes.
 - **Recommendation:** The Court should consider initiating conversation among justice system agencies in the region to promote a more coordinated response to defendants with active or prior cases in multiple courts. Justice agencies should have access to detailed case information across jurisdictions needed to coordinate and align efforts that lead to improved justice outcomes. For more details, please review the related information in this report.
- **Court Processes, Efficiency and Early Resolution:** Opportunity exists for greater efficiency through streamlining of court processes, expansion of online self-help resources, and focus on opportunities for early case resolution.
 - **Recommendation:** The Court and the City should consider recruiting and supporting justice system partners in a commitment to resolving cases at the earliest possibility.
 - **Recommendation:** The justice system should consider viewing the Initial Appearance as an opportunity to resolve the case, especially minor offenses.
 - **Recommendation:** The justice system should consider viewing the Arraignment as the centerpiece of procedural efficiency through advanced preparation with the intention of a plea settlement or diversion.
 - **Recommendation:** The City should consider reviewing the list of minor offenses of state law listed in Section 18-1308 of the Billings Municipal Code to determine if any additional eligible offenses remain to be considered for inclusion.
 - **Recommendation:** The Court should consider seeking out best practices among courts across the nation in maximizing the simplicity, intuitiveness, and helpfulness of information and services offered by courts of similar jurisdiction online.
 - **Recommendation:** The Court should consider utilizing the capabilities of FCE to complete and generate forms online, particularly in the courtroom. To the extent possible, data already within FCE should automatically populate form fields, affix signatures, route, and print for attorneys and defendants.

Executive Summary

- **Recommendation:** A justice system review should be conducted to examine “point of origin” data entry. Data entry of one agency should feed downstream agencies, such that the same information is not entered repeatedly among agencies.
- **Recommendation:** The Court should consider employing Measures 1 through 5 of the of the National Center for State Courts Court Tools and develop additional metrics pertaining to key operational and judicial process functions as indicators of performance that may be unique to the Billings Municipal Court.
- **Capacity for Continuous Improvement:** Opportunity exists for adjustment to the structure of the Court to more effectively support the functions of leading and managing change, pursuing opportunities for efficiency, and promoting a culture of continuous improvement.
 - **Recommendation:** The Court and the City should consider restructuring the Court in a manner that allocates supervisory responsibility for front-line staff to one or preferably two supervisors, providing the Court Administrator with greater capacity to focus on the management and leadership functions of their role as the Court’s senior appointed official.
 - **Recommendation:** The Court Administrator and Chief Judge should be availed of development opportunities sponsored by organizations such as the National Center for State Courts (NCSC), National Association of Court Management (NACM), and National Association of Presiding Judges and Court Executive Officers (NAPCO).
- **Defendant Failure to Appear and Failure to Comply:** Given the high rate and high cost of Failure to Appear for court hearings and Failure to Comply with court orders, focusing on strategies that promote voluntary compliance represents one of the more substantial areas of opportunity for justice system improvement in Billings.



Executive Summary

- **Recommendation:** Given the significant challenges and costs created by the high level of non-compliance by individuals with cases in the Billings Municipal Court, the Court should consider strategies focused on promoting voluntary compliance with appearance requirements and other court orders. For details, please review the information listed in the following sections of this report: Approaches to reducing Failure to Appear (FTA); and Approaches to Reducing Failure to Comply (FTC).
 - Providing automated reminders about appearances with texts, emails, and (automated) phone calls.
 - Provide opportunities to resolve cases sooner, reducing appearances.
 - Seek procedural opportunities to resolve cases with fewer events.
 - Emphasize in defendant documents appearance requirements and the consequences of a non-appearance.
 - Provide more open times for defendants to come to court to resolve matters. Consider “working them in” between on-going courtroom events if possible. Consider empowering court staff to resolve matters such as rescheduling, accepting proof, or valid reasons for a non-appearance. FTAs impact time and effort for judges and staff, and further complicates matters for the defendant. Reducing FTAs should remain a court priority.
 - Court-imposed requirements should be communicated in a manner that is simple, clear, concise, and easily understood. Information regarding the consequences of non-compliance and what to do or who to contact when compliance issues arise should be included. Defendants should be encouraged to contact the Court to resolve non-compliance when it occurs.
 - Information should be made available to all defendants on the availability of any alternatives to satisfy fines and fees if indigent. Programs that permit defendants to satisfy fines and fees by performing volunteer hours should be flexible to accommodate considerations of work schedules, transportation, etc. Allowing defendants to complete volunteer hours with any non-profit organization can be a beneficial approach. Such can help address economic disparities, provide valuable community service, and potentially aid in the defendant’s personal growth.
 - Courts should collaborate with vendors who provide treatment, monitoring, and home detention services to establish flexible payment options. These could include waivers for those who are indigent, or a sliding scale payment system based on the individual’s income.
 - Automated systems that send reminders about upcoming deadlines for fulfilling sentencing obligations, such as completing treatment programs and paying fines, fees, and restitution should be used. Reminders could be sent via various communication channels like text messages, emails, or phone calls.
 - Courts should consider alternatives to full-time post-conviction incarceration such as home detention, monitoring, work release programs, and unsupervised, or semi-supervised probation.
 - Designate a dedicated compliance officer within the Court.
- **Cases Involving Family Violence & Protective Orders:** Family violence offenses pose a serious concern and risk, according to interview statements. These offenses may not seem very high in number, but the nature and risk associated with these offenses is considerable.

Executive Summary

- **Recommendation:** Upon any contact with a victim, law enforcement officers should obtain victim status as to injuries or threats, victim contact information such as phone number and victim location (and any updates to previously obtained contact information), and promptly ensure that the information is forwarded to Victim Witness Specialists. If an arrest is involved, it is critical that the information be received by Victim Witness personnel prior to Initial Appearance.
 - **Recommendation:** Justice system partners, representatives of the City of Billings and Yellowstone County, and community members involved in a range of family services should consider meeting to coordinate responses to family violence cases.
 - **Recommendation:** Every effort should be made as a matter of highest priority to prepare, sign, and forward Temporary Restraining Orders to law enforcement that are granted the same day, or as soon as possible given that many cases involve domestic violence or the potential for such.
- **Cases Involving Mental Competency:** Cases involving competency issues and the defendant's mental health presents special challenges for the court. Mental health issues have been a major public health concern in recent years, especially the consequence of many mental health sufferers becoming incarcerated. Police and court responses are critical to the effective and appropriate handling of these cases, reconciling both treatment and public safety.
 - **Recommendation:** For cases involving mental competency, the Court should have available mental health evaluation services to satisfy the legal requirements for competency, and additionally the general mental state of the defendant.
 - **Recommendation:** Cases involving mental competency and mental health are a growing public health concern. In addressing these cases, the justice system should consider the practices listed in the Justice System Options section of this report.

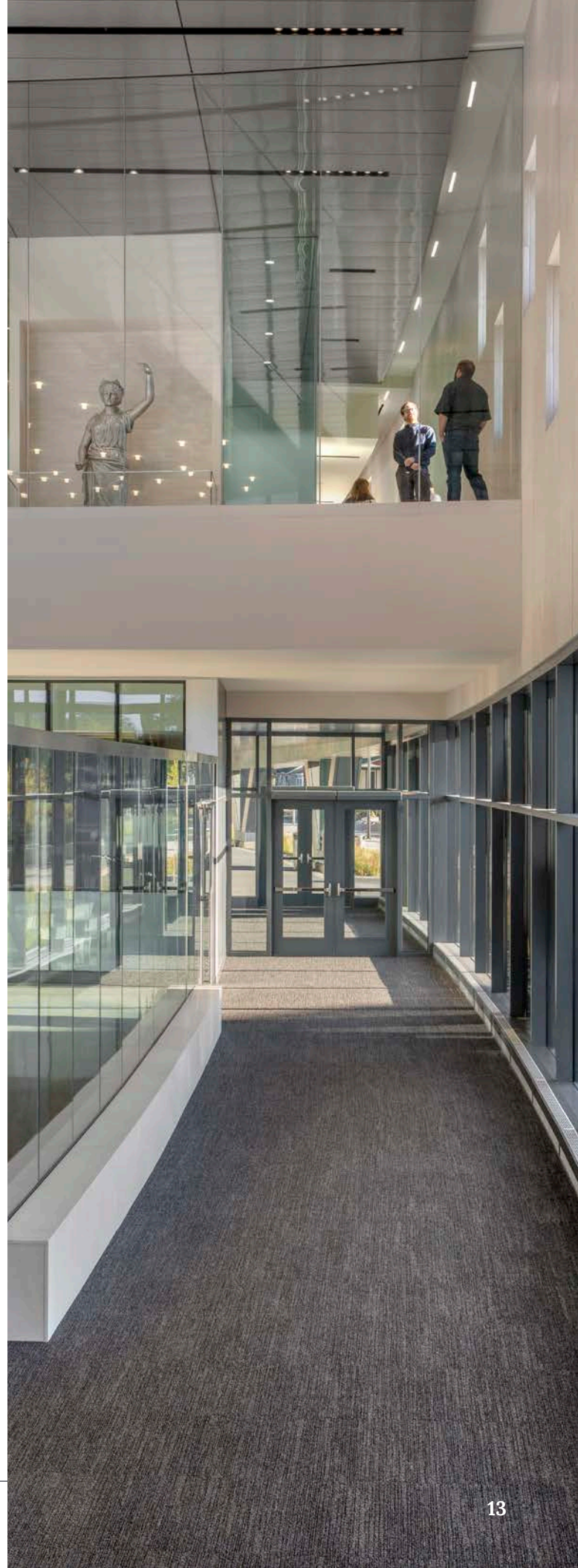


Executive Summary

- **Cases Involving Driving Without Insurance:** Given the high number of no insurance charges and repeat offenses that equal nearly 10 percent of the Court’s total annual caseload, it may be helpful for the Court to seek and consider innovative practices that may serve to mitigate this significant issue in the community and promote compliance with insurance requirements.
 - **Recommendation:** For cases involving Driving Without Insurance, the Court should consider the following: 1) Providing an option for the suspension or reduction of a fine, or dismissal if permitted by law, if proof is submitted within a set number of days after the citation, such as 30 or 60 days. 2) Directing individuals toward resources that may provide options for persons in financial difficulty. 3) Advising the defendant concerning the consequences of not obtaining insurance.
- **Prosecution Based Diversion Programs:** There may be opportunities to expand the use of diversion programs and benefit from their positive outcomes.
 - **Recommendation:** The Prosecutor’s Office should consider identifying and/or developing resources in support of prosecution-based diversion programs that permit the non-filing of the charges.
 - **Recommendation:** The Prosecutor’s Office should consider prioritizing diversions in cases with underlying social problems such as mental illness, homelessness, severe indigency, substance abuse, and non-violent domestic disputes.
- **Criminal Justice Coordinating Committee:** The Criminal Justice Coordinating Committee has the potential to be the key factor in enhancing the municipal justice system in Billings.
 - **Recommendation:** The CJCC should work to adopt a very specific and clearly worded mission and vision statement that brings all the currently occurring issues under one umbrella for potential resolution.
- **Recommendation:** The CJCC should review its membership and charter to ensure that appropriate membership is represented to address all past, current, and future challenges within the criminal justice system.
- **Recommendation:** The CJCC should seek to create subcommittees and/or workgroups tasked with the individual goal of solving each of the proposed issue statements through inter-agency collaboration. These sub committees and work groups should report their progress and findings to the CJCC as directed. As it relates to this and other related projects, the following list of workgroups is recommended for consideration:
 - Technology/Data Sharing
 - Jail Population
 - Data and Research
 - Case Coordination/Resolution
 - Deflection and Diversion
 - Mental Health
 - Recidivism
- **Stillwater Court Building Security:** As a result of the project team’s site visit and review of the Stillwater Building floor plans, our team provided comments and suggestions based upon experience, expertise, and best practices in areas where we felt security measures and functionality were lacking for a modern court facility. The project team was not provided with a complete set of floor plans and the project scope was solely to analyze the court functions and operations. It is expected that some of our comments and recommendations may have already been incorporated into the design.
 - The following areas represent our findings:
 - Panic buttons should be located at public counters or service windows, judges’ bench, and courtroom clerk’s station.

Executive Summary

- Panic buttons should be located under the desk or bench but marked on top to easily identify its location.
- Determine where panic alarm notifications would be sent once pushed. Typically, panic alarm notifications are sent to security control rooms which is manned by security staff monitoring cameras and all things security for a facility of this nature.
- Bullet proof paneling should be installed behind the bench, clerk's station and witness box in each courtroom. (There have been many instances involving defendants that have gained access to security officer's guns inside of a secure courtroom --e.g., Fulton County Georgia Courthouse shooting).
- Jurors, judges, and the public should have limited contact in public areas during court proceedings. Currently the Stillwater building features shared restrooms, corridors, and elevators between judicial staff and the public. Although this issue is difficult to manage in smaller districts or communities, effort should be made where possible to provide separation in these areas to uphold judicial decorum.
- Prosecutors should not have the ability to enter into court spaces or corridors without authorization.
- Numerous windows with clear views from the outside may pose a threat to judges, jurors, and the public. Where possible, windows and glazing should provide natural lighting and views to the outside but should limit the ability for outside threats to target individuals inside of the building. (Window covering solutions are available that allow for lighting and viewing but obscure from the outside looking in.)

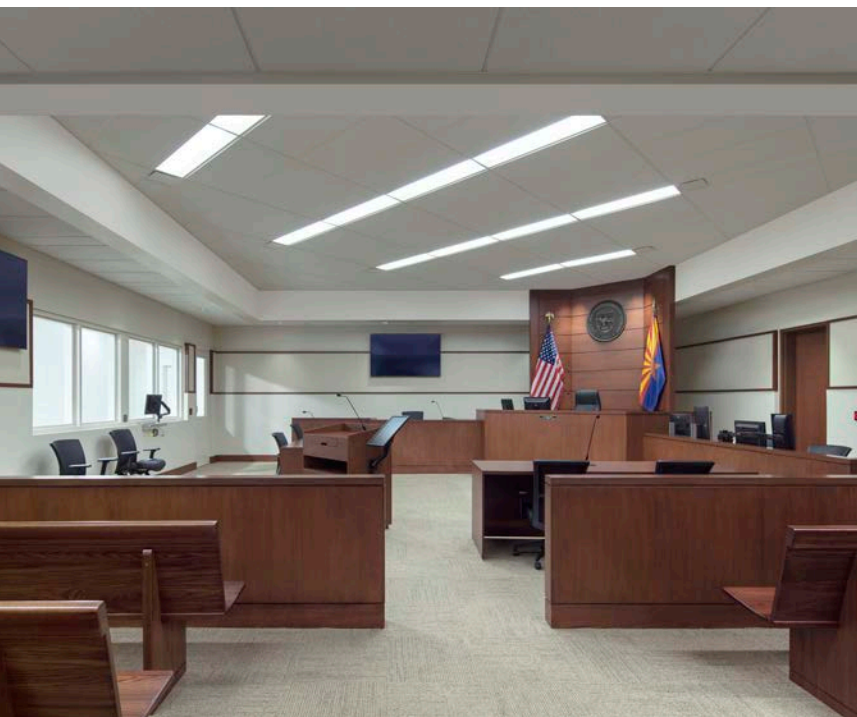


Executive Summary

- Chairs can be convenient weapons. Mounted seating and benches should be considered where appropriate. If chairs are used, they should be very heavy and difficult to pick up.
- Prosecutor and defense positions in the courtrooms should have privacy fronts.
- It is recommended that the judge's bench sit 18-21 inches above the courtroom floor level with approximately a 6" drop to the clerk's position.
- The jury box: It is recommended that the jury box front row of seating be at floor level for ease of access with an increase in elevation of approximately 6" to the second row. Additionally, jury seating between rows should be offset for improved viewing of the judge, witness stand, and well area.
- Sight Lines: The prosecution table is always next to the jury box but should not be so close as to influence jurors. The defense table needs to have line of sight to the witness, given the constitutional right to confront your accuser. The judge needs clear sight of all of the courtroom and participant areas.
- Color schemes: Choice of colors and type of lighting can be important. Indirect lighting and muted colors --greens, grays, etc. can have an effect on attitudes and dispositions. A primary consideration in mental health facilities is associated with color choice and lighting types. It is understood that a large percentage of justice-involved members of the public often suffer from mental health conditions and may suffer from traumatic conditions related to their current or past cases. The deliberate choice of these elements in a criminal justice setting can reduce incidents in public areas and courtrooms.
- Conduit: In anticipation of technological changes and the need to run additional cables or power, access runs if conduit is used, should be large to accommodate future modifications of the building.
- Security staff escort of judges and jury are recommended in the absence of security screening stations, dedicated elevators, and corridors. This includes transfer from the building to the parking area and from the courtroom to the judge's chambers.
- A dedicated security office or control room is recommended to provide sufficient space for security staff to monitor cameras, panic alarms, radio traffic and phone lines.
- The basement should include camera coverage. Cameras should be located near the elevator, parking lot exit/entrance, doorways, parking lot and any other areas, for example blind spots or place for someone to hide.
- Basement parking is recommended to be secured with roll up door or system equivalent and cameras to determine who is entering and exiting area.
- A secure/semi secure area should be provided for jail transportation vehicles to prevent escape during arrival and unloading, loading and departure of in-custody defendants.
- Best practice dictates that any multi-functional/multi-occupancy building that includes judicial proceedings is by default a court building. Given this fact, it is recommended that a full security screening station be placed at the entrance of the building. Additionally, elevators should be programmed in such a way that limit access to court areas from other areas of the building where possible.

Executive Summary

- Consideration should be given to the addition of a secure partition of at least one dedicated judge's elevator from the parking area to the courtroom level.
- The room identified as holding on the second floor in the courts function is to be used for individuals pending transfer from court to jail. It was recommended that this room be hardened with detention grade materials including light fixtures, a camera to monitor individuals in the room, walls, door, door frame, lock, and security glazing being added to the door at a minimum. It was recommended that a window with security glazing be installed in order for staff to have view into this space to make sure individuals do not harm themselves or accidentally be left after hours without being transported to Yellowstone County Detention Facility.
- Consideration to be made to provide separate restrooms on level 2 of the building for the public and staff.



Although all the findings listed above are important and should be considered to be incorporated into the final design, here are the **top recommendations for consideration**:

- **Recommendation:** The City of Billings should consider and investigate further if Montana Code provides justification to designate this building a gun free zone. Based on current design, the public would not be prevented from entering the building with a weapon. Although, other departments such as the City Hall will be co-located with courts operations within the Stillwater Building, many court personnel, individuals from the public, and court operations cross paths on the first and second levels of the building. It is recommended the City of Billings further investigate and decide if the entire Stillwater Building should be a gun free zone utilizing Mont. Code Ann. § 45-8-356 (7) which states the following: within a courtroom or an area of a courthouse in use by court personnel pursuant to an order of a justice of the peace or judge.
- **Recommendation:** The City of Billings should consider reviewing options to place a secure barrier such as a solid wall or wall with a door near the elevator lobby on floor two to prevent someone from the public having access to a judge especially if no screening has taken place in the public lobby on the first floor. At minimum, each judge should be always escorted when they arrive on the second floor and enter the elevator lobby or when they leave the courts area to exit into the elevator lobby.
- **Recommendation:** It should be considered to have at minimum one private restroom for judge use only. Judges and jurors should not cross paths outside of the courtroom.
- **Recommendation:** It should be considered to harden the holding room similar to what you would find to a jail holding cell. The holding room should include at minimum a window on the door to view anyone being held in the room.

BACKGROUND & CURRENT STATE

A modern, multi-level interior space with a glass and metal railing. In the foreground, a family of four (a man, a woman, and two children) is walking down a set of stairs. In the background, two elderly women are walking on a higher level. The space is brightly lit with recessed ceiling lights. A large white number '2' is overlaid on the bottom right corner.

2



Section 2

BACKGROUND & CURRENT STATE

The Billings Municipal Court operates in a complex environment involving a predominantly criminal caseload that is dependent on interactions between law enforcement, prosecutors, contract public defenders, jail officials, and ancillary support such as victims' specialists, pretrial services, monitoring services, and treatment providers.

Unique Characteristics of the Billings Justice System

Municipal courts across the nation typically address cases involving traffic and misdemeanor offenses primarily filed by municipal law enforcement. In some states, many traffic offenses are classified as civil. However, in other states such as Montana, all traffic offenses are classified as criminal. The exception for Montana is that municipalities may designate some offenses to be cited civilly as a Municipal Infraction (MI).

With two out of every three cases filed in the Billings Municipal Court classified as criminal (TK & CR) as shown in exhibit 1 below, resolving cases involves greater complexity, time, workload, staffing, and expense than in justice systems where the caseload involves a lower percentage of criminal offenses. The impact of minor traffic offenses being charged criminally versus civil can be significant, particularly regarding enforcement.

For example, when a person fails to appear or fails to pay a fine in a civil case, the consequence is typically driver's license suspension and referral to collections. In contrast, when a person fails to appear or comply in a criminal case, the result is often issuance of a warrant. Exhibits 1 and 2 below reflect the most recent years caseload and warrant statistics taken from reports provided by Billings. Of note is that Billings issued over 9,000 warrants in 2022, a number that is equal to over half of the Court's total annual caseload.

Exhibit 1

Cases Filed Annually (2022)	
Case Type	Cases
Civil Protective Order Cases (CV)	388
State Traffic Law Cases (TK)	10,172
Local Municipal Code Cases (MI)	5,637
Criminal Cases (CR)	1,259
Total Annual Caseload 2022	17,456

Background & Current State

Exhibit 2

Warrants Issued Annually (2022)	
Warrant Type	Warrants
Failure to Appear (FTA)	7,597
Failure to Comply (FTC)	1,612
Total Warrants Issued 2022	9,209

Another distinctive feature of the Billings Municipal Court is that it is the largest municipal court in Montana, handling far more cases than its counterparts. Moreover, Billings will become one of the few cities with more than one judge in its municipal court. While the scale of the Billings Municipal Court and justice system may provide some benefits in terms of resources, influence, and efficiency, it also limits its ability to meaningfully network with peer agencies in the State.

Consistent Annual Caseload

A review of Billings Municipal Court caseload from the period 2013-2022 reflects consistency in the total number of cases filed annually. There are two notable variances, the first being an increase in criminal cases as charged through a citation (TK) from 2016-2019 of between 2000-3000 cases each year, returning to pre-2016 levels in 2020. The second variance is a significant increase in Municipal Infractions from 3037 cases in 2021 to 5,637 cases in 2022. An increase of 70 percent.

High Rate of Non-Compliance

A more substantive look at caseload statistics suggests areas of concern. A primary area of attention is MCA 46-18-203 Revocation of a Deferred or Suspended Sentence (Failure to Comply with a Court Order). This violation has demonstrated significant numbers ranging from 1273 in 2019 to 1418 in 2022. For 2022 the figure is equal to 8 percent of the total annual caseload. The violation reflects non-compliance with the requirements of the original case, producing a new violation. This represents significant workload added to the case, effectively doubling the effort to resolve a single case.

Family Violence

Another area of concern relates to MCA 45-5-206 and subsections (1) a, b and c Partner or Family Member Assault. Although the number of violations does not appear unusually large, they are significant enough to warrant attention on the effectiveness of court action, intervention, and prevention. Family violence cases are especially challenging given the complexity of underlying causes, and the potential for violence. The importance related to this violation will require a level of attention.

MCA 45-5-209 Violation of a No Contact Order has consistently numbered around 100 violations. This violation represents a risk to the personal safety of the victim. Although this review has not made a comparison to the total number of orders issued, the effectiveness of no-contact orders remains a matter of concern for victim safety.

Traffic Violations

A review of traffic violations reveals the following:

- **MI 24-301 Speed Restrictions:** Represents the highest number among traffic violations but remains typical.
- **MCA 61-5-212 Driving on a Suspended License:** Has demonstrated a reduction in violations each year from 2020 -2022 from 1219 in 2020 to 876 in 2022.
- **MCA 61-3-312 Expired Registration:** Has shown a significant increase from 1066 in 2021 to 1773 in 2022.
- **MCA 61-5-102 No Driver’s License:** This appears to be a consistent violation remaining at about 300 violations per/year from 2019 through 2022.
- **MCA 61-6-301 No Insurance:** Represents a high number of initial violations and second and third repeat violations.

The following table represents the number of no insurance violations including multiple violations over the past four years.

Exhibit 3

Violation No.	2019	2020	2021	2022
1st Violation	1,663	1,33,	1,100	1,205
2nd Violation	473	425	312	273
3rd Violation	147	159	110	144

Case Aging

One key indicator tracked by most courts is case aging, the amount of time between the filing of charges to the date the case is resolved. Exhibit 4 reflects the breakdown of case aging for cases resolved in the Billings Municipal Court in CY2022.

Exhibit 4

Case Aging Time from Filing to Disposition (2022)	
Days from Filing to Disposition	Cases
0-30	9,643
31-60	1,266
61-90	726
91-120	706
121-150	557
151-180	395
181-210	378
211-240	315
241-270	187
271-300	153
301-330	140
331-360	97
361-534	293

Time standards can serve as an indicator of court performance, and by extension, judicial performance. Over the years, time standards for courts have evolved, aiming to encompass the various factors that influence case progression. Consequently, a certain level of uniformity across different courts can be observed, as well as adherence to nationally recommended time standards.

Background & Current State

In 1983 the Committee on State Court Administrators (COSCA) recommended a 90-day time standard for resolving misdemeanor cases. Following this in 1992, the American Bar Association (ABA) established a time standard for misdemeanor cases stating that 90 percent of cases should be resolved within 30 days and 100 percent within 90 days.

To unify these and other standards the National Center for State Courts (NCSC) published Model Time Standards in 2011 that were approved by COSCA, ABA, the Conference of Chief Justices (CCJ) and the National Association for Court Management (NACM). The new standards suggested that 75 percent of cases be resolved within 60 days, 90 percent within 90 days, and 98 percent within 180 days. The performance of the Billings Municipal Court in relation to these standards is reflected in Exhibit 5 below.

Exhibit 5

Billings	National Model	Within
73%	75%	60 Days
78%	90%	90 Days
90%	98%	180 Days

The National Model applies to misdemeanor cases and would not include traffic, civil infractions, ordinances etc. Because the case aging data for Billings does not break down by case type, the figures above serve only as a generalized comparison.

Courtroom Calendar

Looking at courtroom activity such as the type and number and type of hearings scheduled on the Court's calendar can provide some insight about how cases progress, when cases are resolved, the volume and pace of courtroom activity, enforcement activity, number of resource intensive proceedings such as jury trials, etc.

Exhibit 6 provides a total number of hearings scheduled by type for the entire 2022 year.

Exhibit 6

Hearings by Schedule Type (2022)	
Hearing Type	Hearings
Appearance	2.465
Arraignment	3.690
Change of Plea	2.395
Hearing	322
Hearing on Motion	55
Initial Appearance	7.030
Trail by Judge	745
Jury Conference Hearing	3.289
Jury Instruction Hearing	1
Jury Trial	209
Omnibus	4.973
Order of Protection	617
Order to Show Cause	18
Petition to Revoke	1.310
Restitution	5
Scheduling Conference	1
Sentencing	705
Status Hearing	881
Telephonic	1
Total Hearings by Schedule Type	28.713

Summary

The justice system in Billings demonstrates the typical inter-dependency that exists between justice partners. The efficiency and effectiveness of justice in Billings is reliant upon the expedient exchange of information in the form of documents and data across agencies. Although the current flow of information permits the justice system to operate, integration of technology platforms is needed to substantially streamline overall justice system operations (see Issue Analysis Sections 3-6).

In light of these inter-dependencies, operational efficiency must consider significant changes to the entire business model. Current operations follow a traditional model of determining release, entry of a plea, followed by an “omnibus” hearing and trial. This model appears to protract the case adding time to the process. This analysis will propose a complete shift in emphasis to case resolution at the on-set of the case, exploiting opportunities at the initial appearance and arraignment stages, and the impact on court operations (see Issue Analysis Sections 7-13).

This document is offered as an “Issues Analysis” due to the discussive nature of responses to the primary document of 25 identified problems submitted the 10th of October. A group discussion with all stakeholders to discuss 25 identified problems as well as the best practice and security review of the future court building floor plans was held on October 17th. The major sections and their subsections are derived directly from interviews and notes; the responses are the result of research and applied knowledge. It attempts to maintain consistency with the many comments that came from Billings’s Interviews.

The suggestions emanating from this document recognize that many individuals are currently making extraordinary efforts to make improvements in the areas covered. The document’s intention is to offer further insight and direction in assistance to those efforts.

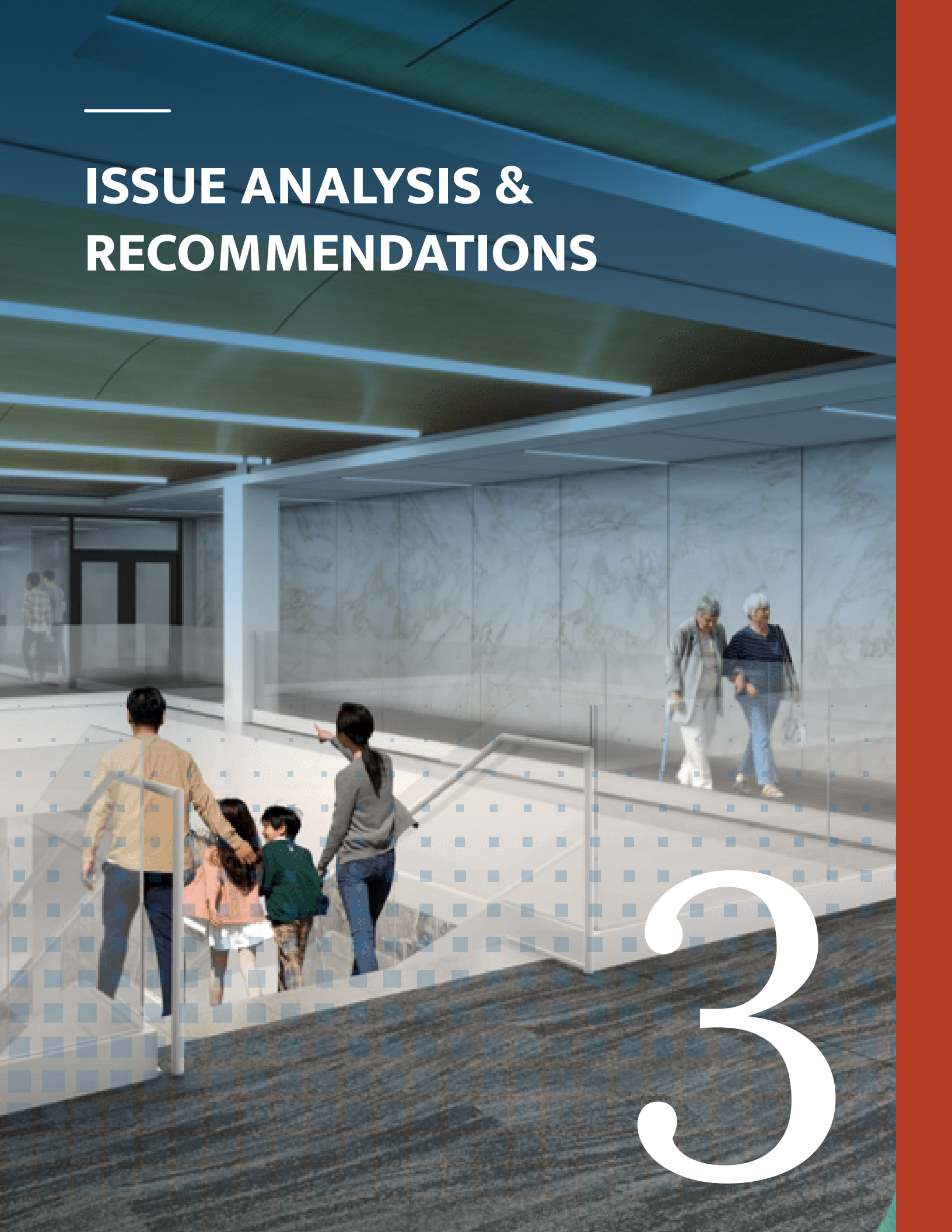
THREE DOMINANT THEMES

While there are several issues, opportunities, and recommendations presented in this report, most appear to fall within the three following themes.

- **Automation and Information Sharing:** There is a critical need for automating processes and facilitating information sharing among agencies.
- **Jail Capacity:** The issue of limited jail capacity requires attention.
- **Enhancing Justice and Efficiency:** Streamlining processes, prioritizing early resolution, and encouraging voluntary compliance with court requirements offer opportunities for improvement in both justice and efficiency.

The prescription for success in Billings will depend upon commitment and cooperation, but mostly the courage to challenge the comfort and security of existing ways or in other words change.

ISSUE ANALYSIS & RECOMMENDATIONS



3



Section 3

ISSUE ANALYSIS AND RECOMMENDATIONS

1. Implementing a Second Judicial Division

Issue Statement: The expansion of the Court to include a second judicial division to the Municipal Court requires careful planning and attention to ensure the transition is smooth, goals are met, and thoughtful improvements are delivered.

The ongoing expansion of the Court to a two-judge model can enhance the quality and efficiency of justice services by increasing judicial availability, allowing more time for courtroom interactions, offering more flexibility for scheduling, and providing more opportunities for walk-in appearances.

APPROACH TO ASSIGNMENT OF CASES

In multiple-judge courts, the assignment of cases should prioritize equal workload distribution. This promotes overall justice system efficiency and fosters accountability for elected judges. While other approaches for assigning cases were reviewed, the alphabetical division of cases appears more suitable for the Billings Municipal Court than other methods, as it allows the same judge to deal with all the cases of an offender, which leads to greater efficiency and other benefits. The division of caseload and judicial workload should be actively monitored, and adjustments made as necessary.

- **Recommendation:** The Court should consider assigning cases to judicial officers based on an alphabetical division (defendant last name). This distribution of judicial workload will have the benefit of retaining the original judge for defendants with multiple or recurrent cases. Workload should be monitored for balance and adjustments made as needed.

CALENDARING FOR EFFICIENCY AND INCREASED ACCESS TO JUSTICE

Thoughtful attention to the scheduling of court hearings significantly contributes to the overall efficiency of justice systems. In courts with two judges, it is essential to consider a calendar arrangement that allows one judge greater availability on days when the other judge may have a heavy caseload or a jury trial. This approach promotes judicial availability for critical matters, particularly protective orders. Additionally, it can help reduce instances of failures to appear (FTA) by providing the capacity to address more cases that require immediate attention or decisions by a judge on a walk-in basis. Furthermore, exploring calendar management strategies that allow judicial days off while still maintaining coverage could potentially reduce the need for pro-tem judges to fill in during judicial absences.

To minimize waiting times and encourage adherence to appearance requirements, newly created court calendars should refrain from scheduling an excessive number of cases simultaneously. As a positive change, many courts divide their calendars into smaller groups, scheduling them more frequently.

Issue Analysis & Recommendations

This approach ensures that individuals do not face excessive wait times for their cases to be called. Recognizing that many people have limited flexibility in their ability to take time off work, this practice promotes compliance and demonstrates respect for the time of those served by the courts.

- **Recommendation:** The Court should consider developing schedules for the two divisions in a manner that promotes judicial availability for restraining orders and other matters that may require judicial attention on an immediate or walk-in basis.

HOW TIME AND THE COURTROOM EXPERIENCE IMPACT JUSTICE

The addition of a second judicial division effectively doubles judicial resources and calendar capacity, allowing the workload to be distributed in a manner that provides the opportunity for more time and attention when interacting with people in the courtroom.

It is important to note that the courtroom environment can be significantly improved through calendar management that affords a surplus of time for each case. The courtroom is an intimidating environment for most people and the legal process can be confusing. It is important, especially regarding public trust and confidence in the courts, that individuals come away with a positive impression of the court process. Allotting a surplus of case time also allows for the defendant to receive explanations or ask questions for clarification. It subtly creates a brief but important relationship between the defendant and the judge that may contribute to the defendant's willingness to comply with the court's requirements.

- **Recommendation:** Given the doubling of judicial resources and calendar capacity, the Court should consider modifying schedules in a manner that allocates more time per case on calendars to promote positive courtroom experience and justice outcomes.

THE IMPORTANCE OF JUDICIAL COORDINATION

In a two-judge court, it is crucial for the judges to coordinate as much as possible in the pursuit of equal justice. Despite differing judicial philosophies, defendants should not encounter significantly different outcomes for the same offense.

- **Recommendation:** Judges should coordinate to promote consistency in their delivery of justice such as similar sentencing for similar offenses.

STAFFING REQUIREMENTS

The impact on staff will be a critical concern in the new two-judge environment. The effort required for case and calendar preparation will increase, potentially further pressured by time constraints. Additionally, post-hearing case management tasks, including system updates, paperwork, and communications with case participants, will increase. It is essential to assess the impact on staff promptly, ideally before the additional judge assumes their duties.

The Court Administrator shared their initial assessment of additional staffing needs during an interview, stating that at least two new positions would be required to fulfill courtroom and judicial assistant duties for a second division. This figure appears to align with staffing models of other multi-division courts.

- **Recommendation:** The City should consider funding additional staff positions necessary for the operation of the added court division. Needs for the new division appear to include the functions of a judicial assistant and bailiff.

2. Impact of Jail Overcrowding on Justice and Safety

Issue Statement: Jail overcrowding and limited ability for incarceration when necessary are critical problems and immediate attention is needed.

A limiting factor affecting the justice system is the non-availability of jail services when needed due to overcrowding and the prioritization of detainees in federal and felony cases. The lack of available jail space when needed is threatening the effectiveness of court decisions and the judicial system's role in addressing criminal behavior and community safety.

JAIL CAPACITY & FUNDING

In the long term, there must be a political and funding commitment for jail capacity for the City.

- **Recommendation:** The City should be proactive in seeking additional jail capacity in conjunction with Yellowstone County.

ARRAIGNMENT CENTER CONCEPT

The trend of co-locating court-related functions within jail facilities is on the rise. Although titles may differ, the concept of these co-located court operations are best described as an "arraignment center." These centers handle crucial functions such as initial appearances, arraignments, and often facilitate video proceedings. Arraignment centers often operate as a cooperative justice model, involving multiple jurisdictions working together. This collaborative approach offers significant opportunities for improved efficiency through economies of scale. However, it's essential to allocate judicial, prosecutorial, and defense resources to these centers.

The concept of arraignment centers fosters side-by-side communication and coordination, enabling early resolution in many cases. Moreover, it has the potential to address inter-agency communication challenges and conflicts related to court case management. To explore the feasibility of implementing arraignment centers, a comprehensive study should consider logistics, facility requirements, necessary agreements, costs, and anticipated benefits. Such centers could represent a quantum leap forward for the justice system by streamlining processes and enhancing collaboration across agencies.

- **Recommendation:** The City and other jurisdictions should consider the Arraignment Center concept or similar collaborative approaches when considering jail facility options.

PLANNING FOR COLLABORATIVE COURT OPERATIONS

It is critically important in preparing for co-located and/or collaborative court operations that pre-implementation planning be extensive and all inclusive. All supporting entities, groups and future participants need to be involved in the planning. Collaborative approaches such as those described above can be highly productive in the effort to expeditiously resolve cases; however, operations can be complex, and coordination is essential to success.

- Supporting political entities should be represented where a commitment of funding or logistical support is provided.
- The judges and court administrators of the involved jurisdictions should be involved to assure that judicial needs or concerns are accommodated.
- Prosecutors of the involved jurisdictions should be involved, and their operational needs identified such as space, connectivity for technology, proximity to service representatives, etc.



- The defense bar should be involved, especially those who may appear on behalf of defendants. Issues of space, access to defendants, access to service representatives, and access to private space for attorney-client discussions need to be considered.
- Service providers such as representatives of pre-trial services, mental health services, counseling services, probation services or any service that may be a part of a defendant's disposition should be involved.
- Technology representatives should be involved to identify the infrastructure requirements for the use of automation and information systems.
- Essential staff, especially court and prosecutor staff, and others who facilitate the processing of cases, i.e. data entry, use of forms, preparation of cases, etc. should be involved to identify efficient work-flow processes.
- Police and or sheriff representatives should be involved to identify, defendant handling procedures, access to defendants, secure movement of defendants to and from court areas, meeting with attorneys, and the overall security management procedures.

IMPLEMENTING COLLABORATIVE COURT OPERATIONS

Implementing collaborative operations at or near the “go live” point requires a level of policy consensus. In a situation where a rotation of judges may preside over proceedings, there should be broad agreement about the handling of cases. Dispositions, diversions, or other case resolutions should experience a degree of consistency. This would be especially true in misdemeanor cases that seem to demonstrate typicality, such as trespassing.

It would be recommended that prior to going live that “mock” operations be conducted. Several practice runs will usually point out issues that were not contemplated in planning.

A basic set of metrics or measures should be created to determine the success of operations. These could include:

- Recidivism
- Number of cases concluded at arraignment
- Time and resources pre/case
- Time and resource savings resulting from early case conclusion

Issue Analysis & Recommendations

A management committee should be established to evaluate and assess arraignment center operations. The committee should include essential operational stakeholders. They should be able to decide operations changes, policy changes and make recommendations for additional support or funding.

REVIEW OF JAIL USAGE AND ALTERNATIVES

Pending the availability of increased jail capacity, it is helpful to assess current use including a review of types of offenses subject to incarceration, alternatives to incarceration, length of jail sentences, use of electronic monitoring options and defendant incentives to shorten sentences. Another consideration for misdemeanor jail options could be a private jail contract. There are successful examples of private jail contracts working well for misdemeanor offenses. By addressing these factors, courts can optimize the use of misdemeanor jail capacity and enhance the overall effectiveness of the justice system.

- **Recommendation:** The Court should consider assessing current jail usage to determine if adjustments can be made to sentencing and release practices that may yield capacity for use in other cases.
- **Recommendation:** The Court should consider investigating opportunities to maximize the use of alternatives to incarceration in areas such as electronic monitoring, home detention, probation, community service, etc.
- **Recommendation:** The City of Billings and Yellowstone County should consider conducting a justice system population analysis to better understand who is currently occupying jail beds and for how long. Such analysis will also identify process inefficiencies through the identification of case and offender profiles, model future population projections from current practices, and demonstrate variations to projections utilizing the effect of systematic changes in policy.

IMPACT OF FEES ON RELEASE, OVERCROWDING, JAIL COSTS AND JUSTICE

One factor that contributes to jail overcrowding across the nation is the lack of financial resources possessed by defendants to post bail or pay for monitoring services as a condition of release. The issue of whether a person is held or released pending trial based solely on their economic situation is a topic of national conversation and focus of reform. In response, communities such as Billings have adopted use of the Public Safety Assessment (PSA) tool developed by the Laura and John Arnold Foundation and implemented alternatives to pre-trial incarceration such as the use of monitoring services (see Comment).

In Billings, to be eligible for pre-trial release managed by a monitoring service, defendants are required to pay costs directly to vendors that average about \$10 per day. For defendants unable to pay these fees, grant monies are available to cover the cost of a single monitoring service. However, for defendants that are assigned more than one type of monitoring, grant funding is not sufficient. This creates situations where defendants charged with misdemeanors remain incarcerated only because they cannot afford to pay moderate monitoring fees. This may also result in defendants with misdemeanor charges spending more time in jail waiting for trial than they may have served if convicted and sentenced.

On average, the cost of monitoring is about 80 to 90 percent less than the cost of incarceration, and reduced jail expenditure is just one reason why many government agencies fully fund pre-trial monitoring services. Monitoring costs are often further reduced using competitive bid processes based on economy of scale. See comment below.

- **Recommendation:** The City should consider fully funding pre-trial monitoring services.

Issue Analysis & Recommendations

Comment: Arizona responded to this issue several years ago through Criminal Rule 7.4 (f) which states: “No later than 10 days after the initial appearance the court must determine whether to amend to conditions of release for any defendant held in custody on bond for a misdemeanor.”

It is important to note that the basis for the review is whether the bond is unreasonable, given that the defendant has not been able to post the bond. The underlying constitutional issue is the Eighth Amendment prohibiting excessive bail. These issues further the emphasis on devoting attention and resources to the front end of the criminal justice process.

3. Integration of Criminal Justice Information Systems

Issue Statement: During interviews with agency representatives, a recurring theme emerged: the need for improved access to information stored within the automated systems of other agencies. Case management systems used by entities like the Court and Prosecutor’s Office have the capability to integrate and share information with other systems. However, the limited integration currently in place hinders the development of efficiencies and contributes to delays. To address this, the potential of these systems to share information more effectively should be exploited as a matter of priority.

The capability of information systems to integrate has significantly improved in recent years. Leveraging this capability can yield substantial benefits in terms of efficiency, access to justice, and justice outcomes. Analyzing automation solutions at the local level is crucial. Options that align with existing system capabilities and development of approaches for access to and transfer of information should be explored. Of particular significance is identifying any unmet needs that local resources



Issue Analysis & Recommendations

cannot address. Knowledge of both local capabilities and limitations can be the basis for integration projects, possible data repositories, or leveraging of current technologies to facilitate seamless information exchange across different systems.

USE OF CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS) WORKGROUPS

The potential for more effective access to and transfer of information could justify a minimal investment in existing system modifications. Considering the capabilities of criminal justice information systems to integrate, efforts should be made to exploit opportunities to electronically exchange data, documents, and notifications.

A common strategy employed to promote integration is the creation of a workgroup composed of technology representatives from stakeholder agencies. Our current understanding is that a form of this workgroup already exists. Considerations include:

- A workgroup comprised of agency representatives and information technology professionals with the task of integrating criminal justice information systems should be utilized.
- The workgroup should identify, detail, and document the information needs of each agency and location of related data.
- Integration capabilities should be identified through communication with system managers and manufacturers, and through networking with other justice system agencies using the same or similar technology applications.
- System manufacturers should be consulted to determine the integration standards (technology solutions) involved.
- Integration strategies should be developed, revised, and implemented on an ongoing basis.

Example: Evidence technicians stated a need to know when a court case has concluded, and that all appeal times and legal needs have expired so they may release or dispose of evidence. Court information systems should have the ability to provide limited system access to external agencies, generate notifications and/or integrate with other systems to provide prosecutors with information needed to coordinate the release of evidence by law enforcement. Developing solutions for situations like this could substantially reduce the manual effort and time expended by staff to accomplish this task.

- **Recommendation:** Justice agencies should consider utilizing a workgroup consisting of justice agency representatives and technology professionals to identify the information needs of each agency, determine the integration standards of the systems involved, develop strategies, and implement solutions.

Important Note: Some of the technology recommendations outlined in this report may necessitate collaboration with the Montana Supreme Court. This is due to the fact that the case management system utilized by the Billings Municipal Court is provided and centrally managed by the Montana Judicial Branch. A potential benefit of this could be that any solutions developed in and for Billings may benefit others statewide. It is essential to recognize that this relationship could also pose limitations if the Montana Judicial Branch is unable to accommodate local customization and integrations. As the largest municipal court operation in the state, Billings has the opportunity to take a leadership role in driving system enhancements for the community they serve as well as the entire state. If the Montana Judicial Branch is unable to support improvements sought by Billings, local leaders may need to explore options to management and use of their current technology platforms with state officials and others.

4. The Vital Role of Court Technology

Issue Statement: The Court recently received a new case management system known as FCE. The features and capabilities of the new system appear robust and should be explored for opportunities to automate functions and improve efficiency.

Nearly all processes and functions of the Court can be radically improved through the application of technology. Being persistent about developing, managing, and leveraging technology improves the administration of justice, enhances the quality and accuracy of work, and increases the efficiency and effectiveness of court processes.

THE COURT'S CASE MANAGEMENT SYSTEM

The Montana Supreme Court provides FCE as a standard case management system for all municipal courts. The Court staff received basic training on how to use the system when it was installed. However, it appears that the system's features that allow for automation and integration are not fully utilized. Because FCE is standardized across the state, working with the Supreme Court and the system developer will be necessary when pursuing some system improvements.

- **Recommendation:** The Court should consider exploring the maximum level of support that the Montana Supreme Court and manufacturer of FCE can provide including training, identifying the capabilities of FCE to further automate functions and improve efficiency, identifying potential for local modifications to the system, opportunities to support and provide input for broader technology initiatives, and plans for system upgrades.

- **Recommendation:** Given that FCE is used widely throughout Montana and the nation, the Court should aggressively pursue networking with other courts to identify best practices on use of the system and exploitation of system capabilities. The Court may also want to leverage their position as Montana's largest municipal court to facilitate conversation among FCE users.

PLANNING FOR COURT AUTOMATION

It is advisable for courts to have a "Court Automation Plan" outlining specific goals and objectives for automating court processes. The driving force behind this plan should be the elimination of paper and manual procedures. Courts should not allow system functionality, funding constraints, or staff time limitations to hinder exploration of the best possible option.

In crafting a plan, courts must also consider the information needs of other agencies. Solutions aligned with a plan's goals should consider the technical requirements necessary to accommodate other agency needs. It is most important that a plan should not remain merely "aspirational"; it must be an actionable roadmap. It should delineate specific steps for actual implementation, complete with timelines and measurable outcomes.

Examples of common initiatives undertaken by courts and identified in their plans include the automation of routine processes such as alerts, notices, case updates, issuing of warrants, use of ticklers, and use of electronic signatures.

- **Recommendation:** The Court should consider developing an ongoing plan for automation (Court Automation Plan) that leverages the full capabilities of FCE and other technologies to streamline processes and eliminate manual processes. The plan and its implementation should be coordinated by a workgroup including the Court Administrator as the lead, along with court supervisors, essential court operational staff, and a representative from the City's technology department.

Issue Analysis & Recommendations

Comment: A fully automated court requires wholehearted commitment from judges and staff, along with the support of related agencies. It requires shedding certain comfort levels, particularly those associated with paper-based processes. All court activities and judicial actions can and should be digitally represented, thereby automating the entire process from start to finish.

USE OF AN INTERNAL COURT AUTOMATION WORKGROUP

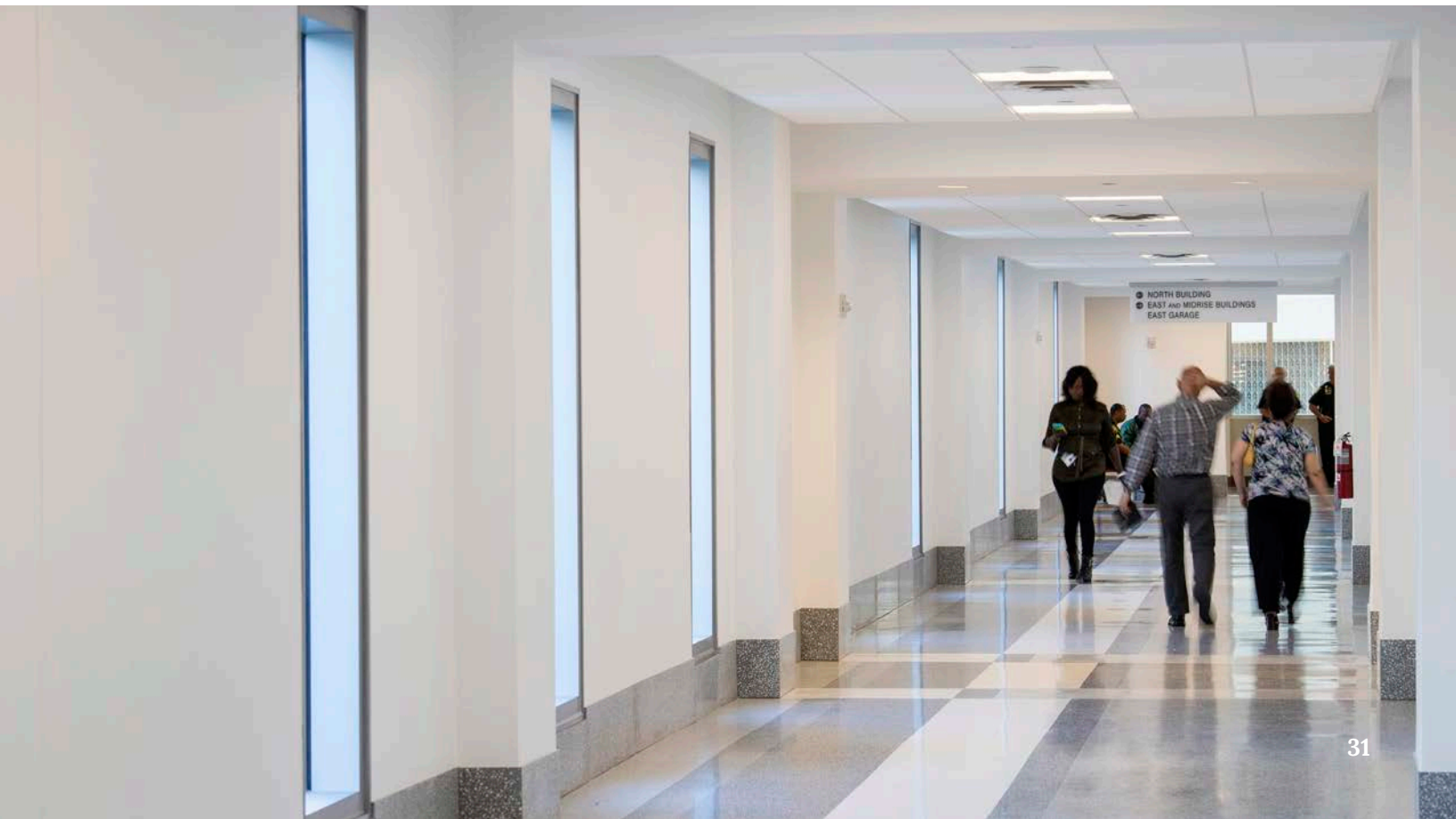
It is common for courts to establish an internal team to help leverage technology more effectively. These court automation workgroups typically include the Court Administrator as the lead, along with supervisors, essential operational staff, and a representative from the City's technology department. The primary responsibility of such workgroups is to construct the Court Automation Plan and guide its implementation.

Plans for court automation should be dynamic, allowing for the addition of new initiatives as existing ones are fulfilled. Automation should be viewed as an ever-evolving process, continuously introducing new efficiencies as technological opportunities arise.

IMPLEMENTING A COURT AUTOMATION PLAN

Court automation workgroups should adopt a somewhat aggressive approach in pursuing the implementation of the plan. A well-developed plan that evaluates resulting efficiencies, long-term cost savings, and improved public service is more likely to gain support from funding authorities. Workgroups should demonstrate courage by challenging existing business practices through the strategic application of technology.

It would be beneficial for the Billings Municipal Court to explore the opportunity to serve as a pilot site, collaborating with the Montana Supreme Court to test new automated processes. These processes may necessitate changes to the Rules of Procedure or statutory initiatives. Additionally, there could be advantages in establishing a direct vendor relationship for FCE improvements. Vendors are often motivated by the chance to enhance their products through real-world testing.



Issue Analysis & Recommendations

KEY ELEMENTS WHEN LEVERAGING TECHNOLOGY

The use of technology is essential for improving and streamlining court functions and processes, as technology is involved in almost everything courts do. Ideally, municipal court case management systems should minimally possess the following functionality:

- An electronic case file should exist containing all events and actions relevant to the case represented as a “record of actions” in the case, in descending order (the most recent action appearing at the top of the list).
- All paper filings with the court should be scanned and attached to the file for selection and viewing.
- Electronic “alerts” should be used to notify the judge that judicial review is required for timely responses to motions or other case actions.
- Judicial actions should be facilitated and recorded electronically in the case file.
- Electronic case information should populate form fields in standard forms and be generated for defendants, attorneys and others needing paper documents.
- Automated notices and warrants should be generated when a defendant non-appearance is recorded, or other obligations do not occur when scheduled.
- Electronic signatures should be used to reduce or eliminate the need for a live signature.
- Automated “routines” should be investigated such that one entry may trigger an automated routine possibly saving time and data entry.

Example: Data entry for a defendant non-appearance could trigger an automated routine to check for any intervening event, such as a motion to continue, or valid notice to the court. Absent any valid reason, an automated warrant could be generated with an electronic signature and downloaded to the police department.





5. Prosecutor's Case Management System

Issue Statement: The prosecutor's information system known as Prosecutor by Karpel (PbK), is not currently connected and exchanging information with the Court's case management system known as FCE. Integration is crucial given that the relationship and communication between the two agencies is a key driver of system efficiency. With over 600 organizations across the nation using the PbK platform, models for integration with FCE are likely available. Transfer of information between these two systems could create opportunities for procedural changes that could speed up the resolution of cases.

Karpel advertising claims that PbK is capable of significant integration with court systems, including the exchange of data and documents, and importing of court events. The information relationship between the Court and the Prosecutor's Office is critical to operational efficiencies. The information flow from police to prosecutor to court should be timely and efficient. Any delays can hinder the prompt resolution of cases and can lead to a backlog of cases and increased costs.

BENEFIT OF EXPLORING THE CAPABILITIES OF KARPEL

The efficiency of resolving cases at the arraignment remains dependent on timely responses from the Prosecutor. Karpel's ability to transfer data, documents, and information to the court, including plea offers, victim's input, sentencing recommendations, etc. should be considered critical to court efficiency.

- **Recommendation:** Similar to and in alignment with recommendations regarding other technology platforms such as FCE in this report, the Prosecutor's Office should network with other users of PbK and engage in activities to explore, plan, and leverage the capabilities of the system to exchange information, eliminate manual processes, and streamline operations.

Comment: Misdemeanor cases demonstrate a degree of repetitiveness. Typical offenses could include a pre-determined position or plea offer from the prosecutor, allowing the court to act without prosecutor presence, saving time and resources.

6. Defendants with Active Cases in Multiple Courts

Issue Statement: It appears common for individuals to have active or prior cases in multiple courts, creating issues that hinder the effectiveness of the justice system. Based on interviews with judges of the District Court, greater information sharing, communication, and coordination among courts would improve justice outcomes.

The disposition of a case where the defendant is experiencing success may be undermined by obligations in other cases further burdening the defendant. The ability to coordinate court to court case management deserves significant attention as a factor in “system” success. Key to addressing this issue is the integration of criminal justice information systems and other collaborative approaches discussed in this report.

COORDINATION OF MISDEMEANOR AND FELONY CASES

Coordination of cases can be difficult given separate jurisdictions and cases occurring at different times. As a result, coordination of cases is not usually done. However, there are significant benefits that should be considered. For example: When a defendant is successfully satisfying the dispositional requirements of a felony case and obtains a misdemeanor charge, the additional requirements of the misdemeanor may further burden the defendant beyond the defendant’s ability to satisfy all the requirements. Consideration of the following approaches may be helpful:

- Courts and judicial officers throughout the County should have access to detailed case information for all jurisdictions. Given that most courts are using the State provided court information system, a

statewide conversation and approach encompassing all jurisdictions may be prudent.

- The totality of the defendant’s obligations in all cases across jurisdictions should be considered by judicial officers.
- If a defendant is serving felony time, or successfully satisfying felony obligations, a co-occurring misdemeanor case should be considered for dismissal, sentencing as an obligation to satisfy the felony requirements, a diversion based on satisfaction of felony requirements, or a minimal disposition. This is intended to prevent overburdening the defendant beyond the defendant’s ability to satisfy requirements. However, this suggestion is not intended to limit the ultimate discretion of the prosecutor or the judge.

Prosecutor participation is essential to this action. Information regarding other pending or concluded cases available through Full Court Enterprise (FCE) or a criminal record database should be investigated. The Court, prosecutors, and assigned defense counsel should have the benefit of this information in considering case coordination.

COORDINATION OF MULTIPLE MISDEMEANOR CASES

Coordination of misdemeanor cases related to the same defendant should be seriously considered for the following reasons:

- Judges should have knowledge of other pending cases or other case obligations.
- Other defendant obligations may satisfy or mitigate sentencing requirements.
- The defendant may not have the financial ability to satisfy several case obligations at the same time.

As previously stated, the Judge, Prosecutor and Defense Council should have the benefit of this information.

Issue Analysis & Recommendations

- **Recommendation:** The Court should consider initiating conversation among justice system agencies to promote a more coordinated response to defendants cases in multiple courts simultaneously. Justice agencies should have access to detailed case information needed to coordinate and align efforts that lead to improved justice outcomes. For more details, please review the related information in this report.

7. Court Processes, Efficiency, and Early Resolution

Issue Statement: Opportunity exists for greater efficiency through streamlining of court processes, expansion of online self-help resources, and focus on opportunities for early case resolution.

The Court's internal processes are directly related to case activity. The amount of effort and resources expended in resolving cases is proportionate in many ways to the number of appearances, continuances, and passage of time involved. Although efficiencies can be achieved through initiatives that leverage automation, the greatest gains, particularly in misdemeanor cases, are achieved by focusing on engagement and resolution early in the court process. One example of this are justice systems that offer plea agreements and diversions at arraignment by advancing their preparations and involvement to an earlier time in the process. Some justice systems are even prepared to resolve cases for some types of offenses at initial appearance. These front-loaded approaches contrast sharply with the traditional models that continue hearings to later dates and bring both prosecutors and public defenders into the process later, after arraignment. Considering the high number of failures to appear (FTA) each year by defendants in Billings, reducing the number of required appearances could lower the number of FTAs. Focusing on opportunities to resolve cases sooner would likely yield great benefit in terms of cost, efficiency, and justice.



Issue Analysis & Recommendations

- **Recommendation:** The Court and the City should consider recruiting and supporting justice system partners in a commitment to resolving cases at the earliest possibility.

EARLY APPEARANCES ARE OPPORTUNITY TO RESOLVE CASES

The timely resolution of cases before the court is essential for promoting fairness, efficiency, and the overall quality of justice administration. Prolonged timelines place a burden on the court's calendar, justice system stakeholders, and available resources. When defendants are required to make multiple appearances, there is an increased risk of them failing to appear, leading to more warrants and a higher demand for jail space, which comes at significant cost. Given the substantial size of the court's calendar, exploring opportunities to resolve cases earlier could yield benefits.

Investing attention on early appearances, such as initial appearance and arraignment, has been demonstrated to substantially reduce the burden later in the justice process. By addressing cases promptly and efficiently, strain on the court system is alleviated, public trust is enhanced, and a more effective administration of justice is ensured. It is suggested that initiatives to promote efficiency in the prompt resolution of cases, particularly those involving minor offenses, be guided by the following three principles:

- Each contact with the defendant should be an opportunity to settle the case, and
- The number of hearings should be reduced, and
- Any manual process, including handwritten documents, should be automated.

THE INITIAL APPEARANCE

The Initial Appearance is the defendant's first court appearance after an arrest. The purpose of which is to determine proper grounds for the arrest, and to decide whether to release the defendant or not, and to set any specific terms and conditions upon release.

This first stage of the criminal process can be an opportunity to resolve the case through an expedited plea and sentence. The presence of a public defender dedicated to the Initial Appearance proceeding can be effective as follows:

- Protecting the rights of the defendant.
- Representing the defendant for release.
- Explaining the legal options for the defendant, including a possible plea.

Comment: Although the Court has employed the "Public Safety Assessment" (PSA) tool established by the Laura and John Arnold Foundation, a Public Defender presence further assures due process in bail proceedings.

Similarly, the presence of a prosecutor dedicated to the Initial Appearance would benefit this process whereby:

- Representing the State's interest in the release of the defendant, and
- Assuring that any victim's concerns are expressed, and
- Offering a plea to resolve the case.

It is not suggested that serious offenses necessarily be resolved in this manner, but there are potentially numerous minor offenses that could be resolved.

- **Recommendation:** The justice system should consider viewing the Initial Appearance as an opportunity to resolve the case, especially minor offenses.

THE ARRAIGNMENT

The Arraignment is the second criminal proceeding after the Initial Appearance. The Montana Criminal Rules of Procedure allow for the Arraignment to be set several days or weeks after the Initial Appearance. The Arraignment offers the best opportunity to affect an early plea and resolve the case. The arraignment process is designed, under the Rules, to facilitate a plea.



This essentially makes the Arraignment the centerpiece of case processing and resolution. It suggests an opportunity to reduce the number of hearings and court time. There are significant implications associated with this approach to case management which are as follows:

- Arraignment times need to be set out far enough to allow for the prosecutor to investigate and prepare a plea offer.
- The court needs to allocate enough time in its calendar for plea and sentencing proceedings.
- Public defenders need to be appointed in advance of the arraignment.
- Ideally, plea negotiations should take place prior to the arraignment to reduce court time.
- The Arraignment should be considered the primary vehicle to resolve defendant decisions concerning a plea. If the defendant decides not to accept the plea offer at the Arraignment, the trial date should be set at that time. This effectively makes the process, and the defendant, more decisive. In the event the defendant decides to accept the plea agreement after the Arraignment but prior to the trial date, court time should be allowed to enter the plea.

- **Recommendation:** The justice system should consider viewing the Arraignment as the centerpiece of procedural efficiency through advanced preparation with the intention of a plea settlement or diversion.

Example: In 2008 the Mesa Municipal Court in Mesa Arizona, population 600,000 and caseloads over 100,000 cases, engaged the National Center for State Courts to recommend a future oriented business model. The National Center recommended the model suggested in 1 and 2 and was characterized as “the up-front settlement of cases”. In the Mesa experience, this model has demonstrated a high number of cases resolved at the Initial Appearance and over 60% of cases were resolved at arraignment. This essentially off-loaded cases from the trial docket allowing more time for more serious offenses and trial time.

VIEWING PROCESSES AND SERVICES FROM A CUSTOMER PERSPECTIVE

Court processes are often perceived as complex and intimidating by those required to appear, even when charges are considered minor. Most are scared to appear given unknowns, and many represent themselves without the benefit of an attorney unless eligible for a court appointed public defender. Given these considerations, a court’s ability to consider and design processes from a customer’s point of view can yield substantial benefits.

Issue Analysis & Recommendations

Items for courts to evaluate in this light include: are forms written in a manner that is easily understood and commensurate with the average reading level of the community around them; are documents and forms free of legal jargon; are options for resolving cases easily understood and concise; are people provided with information (like a brochure) on how to resolve their case when receiving their citation; is the same information available on the court's website; is information about how to request ADA and language assistance easy to find; etc... Being proactive about these issues can substantially streamline processes, reduce workload, and promote more positive justice experiences and outcomes for all stakeholders.

CITING MINOR INFRACTIONS AS CIVIL VIOLATIONS

As highlighted in multiple sections of this document, resolving charges filed criminally involves greater complexity, time, workload, and expense than charges filed civilly. Many government bodies find it advantageous for these and other reasons to allow for some offenses, particularly minor traffic violations, to be cited civilly. Montana state law, MCA 7-1-4150, permits municipalities by ordinance to designate criminal offenses under state law that are punishable only by a fine to be cited as civil municipal infractions. Per this authority granted by the State, Billings Municipal Code Section 18-1308 designates the offenses that can be cited civilly as Municipal Infractions.

- **Recommendation:** Justice system stakeholders should consider reviewing the list of minor offenses of state law listed in Section 18-1308 of the Billings Municipal Code to determine if any additional eligible offenses remain to be considered for inclusion. Additionally, guidelines for when charges should be cited civilly versus criminally if not already developed should be considered to promote consistent application of the law.



Issue Analysis & Recommendations

REMOTE ACCESS TO INFORMATION & SERVICES

One of the primary strategies employed by courts to streamline processes, promote access to justice, resolve cases faster and promote efficiency is to pursue all opportunities to provide information and services remotely (online) so they may be accessed on any device, at any time, and from any location. This is particularly helpful from an access to justice perspective given that many people involved in court cases have challenges with transportation and/or the ability to take time off work.

Maximizing the ability for people to receive services, access information, navigate processes, and even resolve cases remotely (when permitted by law or rules) are among the most effective tools for helping courts resolve cases earlier and more efficiently. To achieve this, it is common for courts to review and enhance their websites to maximize the availability of information and the number of services that can be delivered online. Many courts take the position that if an in-person appearance is not required by rule or statute, the service involved should be available remotely. To the extent possible, remote/online functions should integrate with FCE to reduce staff workload. Examples of court functions/services that are offered online include:

- Payment of fines
- Rescheduling a court appearance (one time)
- Submitting proofs such as insurance or compliance with obligations
- Submitting motions
- Submitting petitions
- Requests for hearings
- **Recommendation:** The Court should consider seeking out best practices among courts across the nation in maximizing the simplicity, intuitiveness, and helpfulness of information and services offered by courts of similar jurisdiction online.

COURT FORMS

It is important for courts to examine their forms for redundancy, excessive “legalese”, and the necessity for judges’, defendants’, and attorneys’ signatures. The use of multi-purpose forms should be investigated to the extent that a single form could consolidate the functions of multiple forms.

- **Recommendation:** The Court should consider utilizing the capabilities of FTE to complete and generate forms online, particularly in the courtroom. To the extent possible, data already within FCE should automatically populate form fields, affix signatures, route, and print for attorneys and defendants.
- **Recommendation:** A justice system review should be conducted to examine “point of origin” data entry. Data entry of one agency should feed downstream agencies, such that the same information is not entered repeatedly among agencies.

PERFORMANCE MEASURES

The National Center for State Courts developed Court Tools; a set of measures specifically designed for trial court use. There are several statistical measures that operate as performance indicators in essential areas of court functions. They are:

- Measure 1: Access and Fairness Survey
- Measure 2: Clearance Rate
- Measure 3: Time to Disposition
- Measure 4: Age of Active Pending Caseload
- Measure 5: Trial Date Certainty
- Measure 6: Reliability and Integrity of Case Files
- Measure 7: Legal Financial Obligations
- Measure 8: Effective Use of Jurors
- Measure 9: Court Employee Satisfaction Survey
- Measure 10: Cost per Case

Issue Analysis & Recommendations

Implementation of all 10 Measures can be a challenge for many courts. However, Measures 1 – 5 could function as essential but critical indicators of court performance. They should be considered important management tools in identifying problems and trends before they become major issues for the court. The Measures can also be used to statistically justify the need for staff or resources if identified as underlying the lack of expected performance.

- **Recommendation:** The Court should consider employing Measures 1 through 5 of the of the National Center for State Courts Court Tools and develop additional metrics pertaining to key operational and judicial process functions as indicators of performance that may be unique to the Billings Municipal Court.

Examples of additional metrics include:

- Tracking time between court events to pinpoint areas of delay.
- Conduct time studies of tasks, such as steps in case preparation, calendar preparation, data entry and case closure tasks.
- Tracking the number of continuances per case type, per attorney.

Comment: Billings should determine a set of goals based on the desired level of service to the public, such as time to disposition, response time to protective orders, performance of diversion programs in reducing traditional case processing etc. Aspire to exceed benchmarks and standards.

8. Capacity for Continuous Improvement

Issue Statement: Opportunity exists for adjustment to the structure of the Court to more effectively support the functions of leading and managing change, pursuing opportunities for efficiency, and promoting a culture of continuous improvement.

As laws, rules, technology and communities change, justice systems must possess the capacity to lead change, manage change, and facilitate the improvements necessary to ensure compliance, efficiency, and access to justice. In communities the size of Billings, this responsibility is typically shared by the court administrator and presiding judge who work together as a productive pair. Although the presiding judicial officer is ultimately responsible for the Court, much of their time and focus is often spent on adjudicating cases. This leaves a significant portion of leadership responsibility to the court administrator.

ROLE OF THE COURT'S CHIEF APPOINTED OFFICER

Court administrators often have a leading role in planning, setting direction for court operations, engaging in interagency problem solving, maintaining knowledge of trends, and pursuing ongoing improvements. To properly address these functions, court administrators must be assured of the time and availability that is required.



Interviewers noted a concern regarding the duties and responsibilities of the court administrator. It was indicated that court administrator maintains supervisory responsibility for all court staff. The direct day-to-day supervision of staff, as well as other duties, should be reviewed. Courts of similar size typically have one to two supervisors responsible for the majority of staff, providing capacity for the court administrator to focus on the critical functions referenced above.

- **Recommendation:** The Court and the City should consider restructuring the Court in a manner that allocates supervisory responsibility for front-line staff to one or preferably two supervisors, providing the Court Administrator with greater capacity to focus on the management and leadership functions of their role as the Court’s senior appointed official.

COURT MANAGEMENT RESOURCES

Many of the challenges that courts face are similar throughout the nation. In working toward a more efficient and accessible court system, court management professionals have formed professional associations that serve as forums for the exchange of ideas, sharing of best practices, publishing of research, and source of professional development. Most associations offer both regular training courses and annual conferences that deliver the benefit of relevant content and opportunity for networking.

The role of the Court Administrator cannot be understated. The limitations on the time and availability of the Chief Judge place a large leadership role on the Court Administrator. The ability to network with other courts and participate in professional organizations will not only contribute to the professional development of the court administrator but will ultimately introduce the court to a broad range of information and resources. The Court Administrator’s access to current trends and issues will also allow the court to quickly adapt to new demands and be “ahead of the curve”.

- **Recommendation:** The Court Administrator and Chief Judge should be availed of development opportunities sponsored by organizations such as the National Center for State Courts (NCSC), National Association of Court Management (NACM), and National Association of Presiding Judges and Court Executive Officers (NAPCO).

9. Defendant Failure to Appear and Failure to Comply

Issue Statement: Interview statements and court statistics indicate a high rate of Failure to Appear for court hearings and Failure to Comply with court orders by individuals with cases in the Billings Municipal Court.

High rates of Failure to Appear and Failure to Comply (FTC) are issues common to many courts throughout the nation. The negative impacts of FTA and FTC by defendants are numerous and substantial including delayed justice, increased workload for the court and other justice agencies, consumption of law enforcement and jail resources associated with the issuance and execution of related warrants, additional hearings associated with revocation actions, and substantial increases to overall justice system expenditure. Focusing on strategies that promote voluntary compliance represents one of the more substantial areas of opportunity for justice system improvement in Billings.

COMMON CAUSES OF FAILURE TO APPEAR (FTA)

Common factors known to contribute to FTAs include:

- Fear of coming to court –the serious environment, the complexity of court processes, and simply not knowing what to expect.
- Lack of transportation.
- Difficulties associated with children or childcare.
- Inability to take time off from work or school.
- General lack of concern.
- Simply forgetting their appearance date and time.

- Multiple required appearances increase the likelihood of an FTA.
- Fear of being taken into custody.
- Limited flexibility in terms of hours and options for walk-ins to resolve court matters.

APPROACHES TO REDUCING FAIL TO APPEAR (FTA)

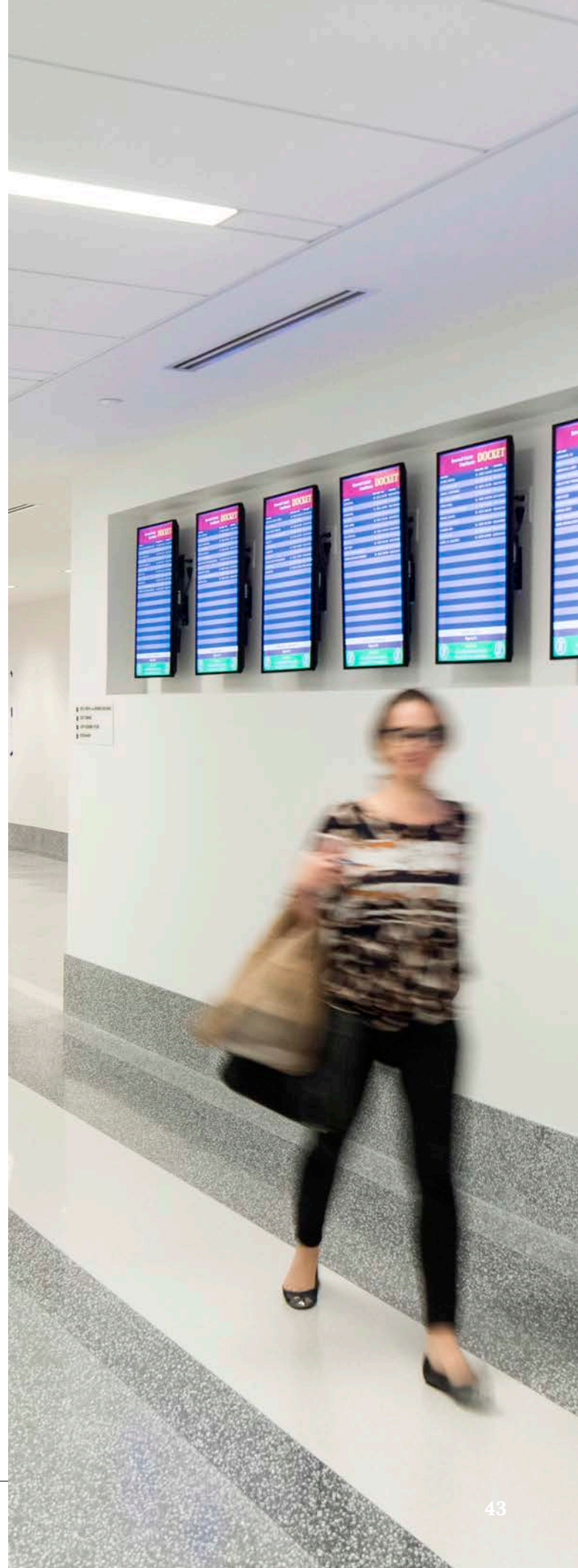
- Providing automated reminders about appearances with texts, emails, and (automated) phone calls.
- Provide opportunities to resolve cases sooner, reducing appearances.
- Seek procedural opportunities to resolve cases with fewer events.
- Emphasize in defendant documents appearance requirements and the consequences of a non-appearance.
- Provide more open times for defendants to come to court to resolve matters. Consider “working them in” between on-going courtroom events if possible. Consider empowering court staff to resolve matters such as rescheduling, accepting proof, or valid reasons for a non-appearance. FTAs impact time and effort for judges and staff, and further complicates matters for the defendant. Reducing FTAs should remain a court priority.

APPROACHES TO REDUCING FAILURE TO COMPLY (FTC)

- Court-imposed requirements should be communicated in a manner that is simple, clear, concise, and easily understood. Information regarding the consequences of non-compliance and what to do or who to contact when compliance issues arise should be included. Defendants should be encouraged to contact the Court to resolve non-compliance when it occurs.

Issue Analysis & Recommendations

- Information should be made available to all defendants on the availability of any alternatives to satisfy fines and fees if indigent. Programs that permit defendants to satisfy fines and fees by performing volunteer hours should be flexible to accommodate considerations of work schedules, transportation, etc. Allowing defendants to complete volunteer hours with any non-profit organization can be a beneficial approach. Such can help address economic disparities, provide valuable community service, and potentially aid in the defendant's personal growth.
- Courts should collaborate with vendors who provide treatment, monitoring, and home detention services to establish flexible payment options. These could include waivers for those who are indigent, or a sliding scale payment system based on the individual's income.
- Automated systems that send reminders about upcoming deadlines for fulfilling sentencing obligations, such as completing treatment programs and paying fines, fees, and restitution should be used. Reminders could be sent via various communication channels like text messages, emails, or phone calls.
- Courts should consider alternatives to full-time post-conviction incarceration such as home detention, monitoring, work release programs, and unsupervised, or semi-supervised probation.
- Designate a dedicated compliance officer within the Court.
- **Recommendation:** Given the significant challenges and costs created by the high level of non-compliance by individuals with cases in the Billings Municipal Court, the Court should consider strategies focused on promoting voluntary compliance with appearance requirements and other court orders. For details, please review the information listed in the following sections of this report: Approaches to reducing Failure to Appear (FTA); and Approaches to Reducing Failure to Comply (FTC).



10. Cases Involving Family Violence & Protective Orders

Issue Statement: Family violence offenses pose a serious concern and risk, according to interview statements. These offenses may not seem very high in number, but the nature and risk associated with these offenses is considerable.

The Billings City Council has recognized the significance and risks associated with domestic violence and is considering a proposal to establish a Family Justice Center. The Prosecutor's Office maintains a Domestic Violence Unit comprised of dedicated Prosecutors and Victim Witness Specialists. The Billings Police Department has also made domestic violence a priority for law enforcement. A review of local resources also suggests a significant and important community commitment to domestic violence issues. Billings should be recognized for creating a continuum of attention to domestic violence from City Council to Police to Prosecutors to Victim Witness Specialists, and the community. Essential to this collective effort is the role of the Court.

ROLE OF THE COURT IN FAMILY VIOLENCE CASES

The role of the Court in domestic violence cases cannot be understated. It is the authority of the Court to compel the compliance of the defendant with separation from the victim, counseling, or other requirements in response to victim safety. However, the priority of victim safety does not exclude other important considerations such as the impact on other family members, especially children. Responding to the fact of family violence possibly driven by mental health issues, and recognizing consequences for the family, makes domestic violence cases the most demanding for the Court.

SAFETY FIRST

The police represent the first response to the safety of the victim. Commonly resulting in the arrest of the defendant. After which it is incumbent upon the court at the Initial Appearance proceeding to determine the measure of risk involved in the release of the defendant. It is important at this stage for the judge to have benefit of all available information regarding the potential for violence on the part of the defendant. The police report, risk assessments, and input from the victim should all be available to the judge in making a release decision. Should release be determined, the court should consider release conditions that operate to the victim's safety. Another consideration is the possibility of affecting a Temporary Restraining Order that can be served on the defendant while detained, and prior to release.

THE CRITICAL IMPORTANCE OF VICTIM INFORMATION

Victim Witness Specialists report issues with timely receipt, accuracy, and completeness of needed information following law enforcement contact with victims. It is of vital importance that victim status i.e. injuries, fear of violence, threats etc. and contact information be ascertained by police in a domestic violence response. The ability for Victim Witness Specialists to provide notifications and other critical services requires that law enforcement obtain and immediately forward needed information each time they have contact with a victim. Particularly important is the need to confirm current contact information.

- **Recommendation:** Upon any contact with a victim, law enforcement officers should obtain victim status as to injuries or threats, victim contact information such as phone number and victim location (and any updates to previously obtained contact information), and promptly ensure that the information is forwarded to Victim Witness Specialists. If an arrest is involved, it is critical that the information be received by Victim Witness personnel prior to Initial Appearance.

Issue Analysis & Recommendations

DOMESTIC VIOLENCE SENTENCING OPTIONS AND DIVERSION PROGRAMS

Although the court only has jurisdiction over the defendant, the court should be aware of family counseling resources that could appropriately be involved. The court could act upon recommendations requiring the defendant to be a part of family counseling, which could be a source of continued support.

RESEARCH AND EDUCATION

The Court, justice system members, and community support agencies should conduct regular meetings to coordinate services, and seek to be informed about domestic violence issues, trends, and research. Policies, procedures, and responses to domestic violence should be informed by research and models evidenced by success.

- **Recommendation:** Justice system partners, representatives of the City of Billings and Yellowstone County, and community members involved in a range of family services should consider meeting to coordinate responses to family violence cases.

PROTECTIVE ORDERS

Temporary Restraining Orders sometimes take multiple days to be signed and forwarded to law enforcement for service. This interview comment suggests a judicial time

and availability issue, possibly produced by a congested calendar issue. Police service time, unknown at this time, may add to the length of time before legal protection of the victim is in place.

- **Recommendation:** Every effort should be made as a matter of highest priority to prepare, sign, and forward Temporary Restraining Orders to law enforcement that are granted the same day, or as soon as possible given that many cases involve domestic violence or the potential for such.

Montana law only allows for temporary protective orders that automatically involve setting a hearing for both parties to appear a few weeks later. Only after the subsequent hearing can a protective order with a longer duration be issued. Many respondents do not appear for these automatic hearings that tie up the court's calendar and likely require service of documents a second time. In some states, regular protective orders are issued for one to two years following an ex parte hearing with the victim, and a full hearing involving both parties is only scheduled and held when the respondent asks for one. Billings position as the largest jurisdiction in the State may want to consider encouraging legislative consideration of amending statutes to reduce the burden of unnecessary hearings and service of documents by the courts and law enforcement.



Issue Analysis & Recommendations

EMERGENCY PROTECTIVE ORDERS

Montana does not have an emergency process for issuing protective orders outside of regular court hours. Some locations around the country provide for after-hours issuance of a regular or temporary emergency order via a remote process, some involving requests channeled through law enforcement to on-call judicial officers. Billings position as the largest jurisdiction in the State may want to consider encouraging legislative consideration of amending statutes to provide such an option for emergency situations.

11. Cases Involving Mental Competency

Issue Statement: Cases involving competency issues and the defendant's mental health are insufficiently resourced. Mental health issues have been a major public health concern in recent years, especially the consequence of many mental health sufferers becoming incarcerated. Police and court responses are critical to the effective and appropriate handling of these cases, reconciling both treatment and public safety.

The mental state of the defendant becomes an essential legal question early in the life of a case and there must be an evaluation of the defendant prior to trial. The legal standard was set forth in *Dusky v. United States* (1960) requiring that the defendant must have "a rational understanding as well as a factual understanding of the proceedings against him" and "sufficient present ability to consult with his attorney". This simple two-element standard becomes complex given the multitude of psychological problems and the vagaries of a person's mental state. In many cases, a defendant's mental stability may be dependent upon prescribed medication, and therefore determined by when and if the medication is taken. As a result, the legal competency of the defendant as defined by *Dusky*, becomes an early challenge for the court.

THE COURT'S RESPONSE TO DEFENDANT COMPETENCY

The Court should maintain available mental health resources meeting the requirements of MCA 46-14-202. There should be the ability to obtain an evaluation of the defendant within a short period of time after an attorney motion or court action for competency. Case progression, attorney time, the legal interests of the defendant, and at times the mental health interests of the defendant are best served with an expedited evaluation. If public mental health services are not available, the Court should consider contracting for one or more doctors to facilitate competency evaluations. They should be familiar with and specifically address the determinations required by *Dusky*.

FAILURE TO APPEAR ISSUES IN COMPETENCY CASES

There is the potential for defendants to fail to appear when referred to a doctor's office or other locations for evaluations. Some courts have solved this problem by conducting an evaluation at the court as a required appearance by the defendant. A secure and private area would be needed given the confidential nature of the evaluation. If this is not possible, clear direction and instructions should be given to the defendant and their attorney.

STRUCTURAL PROBLEMS WITH MISDEMEANORS

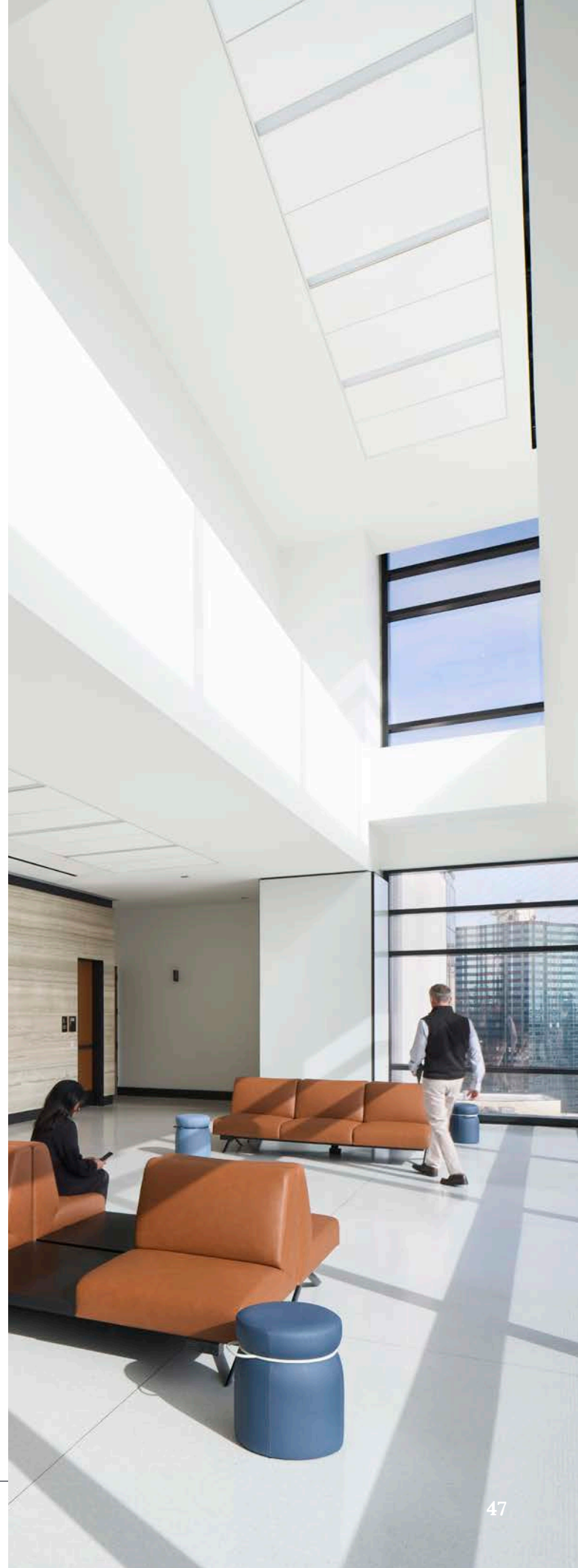
As a result of the evaluation, if the court determines that the defendant lacks the fitness to proceed, "the court shall commit the defendant to the custody of the director of public health" MCA 26-14-221. The statutory requirement for the court to bear all the costs for the care and mental health treatment of the defendant, over several days or months, is a financial burden considered unreasonable given the nature of the offense. Recognition of the costs associated with this situation commonly results in the dismissal of the case. Furthermore, the possibility of a plea agreement resolution is negated by the mental state of the defendant. Consequently, there is not a practical disposition for these cases other than a dismissal.

Issue Analysis & Recommendations

JUSTICE SYSTEM OPTIONS

The problem as outlined above is not unique to Billings but experienced by courts throughout the country. There is a broad and national recognition of the challenges posed by those with mental health problems coming into local justice systems. There is an abundance of research and publications pointing out that diminished mental health resources have resulted in the justice system becoming the de facto mental health system throughout the country. The problems associated with misdemeanor competency are symptomatic of a larger mental health crisis. Responses must come in the form of a system-based approach, involving local government leaders, police and jail operations, prosecutors, the defense bar, courts, and representatives of all available mental health services.

- **Use of Pre-Filing Diversion:** Use of a pre-filing diversion, a diversion through the prosecutor's office, would operate as a voluntary agreement with the defendant to participate in appropriate services to avoid prosecution i.e., filing of the charges. This would circumvent the court process and the statutory requirements imposed by MCA Title 46 Chapter 14. After a filing, a dismissal prior to the evaluation could facilitate a prosecutor diversion since the option to re-file charges remains.
- **The Use of a Task Force:** Establishing a task force has been a common and popular response to the broad challenges of the mentally ill in the community. These efforts typically encompass issues such as homelessness, co-occurring substance abuse, transitional housing, and support services. A principal focus would be to correlate solutions to people coming into the justice system. Task Force recommendations should be implemented and managed by a permanent Community Mental Health Committee.



Issue Analysis & Recommendations

- **The “Sequential Intercept Model:”** The Sequential Intercept Model developed by the Substance Abuse and Mental Health Administration (SAMHSA) states “The SIM helps communities identify resources and gaps in services at each intercept and develop local strategic action plans. The SIM mapping process brings together leaders and different agencies and systems to work together to identify strategies to divert people with mental and substance use disorders away from the justice system into treatment.” Billings’ Justice System partners should investigate SAMHSA’s assistance in setting up workshops and training in consideration of this model. (Subsequent interviews indicated that Billings has implemented the Sequential Intercept Model).
- **Consider Establishing “Community Court:”** Several versions of a “Community Court” exist as models. The concept is to involve community resources as participants in the diversion of a case. Community Courts function as a diversionary court by identifying plans and services addressing the specific needs of the defendant. A range of services need to be available in creating a plan for the defendant based on a “social” and mental health evaluation, but not necessarily motivated by legal competency. Community Courts are often focused on homeless defendants, given their typical needs of housing, mental health assistance, drug abuse, and other issues. The combination of transitional housing, counseling, mental and physical health support, and potential employment typically provides for defendant success. Referral to Community Court can be criteria based, such as limited by designated charges, but greater success has been experienced by an open referral basis, allowing for any entity; police, prosecutors, defense, or a judge in a pending case to refer on the belief that the defendant can benefit from Community Court services. Participating in Community Court is voluntary, but a contracted defense attorney advises Community Court defendants, and a dedicated prosecutor is assigned to manage Community Court cases.

- **Recommendation:** For cases involving mental competency, the Court should have available mental health evaluation services to satisfy the legal requirements for competency, and additionally the general mental state of the defendant.
- **Recommendation:** Cases involving mental competency and mental health are a growing public health concern. In addressing these cases, the justice system should consider the practices discussed in the Justice System Options section of this report.

12. Cases Involving Driving without Insurance

Issue Statement: Driving without insurance as a repeated offense is very high accounting for nearly 10 percent of total charges filed annually. Court statistics indicate a high number of no insurance citations and repeat offenses. Initial impressions are this may be driven by the defendant’s economic circumstances.

Many individuals, particularly those in economically challenging situations such as single-parent households, often struggle to afford and maintain car insurance due to its high cost and other competing financial obligations. The recurring instances of uninsured driving offenses indicate that this issue may be rooted in financial hardship.

OPTIONS TO CONSIDER FOR VEHICLE INSURANCE VIOLATIONS

The Court should consider an initial period after the issuance of a citation to allow the defendant to purchase insurance and provide proof to the Court for a dismissal of the charge or mitigation of a fine. It appears that an option to pay the citation on-line exists, but there is the possibility that paying the fine may be cheaper than the cost of the insurance, thereby creating a financial incentive



to pay the fine, or repeat paying the fine as an alternative to purchasing insurance. This option could operate as a motivation to pay for the insurance, since there would be a pending obligation to pay the fine at the end of the Court's initial grace period.

The Court should conduct a cursory investigation of local insurance factors and requirements to obtain insurance, and options for persons with financial difficulties. This information could be helpful for defendants and could be provided to defendants by the Court or possibly the citing officer. The Court should not however, endorse any insurance company.

- **Recommendation:** For cases involving Driving Without Insurance, the Court should consider the following: 1) Providing an option for the suspension or reduction of a fine, or dismissal if permitted by law, if proof is submitted within a set number of days after the citation, such as 30 or 60 days. 2) Directing individuals toward resources that may provide options for persons in financial difficulty. 3) Advising the defendant concerning the consequences of not obtaining insurance.

13. Prosecution Based Diversion Programs

Issue Statement: There may be opportunity to expand the use of diversion programs and benefit from their positive outcomes.

Before filing charges, diversion programs can be used for several misdemeanor offenses. This can substantially reduce the time, effort, and resources that the traditional court process requires. Diversions can also happen after charges are filed with a notice to the court.

USE OF PROSECUTOR DIVERSIONS, PRE-FILING

Use of prosecutor pre-file diversions provides an opportunity for justice system efficiencies. Except for police citations filed directly with the court, the prosecutor maintains the principal role in initiating the criminal justice process. Prosecutors have discretion in the review of evidence, evaluating the substance of police reports, knowing the status of investigations and essentially all factors underlying criminal charges. Decisions concerning the extent of criminality and the type and severity of charges to be filed reside with the prosecutor.

Issue Analysis & Recommendations

Considerations may include factors such as how serious the offense is, how likely the defendant is to finish a diversion program, the potential for recidivism, the defendant's criminal history, and any issues that mitigate culpability such as health issues, homelessness, indigency, etc. There is an old axiom which states:

“The Prosecutor’s job is not to prosecute, but to do justice.”

-Unknown

Just as there may be significant facts and circumstances that require that charges be filed, there may also be facts and circumstances that suggest that charges not be filed. Such is the reason why communities consider using pre-file diversion programs for some offense types and circumstances.

PROSECUTOR RESOURCES

The effective use of pre-filing diversions has a dependency on available options and therefore resources connected to the prosecutor's office. There should be a significant effort to develop, if not currently available, diversion programs. These resources should be tailored to serve criteria-based cases, such as those characterized by:

- Underlying mental health issues
- Substance abuse
- Severe indigency
- Homelessness
- Non-violent domestic disputes.

This list is only suggestive, is not all inclusive, and recognizes that complete discretion lies with the prosecutor.

- **Recommendation:** The Prosecutor's Office should consider identifying and/or developing resources in support of prosecution-based diversion programs that permit the non-filing of the charges.

- **Recommendation:** The Prosecutor's Office should consider prioritizing diversions in cases with underlying social problems such as mental illness, homelessness, severe indigency, substance abuse, and non-violent domestic disputes.

PROSECUTOR DIVERSIONS, POST FILING

Once charges are filed into court, the formal court process takes place, involving the Initial Appearance, which concerns release of the defendant, Arraignment, which requires the defendant's entry of a formal plea, and subsequent hearings leading to a possible trial. The opportunity for a diversion remains an option throughout this process but is best decided by the early stages of either the Initial Appearance or Arraignment.

Although the use of a diversion is much the same as a pre-filing diversion, there are significant differences. The fact that charges have been filed suggests a level of seriousness. Diversion after filing may involve more requirements and obligations for the defendant to qualify for an eventual dismissal. Another important factor is the implied weight of the formal court process which may serve to motivate defendant compliance.

In summary, the potential for pre-filing, and post-filing diversions can offer the best opportunity to affect an appropriate and just result, without the time, effort, and internal costs of the formal court process. This time savings can operate to permit more available time for the demands of more serious cases.

- **Recommendation:** Post filing diversions should be utilized in cases where compliance is of greater necessity and the weight of possible court action is more apparent to the defendant.

14. Criminal Justice Coordinating Committee

Issue Statement: The Criminal Justice Coordinating Committee has the potential to be the key factor in enhancing the municipal justice system in Billings.

The cornerstone of a successful justice system lies in the effective collaboration of dedicated stakeholders. These representatives play a pivotal role by ensuring seamless coordination, fostering a clear vision, demonstrating strong leadership, and strategically planning for the delivery and enhancement of justice within their community. The role and value of this collaborative body in leading and navigating justice system improvement cannot be overstated.

The members of the Criminal Justice Coordinating Committee (CJCC) in Billings give it a suitable and wide influence. But there might be other groups that oversee some aspects of the justice system and their connection to CJCC should be reviewed for better coordination. This review points out many parts of the municipal criminal justice system that can benefit from improvement and guidance. Inter-agency relationships are very important because improving one part may depend on more than one agency. CJCC can help coordinate these efforts.

ABOUT COORDINATING COUNCILS/ COMMITTEES

In many local and state jurisdictions, criminal justice coordinating councils/committees are commonly utilized to provide a forum in which the efforts of multiple agencies and stakeholder groups can convene on a scheduled basis to coordinate efforts and resources aimed at improvements to the criminal justice process. In some cases, these groups are formed for a very specific and temporary purpose such as a new building project or a task force being assembled to combat a specific aspect of

the system. In other cases, these groups are established and operate as a permanent function of the system with operational charters, mission, and vision statements, elected officers, and an executive committee.

The U.S. Department of Justice through the National Institute of Corrections (NIC) has established national standards and best practices for local jurisdictions who seek to improve the effectiveness of their current councils or those who wish to establish the function from the very ground level.

According to the NIC's guide titled: "CJCC Essential Elements..." The following recommended essential elements for a highly functioning CJCC are as follows:

1. Systemic Focus
2. Participation
3. Leadership
4. Consensus Building
5. Organized Meetings
6. Committees and Work Groups
7. Strategic Planning
8. Data and Research
9. Community Engagement
10. Director and Staff

It is unclear through project interviews and research whether the local criminal justice coordinating committee has developed an all-inclusive committee with equal representation from all criminal justice agencies and the community. As it relates to the issues and recommendations provided in this report, it is further recommended that the composition of the committee re-evaluate its structure and mission to potentially develop a more effective work group to address the issues at hand through the following means:

Issue Analysis & Recommendations

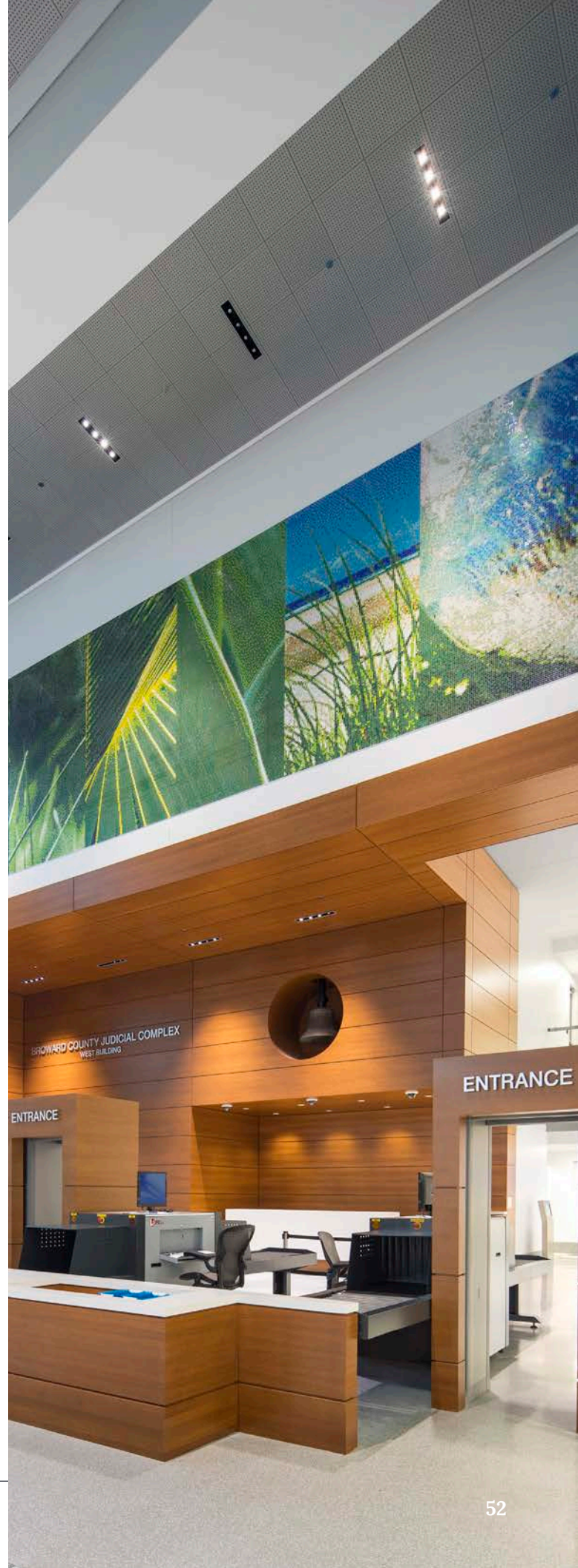
- **Recommendation:** The CJCC should work to adopt a very specific and clearly worded mission and vision statement that brings all the currently occurring issues under one umbrella for potential resolution.

An example mission statement of the CJCC could be as follows:

“Through collaboration and coordination amongst Yellowstone County and the City of Billings criminal justice partners, the Criminal Justice Coordinating Committee aims to provide clear lines of communication, operational efficiency, and improved system outcomes for the local community through its continued efforts to seek excellence in carrying out justice.”

Specifically, the CJCC is focused on:

- The reduction of criminal activity through coordinated strategies of identification, response, containment, and treatment of criminal offenders.
- The reduction of recidivism in the local criminal justice system by identifying criminogenic factors associated with the current risks of justice involved individuals, and subsequently identifying resources to reduce these risks.
- The identification and treatment of those criminal justice involved individuals who suffer from mental health disorders which result in criminal activity.
- The integration of public and private community providers to assist in alternatives to incarceration that weigh public safety risk against available resources.
- The coordination and early resolution of criminal and misdemeanor cases to reduce the system’s footprint in the local community.
- The monitoring and analysis of the incarcerated/jail population to ensure the availability of limited bed space for those that pose a public safety risk to the local community.





- **Recommendation:** The CJCC should review its membership and charter to ensure that appropriate membership is represented to address all past, current, and future challenges within the criminal justice system.

According to the NIC national standards, the following list of criminal justice partners should be included in a high functioning CJCC:

- Chief Judge of felony criminal courts
- Chief Judge of misdemeanor courts
- Police Chief
- Sheriff
- Jail Administrator
- Chief Prosecutor
- Public Defender
- Chief Defense Bar Attorney
- Clerk of the Court
- Probation/Parole Chief
- Pre-Trial Services Director
- Officials of general government (County/City Manager)
- Directors across continuum of care (substance use disorder, mental health, housing)

- **Recommendation:** The CJCC should seek to create subcommittees and/or workgroups tasked with the individual goal of solving each of the proposed issue statements through inter-agency collaboration. These sub committees and work groups should report their progress and findings to the CJCC as directed. As it relates to this and other related projects, the following list of workgroups is recommended for consideration:

- Technology/Data Sharing
- Jail Population
- Data and Research
- Case Coordination/Resolution
- Deflection and Diversion
- Mental Health
- Recidivism

RESOURCES

National Institute of Corrections (n.d.) *National Standards for Criminal Justice Coordinating Councils*.

National Institute of Corrections (n.d.) *CJCC Essential Elements: A Companion to the National Standards for Criminal Justice Coordinating Councils*.

15. Stillwater Court Building Security

The project team was tasked with providing a comprehensive review of the design, layout, and functionality of the Stillwater Building which is undergoing extensive renovations. The primary goal is to provide a thorough operational analysis of the court functions within the Stillwater Building, which includes the public lobby and entrance. The review is intended to provide recommendations to be considered best practice to enhance the safety, security, and functionality of operations at the new Stillwater Building.

The team met with staff from the City of Billings on August 21, 2023, and provided a tour of the Stillwater building, specifically in the area's relating to the Court functions. It is important to note that construction was in the beginning stages of renovation with only outlines on the floor where each room's dividing walls would be located. Upon thorough discussion during the tour and later examination of the floor plans, we have identified 23 areas which require additional discussion. Our comprehensive recommendations for consideration include the following aspects:

- 1. Security/Operational Enhancements:** Opportunities to bolster safety and security measures within the premises, encompassing access control, location of panic alarms, camera surveillance.
- 2. Functional Improvements:** Suggestions aiming to improve the separation of the public and court staff in areas such as restrooms and public corridors.
- 3. Technology Integration:** Proposed integration of technological solutions that facilitate smoother proceedings and data management in a modern court setting. Suggestions made within this document will assist the City in easily adapting to the ever changing technological needs of the future.



FLOOR PLAN REVIEW

As a result of the project team's site visit and review of the Stillwater Building floor plans, our team provided comments and suggestions based upon experience, expertise, and best practices in areas where we felt security measures and functionality were lacking for a modern court facility. The project team was not provided with a complete set of floor plans and the project scope was solely to analyze the court functions and operations.

It is expected that some of our comments and recommendations may have already been incorporated into the current design. The following areas represent our findings:

1. Panic buttons should be located at public counters or service windows, judges' bench, and courtroom clerk's station.
2. Panic buttons should be located under the desk or bench but marked on top to easily identify its location.
3. Determine where panic alarm notifications would be sent once pushed. Typically, panic alarm notifications are sent to security control rooms which is manned by security staff monitoring cameras and all things security for a facility of this nature.

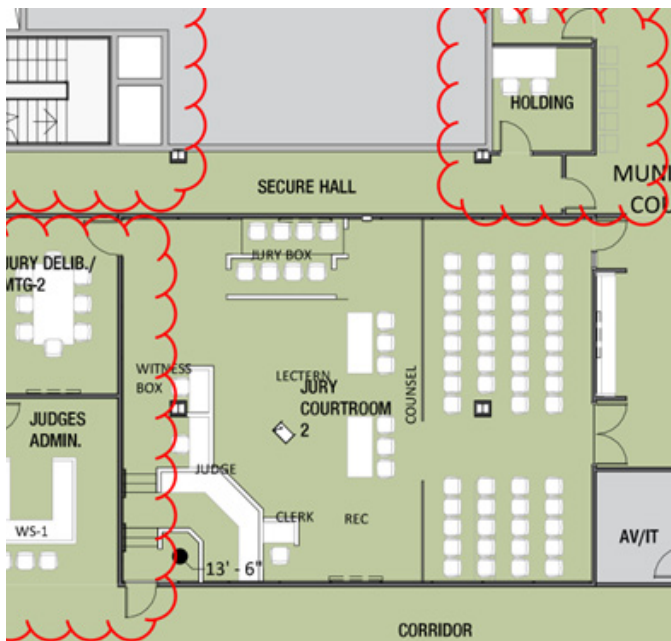
Issue Analysis & Recommendations

4. Bullet proof paneling should be installed behind the bench, clerk's station, and witness box in each courtroom. (There have been many instances involving defendants that have gained access to security officer's guns inside of a secure courtroom --e.g., Fulton County Georgia Courthouse shooting).
5. Jurors, judges, and the public should have limited contact in public areas during court proceedings. Currently the Stillwater building features shared restrooms, corridors, and elevators between judicial staff and the public. Although this issue is difficult to manage in smaller districts or communities, effort should be made where possible to provide separation in these areas to uphold judicial decorum.
6. Prosecutors should not have the ability to enter court spaces or corridors without authorization.
7. Numerous windows with clear views from the outside may pose a threat to judges, jurors, and the public. Where possible, windows and glazing should provide natural lighting and views to the outside but should limit the ability for outside threats to target individuals inside of the building. (Window covering solutions are available that allow for lighting and viewing but obscure from the outside looking in.)
8. Chairs can be convenient weapons. Mounted seating and benches should be considered where appropriate. If chairs are used, they should be very heavy and difficult to pick up.
9. Prosecutor and defense positions in the courtrooms should have privacy fronts.
10. It is recommended that the judge's bench sit 18-21 inches above the courtroom floor level with approximately a 6" drop to the clerk's position.
11. The jury box: It is recommended that the jury box front row of seating be at floor level for ease of access with an increase in elevation of approximately 6" to the second row. Additionally, jury seating between rows should be offset for improved viewing of the judge, witness stand, and well area.
12. Sight Lines: The prosecution table is always next to the jury box but should not be so close as to influence jurors. The defense table needs to have line of sight to the witness, given the constitutional right to confront your accuser. The judge needs clear sight of all the courtroom and participant areas.
13. Color schemes: Choice of colors and type of lighting can be important. Indirect lighting and muted colors --greens, grays, etc. can influence attitudes and dispositions. A primary consideration in mental health facilities is associated with color choice and lighting types. It is understood that a large percentage of justice-involved members of the public often suffer from mental health conditions and may suffer from traumatic conditions related to their current or past cases. The deliberate choice of these elements in a criminal justice setting can reduce incidents in public areas and courtrooms.
14. Conduit: In anticipation of technological changes and the need to run additional cables or power, access runs if conduit is used, should be large to accommodate future modifications of the building.
15. Security staff escorts of judges and jury are recommended in the absence of security screening stations, dedicated elevators, and corridors. This includes transfer from the building to the parking area and from the courtroom to the judge's chambers.
16. A dedicated security office or control room is recommended to provide sufficient space for security staff to monitor cameras, panic alarms, radio traffic and phone lines.
17. The basement should include camera coverage. Cameras should be located near the elevator, parking lot exit/entrance, doorways, parking lot and any other areas, for example blind spots or place for someone to hide.
18. Basement parking is recommended to be secured with roll up door or system equivalent and cameras to determine who is entering and exiting area.

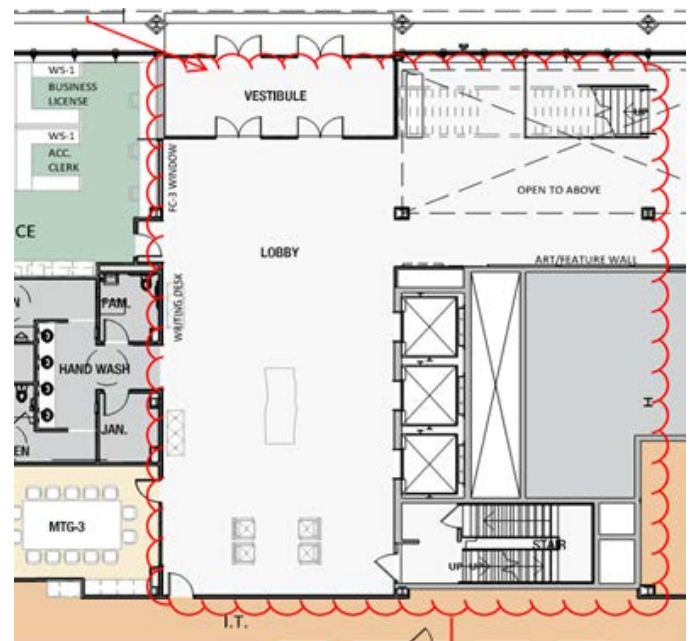
Issue Analysis & Recommendations

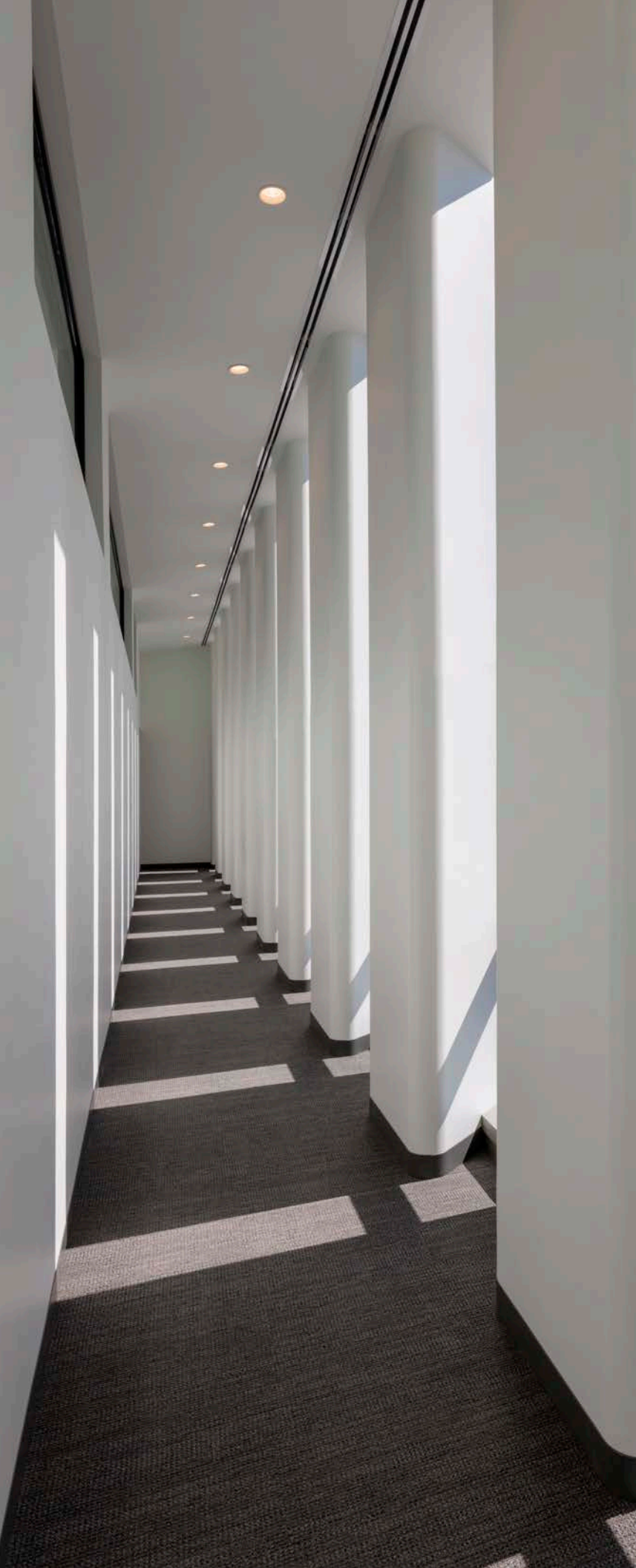
19. A secure/semi secure area should be provided for jail transportation vehicles to prevent escape during arrival and unloading, loading and departure of in-custody defendants.
20. Best practice dictates that any multi-functional/multi-occupancy building that includes judicial proceedings is by default a court building. Given this fact, it is recommended that a full security screening station be placed at the entrance of the building. Additionally, elevators should be programmed in such a way that limit access to court areas from other areas of the building where possible.
21. Consideration should be given to the addition of a secure partition of at least one dedicated judge's elevator from the parking area to the courtroom level.
22. The room identified as holding on the second floor in the courts function is to be used for individuals pending transfer from court to jail. It was recommended that this room be hardened with detention grade materials including light fixtures, a camera to monitor individuals in the room, walls, door, door frame, lock, and security glazing being added to the door at a minimum. It was recommended that a window with security glazing be installed in order for staff to have view into this space to make sure individuals do not harm themselves or accidentally be left after hours without being transported to Yellowstone County Detention Facility.
23. Consideration to be made to provide separate restrooms on level 2 of the building for the public and staff.

RECOMMENDATIONS



Stillwater Building Floor Plans

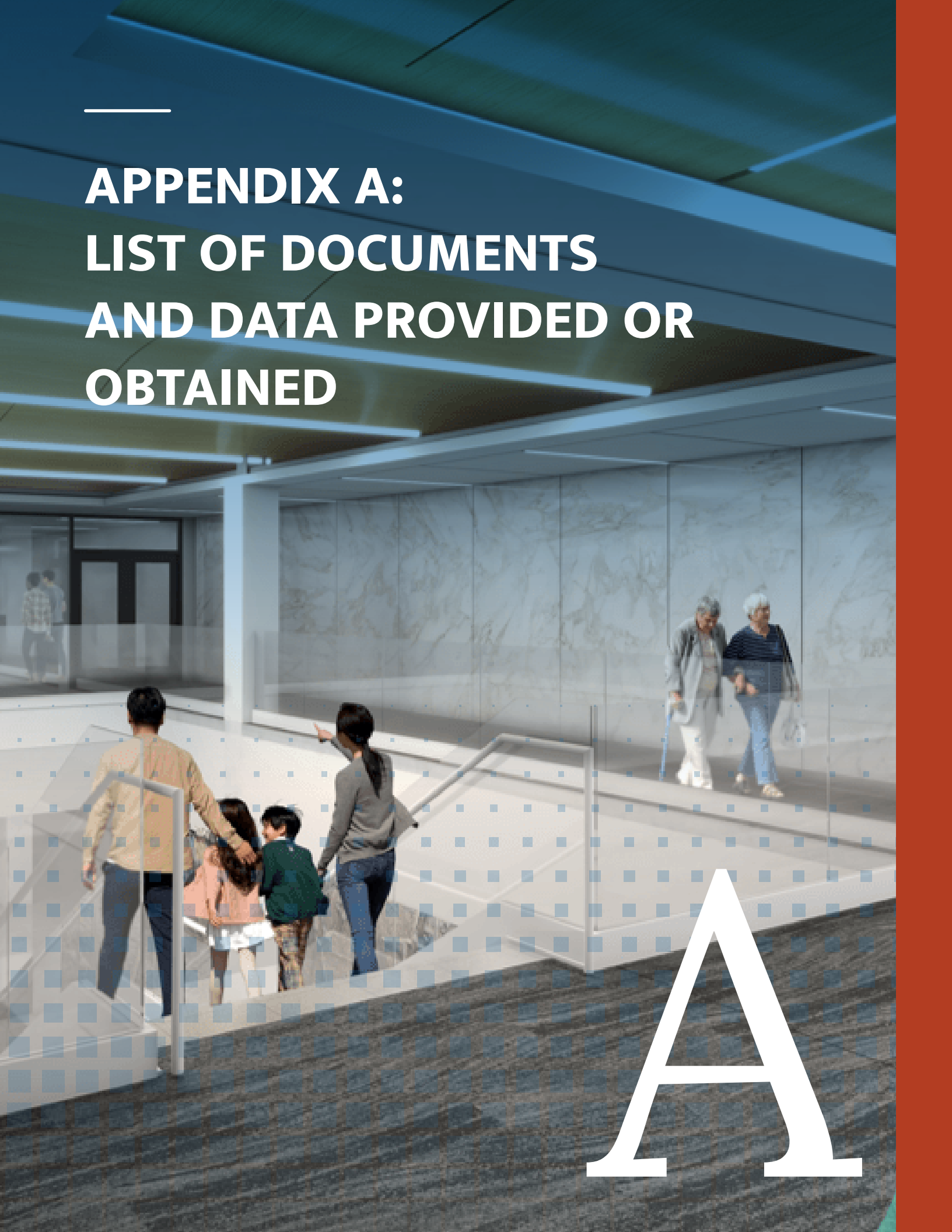




Although all of the items listed above are of concern, they are incorporated into the design, here are **the top recommendations**.

- **Recommendation 1:** The City of Billings should consider and investigate further if Montana Code provides justification to designate this building a gun free zone. Based on current design, the public would not be prevented from entering the building with a weapon. Although, other departments such as the City Hall will be co-located with courts operations within the Stillwater Building, many court personnel, individuals from the public, and court operations cross paths on the first and second levels of the building. It is recommended the City of Billings further investigate and decide if the entire Stillwater Building should be a gun free zone utilizing Mont. Code Ann. § 45-8-356 (7) which states the following: within a courtroom or an area of a courthouse in use by court personnel pursuant to an order of a justice of the peace or judge.
- **Recommendation 2:** The City of Billings should consider reviewing options to place a secure barrier such as a solid wall or wall with a door near the elevator lobby on floor two to prevent someone from the public having access to a judge especially if no screening has taken place in the public lobby on the first floor. At minimum, each judge should be escorted at all times when they arrive on the second floor and enter the elevator lobby or when they leave the courts area to exit into the elevator lobby.
- **Recommendation 3:** It should be considered to have at minimum one private restroom for judge use only. Judges and jurors should not cross paths outside of the courtroom.
- **Recommendation 4:** It should be considered to harden the holding room with construction materials similar to what you would find in a jail holding cell. The holding room should include at minimum a window on the door to view anyone being held in the room.

APPENDIX A: LIST OF DOCUMENTS AND DATA PROVIDED OR OBTAINED



A



Appendix A

LIST OF DOCUMENTS AND DATA PROVIDED OR OBTAINED

Documents and Data Provided or Obtained

City Finance Reports for FY22 and FY23

Case Dispositions Report 2022

Case Docketing and Scheduling Practices

Case Management System Overview

Case Types

Court Workflow

Prosecutor Workflow

Courtroom Schedule

Court Electronic Vs Manual Processes

Court Failure to Appear Warrant Data

Court Hearing Types and Frequency

Court Information Regarding Remote & Virtual Hearings

Court Jail Video Data 11 3 22 to 7 24 23

Links to Benchbook, Best Practices, and Training Guides

Court Organizational Chart

Prosecutor Organizational Chart

Court Recidivism Data

Adult Treatment Court Data

Court Weekly Calendar Overview

Jail Data

Montana Judge's Deskbook

Montana Judicial Branch Goals and Objectives

Montana Recommended Bond-Fine Schedule 2022

Montana State of Judiciary Address 2019

Alternatives Referral

Failure to Comply Data

Freidel Referral

Program Programs and Options

Pre-Adjudication Programs

Caseload Data Reports

APPENDIX B: INTERVIEWS



B



Appendix B INTERVIEWS

Interviews

Sheila Kolar, Judge

Brittania Park, Court Administrator

Susie Paharik, Lead Account Clerk II

Kelly Pierce, Lead Bailiff

Karen Schexnider, Assistant City Attorney

Chantel Anderson, Prosecutor

Morgan Lix, Prosecutor

Meghann Eckerdt, Legal Assistant

Charlee Marsh, VW Specialists

Stefani Williams, VW Specialists

Becky Shay, Records Supervisor

Brad Mansur, Sergeant

Julie Pierce, Pro Tempore Judge

Cory Harman, Pro Tempore Judge

Katie Heller, Judge Elect

David Carter, Justice of the Peace

District Judge Fehr, Judge

District Judge Harada, Judge

Jennifer Owen, City of Billings Council Member

Lisa Ereth, Pretrial Risk Assessment Coordinator

Jessi Sweeney, Pretrial Risk Assessment Asst Coordinator

APPENDIX C: REFERENCES





Appendix C REFERENCES

Montana Code Annotated

MCA 3 - 6 - 103	Municipal Court Jurisdiction
MCA 3 - 6 - 104	Powers and duties of the court
MCA 3 - 6 - 106	Sessions of the court
MCA 45 - 5 - 206	Partner or family member assault
MCA 45 - 5 - 209	Partner or family member assault – no contact order
MCA 45 - 5 - 626	Violation of order of protection
MCA 46 - 7 - 101	Appearance of arrested person
MCA 46 - 7 - 102	Duty of court
MCA 46 - 8 - 101	Right to counsel
MCA 46 - 8 - 102	Waiver of counsel
MCA 46 - 9 - 108	Conditions upon defendant's release
MCA 46 - 9 - 311	Reduction, increase, revocation, or substitution of bail
MCA 46 - 12 - 210	Advice to defendant
MCA 46 - 12 - 211	Plea Agreement procedure
MCA 46 - 12 - 212	Determination of accuracy of plea
MCA 46 - 14 - 202	Examination of the defendant

MCA 46 - 14 - 206	Report of examination
MCA 46 - 14 - 221	Determination of fitness to proceed
MCA 46 - 21 - 201	Proceeding on petition
MCA 46 - 21 - 202	Record of proceeding
MCA 47 - 1 - 201	Public defender division
MCA 47 - 1 - 111	Eligibility and determination of indigency – rules
MCA 53 - 21 - 102	Definitions (Mentally ill)

Cases

Dusky v. United States 362 U.S. 402 (1960)

Drope v. Missouri 420 U.S. 162 (1975)

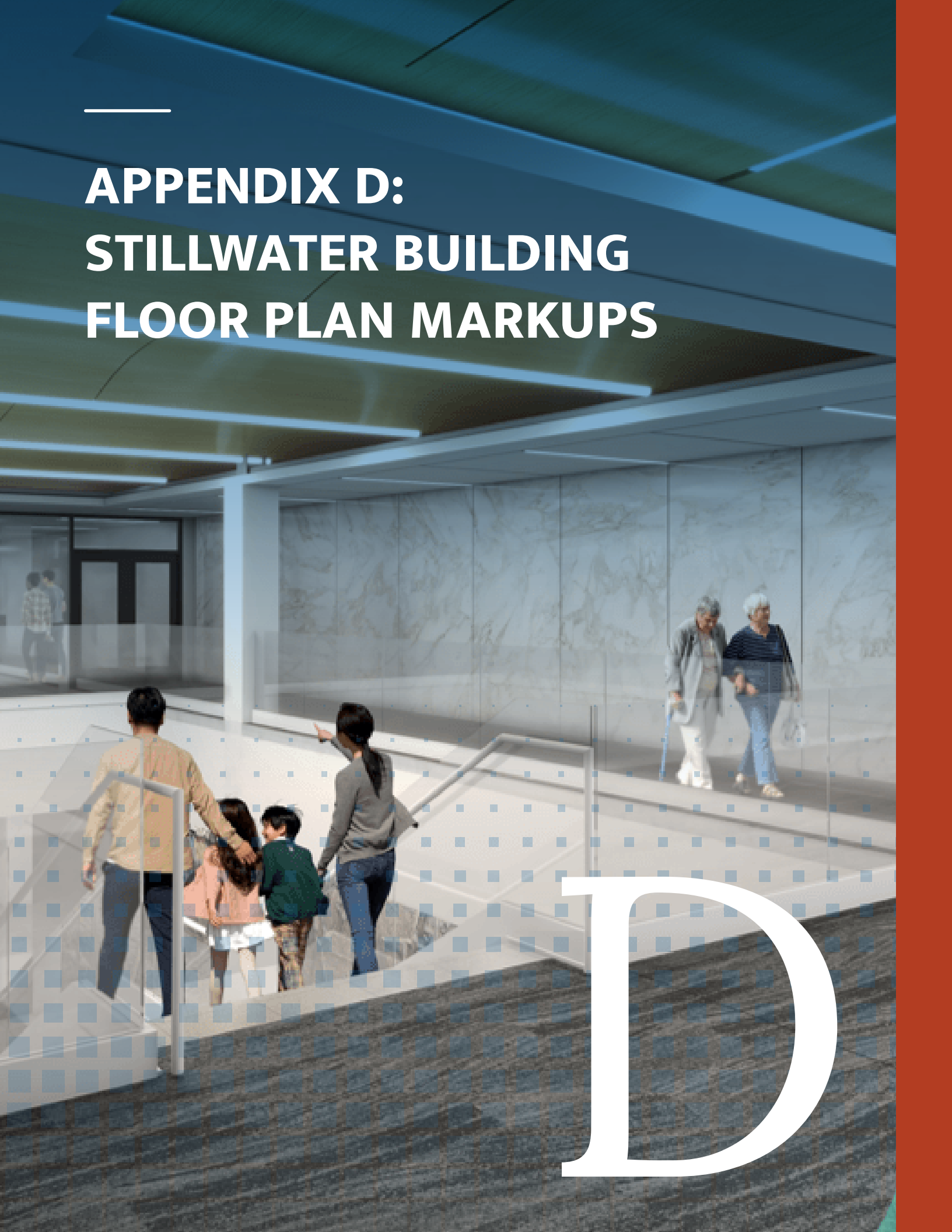
Riverside v. McLaughlin 500 U.S. 44, 111 S. Ct. 1661 (1991)

Documents

“Fact Sheet: Incarceration and Mental Health” Megan J. Wolff, PhD MPH
May 30, 2017, Weill Cornell Medicine Psychiatry

“The Civil Rights Implications of Cash Bail” Briefing Report January 2022, United States Commission on Civil Rights, 1331 Pennsylvania Ave, N.W. Suite 1150, Washington, D.C. 20425

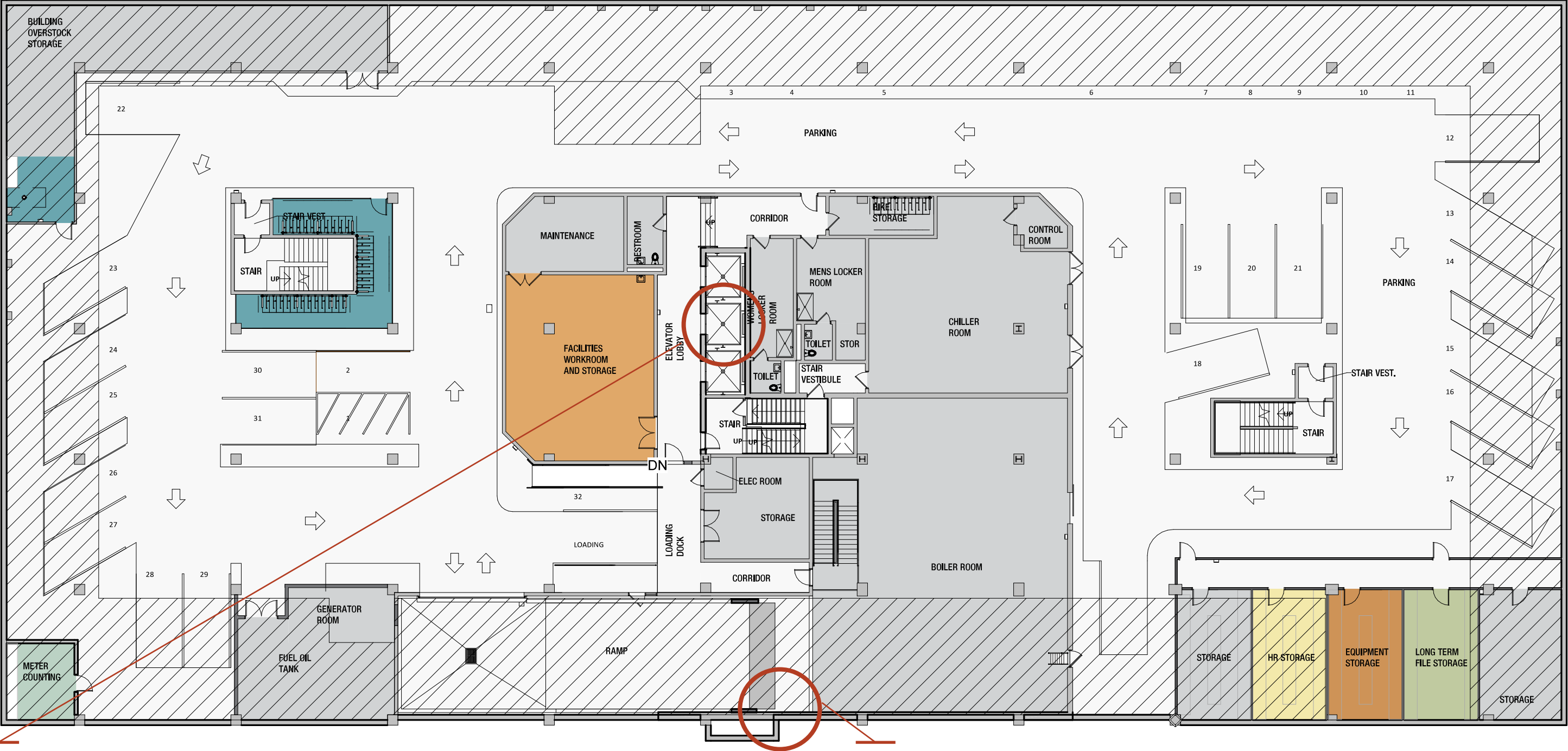
APPENDIX D: STILLWATER BUILDING FLOOR PLAN MARKUPS



Stillwater Building Floor Plan Markups

Will basement include camera coverage? Should include cameras near elevator, parking lot exit/entrance, doorways, parking lot.

Where do individuals being held and sent to jail go for transport? Basement or another level? Will transport vans or cars go into basement?



Confirm only employees have elevator access using key card to allow basement level access. No public access.

Confirm entrance to basement parking is secured with roll up door or system equivalent and cameras to determine who is entering and exiting area.

Appendix D

The city should consider security screening including one or two magnetometers, X-ray machine to screen backpacks and packages similar or same as found in airport security screening used by TSA. All power and data infrastructure should be provided if this space is moved from level 2. If screening is not moved to level 1 from the current area on level 2 you are potentially exposing all areas/levels of the building to security risks as well as employees and judges who do not have a separate secured elevator to access. All elevator are used for both public and employees including judges.



Is this a staff entrance?
If so, will this area have any screening?

Public lobby has no security screening allowing individuals to access any floor via stairs or elevator. City hall chambers on floor five, which will hold meetings with the public who will have received no screening. We are recommending screening on level 1 before accessing the public lobby.

Consider separate restrooms for public and staff on this floor. Public should not have access to mothers room unless required by code.

Look into making one of the elevators judge access only. Would need to look at egress requirements to determine if this is possible. Elevator would be programmed to only go between basement and second level for security.

Ensure proper power and data ports are provided in this area in anticipation future records will be scanned and not held in filing cabinets.



Judges will access the second floor from secure basement parking. Currently, the public would not go through security on first floor and the potential for the public to access this point with a weapon is possible. With no other option for judges to access the secure portion of the judges chamber this is a potential threat that could be eliminated if security screening takes place on the first floor.

Consideration for separate toilet rooms for judges chambers, jury, and public.

Holding area does not appear to have windows or to be hardened with detention grade building materials, or cameras. Recommendation to harden this space with detention grade walls, ceiling, camera, lighting, door, and glazing to allow visual into the space. Potential for individuals to harm themselves, staff, or visitors if they are not in a hardened secure room. Consideration for space to be constructed similar to a jail holding space. Where would individual being held use the restroom?

