



MONTANA STATE PUBLIC DEFENDER

17 West Galena, Butte, MT 59701
T: 406.496.6080 F: 406.496.6098
publicdefender.mt.gov

Agency Progress Update February 2021

2020 OPD Workforce Performance Audit

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| Recommendation | 1(A) – Evaluations of Staff Attorneys |
| Response Plan Overview | Develop a formal evaluation process that complies with audit recommendation, including updating the existing policy, procedure, and documentation for evaluations |
| Agency Progress | <ul style="list-style-type: none"> Secured agreement with DOA to train OPD on utilizing Talent LMS Evaluation system <ul style="list-style-type: none"> Talent will allow for setting individual goals, ongoing and consistent feedback from supervisor as well as annual evaluation System provides tracking for accountability and monitoring Agency-wide training planned following DOA training HR |

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| Recommendation | 1(B) – Evaluations of Contract Attorneys |
| Response Plan Overview | Ensure the Contract Attorney Performance Evaluation Process continues to run smoothly, provides appropriate data to determine in MOUs should be offered, and that we remain in compliance with statute and policy |
| Agency Progress | <ul style="list-style-type: none"> Created and implemented robust online contract attorney evaluation process in August 2019 OPD is compliant for evaluating all contracted attorneys within their MOU cycle for first time |

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| Recommendation | 1(C) – Client Grievance Process |
| Response Plan Overview | Ensure the updated client grievance process is being followed consistently statewide, and if necessary, make changes to the process |
| Agency Progress | <ul style="list-style-type: none"> Process changed prior to audit, implemented in FY 2019 New process allows OPD to track complaint type and outcome of complaint while ensuring all complaints are addressed timely Will continue to review and improve process |

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| Recommendation | 2 – Recruitment and Retention Plan |
| Response Plan Overview | Develop a formal Recruitment and Retention Plan that complies with audit recommendation, including documentation of plan and efforts |
| Agency Progress | <ul style="list-style-type: none"> Added location expense reimbursement to incentivize filling positions Added incentive reimbursement for attorney licensing costs in targeted areas Will continue to look at improvements to recruitment with targeted recruitment efforts at law schools, career fair events, out of state events, etc. |



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| | <ul style="list-style-type: none"> Attorney pay continues to be barrier in recruitment and retention (see response to recommendation 3) |
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| Recommendation | 3 – FTE Attorney Pay |
| Response Plan Overview | Research available options, develop a legislative proposal, engage stakeholders, and participate in public policy activities eventually leading to a legislative request that complies with audit recommendation |
| Agency Progress | <ul style="list-style-type: none"> Negotiated new pay ladder with unions reducing a 10 year step to 4 year step Removed attorney pay ladder movement “freeze” Using 2018 market, all attorneys reclassified to reflect pay adjustments (will utilize more recent markets as available and appropriate) Will continue to work to increase attorney pay within appropriated funds to better align OPD Attorney’s pay with other State/Public Sector Attorneys |

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| Recommendation | 4 – Contract Attorney Rates |
| Response Plan Overview | Research available options, develop a proposal, and implement approved changes to improve contracting program |
| Agency Progress | <ul style="list-style-type: none"> Established working group with interested contract attorneys to brainstorm solutions for rates (among other issues and audit recs.) Conducted one session thus far |

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| Recommendation | 5 – Case Overflow/Distribution with Div. 1 and Div. 3 |
| Response Plan Overview | Develop a process to ensure caseloads are fairly and equitably distributed between the divisions |
| Agency Progress | <ul style="list-style-type: none"> Established working group to develop and implement a case overflow mechanism to be piloted in Eastern Montana with the goal of normalizing caseloads and increasing efficiencies Established a ‘super-region’ pilot combining OPD Regions 1, 2, and 5 (Western Montana) in an attempt to normalize workloads, identify potential efficiencies, assess resource allocation, and improve supervision OPD currently in process of implementing new case management system and a case overflow mechanism is planned but not yet finalized |

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| Recommendation | 6(A) – Centralized Oversight of Time Tracking |
| Response Plan Overview | Develop policies, procedures, processes, and controls to ensure attorneys track case time consistently and accurately |
| Agency Progress | <ul style="list-style-type: none"> On January 1, 2020 Director reestablished time tracking expectations to entire agency |



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| | <ul style="list-style-type: none"> ○ In December 2020, further expectations set for managers/supervisors to review on weekly basis • OPD Operations produced new time tracking tools for managers/supervisors to have more information to review and hold their attorneys accountable to time tracking <ul style="list-style-type: none"> ○ Time tracking compliance has increased since January 2020 • OPD ensured the new case management system would include features to reduce the burden of time tracking entry and review while increasing compliance, new system expected by Fall 2021 (part of 6C also) |
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| Recommendation | 6(B) – Require Managers to Review Time Before Approval of SABHRS Time |
| Response Plan Overview | Develop a process to ensure managers have reviewed time before approving attorney's time |
| Agency Progress | <ul style="list-style-type: none"> • Expectation of managers to review time tracking as part of SABHRS time approval set in January 2020 |

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| Recommendation | 6(C) – Improve Ease of Time Tracking |
| Response Plan Overview | Research and develop processes to ease the burden of entering time on cases and ensure the new case management system brings value to this process |
| Agency Progress | <ul style="list-style-type: none"> • Due to new system forthcoming, OPD did not seek changes in current case management system to address this • As stated in 6(A), OPD ensured the new case management system selected would be able to address this longstanding issue with new technological tools and commitment to accountability |

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| Recommendation | 7(A) – Centralized Tools for Review of Contract Attorney claims, including data on billable vs expected hours |
| Response Plan Overview | Develop additional tools for claims reviewers |
| Agency Progress | <ul style="list-style-type: none"> • OPD Operations produced new tools for claims reviewers to access an individual contractor's overall claims made to OPD by month and region to better evaluate claims • The agency intends to leverage new case management system to seek additional efficiencies in this process |

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| Recommendation | 7(B) – Provide Clear, Consistent Guidance for Reviewing and Approving Contract Attorney Claims |
| Response Plan Overview | Develop guidelines, criteria, and resources for claim reviewers |



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| Agency Progress | <ul style="list-style-type: none"> Division Administrators have reestablished expectations to assigning attorneys to ensure they are effectively reviewing contract attorney claims Established workgroup to identify standards, criteria and guidance |
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| Recommendation | 7(C) – Revising Pre-Approval and Claims Procedure to Address .1 Billing Issue |
| Response Plan Overview | Amend Pre-Approval and Claims Procedure to explicitly disallow per task rounding |
| Agency Progress | <ul style="list-style-type: none"> Following public comment, OPD modified the Pre-Approval and Claims Procedure in Nov. 2020, with an effective date of Dec. 2020, to stop per task rounding and require time rounding per day instead. Too soon to determine if change will produce significant effect on billing |

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| Recommendation | 7(D) – Consider Utilizing Admin. Staff Under Attorney MOU; Develop Plan for Communicating Appropriate Usage of Administrative Staff by Contract Attorneys |
| Response Plan Overview | Research available options, develop a proposal, and implement approved changes to improve contracting program |
| Agency Progress | <ul style="list-style-type: none"> Established workgroup with interested contract attorneys to discuss options and available resources, more discussion and decisions to be made |

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| Recommendation | 8(A) – Identify Agency Data Needs and Measures |
| Response Plan Overview | Continue development of agency data management plan |
| Agency Progress | <ul style="list-style-type: none"> OPD Operations began building an agency data management plan based on current data needs and NLADA recommendations for public defense agencies and is using this information to ensure new case management build includes key metrics to be captured by system Ongoing effort to increase production of tools for increased access to operational data to inform decision making, data requests continue to inform agency data needs and management |

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| Recommendation | 8(B) – Identify Specific Staff Responsibilities with Agency Data |
| Response Plan Overview | Continue development of agency data management plan |
| Agency Progress | <ul style="list-style-type: none"> Responsibility of newly established Operations Unit which includes dedicated staff responsibilities for agency data management As new case management system is built, documentation of policy and procedures/controls/etc. will be created to reflect new processes |



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| Recommendation | 8(C) – Develop Controls and Automations to Improve Ease of Data Entry and Accuracy |
| Response Plan Overview | Continue development of agency data management plan and ensure new case management system is built to improve efficiency and effectiveness |
| Agency Progress | <ul style="list-style-type: none"> Responsibility of newly established Operations Unit which includes dedicated staff responsibilities for agency data management As new case management system is built, documentation of policy and procedures/controls/etc. will be created to reflect new processes |

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| Recommendation | 8(D) – Establish Data-Based Performance Metrics and Targets |
| Response Plan Overview | Continue development of agency data management plan |
| Agency Progress | <ul style="list-style-type: none"> Part of agency data management plan, utilizing NLADA recommendations to build and determine assessment of metrics/targets New system will allow for more data to be captured which will produce more metrics to assess performance also |

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| Recommendation | 8(E) – Develop Reports/Data Products for Operational Decision Making |
| Response Plan Overview | Continue development of agency data management plan |
| Agency Progress | <ul style="list-style-type: none"> Operations has and will continue to produce new tools on rolling basis, will leverage new tools available in new case management system also Operations has been working on new analytical data structure which is nearing completion as of early 2021 |

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| Recommendation | 8(F) – Pursue Data Warehousing |
| Response Plan Overview | Develop a plan to engage other justice system stakeholders and the legislature on the importance of an integrated justice system data warehouse/exchange, with the goal of the legislature approving an interim study |
| Agency Progress | <ul style="list-style-type: none"> The new case management system purchased by OPD allows the agency to be “integration ready” for future inter-agency integrations with the ultimate goal of a statewide data exchange OPD has engaged with some stakeholders to identify needs/risks/barriers to establishing statewide data exchange Both the audit and the agency recommend legislative action to accomplish this goal but until then OPD continues to seek engagement from stakeholders on integration opportunities including courts, jails, county attorneys, etc. |