



2023 Annual Report

SEATTLE CITY ATTORNEY'S OFFICE
ANN DAVISON



March 2023

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Letter from City Attorney Ann Davison

Dear Mayor and City Council of the City of Seattle:

Pursuant to Article XXII, Section 12 of the City Charter, I am hereby submitting the annual report of the City Attorney's Office for the year 2023.

As stated in my first annual report, my top three goals for the City Attorney's Office are: (1) to improve public safety by restoring meaningful accountability in Seattle's municipal criminal justice system; (2) to provide the public with transparency into the operations of the Criminal Division; and (3) to provide first-rate legal representation for the City of Seattle.

Public safety continues to be a crisis for Seattle but has shown some improvement. When misdemeanor criminal activity occurs in Seattle, my office is responsible for delivering meaningful accountability for that crime. Based on the circumstances, that can range from diversion to services at one end of the spectrum, all the way to time in custody at the other end. My priority as City Attorney is to ensure that the criminal justice system responds quickly and fairly. As a result, in 2023, the Criminal Division continued to focus on ensuring timely filing decisions and fair outcomes in over 6,000 filed cases.

Second, upon taking office I pledged that the City Attorney's Office would provide unprecedented levels of transparency about the operations of the Criminal Division. Today, I am proud to report that the City Attorney's Office provides extraordinary data-transparency to the public. In 2023, the Criminal Division provided detailed quarterly reports on referrals, cases, and outcomes, as well as in-depth analysis of programs like the High Utilizer Initiative.

Third and finally, Seattle faces an extraordinary array of legal challenges – from environmental law questions to multi-million-dollar tort claims. The Civil Division of the City Attorney's Office with its great leadership continues to provide first-rate legal representation to the City overall. Many of those successes are highlighted in this report.

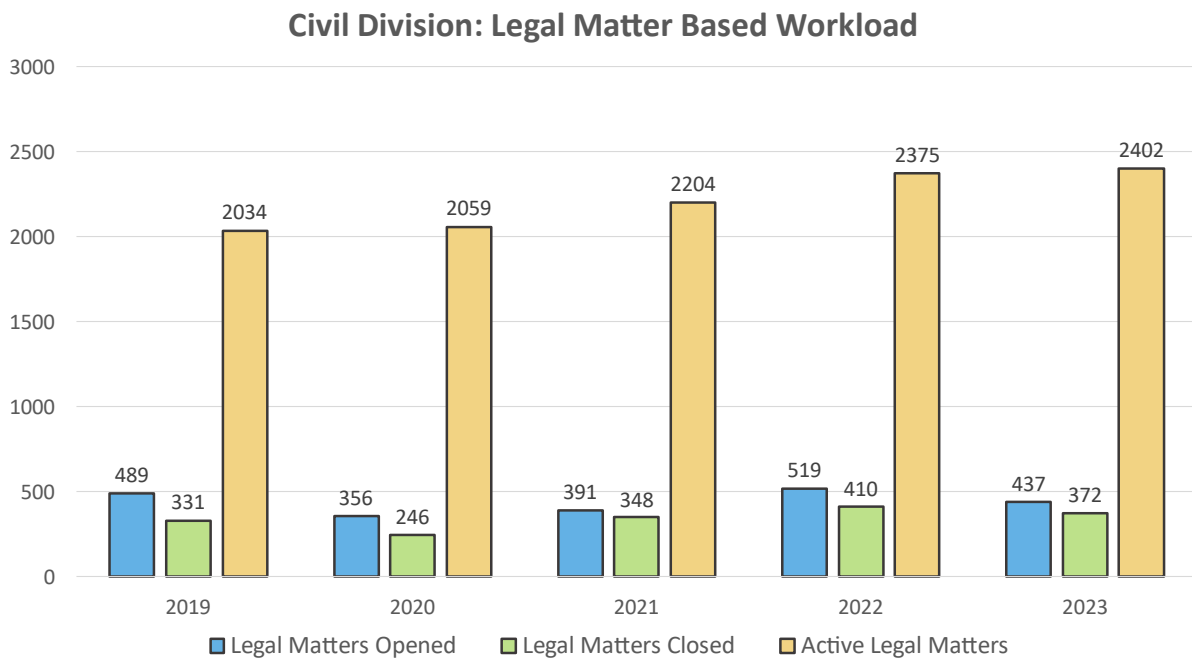
I wish to express my appreciation and gratitude to all members of the City Attorney's Office for their dedication, service, and professionalism.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ann Davison", with a long, sweeping underline.

Civil Division Overview

The Seattle City Attorney’s Office Civil Division provides comprehensive legal services to City of Seattle government, including executive, judicial, and legislative branch officials, department heads, managers and staff, and City boards and commissions. In its role as an in-house law firm for the City, the Civil Division works closely with its clients to solve legal issues, and represents the City in litigation and administrative proceedings in local, regional, state, and federal venues. The Civil Division consists of about thirty-five professional staff and seventy-five Assistant City Attorneys, organized into eight sections specializing in different areas of law: Civil Enforcement; Constitutional and Complex Litigation; Contracts and Utilities; Employment; Environmental Protection; Government Affairs; Land Use; and Torts.

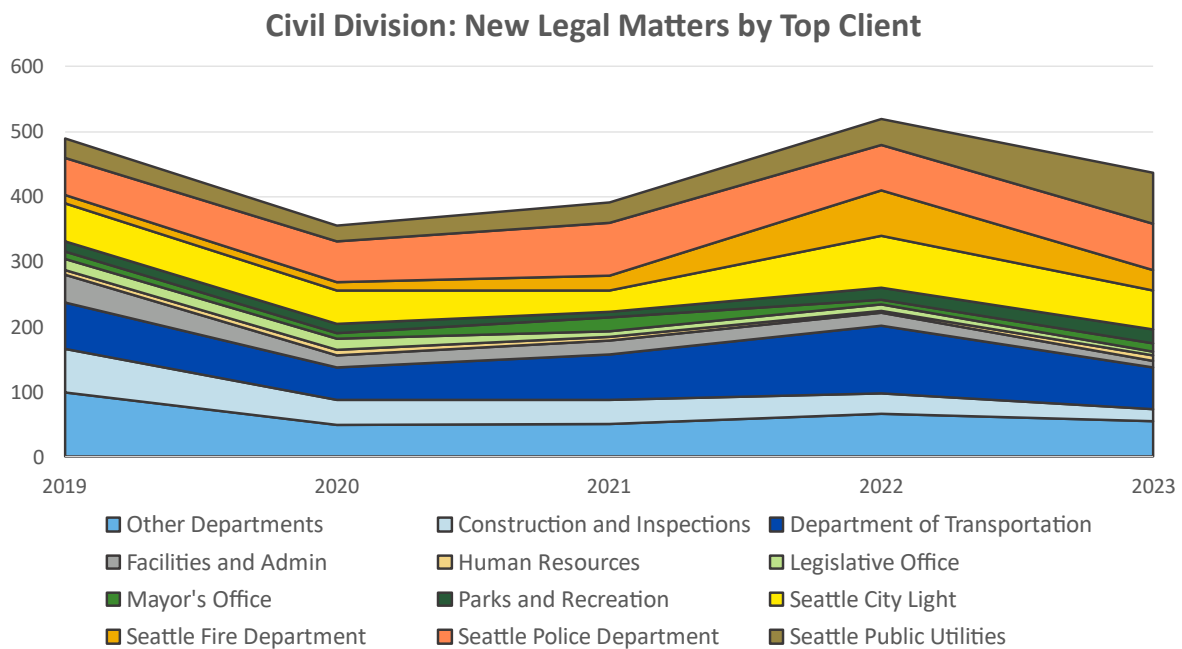


Civil Division attorneys track most of their legal work in legal matters. This chart shows the new legal matters created each year, the matters that were closed, and the total that are still active at some point in the year. Many cases, especially complex ones, take years and some forms of advice can be ongoing for a very long time.

Clients

The Civil Division served the following City of Seattle departments in 2023.

- **Seattle Department of Construction & Inspections (SDCI)** – permitting services, code compliance, design review, emergency management, land use, trade licensing, and other services.
- **Department of Transportation (SDOT)** –streets, sidewalks, bike lanes, public spaces and other transportation system functions.
- **Finance and Administrative Services (FAS) (includes Facilities)**–purchasing and contracting, Seattle Animal Shelter, real estate services, capital development, facilities operations, and other public facing and internal service divisions.
- **Human Resources (SDHR)** – programs and services related to the City’s work force.
- **Legislative Department (CC)** – City Council and related legislative services.
- **Mayor’s Office (MO)** – directs and controls all City offices and departments except where the Charter provides otherwise.
- **Parks and Recreation (SPR)** – the City of Seattle parks system.
- **Seattle City Light (SCL)** – City electrical utility.
- **Seattle Fire Department (SFD)**
- **Seattle Police Department (SPD)**
- **Seattle Public Utilities (SPU)** – water, sewer, drainage, and waste collection services, gas.
- **Other Departments** – clients in other City departments not listed above.



This chart shows the proportion and amount of new legal matters started each year by client.

Civil Division Sections

Civil Enforcement Section

The Civil Enforcement Section (CE) handles enforcement of City regulations and collections for all City departments. The Section advises and litigates cases on behalf of many departments, including the Department of Construction and Inspections (SDCI), Office of Labor Standards, Office for Civil Rights (SOCR), the Fire Department, and Department of Transportation.

In 2023, Section attorneys obtained judgments and settlements amounting to \$984,694.60, and helped resolve non-compliance issues, educate owners and employers about compliance with City regulations, and recovered on behalf of injured parties.

Below are examples of work done by this Section.

Civil Forfeitures

State law allows for the seizure and forfeiture of property by law enforcement under certain circumstances, such as when property is used to facilitate the sale or delivery of drugs, or is acquired with proceeds from a crime. Section attorneys represent the Seattle Police Department (SPD) in forfeiture actions when an individual contests the police department's seizure of their personal property. During 2023, CE litigated 14 cases resulting in the forfeiture of cars, jewelry, and money to the police department. By statute, 10% of net proceeds go to the state of Washington and into the behavioral health loan repayment program. The balance must be retained by SPD for the improvement of controlled substances law enforcement activity.

Dangerous Animal Declarations

The Seattle Animal Shelter (Shelter) director is authorized to declare an animal dangerous. The Section advises the Shelter and handles appeals of those declarations. One such case involved two dogs that got loose while the owner was away, menaced individuals, and attacked, without provocation, another individual on a walk. The victim sustained multiple bites by both dogs and required multiple surgeries and skin grafts. The director declared the dogs dangerous and recommended that they be euthanized. On appeal, the hearing examiner upheld the director's declaration and recommendation.

Real Property Code Enforcement

The Section prosecutes over a dozen different building and land use codes enforced by SDCI. One such case involved residential code violations when a property owner excavated the entire front yard of a home, exposing the previously underground basement. The extreme, unpermitted excavation turned a sloping landscaped yard with trees, shrubs, and stairs into a flat, bare lot. Mud drained down the street which destabilized neighboring properties. The work left heavy slabs of protruding concrete with no support or safety measures to prevent collapse. SDCI issued a hazard correction order requiring the owners to consult with an engineer and make the property safe by getting proper permits and backfilling the large chasms under the concrete slabs. SDCI tried to work with the owners for several months, but after sustained noncompliance, Section attorneys filed an enforcement action and successfully obtained a monetary judgment against the owners and a compliance order.



Vacant Building Enforcement

Unmaintained vacant buildings can invite problems, including trespassers, drug activity, fire risk, and rodents. Those conditions, along with graffiti, can affect the appearance of the neighborhood. Civil Enforcement attorneys serve on the City's interdepartmental workgroup to coordinate enforcement efforts and address the problems caused by absent owners. Attorneys also serve on an operations workgroup to focus on Seattle's most problematic vacant properties. In some cases, Section Attorneys litigate code violations that are often found at these properties to encourage demolition and development.

Labor Standards Enforcement

Section attorneys help the Office of Labor Standards with enforcement of many worker-protection ordinances, including wage theft, minimum wage, paid sick and safe time, and secure scheduling. During 2023, Section attorneys litigated a case on behalf of 53 workers involving construction companies that allegedly failed to pay workers for sick leave and overtime and took unauthorized deductions from the workers' pay. Another case involved an enforcement action against a restaurant owner that allegedly kept employee tips, did not give employees meal and rest breaks, did not pay the employees their promised hourly rate or for the hours worked, and violated the paid sick and safe time ordinance. The Court entered judgment against that employer.

Civil Rights Enforcement

SOCR investigates claims of discrimination in housing, employment, public accommodations, and contracting in the City of Seattle. In 2023, SOCR found reasonable cause of a violation under Seattle's Open Housing Ordinance for a landlord failure to provide a reasonable accommodation to allow a service animal to live on the rental property. After Section attorneys filed a case with the Seattle Hearing Examiner's Office, the parties agreed to resolve the matter, with the landlord paying \$13,388.58 to the discriminated party, and agreeing to attend a fair housing training. Other cases in 2023 included an employment case alleging discrimination based on sexual orientation, and housing discrimination cases involving violations of the First-in-Time ordinance for failing to provide notice of required tenant screening criteria, screening applicants in chronological order, and offering tenancy to the first applicant meeting all screening criteria.

Collections

The Collections Team receives referrals to recover damages owed to the City and attempts to recover on judgments awarded the City. In 2023, the team pursued and collected over \$500,000 on behalf of City departments.

Constitutional and Complex Litigation Section

Constitutional and Complex Litigation (CCL) attorneys represent the City in litigation arising out of police action, legislation, or executive action. CCL also represents the City in Public Records Litigation, inquests, and affirmative litigation.

Below are some examples of work done by the Constitutional and Complex Litigation section.

Police Action Litigation

Seattle's anti-graffiti law prohibits marking up someone else's property without their express permission. (Seattle Municipal Code, 12A.08.020.A.2.) On June 13, 2023, a federal district court enjoined the City from enforcing the ordinance in its entirety, holding it facially unconstitutional in violation of the First and Fourteenth Amendments. Under the court's order, the City was prevented from enforcing the ordinance against any form of graffiti, such as spray paint on a private business. The City Attorney quickly appealed the order, and on February 2, 2024, the Ninth Circuit reversed it. The district court's order is no longer in

effect and the City has resumed criminal enforcement against unwanted graffiti. Claims against individual police officers, arising out of arrests made in 2021, are still being litigated.

The Section also defeated a lawsuit bringing a First Amendment challenge to reasonable time, place, and manner restrictions during a “Defend the Police” protest and “Defund the Police” counterprotest. During the chaotic times in 2020, SPD set up separate protest and counter-protest zones for a planned “Defend the Police” rally. Citing the City’s interest in ensuring the safety of its citizens and the public order, a federal district court judge granted the City’s motion for summary judgment. The court found that the separate protest zones were reasonable time, place, and manner restrictions consistent with the First Amendment, and designed to permit all citizens the ability to safely exercise their free speech rights. The case is currently on appeal in the Ninth Circuit Court of Appeals.

Public Records Act Litigation

Section Attorneys continue to defend the City in third-party litigation about the relationship between the First Amendment and the public records act. CCL efforts focus on balancing the importance of both governmental transparency and free speech.

Governance Litigation

The Section successfully foreclosed a lawsuit regarding historic marijuana cooperatives before it burdened City staff with the discovery process.

The Section continues to defend a case that involves a challenge to the constitutionality of City administrative rules governing homeless encampment removals. The Plaintiffs challenged Seattle’s encampment removal processes under Article I, Section 7 and Article 1, Section 14 of the Washington constitution. After extensive litigation in the trial court, the case continues to be litigated in the Washington Court of Appeals.

SPD Consent Decree

For over a decade, SPD has been under a federal consent decree with the U.S. Department of Justice. The consent decree was needed because, pre-2012, SPD had engaged in a pattern or practice of using unconstitutional and excessive force, particularly on people experiencing behavioral crisis. On September 7, 2023, the Court terminated the majority of the consent decree provisions, finding that “SPD has made tremendous improvements” and “achieved sustained compliance with the majority of the core requirements” of the consent decree. Section attorneys continue to provide legal service on the few remaining compliance issues.

Inquests

The Section continues to represent the Seattle Police Department’s interests in inquest matters involving officer-involved fatalities.

E-Discovery Team

An internal eDiscovery team was established to provide internal and client eDiscovery support in connection with ongoing and future litigation matters. This team has developed and begun implementing a work plan aimed at process improvements and standardization as recommended by a Civil Division consultant. The goal of this work plan is to increase efficiency and defensibility while saving money and conserving resources across the City. This team has built out internal processes for reviewing, improving, seeking approval for, and training on eDiscovery protocols and processes for utilizing the CAO's eDiscovery tools. The team has worked directly with client departments and cross-departmental teams of stakeholders to increase awareness of CAO eDiscovery practices. The team advocates for City-wide technology adoption practices that align with the technology and support infrastructure already in place, and where that is not possible, to create new workflows. In addition to Civil Division-wide training, guidance, and resources, the team has been providing direct support and training to litigation teams, as well as hosting regular office hours to provide support.

Affirmative Litigation

Hyundai/Kia

The City Attorney filed a first of its kind in the nation lawsuit in federal court against car manufacturers Kia and Hyundai. The complaint is the manufacturers' failure to install anti-theft technology in their least expensive vehicles -- for a period of years -- which has contributed to an exponential increase of Kia and Hyundai car theft in Seattle and other regions. The City seeks to recover damages and compel the auto manufacturers to abate the nuisance caused by their failure to install industry standard anti-theft technology.

Other cities and counties from around the U.S. have since joined in the litigation and the case is ongoing.

Opioids

The Section continued its multi-year litigation efforts against opioid manufacturers and distributors for their harmful actions leading to the ongoing opioid epidemic. In 2023, the City recovered \$14 million in settlement funds for opioid remediation.

Contracts and Utilities Section

The Contracts and Utilities Section provides legal services to every City department, addressing a wide scope of City services and activities. These include the City's municipal utilities; the City's bond financing; the City's equitable development initiative; Waterfront Park construction, operations, and development; low-income housing grants totaling millions of dollars; the City's contracts with King County Regional Homelessness Authority; human services contracts; childcare and education funding agreements; telecommunications issues; purchasing of goods and services; public works contracting and claims; Parks and Recreation (SPR) property issues and concessions; and a variety of leases, easements, real property acquisitions, and transfers.

Below are some examples of work done by the Contracts and Utilities section.

Affordable Housing and Homeownership

Section attorneys advised on structuring, documenting, and closing rental housing transactions over \$286 million, by providing over 1,800 homes, of which at least 540 are dedicated to serving the unhoused. This year, Section attorneys helped OH close on a modular structure in north Seattle, with the department partnering with a non-profit entity to structure and finance the transaction, and successfully complete its first construction project, with the builder assuming virtually all financial risk during construction. In addition, Section attorneys advised the Office of Housing (OH) in its production of permanently affordable homeownership opportunities. Section attorneys also advised OH on its Multifamily Tax Exemption (MFTE) program and other market incentive and land use initiatives.

Seattle Housing Levy Renewal Ordinance

Section attorneys worked closely with Government Affairs Section attorneys in advising the Mayor's Office, City Council, Budget Office, and OH on legal issues related to the Seattle Housing Levy renewal ordinance, resulting in an unprecedented \$970 million affordable housing levy approved by voters on November 7, 2023. Section attorneys have also assisted OH in updating their Housing Funding Policies as part of this levy renewal, which will go before City Council in Q2 of 2024.

Debt Financing

Section attorneys provided in-house legal support to the City's Department of Finance and Administrative Services (FAS) team for annual bond issuances and other debt financing projects. In 2023, this financing was critical for the support of significant civic projects, including upgrades to Fire Station 31, Seattle Municipal Tower, City IT infrastructure, and Waterfront development. Section attorneys also helped to negotiate a modification to Seattle Aquarium financing agreements to allow completion of the Ocean Pavilion project.

FIFA World Cup 2026™

Section attorneys assisted the Mayor's Office in negotiating a Mutual Support and Collaboration Agreement (agreement) between the City and the Seattle International Soccer Hosting Local Organizing Committee (LOC), setting out the roles and responsibilities of each party in hosting the FIFA World Cup 2026™. In June 2022, Seattle was named as one of sixteen North American cities selected to host the 2026 World Cup. In 2023, Section attorneys assisted the City in finalizing the agreement under which the LOC will indemnify the City, cover the expenses associated with the event, and work with the City to make sure the hosting and staging of games for the FIFA World Cup 2026™ is carried out successfully.

Bumbershoot

In 2023, Bumbershoot returned to the Seattle Center with a new producer, New Rising Sun (NRS), and its non-profit partner, Third Stone. Section attorneys worked with Seattle Center to negotiate and draft the agreement with NRS to achieve the parties' vision to honor Bumbershoot's roots as a local, multi-arts festival, while creating new programs and public engagement. The ten-year agreement, which was

authorized by City Council, grants NRS a license to use the City's Bumbershoot trademark and parts of Seattle Center campus to produce the festival yearly, to offer more "Bumber" branded activities throughout the year, and to provide workforce training programs and public benefits.

Waterfront Park

Section attorneys provided legal support to City departments working to achieve the City's vision to transform its central waterfront into an expansive public park and boulevard. Legal services included negotiation of an agreement with Seattle Aquarium Society to help with its aquarium expansion; helping to resolve construction contract issues; and completion of an agreement with non-profit Friends of the Waterfront to provide for public safety, fundraising, programming, activation, concessions, and events at Waterfront Park.

Appeal of Waterfront LID Assessment

The City of Seattle is engaged in a \$724 million project to transform its central waterfront. One funding source for the project is a Local Improvement District, which requires properties that receive special benefits from the project to contribute to the project's cost. In 2023, the King County Superior Court annulled the City's Waterfront Local Improvement District (LID) assessment for 21 properties, totaling roughly \$16 million. Section attorneys appealed the trial court's decision to ensure all property owners within the LID boundaries pay their fair share for the benefits their properties will receive. Section attorneys filed briefs and argued the case before the Washington Court of Appeals, Division One. The decision is pending.

Settlement of Construction Claim in SPU's Ship Canal Water Quality Project

Section attorneys mediated and resolved a request for equitable adjustment (claim) asserted by a contractor on Seattle Public Utility's Ship Canal Water Quality Project. The claim arose from the encounter of a "Mega Boulder" during tunneling. During the mediation, attorneys negotiated a significant reduction to the contractor's multi-million dollar claim amount.

Resolution of Sauk-Suiattle Litigation

Beginning in July 2021, the Sauk-Suiattle Indian Tribe (the Tribe) filed three lawsuits against Seattle City Light, alleging that City Light's operation of the Skagit Hydroelectric Project blocks the passage of fish to part of the Skagit River and violates the Washington and United States Constitutions; other state, federal, and tribal law; and the Tribe's treaty rights. With Section attorney assistance, two of the three cases were resolved during 2023 in the City's favor. In May 2023, the parties settled in one case, a complaint first filed by the Tribe in Sauk-Suiattle Tribal Court. In the other case, which began in state court but was removed to federal court, the Tribe appealed all the way to a petition for writ of certiorari in the United States Supreme Court, which the Court denied on October 2, 2023, ending the lawsuit in the City's favor.

Employment Section

The Employment Section, along with the City's Department of Human Resources, is responsible for personnel policy development and labor relations matters, including litigation, civil service, and arbitration proceedings. With over 11,000 City employees, including many union members, the personnel and labor issues facing the City are complex and diverse.

Below are some examples of work done by the Employment section.

Litigation Involving Seattle Police Officers

Employment Section attorneys continued to defend litigation involving Seattle Police officers disciplined for use of excessive force. One matter involved a Seattle Police officer who fired multiple rounds into a fleeing vehicle in a residential alley. An arbitrator overturned the police chief's decision to terminate her employment and the City appealed this decision by filing a writ in King County Superior Court. The City also obtained dismissal of a lawsuit involving a Seattle Police officer terminated after punching a handcuffed suspect in the back of a patrol car. The plaintiff has appealed the dismissal to the Ninth Circuit Court of Appeals. In both cases, the City argued the arbitrators' decisions were so lenient they violated the public policy against the excessive use of force in policing. Both matters will be heard in 2024.

Litigation Arising from Protests During the Summer of 2020

In partnership with outside counsel, Employment Section attorneys resolved two lawsuits arising from social justice protests during the summer of 2020. One involved the demotion of an Assistant Chief of the Seattle Police Department and the other involved two employees who filed whistleblower complaints regarding the City's responses to requests under the Public Records Act. The City resolved both matters for a reasonable sum in 2023.

COVID and the Workplace

Employment Section attorneys continued to advise City departments regarding COVID-19 and the workplace, including the lifting of the City's COVID-19 vaccine mandate; Alternative Work Arrangement policies and guidelines; and return to office policies and procedures. The pandemic continued to bring new and unprecedented challenges to City policymakers, and attorneys in the Employment Section continued to navigate a shifting legal landscape in federal, state, and local laws. Employment Section attorneys also continued to defend a variety of litigated matters involving former City employees separated from employment due to the COVID-19 vaccine mandate.

Collective Bargaining/Labor Relations

The Employment Section attorneys continued to work with the City's Labor Relations group to have effective relationships with the City's labor partners, as well as to foster collaboration between Labor Relations and all City departments. This included providing legal advice regarding the implementation and outcomes of proposed bargaining strategy, as well as defending City departments and Labor Relations

in arbitrations resulting from grievances, contract interpretation issues, and appeals of disciplinary decisions.

Race and Social Justice Initiative

The Employment Section continues to provide legal advice and support to City departments regarding the implementation of the City's Race and Social Justice Initiative. This includes supporting City departments in upholding the values and intent of the Initiative, whether in applying an equity lens to internal business practices and delivery of services to the public, or in promoting a workplace free of discrimination. Employment Section Attorneys also continued to defend a lawsuit brought by a City employee alleging harassment and constructive discharge arising from his required participation in training to support diversity and equity principles.

Human Resources and Workforce Management

Employment Section attorneys continue to provide legal advice to City departments regarding the management of their employees, including but not limited to workplace policies and procedures, performance management, discipline, ADA accommodations, leave and benefit administration, and investigations. Employment Section attorneys also provide legal advice and defend litigation arising out of the City's Civil Service infrastructure. This work includes not only appearing before the City's two Civil Service Commissions to defend appeals, but also fostering collaboration between the commissions and the City departments who employ workers with civil service status. Finally, the Employment Section has a small practice group dedicated to providing legal advice and defending litigation involving the City's administration of workers' compensation benefits.

Environmental Protection Section

The Environmental Protection Section provides legal services to all City departments regarding the full range of environmental legal issues. Much of this work is advising City staff on following state and federal environmental laws and permits. When the City is a potentially liable party under state or federal law for a contaminated site, the Section represents the City in negotiations with regulators, in settlements with other liable parties, and in litigation. Section attorneys also draft and review contract provisions regarding environmental issues and assist Seattle Public Utilities in enforcing and revising the City's stormwater code.

Below are examples of work done by the Environmental Protection section.

Lower Duwamish Superfund Site

In 2001, five miles of the Duwamish waterway was designated by the EPA as a Superfund site. Since then, attorneys in the Section have been part of a City team working under EPA's direction toward cleanup, which includes remediation of several parts of the waterway with higher levels of PCBs. This year, the

Section has been working toward a consent decree to govern the remainder of the cleanup. Work in the main waterway will begin in fall 2024.

Gasworks Park

Attorneys in the Section also work with City staff regarding cleanup at Gasworks Park, another lengthy project. Current focus is on contamination in the underwater sediments around the shoreline of the park. The next phase of work will address that contamination and may conclude remediation at this location.

Stormwater Code Enforcement

The Section assists Seattle Public Utilities as it enforces the City's stormwater code. When an SPU inspector identifies a property that is a source of contamination and cannot gain voluntary property owner code compliance, Section attorneys will assist the inspector in preparing enforcement documents and determining what steps to take.

City of Seattle v. Monsanto

After eight years, the City's case against the Monsanto companies for PCB contamination will go to trial in September 2024. The EP Section continues working with outside counsel to prepare for trial. The City's claim is that Monsanto's production and promotion of PCBs for use in a variety of products -- from which PCBs escape -- has contaminated the City's stormwater and is continuing to do so. As a result, the City faces high costs to remediate PCB contamination and to reduce the levels of PCBs that continue entering the drainage system.

Government Affairs Section

The Government Affairs Section (GA) advises on a variety of state and local government laws and topics, such as municipal finance and budgeting; initiatives and charter issues; the Washington State Open Public Meetings Act; Washington State Public Records Act; legislation drafting conventions; and inter/intra-governmental relations. GA attorneys also litigate and advise on tax issues.

Below are some examples of work done by the Government Affairs section.

Housing Levy Renewal

On November 7, 2023, Seattle voters approved a \$970 million housing levy, the proceeds of which will primarily be dedicated to affordable housing solutions. GA attorneys worked with the Mayor's Office and City Council during the process, including fulfilling the City Attorney's legal obligation to draft the ballot title and explanatory statement language presented to voters.

Taxation Proposals

GA attorneys worked with the City Council and the Mayor's Office on several proposals for taxation to offset projected budget shortfalls. On November 21, 2023, the City Council approved legislation slightly increasing Payroll Expense "JumpStart" tax rates (from 0.1% to 0.2% per tier), depending on the total payroll expense of the business. The "thresholds" for those who must pay the tax also increased. Payroll Expense Tax in 2024 is required of businesses with \$8,511,281 or more of payroll expense in Seattle for the past calendar year (2023) and compensation in Seattle for the current calendar year (2024) paid to at least one employee whose annual compensation is \$182,385 or more.

Tax Litigation

GA attorneys represented the City in tax appeals before the hearing examiner and King County Superior Court, winning favorable decisions on penalties, apportionment, and the taxation of investment income. The City prevailed in all tax litigation matters.

Business Improvement Area Renewals

In 2023, the City renewed three Business Improvement Areas (BIA's) which together are projected to result in at least \$34.4 million per year for the next 10 years. The funds are dedicated to services for Downtown Seattle (the Metropolitan Improvement Area), Ballard (the Ballard Improvement Area) and Seattle tourism (the Seattle Tourism Improvement Area). The downtown BIA renewal was a high-visibility project involving consequential stakeholders, a large budget, and crucial services for downtown Seattle. This is compounded with heightened importance as the City continues to recover from the COVID-19 pandemic. GA attorneys worked with the Office of Economic Development and the City Council to help develop the proposals. Because of these renewals, the City now has a refreshed set of BIAs acceptable to ratepayers and is able to collect more revenue than before the renewal process.

Washington Department of Revenue Tax Refunds

GA attorneys petitioned for and received a refund from the Washington Department of Revenue for \$618,890.67 for overpayments of tax on funds received for "Costs in Aid of Construction." Seattle City Light had paid public utility tax on amounts received from new customers for electricity installations, and the correct tax rate on these receipts was the lower "Service and Other Activities" Business and Occupation Tax rate. The amount also reflects a refund of overpaid Leasehold Excise Tax on rental income received by Seattle City Light for leasing transmission tower space.

GA tax lawyers also petitioned for and received a refund of \$373,292.88 from the Washington Department of Revenue for the overpayment of retail sales tax on City Light's purchases of Electronic Payment Processing Software.

Generative Artificial Intelligence

GA attorneys participated in the City's development of an interim and final Generative Artificial Intelligence policy. The GA team is now involved in the City's processes for reviewing the adoption of related technologies to help with advice on compliance and risk issues.

Biennial City Council Rule Amendments

The General City Council Rules and Procedures guide all aspects of the Council's governance and parliamentary procedure. The Rules require that the Council President and City Clerk conduct and coordinate biennial reviews and updates of the Council Rules. GA attorneys assisted with the biennial update that took place this year, and managed the incorporation of amendments.

Open Public Meetings Act Trainings

The Washington State Open Public Meetings Act (OPMA) requires that all meetings of the City Council and certain City boards and commissions are open to the public. GA attorneys provide regular trainings on the OPMA's requirements to members of the City Council, as well as to members of City boards and commissions subject to the OPMA.

Public Records Act and Records Retention Trainings

The Washington State Public Records Act (PRA) and Records Retention Act (RRA) include important requirements for the production and preservation of City records. GA attorneys provide regular PRA and RRA trainings to City elected officials, City departments, City boards and commissions, and City departmental public disclosure officers. Trainings also included internal City Attorney's Office CLEs on the Public Records Act, and updates to the City's PRA/Retention training required for all City employees. GA attorneys were also involved in advising on several data security incidents, and working with client departments on data sharing agreements and practices supporting the City's data initiatives and ongoing operations.

The City Attorney's Office and the Legislative Process

The City Attorney's Office plays a central role in preparing all legislation sent to the City Council for consideration. Besides legal review of specific subjects by the proper attorneys, technical review of every ordinance and resolution is carried out by the GA legislative editors, including an Assistant City Attorney serving as the City's Code Reviser. Proposed legislation is reviewed to ensure it meets City drafting standards and is generally accurate and accessible to the public.

In 2023, the GA legislative editors partnered with the Office of the City Clerk to provide three trainings related to searching and amending Seattle Municipal Code (SMC). The trainings distinguished between forms of municipal laws (City Charter; ordinances; resolutions; department rules) and explained why

Seattle codifies certain legislation. The GA legislative editors also worked to streamline large ordinances by drafting initial language for clients and setting limits on word count in individual SMC sections. GA legislative editors worked with the Department of Construction and Inspections and the Seattle Fire Department to prepare local versions of ten construction codes for adoption in 2024. This work was done while maintaining version control through several revisions, coordinating legal review, and finalizing adoption ordinances.

Land Use Section

The Land Use Section provides legal counsel and defends City legislation and administrative decisions on zoning, planning, growth management, code enforcement, the State Environmental Policy Act, low-income housing development, landlord-tenant regulations, and the preservation of historic properties.

Below are some examples of work done by the Land Use section.

State Action

The Washington Legislature recently required cities to allow for a residential land use pattern more dense than single-family homes, but less dense than large apartment buildings. Section attorneys worked with City lobbyists to help craft the legislation's details and then advised City planners on options to craft proposals that follow the law and advance City elected officials' vision for Seattle's neighborhoods. This ongoing work and similar efforts will culminate in the City's upcoming major revision to its comprehensive plan.

Building Emissions Performance Standards

The Seattle City Council adopted legislation to impose building emissions performance standards that establish greenhouse gas emission reduction targets for larger existing and future commercial and multifamily residential buildings starting in 2031. Land Use Section attorneys led a team of attorneys from around the Civil Division to analyze the complex legal issues involved and advise City clients on drafting language that reduces legal risk while advancing City policy goals.

New Tree Protection Regulations

City efforts to balance accommodating growth and protecting trees has generated controversy for years. Throughout, Section attorneys have advised City planners and elected officials on legal risks and options as they navigate delicate policy decisions. Soon after the Council enacted its landmark revision to the City's tree protection ordinance, groups dissatisfied with the new balance appealed the ordinance to the Growth Management Hearings Board, claiming that the ordinance contradicts the City's comprehensive plan and was adopted without following proper procedures. Land Use Section lawyers successfully defended the Council's choices and process before the Board.

Low-Income Affordable Housing

The Mandatory Housing Affordability program (MHA) asks developers who want to take advantage of expanded development capacity in some areas to rent some of the new units to low-income households at prices they can afford, or to pay a fee that supports the City's efforts to build affordable low-income housing. An organization sued the City, claiming MHA unconstitutionally takes developers' property. Land Use Section lawyers are in federal court defending this City program (*Adams v. City of Seattle*).

Council Options to Fund Transportation Improvements

Washington Law allows cities to impose a fee on new development to address the impacts that growth imposes on transportation infrastructure. Council wanted to consider using that process in Seattle, but state law first required them to conduct an environmental review of the proposal. Section attorneys advised on the contours of that review and then defended that review when it was challenged by developers in an appeal to the City Hearing Examiner. Section attorneys and staff reviewed and processed over 14,000 documents and handled depositions, written discovery, witness preparation, legal research, the hearing, and post-hearing briefing. The result preserved the Council's options to fund transportation improvements.

Tenant Protections

The City enacted its Fair Chance Housing Ordinance, which, with some exceptions, bans landlords from discriminating against tenants and prospective tenants based on their criminal history. Represented by a property rights organization, landlords challenged the ordinance as a violation of their substantive due process rights. After considering arguments from Section attorneys, the Ninth Circuit Court of Appeals rejected that claim, and the U.S. Supreme Court denied the landlords' request to hear the case (*Yim v. City of Seattle*).

Torts Section

The Torts Section litigates City personal injury and property damage cases, which range from relatively minor matters to multimillion-dollar lawsuits. The Section also regularly advises the City on a variety of risks.

Below are some examples of work done by the Torts section.

Capitol Hill Occupied Protest Litigation

Business owners, property owners, and residents brought the Hunters Capital case as a purported class action against the City following the creation of the Capitol Hill Occupied Protest in 2020. The City defeated class certification in 2022 and settled the case for a reasonable sum in 2023.

Norg v. City

This case involves a delayed Seattle Fire Department emergency response to a heart attack call. The City tried this case to a jury in 2023 and has appealed the verdict in the plaintiffs' favor.

City v. C.A. Carey, Versatile Drilling, et. al

The City sued to recover for damages to the City sewer system that occurred during a construction project near Harborview Hospital. The City settled the matter in agreement for payment of \$1,578,221.88 by the four defendants.

Yuh Coleman v. City

A bicyclist alleged that the City should have installed a bike lane on a street where the bicyclist was hit by a delivery vehicle. The plaintiff voluntarily dismissed the case after the City moved for summary judgment.

Mustafic v. City

The plaintiff alleged that the City was at fault for injuries related to a large bump in the road that developed during very hot weather in Seattle. The City settled the matter for a reasonable sum.

Edwards v. City and Ballard Terminal Railroad

The plaintiff alleged that the City and Railroad were responsible for plaintiff's crash on railroad tracks on the so-called "Missing Link" portion of the Burke-Gilman Trail. The City successfully tendered this matter to the Railroad and its insurer, and the insurer paid to resolve the matter on behalf of both the City and railroad.

Precinct Liaisons

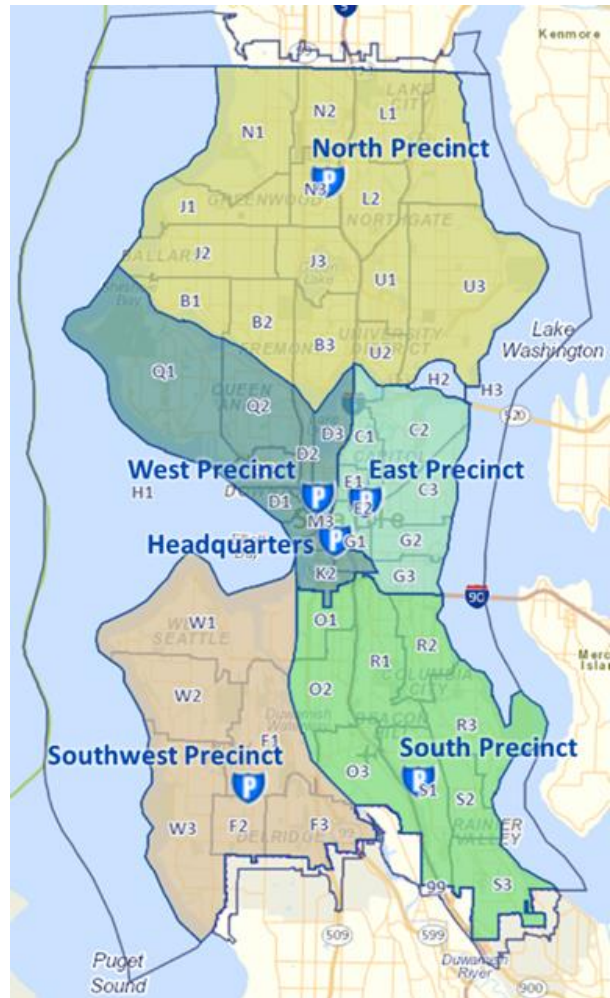
The Precinct Liaison Program is a long-term, proactive partnership of the City Attorney's Office, law enforcement, public and private organizations, and the community. The focus is on solving chronic neighborhood problems, improving public safety, and enhancing quality of life.

The program is designed with specific goals in mind:

- reduce crime and enhance the quality of life in Seattle neighborhoods;
- develop a more efficient and effective response to public safety problems;
- improve communication among residents, prosecutors, police, and other City departments involved in problem solving efforts.

The Precinct Liaisons achieve these goals by:

- providing real-time proactive legal advice for officers in each precinct;
- working closely with other City agencies to address neighborhood problems before they become SPD criminal problems;
- litigating appropriate code and criminal violations resulting from these efforts;
- facilitating community and intergovernmental communication and cooperation.



Below are some examples of the collaborative work done by the precinct liaisons this year.

Trainings and Advice Work

Supporting the Unified Care Team

In 2023, a Liaison Attorney worked as the day-to-day legal advisor to the Unified Care Team (“UCT”), a multi-departmental unit tasked with addressing problematic encampments located on City property and City right-of-way. The Liaison worked closely with UCT leadership and officials within the Mayor’s Office to ensure the City remains compliant with applicable laws, rules, and regulations pertaining to encampment removals.

Seattle Police Department Trainings

In 2023, the East Precinct Liaison Attorney worked with the precinct Crime Prevention Coordinator to perform virtual and in-person trainings on 911 center operations. Trainings on this topic were for nightlife and retail business owners, low-income housing staff members and tenants, and community members throughout the area. During these trainings, the Liaison also explained how the prosecution process works after a case is received, and what to expect as a case is under filing review.

Seattle Fire Department Liaison

In addition to precinct duties, the West Precinct Liaison Attorney also serves as liaison to the Seattle Fire Department. The SFD Liaison assists and advises on public safety matters affecting SFD firefighters or personnel while performing their duties, including cases of individuals obstructing firefighters and SFD personnel in the performance of their duties. The Liaison coordinates witness contact on cases and provides case updates to SFD. The SFD Liaison also facilitates communication and information-sharing between SFD and SPD as needed.

Atlantic City & Stan Sayres Boat Ramps

In the early summer of 2023, SPD’s South Precinct began responding to an increased number of shooting incidents around the Stan Sayres Memorial Park Boat Ramp and the Atlantic City Boat Ramp at Be’er Sheva Park. To address the problem, City Parks installed temporary locking gates that were closed nightly during the summer months. Crime data showed that this process worked to immediately and significantly reduce the number of shooting incidents in the area.

Addressing Problematic Businesses

Aurora Motels Chronic Nuisance Designation

To effectively address human trafficking occurring in Seattle's Aurora Corridor, meetings were convened with the Precinct Liaisons, Seattle Police, and motel owners. In July 2023, the City declared two Aurora motels to be Chronic Nuisance Properties and the businesses were required to close and cease operations. The impact was almost immediate, as the rampant human trafficking and associated violence in the area dissipated. After almost six months of closure, and a rigorous inspection process, the motels were allowed to reopen in early 2024. Both motels are subject to a corrective agreement for two years, and are subject to intense supervision and oversight by SPD.

Flowers Bar: Revocation of Liquor License

Flowers Bar in the North Precinct's University District was a source of many community complaints, as well as numerous 911 calls for violence, shots fired, etc. To address the issues, the Precinct Liaison Attorney coordinated meetings with a variety of stakeholders and eventually worked with the Washington State Liquor and Cannabis Board to revoke the bar's liquor license. The business ultimately closed and, as a result, violence and alcohol-related incidents in that area have dramatically decreased.

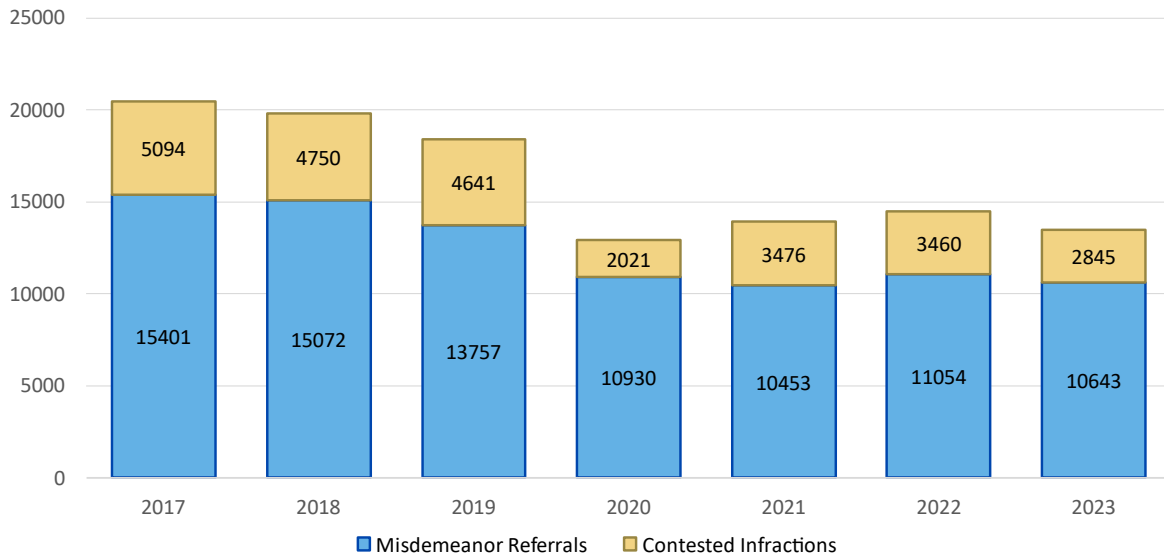
Criminal Division Overview

The Criminal Division is responsible for prosecuting all misdemeanor and gross misdemeanor crimes that are referred by the Seattle Police Department; representing the City in contested infractions before the Seattle Municipal Court; and managing many forms of alternatives to traditional prosecution. The Criminal Division is split into sections based on expertise and subject area:

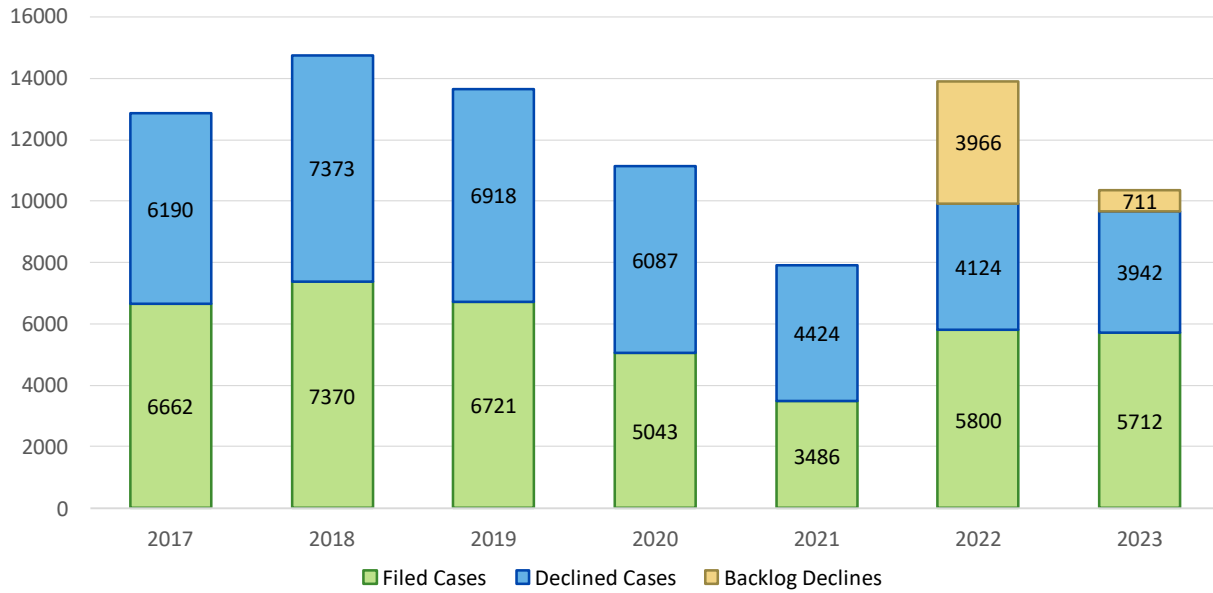
- **Review and Filing Unit** – makes filing decisions on incoming police referrals.
- **Domestic Violence Unit** – prosecutes all domestic violence, sexual assault, and other specialty cases like child abuse or animal cruelty.
- **Trial Team Unit** – the main trial unit for everything but domestic violence and specialty court cases.
- **Specialty Courts Unit** – responsible for all cases in Mental Health Court, Veterans Treatment Court, LEAD, LINC, Vital, and the infractions unit.
- **Pre-File Diversion Unit** – qualifying individuals who complete a diversion program can have their cases declined.
- **Appellate Unit** – responsible for handling appeals and writs filed in King County Superior Court.
- **Case Prep & Prosecutorial Support Units** – skilled support staff to assist prosecutors.
- **Victim Advocates** – helps victims navigate the criminal legal system.

Annually, the City Attorney’s Office typically sees about 11,000 misdemeanor and gross misdemeanor referrals from the Seattle Police Department and about 3,000 contested infractions from Seattle Municipal Court.

Misdemeanor and Infraction Referrals to Seattle City Attorney's Office



Filing Activity - All Misdemeanors (by year case was filed)



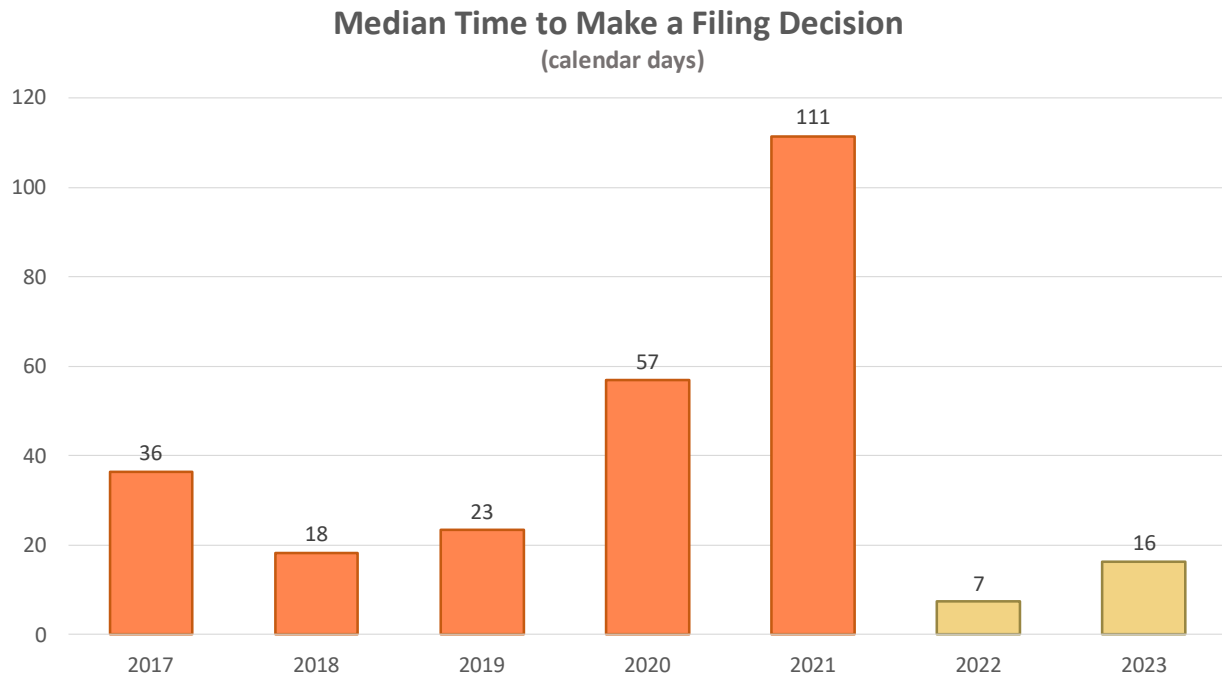
The 3966 declined backlog cases in 2022 and 711 declined backlog referrals for prosecution in 2023 represent the cases from the previous administration that were un-fileable largely due to their age.

In 2023, the Criminal Division filed 5,712 cases and declined 3,942 referrals from the Seattle Police Department. In addition, the Criminal Division declined to file 711 older referrals that were left over from the prior administration’s case filing backlog. There are a variety of reasons cases might be declined, including:

- inability to prove the case beyond a reasonable doubt;
- inability to contact victims or witnesses without other evidence;
- completion of a diversion program.

Criminal Division Highlights

Close-in-Time Filing



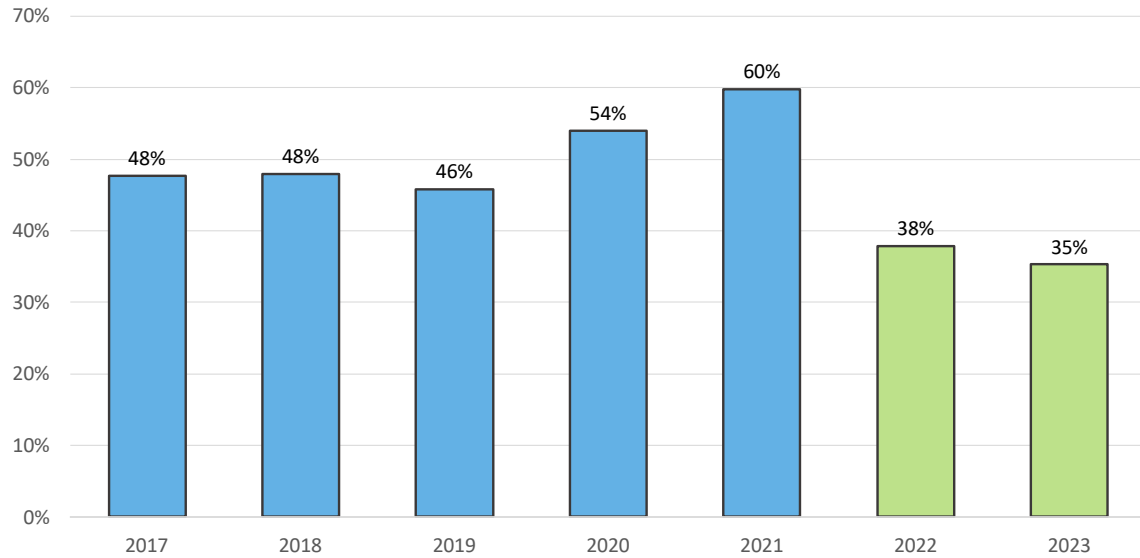
Before 2022, the City Attorney’s Office reviewed the oldest referrals first. Older referred misdemeanors are more time consuming and difficult to file due to difficulty in contacting witnesses and other evidentiary issues. This policy eventually contributed to growing backlog of more than 5,000 referrals awaiting review, which further added to the difficulties in filing.

In early February 2022, City Attorney Davison initiated the Close-in-Time filing policy to provide more real-time accountability and to increase efficiency in Criminal Division operations. The policy goal is to make a filing decision within five business (seven calendar) days of receiving a referral, with extra time for domestic violence and LEAD clients allowed. The policy successfully reduced the median time to make a filing decision and created benefits throughout the Department.

In 2023, the average police referral took 16 calendar days to make a filing decision. The Criminal Division faced multiple staffing issues in 2023 which made it harder to meet the Close-in-Time goals. A single attorney on leave can have a substantial impact and it takes a significant amount of time to train a new attorney in filing on the Division’s “legacy” system.

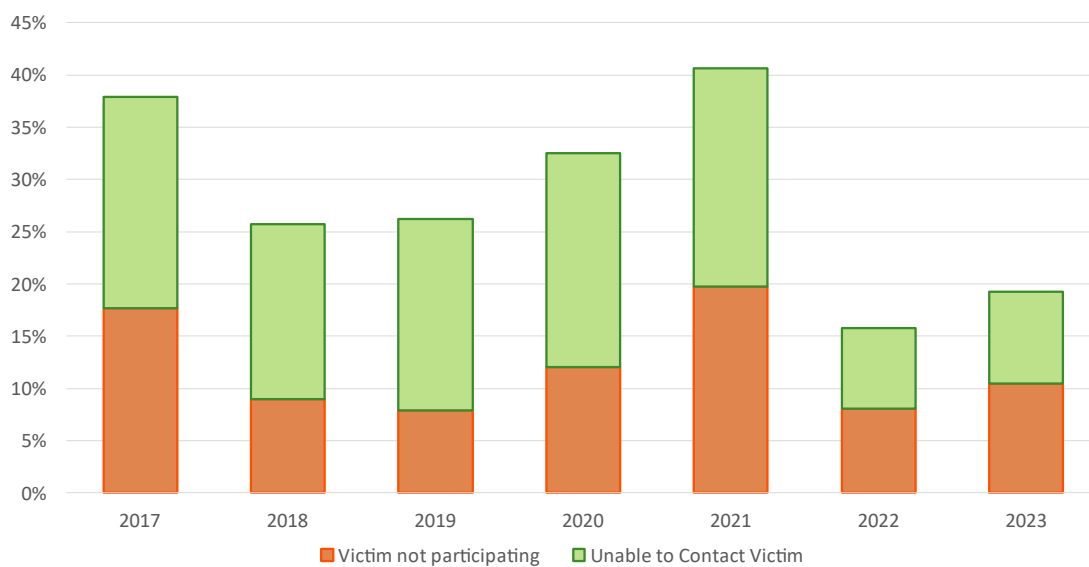
Victim Engagement

Non-Domestic Violence Decline Rate
(by year report was received)



Incoming referrals can be declined for many reasons, including lack of proof or victim/witness contact issues. In 2022, City Attorney Davison brought to the Department a focus on prioritizing the recentering of victims in the criminal legal system. This, combined with the Close-in-Time Policy, led to a large reduction in cases being declined due to victims and witnesses not participating in the process. This continued in 2023.

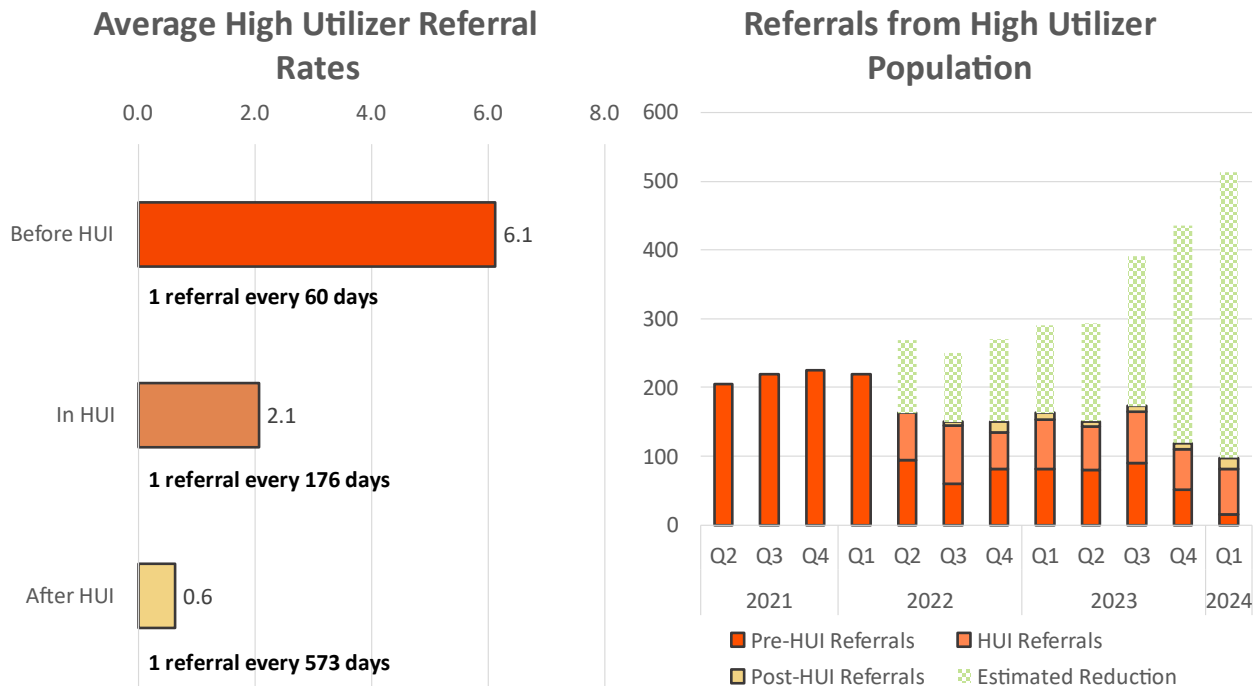
Victim Based Declines as % of Total Declines



High Utilizer Initiative

The High Utilizer Initiative was created by City Attorney Davison at the end of Q1 2022 to give special attention and accountability to the most problematic individuals committing misdemeanor crimes in Seattle. The initiative partners the City Attorney’s Office with the King County Prosecuting Attorney’s Office, Seattle Police, and the King County Jail. The initial cohort consisted of 118 individuals who had been responsible for over 2,400 police referrals to the City Attorney’s Office over the previous five years. Additionally, each member of the cohort had been referred by police to the CAO at least once in the previous eight months. Each subsequent quarter updated the individuals in the initiative. Immediately, charge rates went up by almost 20%.


Thus far, the High Utilizer Initiative has created an estimated reduction of 1,500 police referrals to the City Attorney’s Office. This reduction is calculated by comparing referral activity of individuals prior to entry into the initiative with the activity rates while they are in the initiative and after they have exited it.



A prime reason for the success of the High Utilizer Initiative was the ability to book identified individuals into custody. Prior to the initiative, the King County Jail would only accept bookings for crimes against other persons and DUI misdemeanors. Treatment was offered to some who met the criteria, but most of them absconded and work is underway to improve that process to include in-custody treatment and planned re-entry after custody.

Criminal Division Details


As part of City Attorney Ann Davison’s commitment to transparency and accountability, comprehensive quarterly reports were created starting in Q1 of 2022. Each report contains approximately 50 pages of detailed statistics on the operation of the Criminal Division. They can be found on the City Attorney’s Office website under [Reports](#).



Criminal Division

Quarterly Report

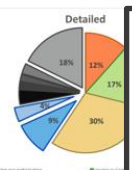
SEATTLE CITY ATTORNEY
ANN DAVISON



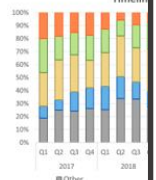
Report Compiled by Per-Olaf Swanson
Data Analytics Manager
Seattle City Attorney’s Office
Per-Olaf.Swanson@Seattle.gov

Decline Reasons

Breakdown of Historical Decline Reasons
(5 Year Average)






There are many reasons that the City listed above. The simplified one is used in the timeline below.




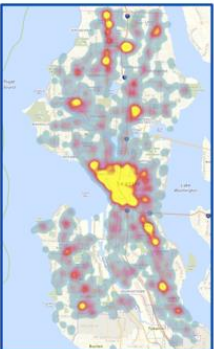
Victim related issues have continued to increase partly due to better contact outcomes at the merits of cases beyond relying on the victim primarily due to the backlog filing process.

Race Specifics

Demographic information originates with police reports and are updated by SCAO staff. *Small sample sizes for Asian and Indigenous peoples may reduce statistical relevance.*

District Specifics

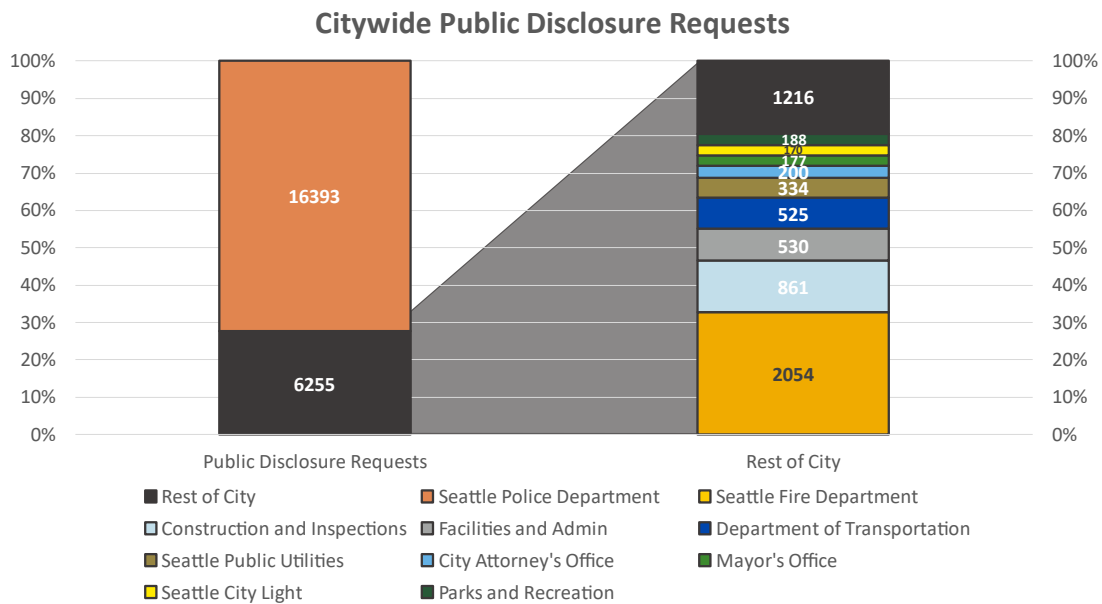
Mapping Accuracy
Mapping a police referral relies on the accuracy of the information on a report. Even after manually correcting addresses, some either do not have enough information or are not tied to a physical address in the city’s GIS database. The most common of these are DUIs that occur on grade-separated roads.

	Domestic Violence		Court Order		Weapons			Total
	Violence	Violations	Assault	Charges	Harassment	Theft	DUI Referrals	
Mapped	906	210	890	129	324	537	337	2840
UnMapped	17	3	14	3	6	4	15	89
Mapped %	98%	99%	98%	98%	98%	99%	96%	97%

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Public Disclosure Requests

Citywide



The City Attorney’s Office advises on legal matters regarding public disclosure requests. The City of Seattle had nearly 25,000 public disclosure requests in 2023, an increase of 17% from 2022. Two-thirds of those requests were directed at the Seattle Police Department. The City Attorney’s Office has 1.2 full-time-equivalent public disclosure officers and they responded to the 7th most requests in the City, just ahead of the Mayor’s Office. Most requests in 2023 were for the Civil Division, a reversal from 2022.

Seattle City Attorney’s Office

