

## MISSION

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The Department of Law provides quality legal representation to the City of South Bend's Mayor, departments, commissions, boards, and agencies with a dedicated and professionally skilled staff, efficiently and cost effectively, in furtherance of the City's strategic goals, and while preserving the legal and ethical integrity of the City. The services of the Department of Law are most directly tied to the City's core value of being a **Well-Governed and Administered City**.

## WHO WE ARE

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### Great Employer with Great Employees

The Department of Law is comprised of diverse and talented legal professionals working collaboratively in an inclusive environment. We pride ourselves on our strong commitment to the City's core values of Inclusion and Excellence.

WE ARE COMPRISED OF:

#### 9 Attorneys



Sandra Kennedy, Aladean DeRose, Kylie Connell, Kathryn Hough, Thomas Panowicz, Michael Schmidt, Adam Taylor, Jenna Throw, Danielle Campbell Weiss

#### 2 Paralegals



Sarah Curl-Larson, Julie Wisner

#### 2 Legal Assistants



Marissa Frattini, Ashley Sniadecki

## **Staff Transitions in 2022**

### **Assistant City Attorneys:**

**Christina Shakour** relocated to Washington D.C. and **Clara McDaniels** relocated to Houston, TX; both departed the City in August 2022.

**Michael Schmidt** re-joined the Department as the primary attorney for the Department of Public Works and the Office of Diversity & Inclusion in September 2022.

**Kathryn Hough** transitioned to an Assistant City Attorney role in October 2022. She manages the City's litigation and engages in pre-litigation practice.

**Adam Taylor** joined the Department as the primary attorney for the South Bend Fire Department in October 2022.

### **Office Staff:**

**Kathryn Hough** obtained her Indiana law license and transitioned to an Assistant City Attorney role in October 2022.

**Sarah Curl-Larson** joined the Department as the Paralegal/Claims Manager in November 2022.

## **Supporting the City and Its Departments**

**The Legal Team works with the City's Departments to help them reach their goals in a manner that is compliant with state, federal, and local laws. We endeavor to help each of them be a great employer with great employees.**

### **South Bend Police Department**

The Department of Law continues to work with SBPD leadership to **implement the 21CP recommendations**. Additionally, over the summer, led by Kylie Connell, several members of the Department assisted SBPD leadership during the negotiation of its **three-year Collective Bargaining Agreement** with the Fraternal Order of Police South Bend Lodge No. 36 and worked with Innovation & Technology in finalizing contracts for the **Real Time Crime Center**. A member of the Legal team (Kylie Connell) **represents SBPD before the Board of Public Safety**; a different member of the Legal team (Danielle Campbell Weiss and/or Tom Panowicz) supports the Board of Public Safety.

### **South Bend Fire Department**

In January, led by Christina Shakour, several members of the Department assisted SBFD leadership in finalizing its **three-year Collective Bargaining Agreement** with South Bend Firefighters Local 362. Additionally, the Department supported SBFD leadership in its **narcotics application** with the Board of Pharmacy to ensure EMTs have access to the drugs they need to treat the individuals they serve. A member of the Legal team (Adam Taylor) **represents SBFD before the Board of Public Safety**; a different member of the Legal team (Danielle Campbell Weiss and/or Tom Panowicz) supports the Board of Public Safety.

## **Department of Community Investment**

**Engagement & Economic Empowerment:** The Department of Law provided **general assistance** to the Engagement & Economic Empowerment team, including general advice regarding contracts and legal requirements, as well as document drafting, review, and revisions.

**Growth & Opportunity (Business Development):** The Legal team provided **legal support** to the Growth & Opportunity team, including assisting with the legal structure of proposed transactions, and preparing the necessary documents related thereto, as well as general advice regarding uses of tax increment financing, and other financing mechanisms. The Department of Law assisted Growth & Opportunity staff to determine strategies for managing non-compliant business partners. Additionally, we **supported the Redevelopment Commission, Redevelopment Authority, Economic Development Commission, Revolving Business Enterprise Fund Board/Industrial Revolving Fund II Board, and Building Corporation** in their public meetings.

**Historic Preservation:** The Legal team **supported the Historic Preservation Commission and its staff** to ensure compliance with applicable laws.

**Neighborhood Health & Housing:** The Department of Law provided **general support** to the Neighborhood Health & Housing team, including general advice regarding interpretation of contractual terms and statutes, as well as contract drafting, review, and revisions. Additionally, we counseled NHH leadership regarding the RSVP ordinance application and worked with NHH leadership and Council leadership in their early efforts to revise the ordinance.

**Neighborhood Services and Enforcement:** The Legal team **represented the City's interests in 750 Code Hearings** and provided counsel to NSE leadership on property maintenance matters. Further, we assisted NSE leadership regarding the **Wilson Shirt Factory demolition**, meeting with environmental agencies and facilitation of EPA's lead role in the project. We also helped NSE leadership navigate the emergency demolition of the **SB Brewing Association building** at 1636 Lincolnway West. Tom Panowicz and Sandra Kennedy provided guidance and assisted with the City's **acquisition of the Drewrys Brewery property** at 1408 Elwood Ave, following years of NSE enforcement. Several Department members attend bi-weekly meetings to provide support to the collaborative efforts of NSE, Building, Zoning, Historic Preservation, SBFD and other departments to address dangerous structures in the City.

**Planning, Building, Zoning:** The Department of Law provided **general legal support** to the Planning, Building, and Zoning teams, including general advice regarding interpretation of laws, support in meetings with third parties, and contract drafting, review, and revisions. Additionally, we **supported the Board of Zoning Appeals and the Area Plan Commission** in their public meetings, with Jenna Throw and Tom Panowicz successfully arguing a Motion to Dismiss in a case brought on an administrative appeal of a **Board of Zoning Appeals** decision to the St. Joseph County Superior Court.

**South Bend Animal Resource Center:** The Department of Law provided **general support and guidance** to SBARC staff particularly regarding the interpretation and enforcement of State and local laws. This included reviewing and advising SBARC in obtaining three (3) Inspection and Seizure

Warrants. Also, a member of the Legal team (Tom Panowicz) **represented and advocated for SBARC** by preparing for and attending nine (9) Animal Welfare Commission hearings involving cases of Habitual Animal Offenders and Potentially Dangerous or Vicious animals. The Legal team additionally attended a further eleven (11) AWC meetings on SBARC's behalf. A separate attorney from the Legal team (Kylie Connell) provided support to the AWC.

**Sustainability:** The Legal team provided **general legal support** to the Sustainability team, including attending meetings with third parties, providing general guidance and advice regarding contracts, and reviewing and revising contracts.

### **Department of Public Works**

The Department of Law finalized and passed three **Memoranda of Understanding** with **Teamsters Local Union 364** regarding **Residency Pay, the Juneteenth City Holiday, and CDL Premium Pay and Training**. The Legal team (Clara McDaniels, Jenna Throw, or Michael Schmidt) also **supported the Board of Public Works** in their public meetings. A collaborative highlight of the year occurred as Legal, the Office Diversity and Inclusion, and Public Works all worked together to successfully implement and manage the **City's Minority and Women Business Ordinance** with over \$2,000,000.00 being awarded to M & W subcontractors in 2022.

### **Venues Parks & Arts**

The Department of Law ensured a smooth transition of **Edge Adventures at Rum Village Park** by drafting an agreement approving the assignment of the City's Lease with the operators of the attraction. The Department of Law (Clara McDaniels or Jenna Throw) also **supported the Board of Park Commissions** in their public meetings.

### **Department of Administration & Finance**

The Legal team supported the Administration & Finance team and other departments to close two series of **municipal bonds: \$5,715,000.00 to fund projects at Potawatomi Zoo and \$6,395,000.00 to fund renovations and improvements at the Morris Theater**. The Department of Law also provided support for the initial stages of issuing **municipal bonds totaling up to \$69,000,000.00 to fund public improvements throughout the City**. Jenna Throw and Sandra Kennedy provided support and prepared documents to facilitate the purchase and temporary lease-back of the **South Bend Community School Corporation administration building for future use as a new City Hall**. Jenna Throw also worked with the A&F and **Innovation & Technology** teams to negotiate favorable terms for **lease-purchase financing transactions**.

### **Department of Human Resources**

The Department of Law provided assistance to department leaders with regard to critical employment decisions to **ensure compliance with federal, state, and local laws**, as well as recognized best practices. The Legal team worked to investigate and ultimately settle a high-profile matter involving the SBFD. The Department of Law additionally provided support on **workers compensation**, including negotiation of a settlement in the amount of **\$16,490.05 to reimburse the City for medical expenses paid out**.

### **Department of Innovation & Technology**

The Legal team provided **general legal support** to the Innovation & Technology team, including attending meetings with third parties, providing general guidance and advice regarding contracts, and

reviewing and revising contracts. Additionally, the Department of Law assisted with preparing documentation and assisting with finalization of Innovation & Technology's **Middle Mile Grant** application. The Department of Law assisted with drafting requests for proposals and service agreements for the **City's Outreach Programs**, assisting residents with applying for City utility relief programs. Jenna Throw and Kylie Connell assisted SBPD and Innovation & Technology in finalizing contracts for the **Real Time Crime Center**.

### **Office of Diversity, Compliance, & Inclusion**

The Legal team assisted Diversity, Compliance, and Inclusion leadership with regard to the implementation of **contract-specific goal setting** for City contracts, as well as with **amendments to the City's MWBE Inclusion Program Plan**. We also provided legal support for the **development of race- and gender-neutral initiatives**, such as a Small Business Assistance Suite and Mentor-Protégé Program. Additionally, the Department of Law worked with the Department of Public Works to **develop guidelines and a checklist for contractors' "good faith efforts"** to clarify the City's expectations under law of what is required of contractors to engage and include minority and women's businesses in their bids on public works projects. We also **supported the Inclusive Procurement Board** in its public meetings. Through the efforts of Legal, there is now a committee that reviews public work bids for requests for the issuance of good faith effort waiver from MWBE goals, a process for holding prime contractors accountable for changes in subcontractor utilization plans, and detailed reporting from B2G Now software for the benefit of the City and the Inclusive Procurement Board.

### **Human Rights Commission**

In late 2022, the Department of Law temporarily took oversight of the staff of the Human Rights Commission. **Dietra Pickens** was promoted to Employment Manager and **Kaylee Boyce** was promoted to Intake Coordinator in 2022. **Esther Akhigbe**, as the sole investigator, handled over 15 investigations to close out 2022. All three staff members worked diligently to continue the functions of the Commission and provide services to the community. **Adam Taylor** and **Kylie Connell** commenced their roles as attorneys to staff, and **Aladean DeRose** continued as the attorney to the Commissioners.

### **Collective Bargaining Agreements**

In 2022, Kylie Connell, supported by several members of the Legal team, worked with the South Bend Police Department to successfully negotiate a three-year Collective Bargaining Agreement with the Fraternal Order of Police South Bend Lodge No. 36.

### **Enduring Financial Strength**

**The Department of Law supports responsible collections practices, a thorough property damage recovery practice, economic investment, and important partnerships to enhance the City's financial strength.**

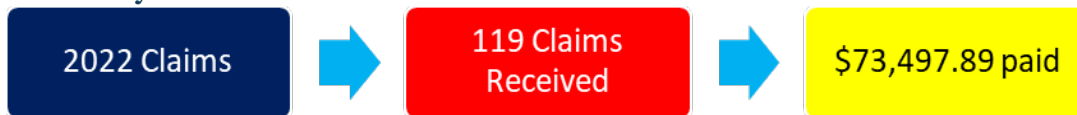
In 2022, with department referrals still rebounding from the impact of the pandemic and OVB referral difficulties, the Department of Law **collected \$343,472.84** on behalf of the City's various Departments, Boards, and Commissions. The largest collection amount

received was \$25,069.10 in a settlement of a City’s claim filed in an estate case. Additionally, the City **recovered \$406,532.43** for damage caused by others to City property.

## Reliable Compliance with Regulations and Well-Managed Risk

Guided by the principal “we pay what we owe,” the Department of Law handles each claim it receives with integrity and courtesy.

### Liability Claim



### Litigation



**Eleven (11) cases** in which the City or one of its departments was a named Defendant were outstanding as of December 31, 2022.

**Four (4) cases** in which the City or one of its departments was a Plaintiff were outstanding as of December 31, 2022.

### Liability Fund 226

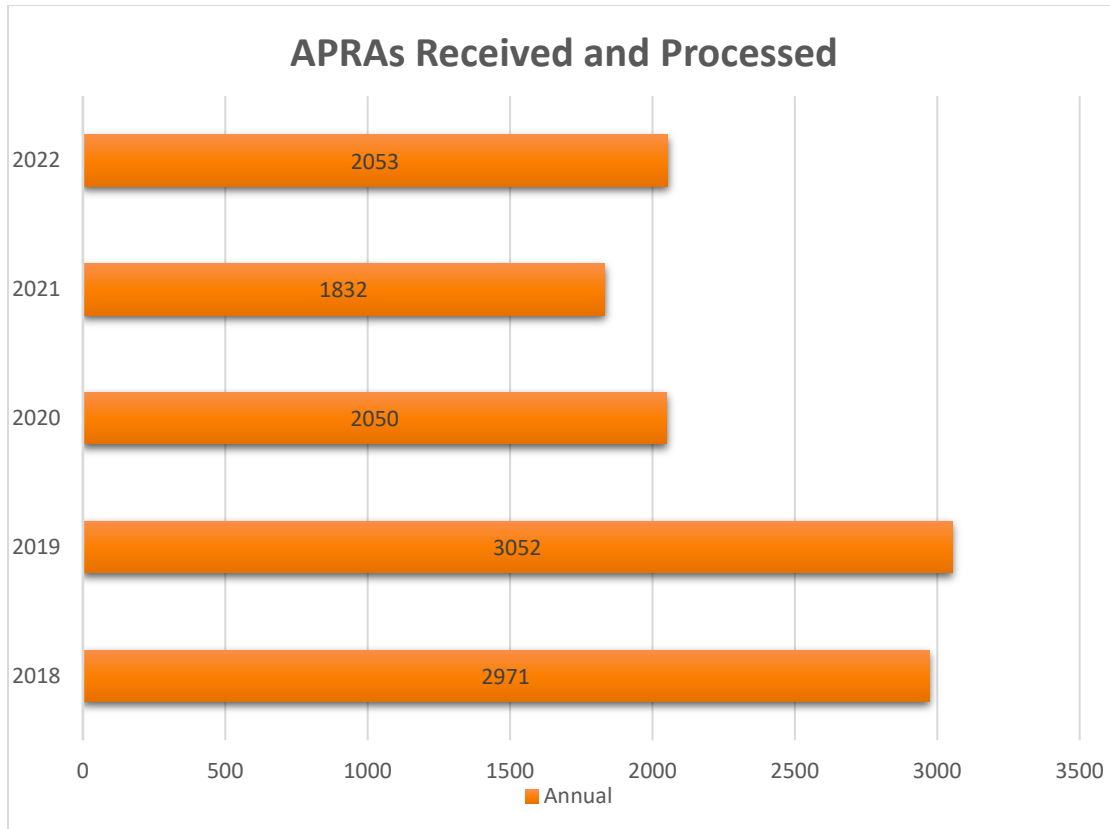
The Department of Law has handled claims, lawsuits, and other City matters in an equitable, fiscally responsible manner via proactive claims investigation and evaluation, interdepartmental information sharing and best practices coordination, and vigorous defense litigation. All attorneys in the Department of Law either engage directly in or manage outstanding litigation matters to ensure the most cost-effective approaches are taken.

## Excellent Services and Efficient Processes

The Department of Law fields questions from the public, especially requests for public records, ticket appeals, and claims. Specifically, the City Attorney, Aladean DeRose, serves as ADA Coordinator to the City and responds to questions and concerns about accessibility of City services, programs, and activities. We strive to provide equitable, timely service, supporting the Administration’s goal of Transparency.

### Access to Public Records Act (APRA) Requests

The Department received and processed **2,053** requests in 2022 **without violations**.



#### **Ticket Appeals**

Resolved **443** ticket appeals in 2022, **330** of which were parking ticket appeals and **12** were false alarm ticket appeals.

#### **Bankruptcy Practice**

Reviewed forty (40) bankruptcy cases and filed thirty-three (33) Proofs of Claim , recovering **\$13,321.31** in 2022. With assistance from outside counsel, monitored four (4) opioid business Chapter 11 cases that listed the City for notice or as a creditor.

#### **Mortgage Foreclosure and Quiet Title Practice**

Filed responsive pleadings in sixty (60) Mortgage Foreclosure cases and seven (7) Quiet Title cases. In addition, we filed nine (9) applications for disbursement of sheriff sale proceeds and recovered **\$16,505.24**.

### **Model of our Values (Excellence, Accountability, Innovation, Inclusion, and Empowerment)**

**The Department of Law takes the City’s mission and values seriously, supporting local and national initiatives to make South Bend, and the United States at large, a more inclusive place in which to thrive.**



## Amicus Briefs

The Department of Law reviews requests to sign on to amicus briefs and analyzes them based upon the goals of the City. In 2022, the Department of Law signed on to one such amicus brief.

### Merrill v. Milligan

The City supported the amicus brief of local governments, which argued for the preservation of Section 2 of the Voting Rights Act and the continued prohibition of voting practices and procedures (including redistricting maps) that discriminate based on race, color, or membership in a language minority group.

## National Litigation

### Opioid Litigation

The Legal Team worked with our outside counsel to represent the City's interests in the National Opioid Litigation. After initially opting out of the State of Indiana's settlement plan in response to 2021 Indiana State legislation that would have greatly reduced the City's share in opioid litigation settlement proceeds, changes were made to the legislation that caused the City's Legal Team, similarly to many other larger Indiana cities, to opt in to the State's settlement plan. In late 2022, the City received its first distribution of settlement funds in the amount of **\$634,425.29**. The City continues to monitor the national litigation and prepare for possible litigation if settlement is not feasible.

## **Effective, Responsive Leadership and Communication**

The Department of Law provides daily in-house legal counsel to each of the Departments, Boards, and Commissions of the City of South Bend. This valuable service is provided at no hourly charge to the City and results in effective interdepartmental collaboration and joint accomplishments, driven by highly responsive and accessible legal counsel.

## **2023 STRATEGIC GOALS**

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The Department of Law aims to achieve the following goals in 2023:

- Continue to support City policy and legislative interests at the regional, state, and national levels;
- Continue working with SBPD to implement 21CP recommendations, including policy updates in Lexipol;
- Continue supporting completion of the implementation of Lexipol for the Fire Department and approval by the Board of Public Safety;
- Continue to advise and train departments to improve compliance with EEOC and to increase diversity hires;
- Continue efforts to improve claims tracking and leverage opportunities to reduce costs of litigation for the City;



- Continue to demonstrate a diligent and resolute litigation strategy that supports the ability of the City to deliver good government and allows residents to live a safe, healthy, meaningful life in South Bend;
- Continue to increase cross-training of Department of Law staff and attorneys to better situate the Department to serve the City's needs;
- Work with DCI to update Municipal Code provisions, such as references to the Department of Code Enforcement and International Property Maintenance Code, to align with their departmental restructuring;
- Assist BZA with updates to its bylaws and rules of procedure;
- Measure and determine how to improve collection services;
- Identify modes of efficiently limiting liability claim reimbursement expenditures while simultaneously allowing a more convenient claims process for future claimants;
- Support legally compliant efforts to further increase diverse spending throughout City departments;
- Support increased cooperation across departments in efficiently handling Zoning, Building, and Fire Code violations;
- Explore alternative public contracting methods in hopes of reducing overall cost of Public Work projects while also maintaining compliance under Indiana law; and
- Create a balanced model for increasing subrogation revenue alongside continued efforts to limit liability expenditure.