

MONTANA PUBLIC DEFENDER COMMISSION

Minutes

Park Plaza Hotel

Helena, Montana

January 9, 2009

(Approved at the March 26, 2009 Commission Meeting)

Call to Order

The Montana Public Defender Commission meeting was called to order by Vice-Chair Steve Nardi at 8:15 a.m.

Commissioners Present

Mike Sherwood, Missoula; Tara Veazey, Helena; Stephen Nardi, Kalispell; Jennifer Hensley, Butte; William Snell, Billings; Kenneth Olson, Great Falls; and Richard (Fritz) Gillespie, Helena

Commissioners Absent

Vic Miller, Harlem; Majel Russell, Billings; Caroline Fleming, Miles City; James Park Taylor, Missoula

Interested Persons

Scott Crichton, American Civil Liberties Union of Montana (ACLU); Pat Gervais, Legislative Fiscal Analyst

Introduction of New Members/Committee Assignments

Commissioner Gillespie expressed an interest in the Standards, IT and Legislative Committees. Commissioner Snell is interested in Grants and IT. Commissioner Nardi assigned Commissioner Gillespie to the Standards Committee and Commissioner Snell to the Grants and IT Committees, subject to approval by the Commission chair.

Committee Meetings

Committee meetings were conducted as part of the meeting of the whole, so no individual committee reports were made. The minutes of each committee meeting were recorded separately.

Public Defender Program Report

Chief Public Defender Randi Hood discussed the staffing report (exhibit 1). Jon Moog is the new full-time regional deputy public defender in Region 4 (Helena). Kristina Neal will continue to work part-time and focus on youth court cases. In Region 9 (Billings), David Duke is the new regional deputy. He was a contract attorney for many years, and is very experienced. Dick Phillips, the managing attorney in Billings, will begin working part-time this month.

All job functions are being reevaluated, including Central Office functions. Chief Hood and Administrative Director Harry Freebourn recently met with Central Office staff and asked for ideas on how to save money and improve operations, resulting in 33 suggestions. The agency is working to stay within budget every day.

Chief Hood is investigating the impact of alternative courts (e.g. drug, mental health, family courts). All require a defense attorney, but it isn't clear what the attorney's function is since they aren't allowed to advocate for the client as part of the process. Each of the courts are different and operate independently. Chief Hood is supportive of the alternative court concept, but she must ensure that OPD has the right role and isn't encountering conflicts of interest.

Many of the alternative courts are funded by grants, but it is unclear if funding for defense attorneys is included in the grant budgets. Contract Manager Larry Murphy said that in some instances, drug court judges are ordering OPD to represent clients without a determination of indigency. The role of OPD in alternative courts may need to be clarified statutorily, especially since the proliferation of these courts could result in a huge increase in caseload.

American University (AU) is performing an independent evaluation of the public defender system at the request of the Commission. Chair Veazey, Chief Hood and Mr. Freebourn met with AU representatives, and site visits will be conducted in Butte, Helena and Missoula next week. The AU delegation will meet with agency staff and various stake holders in each area and will be reviewing case files as well.

Chief Hood is working with the Department of Corrections (DOC) to identify up to 300 probationers who are eligible to request early termination of their sentences. She is waiting for DOC to compile the list so that the appropriate paperwork can be filed. The result will be fewer revocations that OPD is required to defend, and fewer probationers requiring DOC supervision, lowering the costs for both agencies.

Training Coordinator Eric Olson continues to present excellent training via videoconference (exhibit 2). It is extremely cost effective and is reaching large numbers of FTE and contract attorneys. All trainings are now recorded on DVD and sent to the regional offices so that they can provide training on demand.

Mr. Olson continues to work on the OPD brief bank (exhibit 3), which is now up and running. Chief Hood invited commission members to check it out.

Mr. Freebourn asked Legislative Fiscal Analyst Pat Gervais how the legislative session is going so far. Ms. Gervais said that an addendum addressing the governor's latest budget changes will be out soon. Today was the first day of hearing budget presentations. All budget subcommittee hearings are broadcast live on audio stream, and audio minutes are also available on the legislative website. Chair Veazey asked what the process for distributing stimulus funds will be; Ms. Gervais replied that it is uncertain so far. The Governor has a list of projects he's interested in and the legislature will probably be involved.

Appellate Defender Program Report (exhibit 4)

Chief Hood reported on behalf of Chief Appellate Defender Jim Wheelis. The new procedures for transmitting cases from district court to the Supreme Court are working quite well. The ability to determine how much of the transcript is needed for appeal is improving cost control. The office won two mental health cases this week and continues to be very busy.

Commission General Discussion

Human Resource Officer Barb Kain presented a guide for commissioners to use in referring individuals to proper resources for addressing complaints and resolving problems (exhibit 5). Complaints from employees, contractors, clients, and the general public are all addressed in the guide. The goal is to resolve issues at the lowest possible level.

As the legislative session gets underway, the Commission expressed concern about the impact on the public defender system of increased caseloads as a result of the poor economy. The Commission also suggested that a general brochure, including statistics and agency contact information, be developed as an informational tool for legislators and the public.

Commission Training

Training will be rescheduled at a later date.

Approval of Minutes from the October 10, 2008 Meeting

Commissioner Nardi moved to adopt the minutes as submitted. Commissioner Gillespie seconded the motion. The motion carried.

Public Comment

No public comment was offered at this time.

Old Business/New Business

Meeting Dates

Meeting facilities have been reserved for July 23-24 in Polson. The commission discussed holding a meeting in conjunction with the Montana Association of Criminal Defense Lawyers conference in Chico in March, but decided that scheduling a meeting prior to the end of the session would be too difficult.

Chair Veazey asked that updated committee lists be distributed and that the committees meet by conference call prior to the July meeting. The Commission also requested regular email updates throughout the session.

Adjourn

The meeting adjourned at 1:45 p.m.