

Office of the State Public Defender

FY 12

TRAINING PROGRAMS

July 1, 2011-June 30, 2012

<u>Date of Training</u>	<u>Description of Training</u>	<u>Internal Personnel</u>		<u>External Personnel</u>		<u>Totals</u>
		<u>Attorney</u>	<u>Non-Attorney</u>	<u>Attorney</u>	<u>Non-Attorney</u>	
August 15-19, 2011	University of Montana Capital Training Initiative (Defense - Part 1) †	17		4		21
August 29-31, 2011	Investigator Training Conference (Butte)		19			19
September 2011	Pace University Public Defender Fellowship Program UNLV Boyd School of Law (plus week long placement in Miami and the Bronx)	2				2
October 12, 2011	NACC Child Welfare Specialist "Red Book" Training	7		11	26	44
October 12-13, 2011	OPD Statewide Training Conference (Whitefish)	104	3	28		135
	- Ethics Issues in Conflict Cases †					0
	- Montana Supreme Court/US Supreme Court Case Law Update †					0
	- Protecting the Record †					0
	- Immigration Law for Defenders II †					0
	- DUI Practice Tips - DRE Evidence †					0
	- Forensic Use of Neuropsychological Evaluations					0
	- Restitution Hearing Workshop †					0
	- DOC Placement and Programming Policies †					0
	- Issues in Courts of Limited Jurisdiction					0
	- Substance Abuse, Mental Illness, and the LAP					0
	- Understanding Psychological Tests					0
	- Science and Law of Eyewitness Evidence †					0
	- Lessons and Practice Tips Gained from the Jury Insights Project †					0
October 20-22, 2011	National Juvenile Defender Leadership Summit (Seattle)	2				2
November 4, 2011	OPD Grizzly CLE	2		43	1	46
	- Tips and Techniques for Writing Effective Briefs †					0
	- Understanding Montana's Marijuana Laws †					0
	- Ethical Considerations in Representing Children					0
	- Jury Perspectives of the Trial Process †					0
	- Substance Abuse, Mental Illness, and the LAP					0
	- Lawyers and Public Statements: Professional Responsibility Concerns †					0
November 1, 2011	National Forensic Training Program (Austin, TX) †	2				2
November 1, 2011	NACDL Defending Drug Cases Seminar (Las Vegas) †	1				1
December 1, 2011	OPD Leadership V	23	6			29
February 21-24, 2012	OPD Boot Camp (Trial Skills Workshop) †	22	1			23
March 1, 2012	DJ Defender Meeting	13	1			14
June 1 and 8, 2012	Cultural Communications Workshop †	45	8			53
June 26-27, 2012	OPD Support Staff Training Conference	1	65			66
	Totals	241	103	86	27	457

† Training topics presented to train attorneys for criminal defense or procedure.

Ongoing Training

New Employee Orientation

Annual Standards Verification (Dec. 31, 2011)

Northwest Capital Litigation Training Project (Defense)

University of Montana School of Law &
The Office of the Montana State Public Defender

MONDAY

3:00 pm - 5:00 pm	REGISTRATION
5:30 pm - 8:30 pm <i>Instructors</i>	Instructors Meeting And Train the Trainers Introduction

TUESDAY

8:00 pm - 9:45 am	<p>Welcome, Introduction, Survey And Why Death is Different [Panel]</p> <p>Capital Defense creates a unique set of challenges for members of the defense team. It is noble work that is a calling for a courageous few.</p>
10:00 am - Noon <i>Ethics</i>	<p>ABA Guidelines and Professional Ethics for Capital Defense Counsel [Katie Ross]</p> <p><i>ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases</i>, is the result of an extensive and conscientious drafting and review process by experts in the field of death penalty litigation. The revised edition provides comprehensive, up-to-date guidance for professionals who work in this specialized and demanding field and helps to ensure effective assistance of counsel for all persons charged with or convicted of capital crimes.</p> <p>In this session, we will review Caselaw and the Guidelines with a particular focus on:</p> <ul style="list-style-type: none"> • 4.1 The Defense Team • 10.5 Duty to Establish a Relationship of Trust • 10.7 Duty to Investigate • 10.9.1 Duty to Negotiate a Plea • 10.8 Duty to Assert Legal Claims • 10.13 Duty to Facilitate the Work of Successor Counsel
Noon - 1:30 pm	LUNCH (Instructors meet separately)
1:30 pm - 3:00 pm	<p>Defense Initiated Victim Outreach [LaVarr McBride]</p> <p>In a capital case, it is essential for the defense team to understand the victims' concerns and questions. Trained victim outreach specialists help defense attorneys understand the needs and experiences of victim-survivors; conversely, the DIVO can help the victim understand the defendant, the legal process and the crime better.</p>

3:15 pm - 4:15 pm	<p style="text-align: center;"><u>Small Group Discussions:</u> Issues that challenge the integrity of the Attorney-Client Relationship in a Capital Case</p> <p style="text-align: center;">Group A: Main conference room Group B: Room 214 Group C: Room 215</p>
4:15 pm - 5:30 pm	<p style="text-align: center;">Building Alliances with Your Client [Tony Moss]</p> <p style="text-align: center;">Death Penalty cases require the development and maintenance of a longer relationship with the client than other types of criminal cases. This creates unique opportunities and challenges. This session explores these issues and offers suggestions for strategies for building positive relationships with clients and their families. The focus is on the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases 10.5 Duty to Establish a Relationship of Trust.</p>
7:00 pm - 9:00 pm	<p style="text-align: center;"><u>Small Group Discussions:</u> “But I think I can win this case”</p> <p style="text-align: center;">Group A: Main conference room Group B: Room 214 Group C: Room 215</p>

WEDNESDAY

8:15 am - 9:30 am	<p style="text-align: center;">Getting the Plea [Don Vernay & Greg Jackson]</p> <p style="text-align: center;">ABA Guideline 10.9.1 imposes a duty to seek an agreed-upon disposition at every stage of the case. This session will provide suggestions on strategies to reach an agreement for less than death. Topics will include the political dimension, the role of the media, motion practice, creative resolutions, and effective communication with our client and the victim’s family. Voir Dire</p>
9:30am - 10:30 am	<p style="text-align: center;"><u>Small Group Discussions:</u> What do we mean when we talk about “cultural issues?”</p> <p style="text-align: center;">Group A: Room 215 Group B: Room 203 Group C: Main conference room</p>
10:45 am - Noon	<p style="text-align: center;">Cultural Issues: Are You Talking to Me? [Cessie Alfonso]</p> <p style="text-align: center;">This session explores the many dimensions of culture and how they surround and can swallow your case presentation - whether you are aware of it or not.</p>

12:15 pm - 1:45pm	LUNCH (Instructors meet separately)
1:45 pm - 3:00 pm	<p style="text-align: center;">Where do I Start - Social History Investigation [Cessie Alfonso]</p> <p>This session provides a comprehensive overview of the social history that needs to be developed in every case, which includes familial, economic, social, cultural and biological components. Learn what needs to be discovered and how to discover it.</p>
3:15 pm - 4:15 pm	<p style="text-align: center;">Small Group Discussions: Brainstorming the concept of "frontloading mitigation."</p> <p style="text-align: center;">Group A: Room 215 Group B: Room 203 Group C: Main conference room</p>
4:15 pm - 5:30 pm	<p style="text-align: center;">Presenting the Mitigation Case at Trial [Tony Moss]</p> <p>The presentation of the story of mitigation is an opportunity for creativity beyond that in most criminal cases. This session offers suggestions for creating a persuasive story for life through your presentation of evidence in the mitigation phase.</p>
7:30 pm - 9:00 pm	<p style="text-align: center;">Small Group Discussions: Further Mitigation Challenges</p> <p style="text-align: center;">Group A: Room 215 Group B: Room 203 Group C: Main conference room</p>

THURSDAY

8:15 - 9:15 am	<p style="text-align: center;">Small Group Discussions: Dealing with the impending ultimate decision in the aftermath of the verdict.</p> <p style="text-align: center;">Group A: Room 215 Group B: Main conference room Group C: Room 214</p>
9:15 - 10:45 am	<p style="text-align: center;">Mitigation and Sentencing [Greg Jackson and Richard Wood]</p> <p>We must develop a theory and themes for life - a set a reasons, supported by facts, which will persuade the jury (or, in Montana at the present time, the judge) that a client will be sufficiently punished by a sentence other than death. In most cases, this is a unified theory that presents evidences in the guilt/innocence phase that is consistent with the mitigation phase. This session provides techniques for the creation of a theory and how to apply it at the sentencing stage.</p>

11:00 am - 1:00 pm	LUNCH (Instructors meet separately)
1:00 pm - 2:30 pm	<p>Finding and Using the Right Expert [Todd Maybrown]</p> <p>Identifying what issues work - and who can make them work - is a challenge in any case. Especially a capital case.</p>
2:45 pm - 3:45 pm	<p>Small Group Discussions: Brainstorming Capital Motion Practice</p> <p>Group A: Room 215 Group B: Main conference room Group C: Room 214</p>
4:00 pm - 5:15 pm	<p>Death Penalty Motion Practice [Don Vernay]</p> <p>One of the first things attorneys do after being appointed to their first capital case is email experienced colleagues requesting copies of all the motions death penalty defense lawyers file in capital cases. This session will review some of those motions and offer suggestions on creating a motion practice strategy tailored to the needs of the particular case.</p>
	Evening Free

FRIDAY

8:15 am - 12:15 pm	<p>Jury Dynamics in Capital Cases: Challenging the Aggravators [Instructional Faculty & Montana District Judge John McKeon]</p> <p>This session focuses on the evolving “Life Penalty” approach to capital sentencing and on the unique challenges associated with Montana’s death penalty process. It also looks at the factors which the ultimate arbiter of the life vs. death must make - whether in Washington, Idaho, Montana, or elsewhere.</p> <p>Group A: Room 215 Group B: Room 214 Group C: Main conference room</p>
12:30 pm - 1:00 pm	<p>Closing [Eric Olson and Katie Ross]</p>

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Investigator Conference

Copper King Hotel

Butte, Montana

August 29-31, 2011

Monday, August 29, 2011	
3:30 pm to 5:00 pm	Staff Meeting & Awards Barbeque
Tuesday, August 30, 2011	
8:00 am to 10:00 am	<p>Social Networking Investigation: (Kevin McClain) <i>Kevin McClain is a licensed capital case investigator in Illinois, Indiana, Kentucky and Missouri. He is a Board Certified Criminal Defense Investigator and president of Kevin W. McClain Investigations, Ltd., a multi-state investigative firm.</i></p>
10:00 am to 10:15 am	Break
10:15 am to 11:30 pm	<p>Hopeless Cases on a Budget (Betsy Anderson) <i>The Federal Defenders of Montana offices were established in 1993 and Betsy was one of three investigators hired for the state. She has over 30 years of experience and works out of Helena, and her cases have varied from the Unabomber and capital habeas appeals to violent reservation crimes, an armored car heist and program fraud.</i></p>
11:30 am to 12:30 pm	Lunch
12:30 pm to 1:45 pm	Interviewing Children/Forensic Interviews (Eric Olson)
2:00 pm – 3:15 pm	Timeline Techniques for Effective Investigation (Kevin McClain)
3:15 pm to 3:30 pm	Break
3:30 pm to 5:00 pm	<p>Mitigation Videos for Sentencing (Betsy Anderson and Denise Arellano) <i>Denise has been a public defense investigator for more than 19 years. She did her initial training and gained several years of experience pounding the pavement for county defenders in Seattle before joining Federal Defender Services of Idaho in 1994.</i></p>
5:30 pm	Dinner
Wednesday, August 31, 2011	
8:00 am to 10:00 am	Post-Conviction Investigation (Kevin McClain)
10:00 am to 12:00 pm	<p>Microsoft Office (Randa Colling) <i>Randa Colling is a graduate of the University of Montana School of Journalism.</i></p>



Conference Agenda

Office of the State Public Defender
2011 Annual Conference
October 12-14, 2011
Whitefish, Montana

Tuesday, October 11, 2011

	Travel Day
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Wednesday, October 12, 2011

8:15 am - 9:15 am	Welcome/Ethics Issues in Conflict Cases (Kristina Neal)		
9:30 am - 10:30 am	Montana Supreme Court/US Supreme Court Case Law Update (ADO)		
11:00 am - 12:15 pm	Protecting the Record (Joslyn Hunt)	Immigration II (Candida Quinn)	DUI Practice Tips (TBD)
12:15 pm - 1:15 pm	LUNCH		
1:15 pm - 2:30 pm	Forensic Use of Neuropsychological Evaluations (Christa Smelko, PhD)		
3:00 pm - 4:00 pm	Restitution Hearing Workshop (Dan Minnis)	DOC Placement & Programming Policies (Rick Deady)	Issues in CLJ Practice (Cassidy Blomgren)
4:00 pm - 5:00 pm	SAMI (Jessica Polan)		

Thursday, October 13, 2011

8:15 am - 9:15 am	Understanding Psychological Tests (Mike Scolatti, PhD)		
9:45 am - 11:45 am	Eyewitness to Innocence (I) (Introductory presentation to set up the problem) (Session A)		
11:45 am - 1:15 pm	AWARDS LUNCH Keynote Speaker: Fritz Gillespie, Chairman MPDC		
1:15 pm - 3:15 pm	Eyewitness to Innocence (II) (Session B) (Special Guest: Kirk Bloodsworth)		
3:45 pm - 5:00 pm	Jury Insights Project (Staff)		

Friday, October 14, 2011

	Travel Day
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The OPD Grizzly CLE

A Practical Knowledge CLE Event
Sponsored by the Office of the State Public Defender

Holiday Inn Parkside in Missoula

CLE CREDIT: 6.25 hours, including 3.0 ethics and 1.0 SAMI

Friday, November 4, 2011

8:15 am - 8:30 am	Welcome / Registration	
8:30 am - 9:30 am 1 hour CLE	Tips and Techniques for Writing Effective Motions and Briefs (Koan Mercer)	
9:30 am - 10:45 am 1.25 hours CLE	Understanding Montana's Marijuana Laws (Craig Shannon)	
11:00 am - Noon 1 hour ethics CLE	Ethical Issues in Representing Children (Lisa Kauffman)	
Noon - 1:30 pm (on your own)	LUNCH (Not provided)	
1:30 pm - 2:30 pm 1 hour SAMI CLE	Substance Abuse, Mental Illness and the Lawyer Assistance Program (Jessica Polan)	
2:30 pm - 3:30 pm 1 hour ethics CLE	Lawyers and Public Statements: Professional Responsibility Concerns (Panel)	
3:45 pm - 4:45 pm 1 hour CLE	Jury Perspectives of The Trial Process: Insights from a Recent Survey (Eric Olson)	

AGENDA: OPD BOOT CAMP V
February 21-24, 2012

TUESDAY (February 21)

Registration (4:00 PM – 4:30 PM)

Initial Session (4:30 PM – 5:00 PM) Introduction to the Case Problem (Entire Group)

Session 1 (5:00 PM – 6:00 PM) “Fundamentals of Reid Technique of Interrogation” (Olson) (Entire Group)

Session 2 (6:30 PM – 8:00 PM) Instructor’s meeting (Working Dinner)

WEDNESDAY (February 22)

Wednesday sessions at UM Law School (Castles Center)

Session 3 (8:00 AM – 11:30 AM) Introduction to Cross Examination (Vishny) & Fundamentals of Cross Examination (Pozner & Dodd video) (Entire Group) This session will include lecture, interactive exercises and viewing selected segments of Pozner & Dodd’s instructional DVD.

(1) Introduction to Cross Examination (15) and to the Pozner & Dodd Method, Rules 1 & 2 (DVD) (45 minutes)

(2) The Chapter Method (20) and Pozner and Dodd, Rule 3 (DVD) (40 minutes)

Lunch 11:30 a.m. - 12:30 p.m.

Session 4: (12:30 PM – 5:00 PM) Cross Examination Workshop (Teams)

Session 5: (5:00 PM – 6:00 PM) Fundamentals of Voir Dire (Vishny) (Entire Group)

THURSDAY (February 23)

Thursday morning session at UM Law School (Castles Center)

Session 6: (8:00 AM – 11:00 AM) Voir Dire Workshop (Teams)

Lunch: 11:00 AM – 12:30 P.M.

Thursday afternoon session (Courtroom – Missoula County Courthouse)

Afternoon Session 8 (12:30 – 6:00) Cross Examination Application (Entire Group)

Evening Session 9 (7:15 PM -- ???) (Hotel Conference Room) Dinner and Critique of Cross Examinations (Entire Group)

FRIDAY (February 24)

Friday Session (Jury Voir Dire) (Courtroom – Missoula County Courthouse)

Final Session (8:00 – 2:00) Voir Dire of a Full Jury Panel (Entire Group)

Adjournment: 2:00 PM

Instructors

Boot Camp Coordinator

Eric Olson

Principal Instructor

Deja Vishny (Faculty Member, National Criminal Defense College)

Team Instructors

**Steve Eschenbacher, Randi Hood, Walter Hennessey, Larry Lafountain, John Putikka,
Steve Scott, Ed Sheehy, Dave Stenerson,**

Advocacy, Communication & Elimination of Bias
Session #4: Cultural Conceptions of Guilt and Innocence
June 1 and 8, 2012 and October 9, 2012

First Session (11:45 – 12:30 PM)

The Ethical Relevance of Cultural Communications

Presenter: Noel Larrivee

The following materials will be discussed throughout the program:

State v. Valdez-Mendoza, 2011 MT 214 (2011)

Lafler v. Cooper, No. 10-209, 566 U.S. ____ (2012)

Missouri v. Frye, No. 10-444, 566 U.S. ____ (2012)

Padilla v. Kentucky, 130 S. Ct. 1473, 176 L. Ed. 2d 284 (2010)

Batson v. Kentucky, 476 U.S. 79 (1986)

M.R.P.C. Rule 1.1 (Competence),

MRPC Rule 1.2 (Scope of Representation and Allocation of Authority Between Attorney and Client)

MRPC Rule 1.4 (Communication)

MRPC Rule 1.14 (Client with Diminished Capacity)

Second Session (12:30 – 12:45 PM)

N.C.B.I. and its Relationship to Indigent Defense

Presenter: Amie Thurber

Third Session (12:45 – 1:45 PM)

The Critical Importance of Understanding Frame of Reference and the Cycle of Oppression

Presenter: Amie Thurber

Critical to being able to work across cultural lines is identifying our own cultural lenses and understanding the lenses of others. We will explore the lenses through which we see and understand our clients and examine the ways that frame of reference impacts our advocacy on their behalf. Additionally, we will explore a theoretical framework in which to understand systemic inequalities and examine the way public defenders may serve to interrupt or perpetuate those inequities.

Fourth Session (1:45 – 2:45 PM)

Panel Discussion: Cultural Conceptions of Guilt

Panelists: Patty LaPlant & Schylar Canfield (Helena) / Patty LaPlant, Tim Hoppe & Comfort Bolen (Pablo)

The panelists will reflect on their own cultural experiences with the justice system.

Fifth Session (2:45 – 3:45 PM)

Cultural Communications Skill Building Exercise

Presenters: Amie Thurber and Noel Larrivee

Working from participant-identified communication challenges, we will practice communication skills to overcome gaps and / or resistance from clients in order to advocate more effectively for our clients.

2012 OPD SUPPORT STAFF TRAINING CONFERENCE
Tuesday-Wednesday, June 26-27
College of Technology, Helena, Montana

Participants will travel to the conference site on Tuesday morning, June 26.

The conference agenda will begin at Noon on Tuesday, June 26. (Lunch provided.)

Participants will stay at the Red Lion Colonial Inn in Helena on Tuesday night, June 26.

The conference will adjourn on Wednesday afternoon, June 27 (lunch provided), and participants will travel back to their home offices.

TUESDAY AGENDA

11:00-Noon: Registration and Lunch

Noon – 12:30 PM: Welcome (Brian Yowell / Fritz Gillespie/ Harry Freebourn)

12:30 – 1:30 PM: General Session #1

- Central Services (20 Minutes) (Sheila Newman)
- Timesaving Tips for Microsoft Office Users (30 minutes) (Cathy Doyle)
- The OPD Orientation program (10 minutes) (Barb Kain)

1:30 – 1:45 PM: BREAK

1:45 – 3:15 PM: JustWare Training (Group 1) (Marsha Parr)

Concurrent Session (Group 2)

- Criminal Law and Procedure (45 minutes) (Ed Sheehy / Eric Olson)
- Criminal Law Office Ethics (30 minutes) (Mary Brown / Dave Stenerson)

3:15 – 3:30 PM: BREAK

3:30 – 5:00 PM: Group 2: JustWare (Marsha Parr)

Group 1: Concurrent Session (see above)

WEDNESDAY AGENDA

8:45 AM -10:15 AM:

Session A: Supervisors: Fundamentals of Efficient Workplace Supervision (Julie Benson-Rosston)

Session B: Non-supervisors: Concurrent Session (Eric Olson)

- Introduction to the Montana Crime Lab (45 minutes) (Emily Wemlinger)
- Montana Driver Licensing: Issues, Policies and Procedures (45 minutes) (Vickie Zincke)

10:15 AM – 10:30 PM: BREAK

10:30 AM - 11:30 AM: General Session #2 (Jenny Greenwood / Laura Wendlandt)

- Obstacles to Effective Communication (60 minutes)
 - Communicating with Mentally challenged/developmentally disabled individuals
 - Exploring Cultural Issues

11:30 AM– 12:30 PM: General Session #3

- Maintaining Positive Client Relations (20 minutes)
- Investigation Protocols (20 minutes) (Mori Woods)
- Understanding the Major Crimes Unit (20 minutes) (Jennifer Streano)

12:30 PM – 1:00 PM: Awards, lunch and adjourn