

2005 Montana Legislature

SENATE BILL NO. 282

INTRODUCED BY SMITH, CAFERRO, COCCHIARELLA, COHENOUR, ELLINGSON, GILLAN,
HANSEN, KITZENBERG, MANGAN, PEASE, ROUSH, SCHMIDT, SMALL-EASTMAN, TESTER, TOOLE,
TROPILA, WILLIAMS, WINDY BOY

AN ACT REVISING THE LAW PROHIBITING RACIAL PROFILING; REQUIRING WRITTEN POLICIES AND COMPLAINT PROCEDURES; REQUIRING TRAINING FOR LAW ENFORCEMENT OFFICERS; AND AMENDING SECTION 44-2-117, MCA.

AN ACT REVISING THE LAW PROHIBITING RACIAL PROFILING; REQUIRING WRITTEN POLICIES AND COMPLAINT PROCEDURES; REQUIRING TRAINING FOR LAW ENFORCEMENT OFFICERS; AND AMENDING SECTION 44-2-117, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-2-117, MCA, is amended to read:

"44-2-117. Racial profiling prohibited -- definitions -- policies -- complaints -- training. (1) A peace officer may not engage in racial profiling.

(2) The race or ethnicity of an individual may not be the sole factor in:

(a) determining the existence of probable cause to take into custody or arrest an individual; or
(b) constituting a particularized suspicion that an offense has been or is being committed in order to justify the detention of an individual or the investigatory stop of a motor vehicle.

(3) (a) Each municipal, county, consolidated local government, and state law enforcement agency shall adopt a detailed written policy that clearly defines the elements constituting racial profiling. Each agency's policy must prohibit racial profiling, require that all stops are lawful under 46-5-401, and require that all stops are documented according to the agency's standard policies and procedures.

(b) The policy must include a procedure that the law enforcement agency will use to address written complaints concerning racial profiling. The complaint procedure must require that:

(i) all written complaints concerning racial profiling be promptly reviewed;
(ii) a person is designated who shall review all written complaints of racial profiling;
(iii) the designated person shall, within 10 days of receipt of a written complaint, acknowledge receipt of the complaint in writing; and

(iv) after a review is completed, the designated person shall, in writing, inform the person who submitted the written complaint and the head of the agency of the results of the review.

(c) The policy must be available for public inspection during normal business hours.

(4) Each municipal, county, consolidated local government, and state law enforcement agency shall require for all of its peace officers cultural awareness training and training in racial profiling. The training program must be certified by the peace officers' standards and training advisory council.

~~(4)~~(5) If an investigation of a complaint of racial profiling reveals that a peace officer was in direct violation of the law enforcement agency's written policy prohibiting racial profiling, the law enforcement agency shall take appropriate action against the peace officer consistent with applicable laws, rules, ordinances, or policies.

~~(5)~~(6) For the purposes of this section, the following definitions apply:

(a) "Peace officer" has the meaning provided in 46-1-202.

(b) "Racial profiling" means the detention, official restraint, or other disparate treatment of an individual solely on the basis of the racial or ethnic status of the individual.

(7) The department of justice shall make periodic reports to the law and justice interim committee regarding the degree of compliance by municipal, county, consolidated local government, and state law enforcement agencies with the requirements of this section."

Montana Department of Corrections Court-worker Pilot Project

Project Scope

The Department of Corrections has received a \$100,000 federal grant to take the first step in developing a landmark corrections program in cooperation with Montana tribal governments. The grant will allow the department to develop a community corrections-based pilot project based on the successful model developed in 1989 and still used by the Canada, Blood Tribe.

The focus of the pilot project will be to develop a culturally sensitive program for offenders and victims within a tribal jurisdiction that are affected by the criminal justice system. The project will emphasize community and interagency involvement. The goal is address the problem of a disproportionate number of Indians in the state corrections system by looking for innovative ways to divert some Indian offenders from prison.

Project Elements

The project will consist of multiple elements that when combined offer a variety of alternatives to traditional services. Elements of the pilot will include:

1. Criminal, Youth and Family Court Services Program

This element is designed to aid American Indian people appearing before the courts. A tribal member, under contract by the state, would be a "native court worker" to provide such services to Indian offenders as:

- Language interpretation
- Lawyer referral
- Legal-aid referral
- Understanding of the legal system
- Involvement of the offenders' family and tribal elders
- Helping prepare presentence investigation reports
- Determining alternative sentencing options such as prerelease centers, chemical dependency counseling, mental health services and counseling by tribal elders

2. Community Options Program

This element provides a wellness path for offenders and/or victims and their families. Referrals from the court system, with mutual consent from the victim(s) result in the development of a specific case plan that must be completed by the offender. The emphasis behind the program is to develop a plan that is more focused to deal with the problem areas than regular sentencing methods. Failure by the offender to complete the plan results in their return back to the court.

3. Elders Program

Tribal elder involvement in the programs is invaluable. In addition to general program involvement, elders serve as advisors to offenders and victims, program directors and staff. They make community presentations and serve as liaisons with the communities and other agencies involved. Elders participate in the Court Services Program by serving as character witnesses and advisers. They conduct special ceremonies, deal with spiritual involvement and work with community members and groups.

Implementation Considerations

A successful pilot project has the potential to provide a long-term impact on American Indian offenders, victims and the Montana corrections system. The ability to divert offenders from prison would directly affect budgetary and overcrowding problems. Careful selection of those tribal governments with the leadership and resources to support the pilot is necessary. Support for the program from a district judge, prosecutors, public defenders and victims' advocates is critical to the initial siting of the project. Limited grant funding for the pilot may preclude on-going parallel projects with multiple tribal governments and hiring of more than one court worker. In addition, availability of support services, including counseling, jobs and a structured social services referral network should be considered when selecting pilot site location.

Planning Process

A formalized planning process, outlining key stakeholders, project objectives, timelines, alternative resources and initial budget should be completed once funding has been assured and received.

March 10, 2006

Montana State Public Defender Commission

Re: Proposed Flathead County Public Defender Office

Dear Commission Members:

We, the undersigned, comprise the majority of the public defenders of Flathead County. We dispute and challenge the proposed course of action expounded by Montana State Chief Public Defender Randi Hood, Esq., during our recent meeting of February 22, 2006. In sum, we believe that the new public defender office which Ms. Hood will implement in Flathead County as of July 1, 2006:

- is the result of wholly inadequate, not to say negligible, investigation;
- may be created in violation of the statutory requirements of the Montana Public Defender Act;
- will occasion disastrous consequences to our clients for the foreseeable future;
- will cause enormous and unjustifiable expense to the taxpayers of Montana; and
- will ultimately result in either an inadequate public defender office or one whose costs of operation will make the cost of the current system pale by comparison.

At the start of our meeting Ms. Hood informed us that upon being hired as Montana State Chief Public Defender she had received a mandate from yourselves to create full-time public defender offices in Silver Bow, Flathead, and Ravalli counties. We were entirely surprised to learn this since, as we advised Ms. Hood, we have reviewed all of the agendas and minutes of each Commission meeting and have seen no discussion whatsoever of this directive in any such public forum.

Ms. Hood then modified this position somewhat and informed us that she (not the Commission) had already decided to establish full-time public defender offices in Silver Bow, Flathead, and Ravalli counties. She went on to say that her decision in this regard would be communicated to the Commission at its forthcoming meeting of March 16, 2006. In short, the creation of a full-time public defender office in Flathead County appears to be a *fait accompli*.

Upon questioning by us, Ms. Hood confirmed that her only visit to Flathead County prior to our meeting had taken place in the afternoon of the previous day, at which time she met with the three Flathead County District Court judges. Just prior to our meeting, she had met with Judges Brad Johnson of Whitefish City Court and Susan Gordon of Columbia Falls City Court. She had not yet met with either Justices of the Peace David Ortleby nor with Judge Heidi Ulbricht of the Kalispell Municipal Court.

Ms. Hood then elaborated on the structure of the full-time public defender office for Flathead County. This office will be located in Kalispell and will provide required counsel for the three departments of the Eleventh Judicial District Court; for Flathead County Justice Court; and for Kalispell Municipal Court. However, no attorneys will be provided by the office to either Whitefish City Court nor for Columbia Falls City Court.

Prior to any further discussion about the logistical and operational parameters of the new office, we inquired of Ms. Hood as to the basis for her denial of public defenders (from the office) to the two courts above-mentioned. No specific reasons were ever given by Ms. Hood other than to assert her opinion that she was not required to do so and had, thus, decided not to do so. We strongly disagreed with her then and continue to do so now. We made clear to Ms. Hood our belief that any full-time office which might be created in Flathead County should be responsible for the provision of public defender services to all courts therein. Were this not so, a situation would arise whereby criminal defendants in certain lower courts would have the benefit of representation by a public defender from a full-time office, while criminal defendants in other lower courts would be left to the mercy of independently-contracted defense counsel who, at least according to Ms. Hood's reasoning,

would have neither the experience, training, supervision, or resources afforded to attorneys from the full-time office. The Montana Public Defender Act cannot rationally envision the deliberate creation of such disparity in the nature and quality of public defender services within any one county.

Due to the foregoing, we strongly urge the Commission to inquire into this matter immediately and to determine with finality whether Ms. Hood's stated course of action comports with applicable statutory provisions, as well as with the desires and wishes of the Commission.

At our meeting, we next returned to our discussion of Ms. Hood's proposed public defender office. We persisted in inquiring of Ms. Hood the reasons for dismantling our present system of effective public defender representation in favor of the creation of a full-time office of public defenders. Ultimately, Ms. Hood advised us that the annual Flathead County budget for provision of requisite public defender services is currently in the range of between \$600,000.00 and \$700,000.00. She flatly told us that she could "bring it in for less" by creation of a full-time public defender office. Ms. Hood then expounded on the make-up of the new Flathead County public defender office: it will comprise 8 attorneys and 4 secretaries. She invited us to apply for employment. We declined.

Before proceeding any further, we quite strenuously took issue with the proposed size of the office and let Ms. Hood know - in no uncertain terms - that she would be hiring too few attorneys and far too few support staff to render even minimally competent representation. Our analysis, together with input from several local courts, various prosecutors, and review of other public defender offices throughout the State, indicates that the total cost of a properly staffed office in Flathead County would likely be in the area of \$1,250,000.00 per annum. We unanimously informed her that under no circumstances could she hope to provide effective public defender representation via a full-time office for the same (or less) money than is now spent on the existing system here.

Upon further questioning, Ms. Hood made clear to us that she had determined the staff size of the new Flathead County Public Defender Office and financial costs thereof based solely on her understanding that there were 500 adult felony cases filed in Flathead during the proceeding year.

She admitted that she had obtained no such data from any other court in this jurisdiction. As will be set forth below, the only data upon which Ms. Hood has made her decision are, unbelievably, in gross error. Knowing this, we instantly took exception to both the paucity and character of the data upon which Ms. Hood relied and informed her that the proposed size of the new public defender office would be entirely and abysmally inadequate to the needs of Flathead County. By way of specifics, we brought the following facts to her attention:

- the above "500" adult felony cases represent only those newly filed during the prior year. We informed Ms. Hood that this number was incomplete and that in our estimation there were an additional, approximately 250 probation violation cases assigned to us as public defenders during the prior year (the actual number of total adult felony public defender appointments was later learned to be 732). Accordingly, we let her know that the single most significant number she was using to calculate appropriate office size (i.e. adult felony public defender cases) was in error by a factor of almost 50%. Were that same factor applied to the proposed size of the public defender office staff, it would require the employment of possibly 3 or 4 more attorneys, together with an appropriate number of additional staff.

- Upon our request, Ms. Hood admitted that neither she nor anyone from her staff had met with Judge Heidi Ulbricht of the Kalispell Municipal Court. Accordingly, Ms. Hood was not privy to the volume of misdemeanor cases in that court. Such being the case, we told Ms. Hood that Richard Hickel, Esq., Adjutant Kalispell City Attorney, had asked us to convey to her that in his court alone, there have been 1500 demands for jury trial during the past year. Although not all of these cases would require appointment of public defender counsel, the bulk would. Since Ms. Hood was completely unaware of this datum, we are at a loss to understand which number she might have utilized in accurately calculating the necessary size of the new public defender office.

- Ms. Hood made no mention whatsoever of the number of Flathead County Justice of the Peace Court cases as to which public defenders would need be appointed. We hope that she has been apprised of the correct data in this regard and has properly considered same.

- Likewise and during the entirety of our 2 ½ hour meeting, Ms. Hood did not disclose whether she was aware of the total number of juvenile; dependent neglect; and involuntary commitment cases as to which public defenders have been appointed during the past year.

We inquired of Ms. Hood whether she had included in her calculations the fact that under the present system, the cost of "conflict counsel" is included in the approximately \$700,000.00 per annum budget (there are 10 of us among whom all cases and conflicts are currently assigned). Since under Ms. Hood's proposed public defender office, only one client per case could be assigned to the office, all other individuals associated with that case (and entitled to counsel) would need be represented by private, appointed counsel at additional expense to the taxpayer above and beyond the annual budget for the office itself. Although Ms. Hood acknowledged the foregoing, she indicated that the Region 1 Public Defender might be assigned one of the conflicts. Despite this, however, she had no data whatsoever on the number of additional conflicts which could be expected to arise; the number of outside counsel that would need be appointed; or the anticipated cost of such counsel above the budget for the office itself.

Upon learning that Ms. Hood had already taken the decision to dispense with our services as of July 1, 2006, (and, in the process, to destroy a system of public defender representation which has well served the residents of Flathead and many other counties for decades) we persisted in learning on what basis, other than the dubious and highly speculative projections of monetary savings, she had already decided to replace us. Ultimately, we were disappointed and insulted to hear from her that there were three (3) reasons for our termination as public defenders:

(1) That too many criminal defendants from Flathead County receive prison sentences.

The sheer idiocy of this accusation all but defies response. However, we did explain to Ms. Hood that not one of us has ever sentenced any of our clients to prison – or to anything else for that matter. We reminded her that it is the judiciary, not the public defenders, that sends defendants to prison. In this specific regard, we asked whether she had chosen to bring up this concern with the Flathead

County District Court Judges during her meeting with them of the previous day. It appears she did not. We then asked her what she meant by “too many” and demanded to know what numerical data she was using in making this determination. No answer of any kind was forthcoming. We then pointed out to Ms. Hood that the majority of those criminal defendants sent to prison from Flathead County are those charged with repeated probation violations. These are the approximately 250 cases per annum about which Ms. Hood was entirely unaware.

We asked whether in the context of approximately 750 public defender cases *per annum* (instead of the only 500 of which she was aware) there were still too many defendants being sent to prison from Flathead County. She had no reply. Finally, we inquired of her what she knew about sentencing practices in Flathead County and the judicial temperament of our three District Court Judges – it being our belief that such information is essential to an understanding of whether a disproportionate number of defendants is sent to prison, and, if so, whether anything can practically be done about it. Ms. Hood candidly admitted having no information at all in this regard.

(2) That there are not enough jury trials in Flathead County. Again, this statement is fatuous in the extreme. We explained to Ms. Hood that we have all been hearing this accusation since the commencement of the ACLU lawsuit some years ago. We also pointed out to her that during the entire pendency of this suit, no evidence in support of this canard has ever been presented to a court of competent jurisdiction – much less has it been found to be true. We reminded Ms. Hood that it is our clients, not we, who determine which cases go to trial and which do not. We asked that Ms. Hood apprise us of how many jury trials should take place in Flathead County on an annual basis and – more to the point – which clients who do not wish such trials must be forced into them in order to satisfy the quota. For perfectly obvious reasons, Ms. Hood did not have a reply.

(3) That there are not enough motions filed in Flathead County. Again and as with the foregoing accusation, we advised Ms. Hood of the existence of this baseless innuendo since the inception of the ACLU suit. We encouraged her to contact the Assistant Attorney General who has defended that suit for the past several years in order to confirm our assertion that this allegation is

wholly without merit -- at least as to Flathead County.

As we informed Ms. Hood during our meeting, none of the undersigned will be seeking employment within the proposed public defender office.

Among the current Flathead County public defenders, one has over 30 years experience; five have between 20 and 25 years experience; and two have over 10 years experience. We are certain that, whatever the makeup of the new office, no comparable level of expertise will be attainable. This will be to the direct detriment of all future clients. We ask why the quality and expertise of counsel for the indigent is simply irrelevant to the discussion of the most effective and most desirable system of rendering such services in a given jurisdiction. We believe that expertise and competency of counsel should not only be a component of any such discussion, but should be the overriding consideration in the decision-making process. We submit to the Commission that our experience, expertise, and work product are open to review. We also submit that the qualification, expertise, and ability of whoever may replace us remains a complete unknown.

Of immediate and critical import, we informed Ms. Hood that as of this date all cases assigned to Departments A and B of the Flathead County Eleventh Judicial District Court are scheduled for trial after July 1, 2006. Such will continue to be the case for each new case filed hereafter in those departments. We expressed our great concern as to the manner in which she proposed to have all of those clients represented pending her creation of the public defender office on July 1st. She had no viable proposal in this regard. We attempted to impress upon her the vital importance of protecting the rights of all our clients affected by her decision and asked what we were authorized to tell them about their present and future counsel. Ms. Hood was visibly surprised and replied only that were she in our position she would not bring this matter up to her clients. We find this response wholly unacceptable and, on behalf of our clients, demand that either Ms. Hood or the Commission decide how these cases are to be managed in order that we may convey this information to those most affected thereby -- our clients. We maintain that among our clients' most basic rights is their entitlement to know who will be representing them in their pending cases as of our forced departure

on June 30th.

By dint of our services over the years we believe we have earned the respect of every judge in Flathead County. We ask the Commission to determine whether this is so. Likewise, we believe ourselves to be respected by all of the prosecutors in Flathead County. We again ask the Commission to learn for itself whether this is so. We encouraged Ms. Hood to contact as many of our present and past clients as possible to learn their opinions. We invite the Commission to do so.

We are led to understand that the present systems of public defender representation in Lake and Lincoln Counties will remain as before. These systems are identical to that presently in effect in Flathead County. We ask that the Commission investigate this situation to determine whether Lake and Lincoln Counties will not have full-time offices because their present defense counsel are demonstrably superior to counsel in Flathead County, or whether they will maintain the *status quo* simply because their existing case loads do not financially justify the creation of full-time offices as of July 1, 2006. We strongly suspect the true reason is the latter and, if so, submit that such is no reason at all.

We pointed out to Ms. Hood that the two Montana jurisdictions with case volumes most similar to Flathead County are Missoula and Billings. Both have maintained full-time public defender offices for years. Both are, or have been, rife with problems variously involving staffing; extremely high budgets; inability to render effective representation; suits from former employees; crippling turn-over rates; and other difficulties. We asked whether a more logical approach might be to see whether the present Flathead County system, which has functioned in exemplary fashion for decades, might not be capable of implementation in Billings and Missoula. Ms. Hood refused to compare these jurisdictions with ours and, while not denying the many and serious problems in both, simply advised that she could "fix Missoula". How she proposes to do this was not shared with us.

Finally and most fundamentally, we ask, "How is the existing system of public defender representation in Flathead County not responsive to and respective of the community needs and interests?" Our

reading of MCA 47-1-102(4) leads us to conclude that prior to completely dismantling this system, both Ms. Hood and the Commission are required to find sufficient fault therewith as to totally replace it with a full-time office. To date and despite the many years of its pendency, the ACLU suit has adduced not one shred of evidence finding fault with the Flathead County system. To date, neither Ms. Hood (nor to our knowledge, the Commission) has substantiated any demonstrable fault with the Flathead County system. All of this notwithstanding, the Flathead County system will be dead and buried as of July 1, 2006. We maintain that this action will ultimately prove detrimental to the taxpayers of this State (in the form of ever-increasing funding requests to the Legislature in order to attempt to cure the certain future problems by spending more money on full-time offices). More to the point, we are convinced this action will cause immediate and possibly irreparable and continuing harm to the thousands of indigent clients who will suffer from inadequate, sub-standard representation by under-staffed offices comprising relatively inexperienced counsel.

Throughout this State and in Flathead County, there are dozens of highly-trained and experienced defense counsel who successfully maintain private practices. When allowed, these attorneys gladly give of their time and expertise to represent indigent clients at the rate of \$60.00 per hour. This represents the optimal combination of high quality of service for the lowest possible cost. Very few, if any, of these attorneys would seek employment in a full-time public defender office. Ultimately then, the question most in need of well-reasoned answer is why any system of public defender representation should be implemented which deprives the indigent of the superior services of such independently-contracted counsel. Even more so if the costs of providing such defense counsel is substantially less than that of funding a full-time public defender office staffed by individuals with far less experience.

Although we are wholly unable to imagine any rational basis for Ms. Hood's decision to discharge and replace us with an office comprising 8 full-time attorneys, we hope the Commission will demand and receive cogent, incontrovertible facts prior to sanctioning this proposed action. That the Flathead County system can now be replaced does not require that it should be replaced. We believe the law requires a factual and reasonable basis for the dissolution of the present system of public defender

representation in Flathead County; we believe the Commission members would insist upon such evidence in any event as incident to the *bona fide* discharge of their duties; and, most critically, we believe our present and future clients deserve nothing less.

Lest the Commission believe that we have failed to present any constructive proposals to Ms. Hood, we hereby reiterate what we suggested to her during our meeting: since a Region 1 Public Defender will soon be appointed, and since he or she will be based in Kalispell, we suggested that the present system of public defender representation be left *in loco* so that the Region 1 Public Defender may have the next year to actually see what is done here; how it is done; and by whom it is done. This person would then be in an appropriate position to make recommendations to Ms. Hood based on facts and personal observations, rather than on *innuendo* and rank conjecture. Ms. Hood declined to consider or discuss this proposal. Accordingly, most of us have been compelled to implement plans for the continuing conduct of our practices as of July 1st.

Our reading of the Public Defender Act leads us to conclude that we presently comply with the requirement of MCA 47-1-102(3) that public defender services in Flathead County "are delivered by qualified and competent counsel". We further believe ourselves to be in full compliance with the requirements of MCA 47-1-102(4) that our present system of independently-contracted counsel "is responsive to and respective of ... community needs and interests".

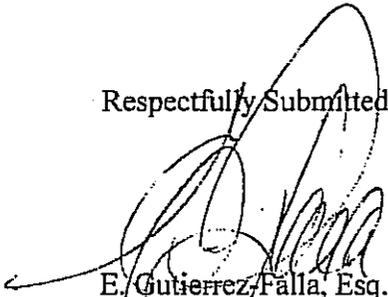
Quite to the contrary, we submit that the new full-time office proposed by Ms. Hood cannot, to any degree of advance certainty, comply with either of these fundamental statutory requirements.

We wish to let the Commission know that two of our number, present at the meeting with Ms. Hood, have applied for the employment under the proposed system. In the interest of not placing either in a difficult position, we have not shared the contents of this letter with them and, thus, have not permitted them to sign it.

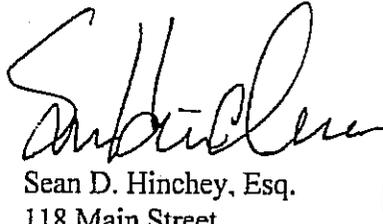
We thank the Commission for its consideration of this admittedly lengthy letter. We ask that this letter be made part of the public record and that it be discussed by the Commission at its next

available opportunity. Should any Commission member wish to speak with any or all of us about the contents hereof, we are at the members' disposal.

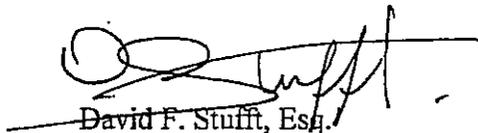
Respectfully Submitted,



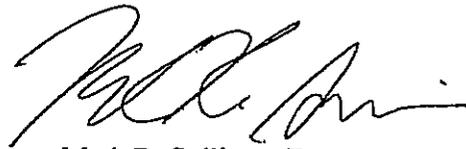
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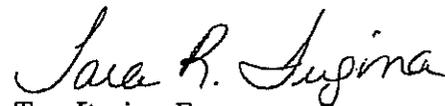
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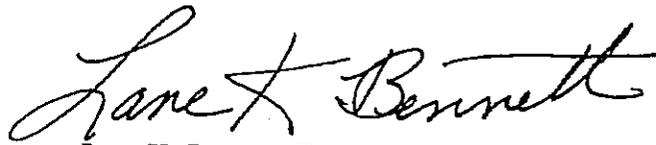
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EXHIBIT 4

DA = ADOPTION
DC = CRIMINAL
DD = DEVELOPMENTALLY DISABLED
DF = PATERNITY
DG = GUARDIANSHIP
DI = INVOLUNTARY COMMITMENT
DJ = JUVENILE
DN = DEPENDENCY & NEGLECT
DP = PROBATE
DR = DOMESTIC RELATIONS
DS = PROCESS SERVERS
DV = CIVIL
IS = INVESTIGATIVE SUBPOENA
ML = MARRIAGE LICENSE
SB = MISC.
SW = SEARCH WARRANT

YEARLY COUNT REPORT
Cases - Case Type by First Opened Date for 2005
03/14/2006 @ 10:26AM

Dawson
County

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	
DA						1		2	2		1		6	DA
DC	3	2	7	10	4	5	2	3	7		4	5	52	DC
DD														DD
DF							2						2	DF
DG	5		3		1	1	6	3	1				20	DG
DI				1	1	1				1			4	DI
DJ	1	2	2	3	3		1		1			2	17	DJ
DN				6			2			3	4	2	15	DN
DP	1	3	2	4	1	4	2	5	3	4	1	1	31	DP
DR	1	6	1	3	1	5	3	3	3	5	1	4	36	DR
DS														DS
DV	1	3	15	7	7	3	4	9	11	24	8	9	101	DV
IS	1				1		1		1				4	IS
ML	2	1	9	7	11	14	9	3	5	6	5	3	75	ML
SB														SB
SW														SW
TOTAL	15	17	39	41	30	34	32	28	34	43	26	24	363	TOTAL
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	

YEARLY COUNT REPORT

Cases - Case Type by First Opened Date for 2005 Excluding AAO, AFAO, CL, WD
01/19/2006 @ 11:14AM

Adoptio
criminal
paternity
ship
nvol Com-
juvenile
Dep. & Neg
probab
domestic
Sev
i. V. i.
nvol. Se
-license
misc.
Sev
Warrant

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	
DA									1				1	DA
DC	1	1	4	2	1	8	2	3	7	3	1	2	35	DC
DD														DD
DF														DF
DG	1							1			1		3	DG
DI	2									1	1		4	DI
DJ	2	4	1	1		3		4	1	1	2	2	21	DJ
DN	2						1						3	DN
DP	2	1		3		4	5	5	6	4	2	2	34	DP
DR	1	1	4	1		3	1		2		2	1	16	DR
DS														DS
DV	10	7	2	9	3	10	3	7	9	9	4	6	79	DV
IS														IS
ML	3	4	3	3	3	8	8	4	3	4	3	4	50	ML
SB						1							1	SB
SW														SW
TOTAL	24	18	14	19	7	37	20	24	29	22	16	17	247	TOTAL
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	

Total Court Appointments: 21
 Invol. Commits: 4
 Dep. & Neg: 3
 Juv.: 2
 Crim: 12

YEARLY COUNT REPORT
 Cases - Case Type by First Opened Date for 2005
 03/14/2006 @ 10:37AM

Me Cone County Page 1

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	
DA														
DC					2		1				2		2	DA
DD													3	DC
DF														DD
DG							2							DF
DI													2	DG
DJ														DI
DN														DJ
DP	3	1	1		1	1								DN
DR	1	2	1		1							3	10	DP
DS											1		6	DR
DV	1		1	4		3	3		3	1	3		19	DS
IS														DV
ML					1	3								IS
SB										1			5	ML
SC														SB
SW														SC
TC														SW
WC														TC
TOTAL	5	3	3	4	5	7	6		3	2	6	3	47	WC
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	TOTAL

P. 02
 FAX NO. 406 485 3410
 MCCONE CO CLERK OF COURT
 12:28 PM

Attorneys were appointed in 5 cases in 2005 -
including 2 criminal cases
1 invol. commitment
2 youth in need of care.

Prairie County District Court Case Filings - 2005

Criminal Cases Filed (5) 1 in 2004

JC05-1	State of Montana vs Robert Jonathan Shelton	Criminal Possession of Dangerous Drugs w/Intent to Distribute
JC05-2	State of Montana vs Jade Elizabeth Blankenship	Criminal Possession of Drug Paraphernalia
JC05-3	State of Montana vs Patrick Lowell Hernandez	Fugitive from Justice-extradited by Idaho
JC05-4	State of Montana vs 2002 KIA	Fugitive from Justice-extradited by Washington
JC05-5	State of Montana vs 1997 Chev Blazer	Forfeiture
		Forfeiture

Probate Cases Filed (9) 9 in 2004

JP05-1	Estate of John F. Pfaff
JP05-2	Estate of David A. Ross
JP05-3	Estate of David Hoffer
JP05-4	Estate of Joyce Carter
JP05-6	Estate of Linda Hoffer
JP05-7	Estate of Mary Frost
JP05-8	
DP05-9	Estate of Lester D. Tusler
DP05-10	Estate of Gladys Helen Young

Civil Cases Filed (8) 7 in 2004

DV05-1	Karin A. Kountz vs Connie Kountz	Eviction
DV05-2	State of MT vs \$742	Forfeiture
DV05-3	MT Unemployment Ins Division vs Zane Shumway	Tax Lien
DV05-4	MT Dept of Revenue vs Wes Cross	Warrant for Distrain
DV05-5	DCI Credit Services vs Richard Seteren	Debt
DV05-9	Terry Foster vs MTD Petroleum Service	Appeal from Justice Court - Debt
DV05-10	Dru Parker Burk vs Gregory C. Bervy	Damages
DV05-12	Steven David Hedge vs Katherine Henry	Writ of Mandate

Dissolution (divorce) Cases Filed - 0 (3 in 2004)

Adoptions - 4 (1 in 2004)

Youth in Need of Care - 2 (0 in 2004)

Mental - 1 (0 in 2004)

Marriage Licenses Issued - 2 (5 in 2004)

7/8/2005	Chad Thomas Olson and Andrea Elaine Christofferson
9/1/2005	Jude Marvin Hubber and Felicia Louise Foote

Daniels County

YEARLY COURT REPORT
 Cases - Case Type by First Opened Date for 2005 Excluding AAO, AFAO, CL, WD
 03/10/2006 @ 02:29PM

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	
DA														DA
DC	1						1		1		1		4	DC
DD														DD
DF														DF
DG				1		1								DG
DI														DI
DJ		1	1							1	1		2	DJ
DN													4	DN
DP	2	2	1		2	5	2	2	1	2	2	1	22	DP
DR		1		1			2			3	1	1	9	DR
DS														DS
DV	1			2		2		1		1		1	8	DV
IS														IS
ML					1	2		1		1	1	1	7	ML
SB														SB
SC														SC
SW														SW
TC														TC
WC														WC
TOTAL	4	4	2	4	3	10	5	4	2	8	6	4	56	TOTAL

Attorneys Apptd. in 5 cases: 3 criminal
 1 involuntary commitment
 1 juvenile

YEARLY COUNT REPORT

Cases - Case Type by First Opened Date for 2005 Excluding AAO, AFAO, CL, WD
03/10/2006 @ 02:02PM

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	
DA										1			1	DA
DC		3			1	2	1	3			1	1	12	DC
DD														DD
DF														DF
DG	1								1	1			3	DG
DI		1					1		3			1	6	DI
DJ		1		1			1	1					4	DJ
DN										1			1	DN
DP	4	3	2	3	2	4	4	4	2	3	1	7	39	DP
DR		1	1	1	1	3		1		1	1	2	12	DR
DS														DS
DV	3	3	2	1	2	4	1	3	1	2	2	3	27	DV
IS														IS
ML			2	1	2	4	1	3	1	1		3	18	ML
SB	1												1	SB
SC														SC
SW														SW
TC														TC
WC														WC
TOTAL	9	12	7	7	8	17	9	15	8	10	5	17	124	TOTAL
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	

CLERK OF DISTRICT COURT - WIBAUX
CASE SUMMARY REPORT

Run Date: 01/18/2006

From: 01/01/2005 00:00:00 To 12/31/2005 23:59:59

Page 1

Case Type:
Total Case Count: 38

***** ADOPTION *****

DA	ADO	ADOPTION		1
TOTAL DA			ADOPTION	1

***** CRIMINAL *****

DC	OT	OTHER		4
DC	SW	SEARCH WARRANT		1
TOTAL DC			CRIMINAL	5

***** DEPENDENT/NEGLECTED CHILDREN *****

DN	YNC	YOUTH IN NEED OF CARE		1
TOTAL DN			DEPENDENT/NEGLECTED CHILDREN	1

***** PROBATE (DECEASED) *****

DP				1
DP	INF	INFORMAL TESTATE		3
DP	INFT	INFORMAL TESTATE		7
TOTAL DP			PROBATE (DECEASED)	11

***** DOMESTIC RELATIONS *****

DR	DI	DISSOLUTION OF MARRIAGE		1
TOTAL DR			DOMESTIC RELATIONS	1

***** CIVIL *****

DV	AD	AMOUNT DUE		5
DV	AFAO	ABSTRACT OF FINAL ADMINISTRATIVE ORDER		1
DV	BC	BREACH OF CONTRACT		1
DV	CL	CERTIFICATE OF LIEN		1
DV	DJ	DECLARATORY JUDGMENT		1
DV	OT	OTHER		1
DV	WD	WARRANT FOR DISTRAINT		2
TOTAL DV			CIVIL	12

***** MARRIAGE LICENSE *****

ML	MLA	MARRIAGE LICENSE APPLICATION		6
TOTAL ML			MARRIAGE LICENSE	6

***** QUICK RECEIPTS *****

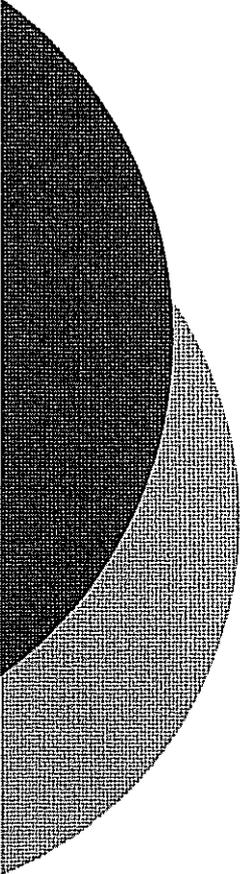
XX		** NOT CODED **		1
TOTAL XX			QUICK RECEIPTS	1

GRAND TOTAL ALL CASES

38

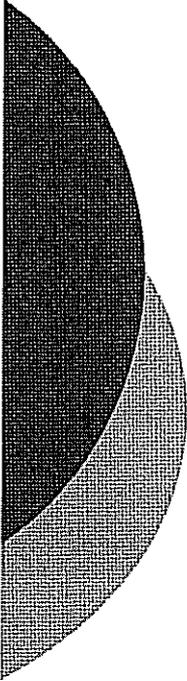
CRIMINAL SUMMARY REPORT

CATEGORY	COUNT
TOTAL CRIMINAL CATEGORY COUNTS	0
	0



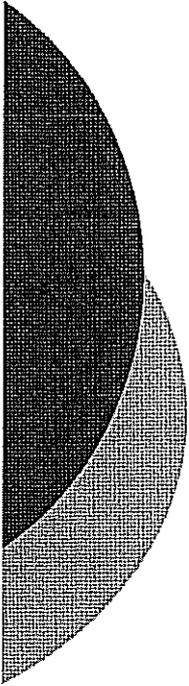
OFFICE OF THE STATE PUBLIC DEFENDER

Presentation of the Strategic Plan
To
The State Public Defender Commission
March 17, 2006



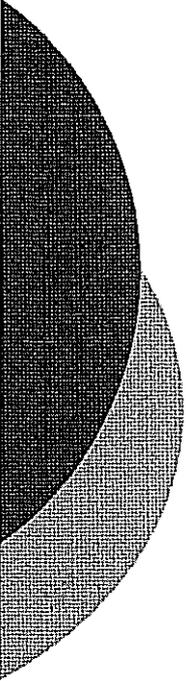
PURPOSE OF THE PLAN

- Defines how the proposed state public defender system will provide services to clients
- Provides a cost estimate for the proposed system
- Provides a proposed organization structure to operate and manage the system



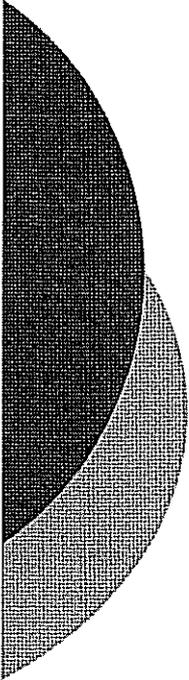
HOW ARE SERVICES PROVIDED TODAY?

- By six county-managed and one city-managed public defender offices
- County contracts with private attorneys
- Attorneys appointed by judges
- Costs for services are paid by the judicial branch, cities or counties



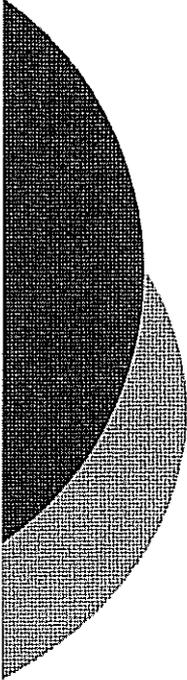
ESTABLISHMENT OF A STATEWIDE PUBLIC DEFENDER SYSTEM

- Senate Bill 146 – Public Defender Act
- Central office functions
- Current public defender offices become state offices – July 1, 2006
- Establish eleven regions
- New FTE and public defender offices
- Training function
- Contract management function



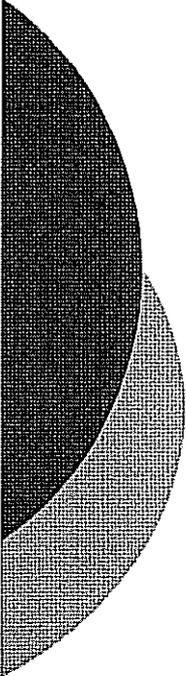
MISSION STATEMENT

- The mission of the Office of the State Public Defender is to ensure equal access to justice for the State's indigent.



VISION STATEMENT

- Any person who is entitled to an attorney at public cost, will receive competent, vigorous representation
- Full-time state public defenders and contract attorneys
- Public defender standards
- Meaningful training program
- Flexible system puts the client first
- Accountable to all

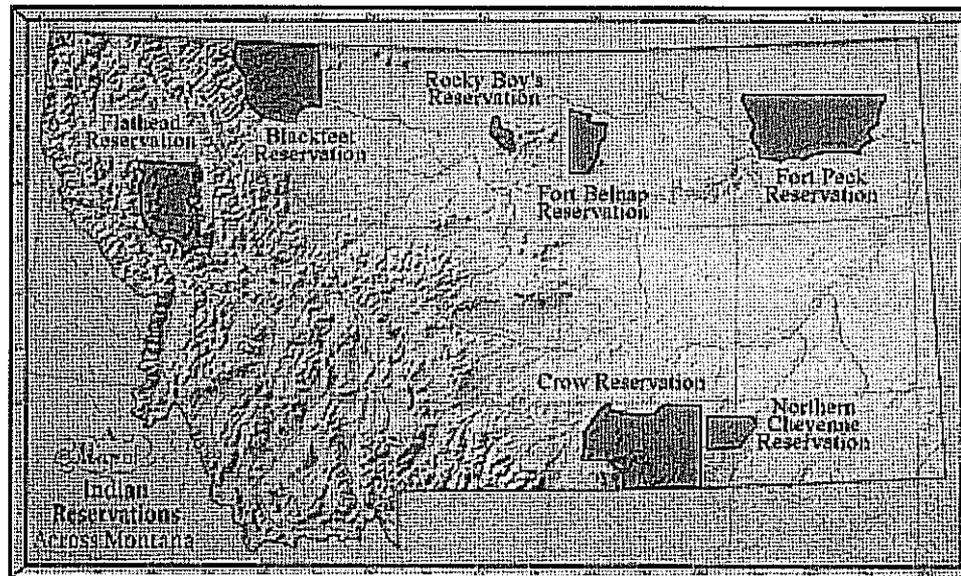


GOALS

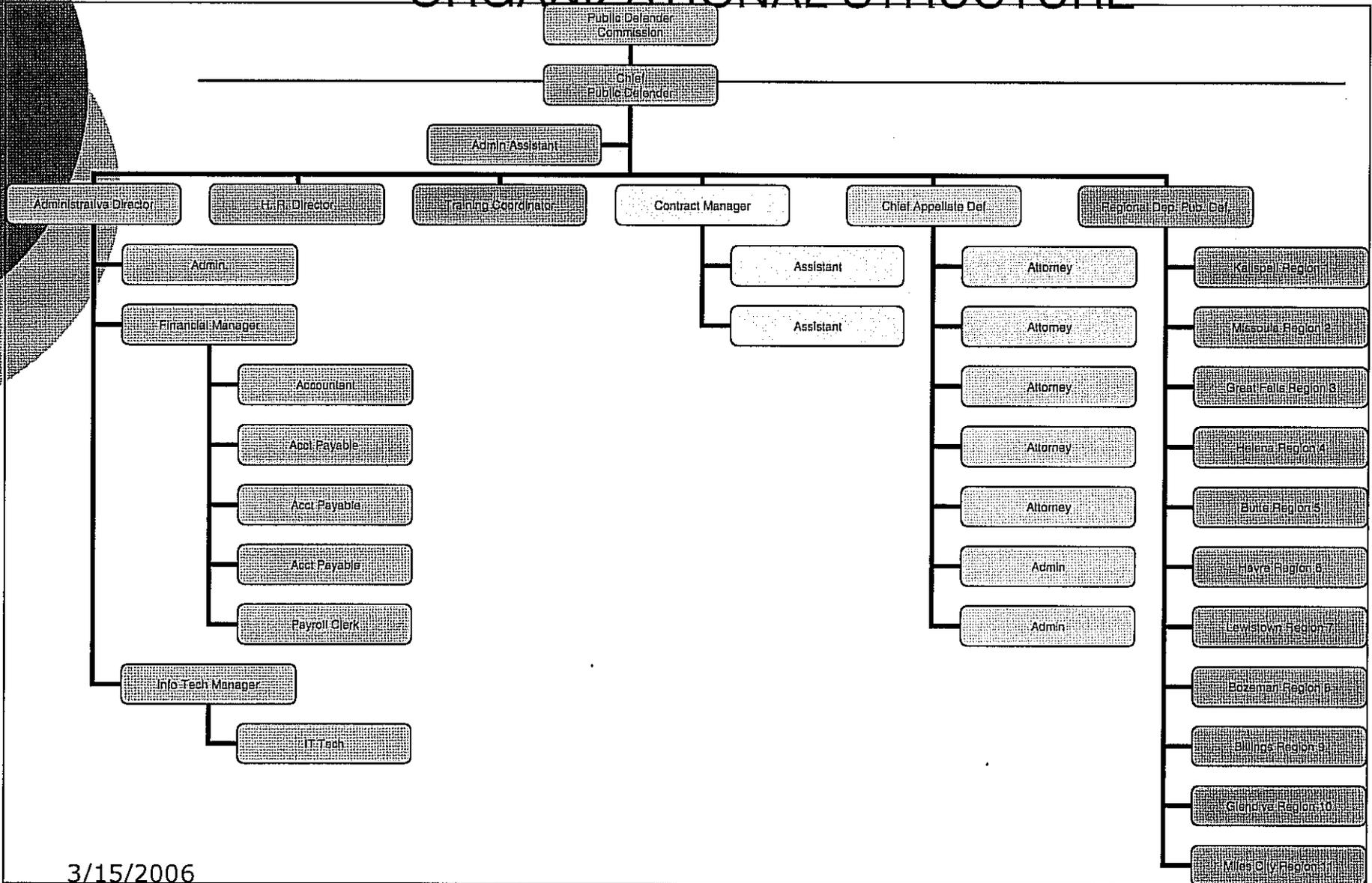
- Establish a statewide public defender system – provide effective assistance
- System is free from undue political interference & conflicts of interest
- Assure qualified & competent counsel throughout the state
 - Emphasis on training for all facets of the system
 - Special training for those representing juveniles, mentally ill individuals, disabled individual, chemically dependent individuals, and minorities
- System uses state employees & contract services in responsive manner
- Ensure adequate funding & fiscal responsibility
- Emphasis on Native American issues

Emphasis on Native American issues

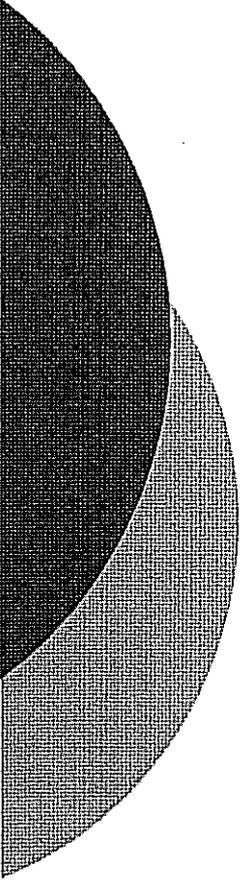
- Investigate and correct any role the public defender system plays in the disproportionate representation of Native Americans in our justice system
- Ensure adequate education and training on the impact of the Indian Child Welfare Act in dependent and neglect cases
- Coordinate with the Tribal Governments and those providing indigent defense services in the Tribal Courts



ORGANIZATIONAL STRUCTURE

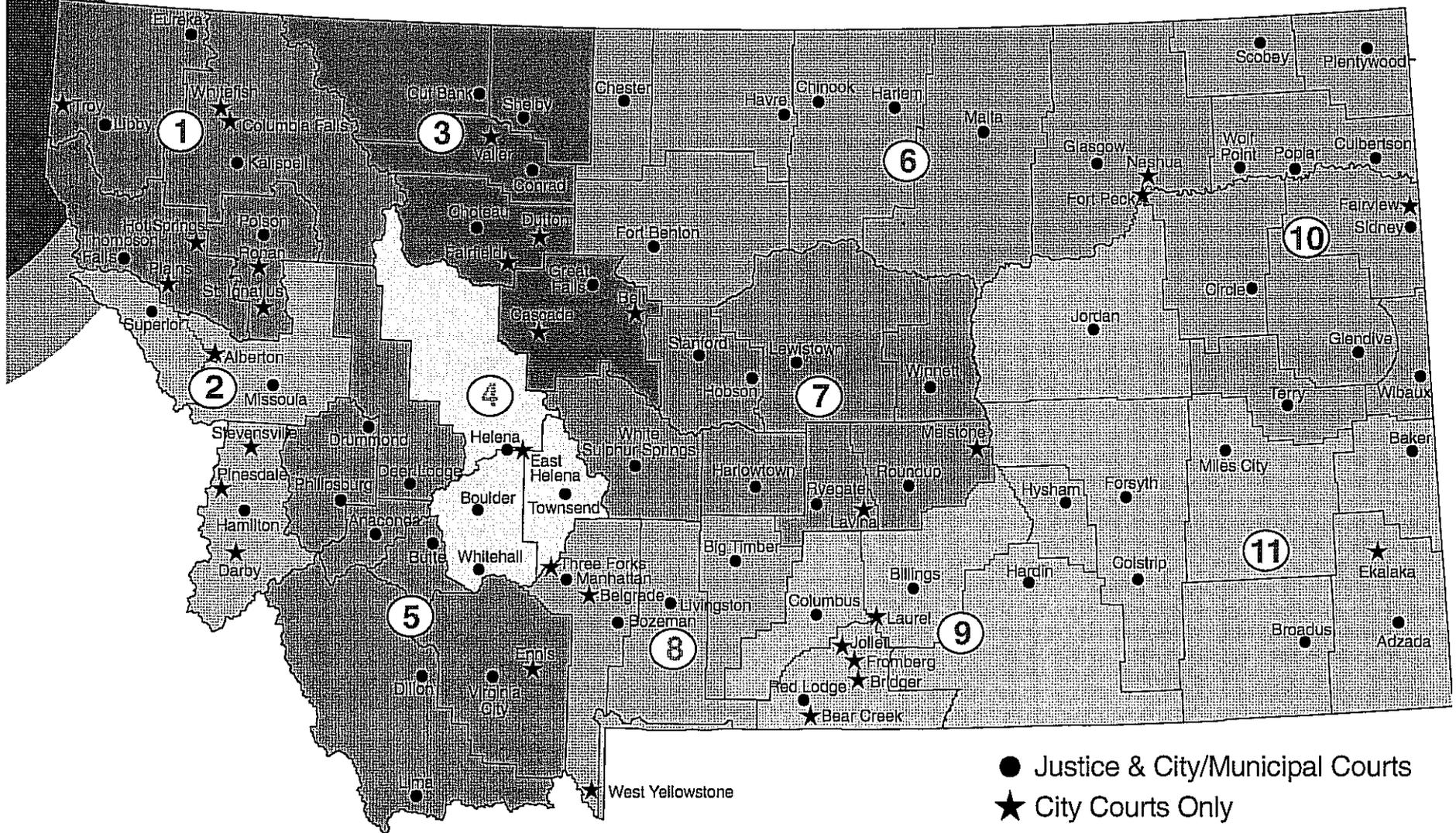


3/15/2006



SYSTEM PLAN

Montana State Public Defender Regions Map





Montana State Public Defender System Plan

Central Office - Departments

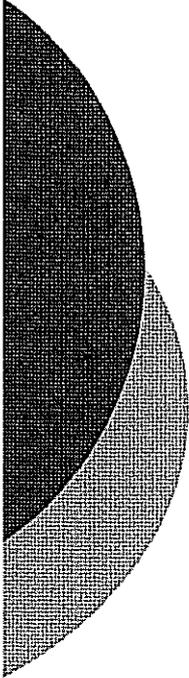
- I. Chief Public Defender
 - (1) Chief Public Defender
 - (1) Administrative Support Supervisor

- II. Administrative Director
 - (1) Administrative Director
 - (1) Administrative Assistant
 - (1) Information Technology Manager
 - (1) Information Technology Technician
 - (1) Financial Manager
 - (1) Accountant
 - (3) Accounts Payable
 - (1) Payroll

- III. Human Resources Director
 - (1) Human Resources Director

- IV. Training
 - (1) Training Coordinator

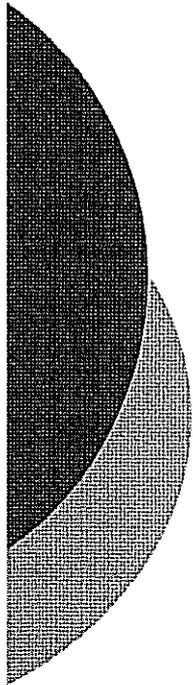
- V. Contracts
 - (1) Contract Manager
 - (2) Assistants



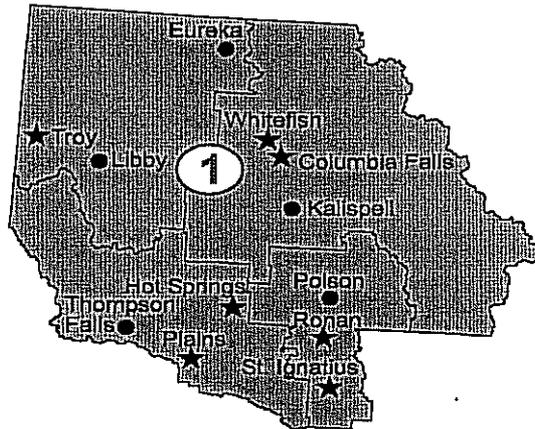
Montana State Public Defender System Plan

- (1) Chief Appellate Defender
- (5) Attorneys
- (2) Administrative Assistants

Montana State Public Defender System Plan

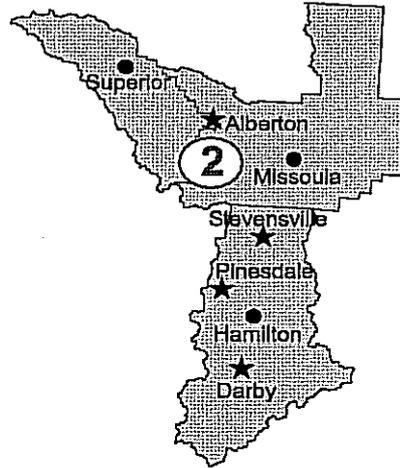
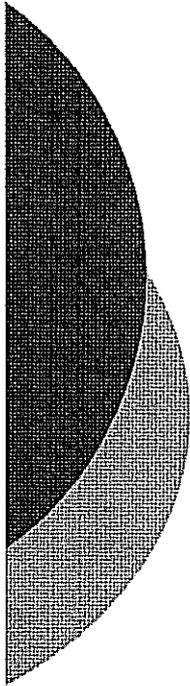


REGIONAL OFFICE – Kalispell or Whitefish
 Regional Public Defender
 1 Briefing/Research Attorney
 1 Paralegal
 1 Investigator/Case Manager



Public Defender Office – Kalispell (all courts) 8 Attorneys 1 Paralegal 3 Administrative Assistants
Public Defender Office – Whitefish (City Courts in Whitefish and Columbia Falls) 1 Attorney 1 Paralegal
Public Defender Office – Polson 2 Attorneys 1 Paralegal 1 Investigator

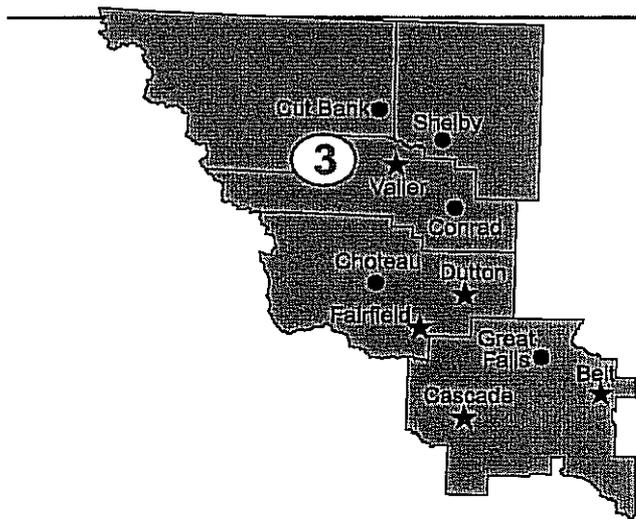
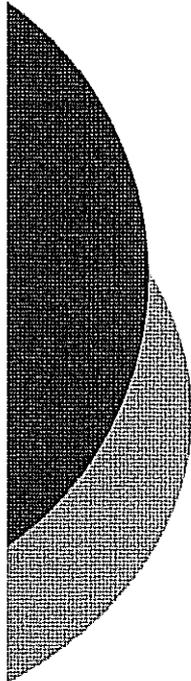
Montana State Public Defender System Plan



REGIONAL OFFICE – Missoula
 Regional Deputy Public Defender
 1 Attorney
 1 Briefing Attorney
 1 Social Worker
 2 Investigator/ Case Managers
 1 Administrative Assistant

Public Defender Office –Missoula (all courts) 13 Attorneys (+1 as a result, in part, of assuming Missoula City Court) 1 Office Manager 2 Paralegals (+1) 1 Receptionist 2 Administrative Assistants
Public Defender Office – Hamilton (all courts) 6 Attorneys 1 Paralegal 2 Administrative Assistants Minimal contracts to help cover courts of limited jurisdiction in Ravalli County
Mineral County will be handled by contract attorneys

Montana State Public Defender System Plan

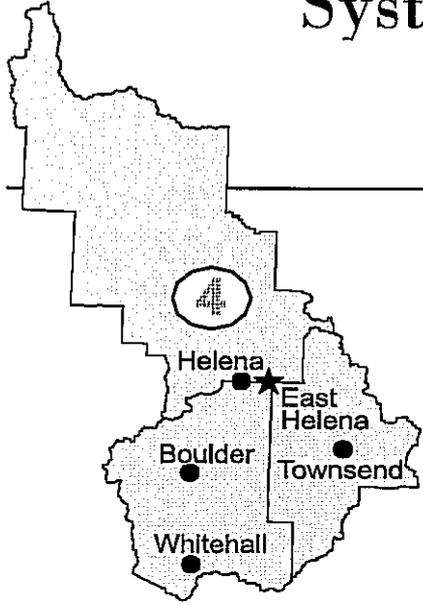
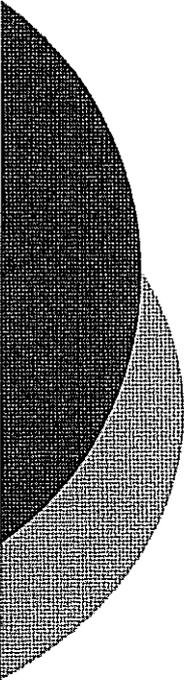


REGIONAL OFFICE – Great Falls
 Regional Public Defender
 1 Attorney
 1 Briefing/Research Attorney
 1 Investigator/Case Manager
 1 Paralegal

Public Defender Office – Great Falls
 8 Attorneys (+1)
 2 Paralegals
 2 Administrative Assistants
 1 Investigator

All courts in Glacier, Toole, Teton, and Pondera Counties will be handled by contract attorneys. A system will be developed to insure that a public defender is present in each district court when the district court judge is present.

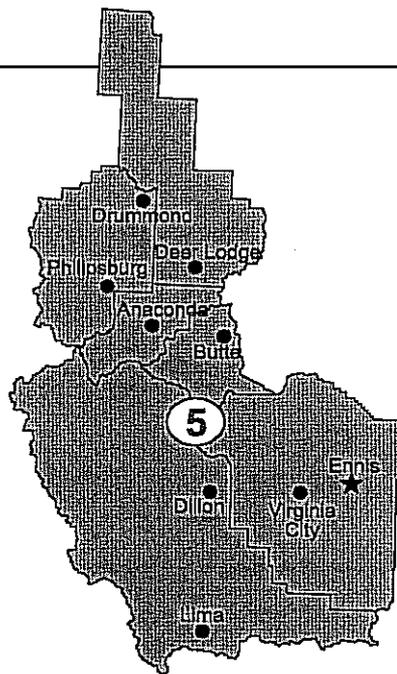
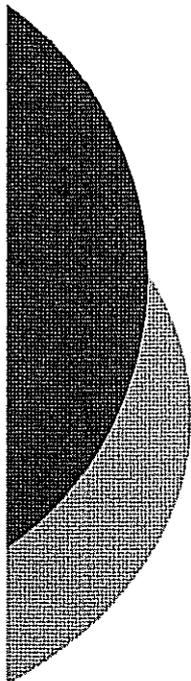
Montana State Public Defender System Plan



<p>REGIONAL OFFICE – Helena Regional Public Defender 1 Attorney 1 Investigator 1 Researcher, Brief Writer 1 Sex Offender Evaluator/ Case Manager 1 Administrative Assistant</p>

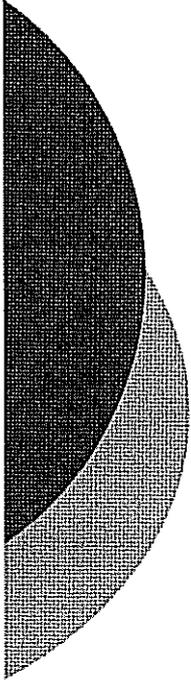
<p>Public Defender Office – Helena (District Court, Justice Court, Helena City Court, East Helena City Court) 5 Attorneys 1 Paralegal 2 Administrative Assistants</p>
<p>Broadwater County (District Court, Justice Court and Townsend City Court) 1 Contracted Attorney</p>
<p>Public Defender Office – Boulder (District Court, Justice Court, Boulder and Whitehall City Courts) .75 Attorney .50 Administrative Assistants</p>

Montana State Public Defender System Plan

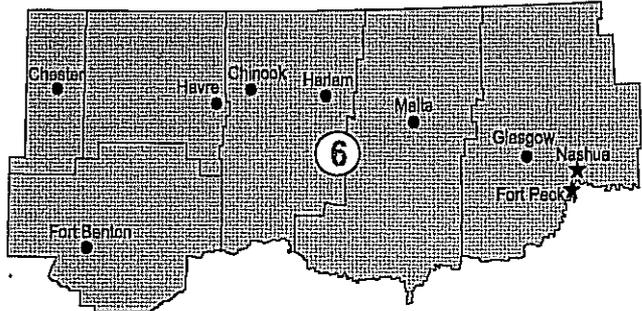


REGIONAL OFFICE – Butte
 Regional Public Defender
 1 Attorney
 1 Investigator
 1 Administrative Assistant

Public Defender Office – Butte (District Court, Justice Court, Butte City Court) 3 Attorneys 1 Paralegal 1 Administrative Assistant
Public Defender Office – Anaconda (Deer Lodge, Powell, Granite County District Courts, Justice/City Courts) 3 Attorneys (+1) 1 Paralegal
All courts in Beaverhead and Madison Counties will be handled by contract attorneys



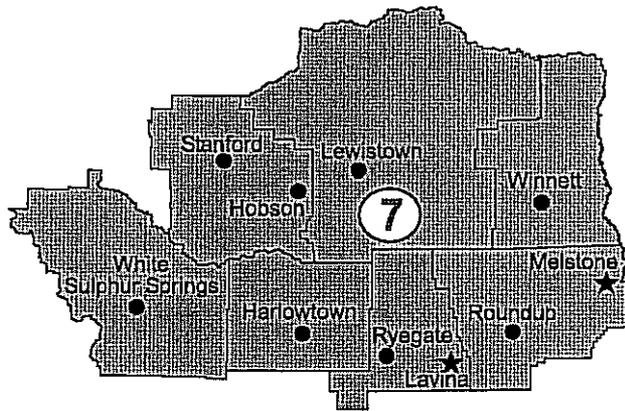
Montana State Public Defender System Plan



REGIONAL OFFICE – Havre
Regional Deputy Public Defender
1 Attorney
1 Paralegal

Public Defender services in all areas will be provided by contract attorneys. Special attention will be paid to Valley County to insure that early representation is provided to indigent defendants. The attorney currently providing public defender services is based in Havre. We will make contact with attorneys in Valley County and try to arrange contracts to make initial contact and representation of people who are jailed.

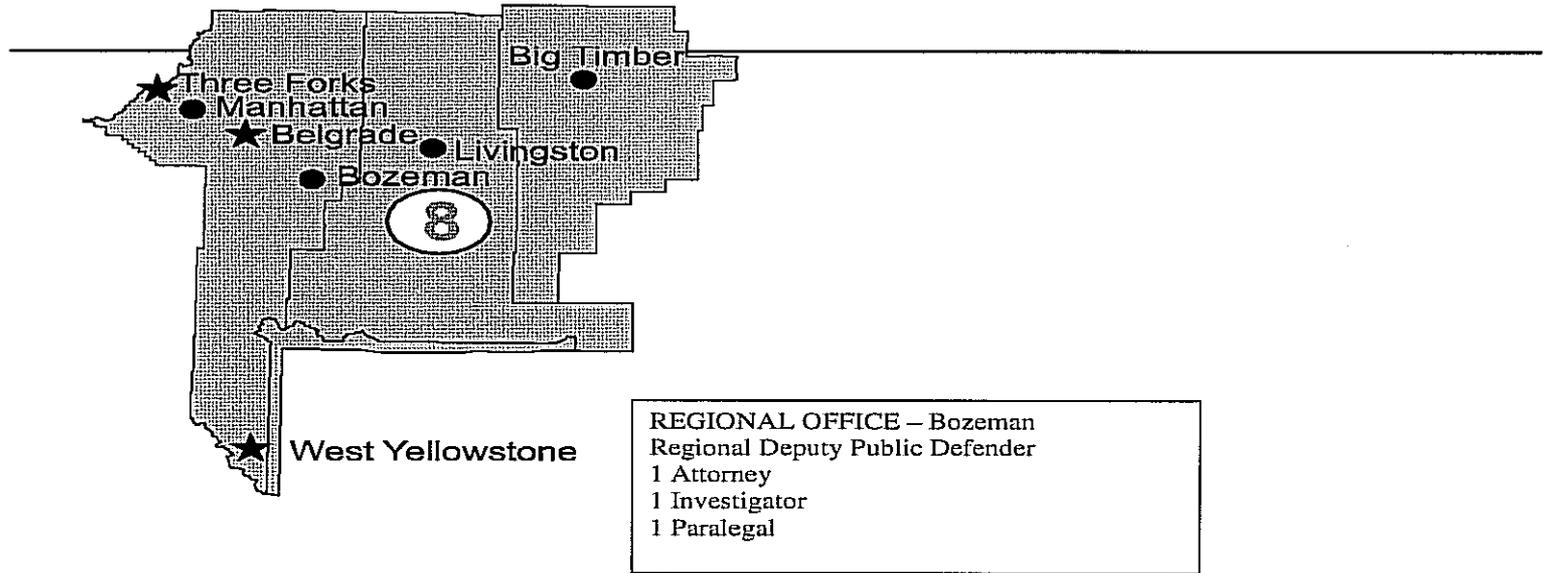
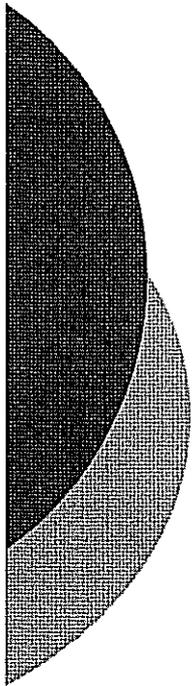
Montana State Public Defender System Plan



REGIONAL OFFICE – Lewistown
Regional Deputy Public Defender
1 Administrative Assistant
1 Investigator/Case Manager

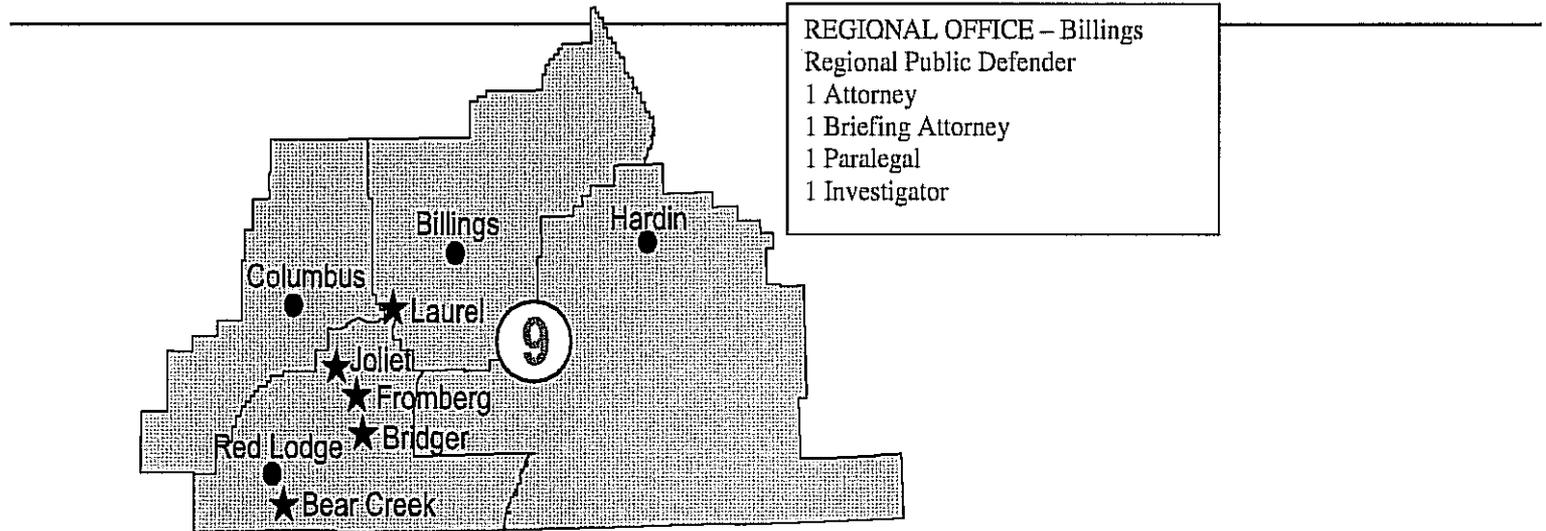
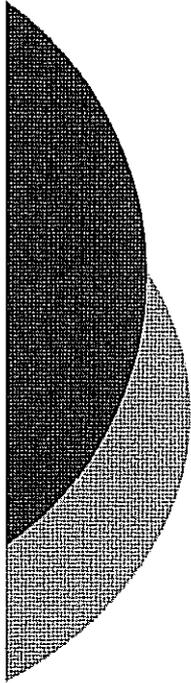
All courts will be handled by contract attorneys in conjunction with the regional deputy public defender

Montana State Public Defender System Plan



Public Defender Office – Bozeman (all courts in Bozeman) 8.5 attorneys (+1.5 as a result of assuming Bozeman city court) 1 Office Manager 4 Administrative Assistants
Livingston and Big Timber district courts will be handled by contract attorneys
All other courts of limited jurisdiction will be handled by contract attorneys

Montana State Public Defender System Plan

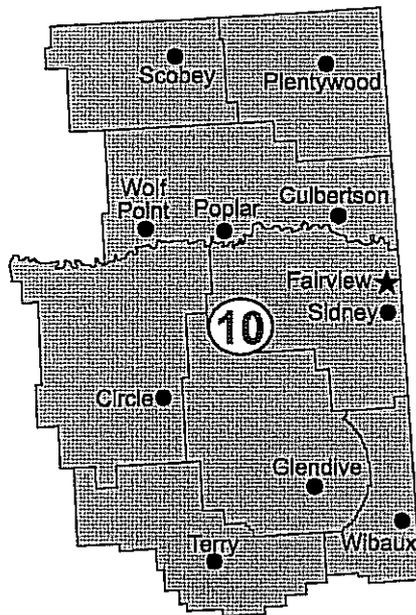


Public Defender Office – Billings (all courts)
13 attorneys (+3 as a result of assuming Billings city courts, mothers in D/N cases and persons subject to involuntary commitments)
1 Office Manager
6.5 Administrative Assistants
2 Investigators

All courts in Big Horn, Carbon and Stillwater Counties will be handled by contract attorneys

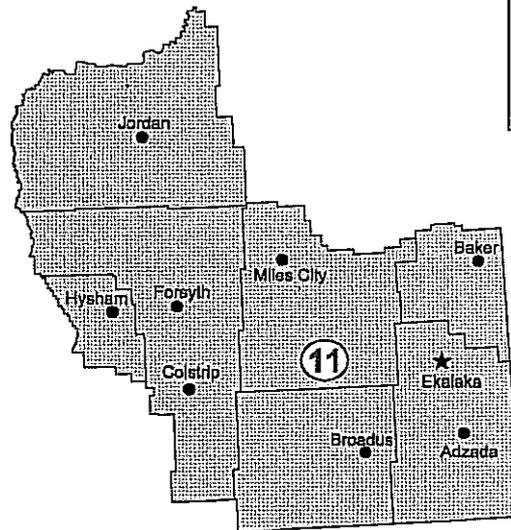
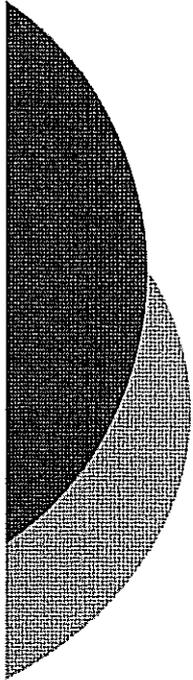
Montana State Public Defender System Plan

REGIONAL OFFICE – Glendive
Regional Deputy Public Defender
1 Paralegal



All courts in the region will be served by contract attorneys in conjunction with the regional deputy public defender

Montana State Public Defender System Plan



REGIONAL OFFICE – Miles City
Regional Deputy Public Defender
1 Attorney
1 Investigator
1 Administrative Assistant

All courts within the region will be served by contract attorneys in conjunction with the attorneys in the regional office

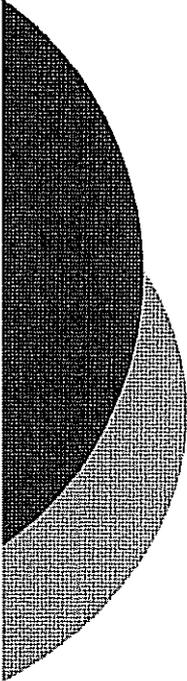
Montana State Public Defender System Plan Offices By Region

Region	City	Site	Open Date	FTE
0	Butte	Central Office	12/05/06	17.00
0	Helena	Appellate Defender	Open	8.00

Region	City	Site	Open Date	FTE	Region Total FTE	% of Total FTE	% of Population	% of Poverty Pop.
1	Kalispell	Region Office	07/01/06	4.00				
1	Kalispell	PD Office	07/01/06	12.00				
1	Whitefish	PD Office	10/01/06	2.00				
1	Polson	PD Office	07/01/06	4.00	22.00	13.73%	15.02%	15.31%
2	Missoula	Region Office	07/01/06	7.00				
2	Missoula	PD Office	07/01/06	19.00				
2	Hamilton	PD Office	10/01/06	9.00	35.00	21.84%	15.35%	14.97%
3	Great Falls	Region Office	07/01/06	5.00				
3	Great Falls	PD Office	07/01/06	13.00	18.00	11.23%	11.96%	13.28%
4	Helena	Region Office	07/01/06	6.00				
4	Helena	PD Office	07/01/06	8.00				
4	Boulder	PD Office	07/01/06	1.25	15.25	9.52%	7.91%	5.69%
5	Butte	Region Office	10/01/06	4.00				
5	Butte	PD Office	07/01/06	5.00				
5	Anaconda	PD Office	07/01/06	4.00	13.00	8.11%	7.32%	7.76%
6	Havre	Region Office	07/01/06	3.00	3.00	1.87%	4.54%	6.56%
7	Lewistown	Region Office	07/01/06	3.00	3.00	1.87%	2.58%	3.35%
8	Bozeman	Region Office	07/01/06	4.00				
8	Bozeman	PD Office	07/01/06	13.50	17.50	10.92%	10.26%	8.18%
9	Billings	Region Office	07/01/06	5.00				
9	Billings	PD Office	07/01/06	22.50	27.50	17.16%	17.90%	15.23%
10	Glendive	Region Office	07/01/06	2.00	2.00	1.25%	4.07%	5.79%
11	Miles City	Region Office	07/01/06	4.00	4.00	2.50%	3.08%	3.88%
TOTAL				160.25	160.25	100.00%	100.00%	100.00%

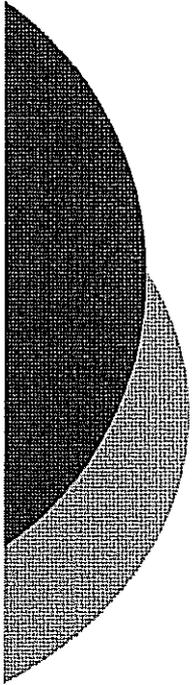
3/15/2006

* The open dates are estimates.



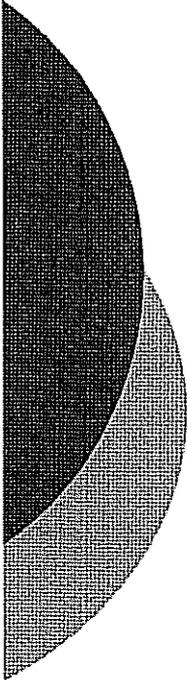
ADVANTAGES OF THIS STRUCTURE

- Client Focused
- Accountability
- Flexibility
- Responsiveness
- Cost Control of Caseload
- Expertise
- Training
- Contract Management



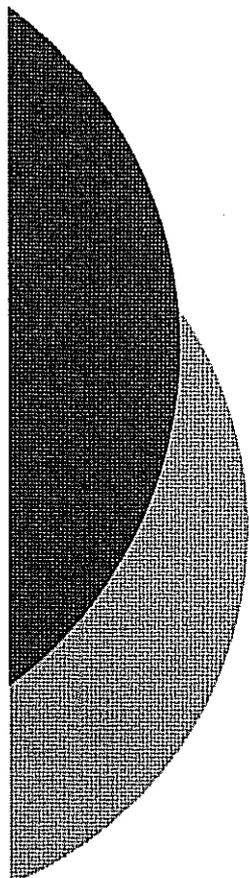
DISADVANTAGES OF THIS STRUCTURE

- More costly in the near-term
 - \$69.00 to \$74.00 per hour per state employed FTE vs \$60.00 for a contract attorney
 - Is \$60.00 per hour for a contract attorney the right rate?
 - If contract attorney rate is raised to \$80 per hour the incremental costs would range between \$600,000 to \$900,000.
- Greater bureaucracy
 - State FTE vs contract attorneys
 - State leased offices and other infrastructure

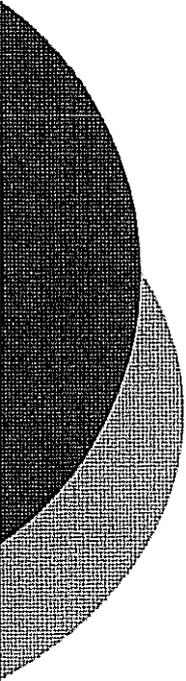


TRANSITION PLAN

- Unique to each region, each attorney
 - Involve regional deputy public defenders in plan
- Consider encouraging contract attorneys to come into offices
- Move some cases from contract attorneys to office attorneys
- Ask judges to, when possible, concentrate appointments in May and June to attorneys who are coming into offices
- Orientation conference

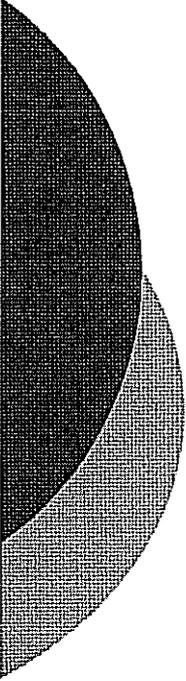


FINANCIAL PLAN



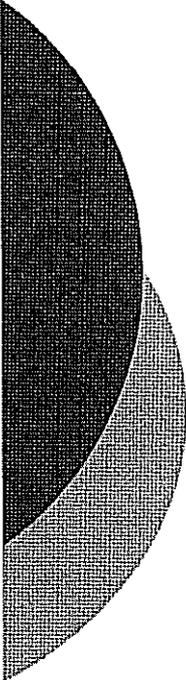
FINANCIAL PLAN

- Ideal Plan
 - All offices operational and fully staffed (most likely the plan for Fiscal 2008 – with certain adjustments)
 - \$1.7 million in contracted attorney services
- Phase-in Plan
 - Recognizes the limitation on those resources necessary to open offices and hire staff by 7/1/06
 - All new offices and staff “phased in” during Fiscal 2007
 - \$2.6 million in contracted attorney services – some duplication (contracts and FTE) while offices being opened and staffed



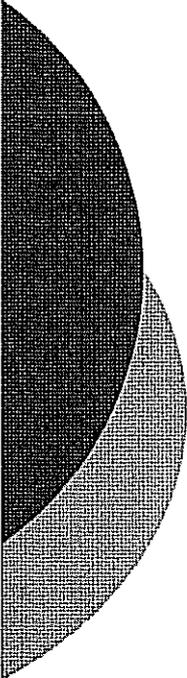
FINANCIAL PLAN MAJOR ASSUMPTIONS

1. Governor appoints 11 member Commission
2. Commission hires Chief Public Defender
3. Commission & Chief establish a central office
4. Chief hires members of management
5. Office presents a strategic plan to Commission
6. Chief hires eleven deputy public defenders



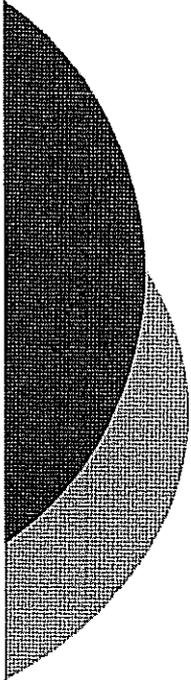
FINANCIAL PLAN MAJOR ASSUMPTIONS

7. Region offices are opened & staffed in FY 2007
 - Kalispell
 - Missoula
 - Great Falls
 - Helena
 - Butte
 - Bozeman
 - Havre
 - Lewistown
 - Billings
 - Glendive
 - Miles City



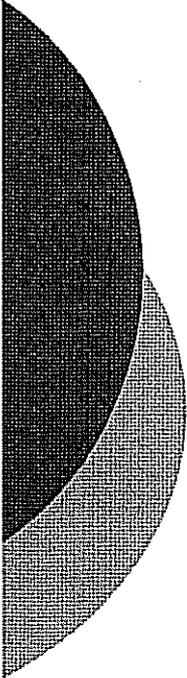
FINANCIAL PLAN MAJOR ASSUMPTIONS

8. Six county offices and one city office become state offices 7/1/06
 - Missoula
 - Lewis and Clark in Helena
 - Deer Lodge in Anaconda
 - Yellowstone in Billings (Including Billings City)
 - Cascade in Great Falls
 - Gallatin in Bozeman



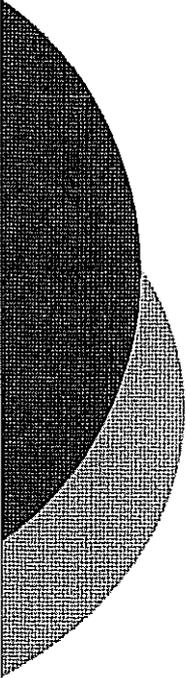
FINANCIAL PLAN MAJOR ASSUMPTIONS

9. Six new public defender offices are established between 7/1/06 and 10/1/06
 - Kalispell
 - Whitefish
 - Polson
 - Boulder
 - Butte
 - Hamilton



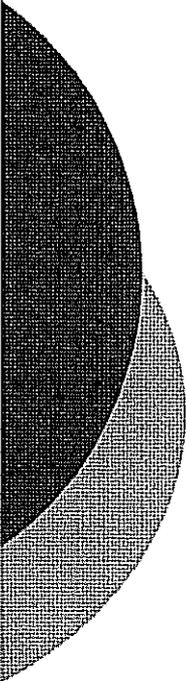
FINANCIAL PLAN MAJOR ASSUMPTIONS

10. Appellate Defender becomes part of office 7/1/06
11. Training function is established
12. Contracts are developed with private attorneys
13. Overlapping costs – contracts in place while offices are opened and new FTE's hired
14. No assumption for increases in caseload – funding based on Fiscal 2004 caseloads.



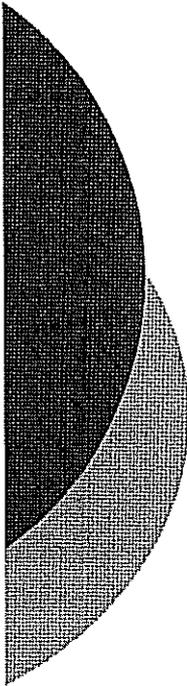
FINANCIAL PLAN MAJOR ASSUMPTIONS

15. Case management systems kept in place during Fiscal 2007 while new system is designed, developed, and deployed.
16. Maximum rate for contract attorney services remains at \$60.00 per hour.
17. Estimated average costs of a state employed attorney ranges between \$69.00 and \$74.00 per hour.
18. One-time costs of about \$1 million in both cases



FINANCIAL PLAN IDEAL PLAN

	<u>FY 2006</u>	<u>FY 2007</u>
Amount per Budget	\$527,729	\$14,134,177
Amount per Plan	\$531,272	\$15,912,715
Over (Under)	\$3,543	\$1,778,958
FTE per Budget	5.50	90.25
FTE per Plan	3.91	185.25
Over (Under)	(1.59)	95.00



FINANCIAL PLAN PHASE-IN PLAN

	<u>FY 2006</u>	<u>FY 2007</u>
Amount per Budget	\$527,729	\$14,134,177
Amount per Plan	\$531,272	\$16,109,625
Over (Under)	\$3,543	\$1,975,508
FTE per Budget	5.50	90.25
FTE per Plan	3.91	173.65
Over (Under)	(1.59)	83.40

Montana State Public Defender Financial Plan

Central Office

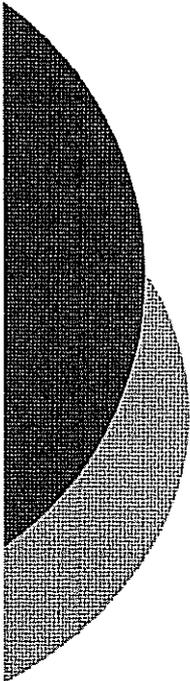
PHASE IN PLAN

Department	FTE	Personal S.C.	Operating Costs	TOTAL
Commission	-		\$ 27,000	\$ 27,000
Chief Public Defender	2.00	\$ 157,900	15,100	173,000
Administrative Director	10.00	499,900	743,800	1,243,700
Training Coordinator	1.00	95,000	102,500	197,500
Contract Manager	3.00	200,900	898,900	1,099,800
Appointments/Contracts	-	-	2,588,800	2,588,800
Human Resource Director	1.00	63,400	28,500	91,900
TOTAL	17.00	\$1,017,100	\$4,404,600	\$5,421,700

IDEAL PLAN

Department	FTE	Personal S.C.	Operating Costs	TOTAL
Commission	-		\$ 27,000	\$ 27,000
Chief Public Defender	2.00	\$ 157,900	15,100	173,000
Administrative Director	10.00	499,900	743,800	1,243,700
Training Coordinator	1.00	95,000	102,500	197,500
Contract Manager	3.00	200,900	898,900	1,099,800
Appointments/Contracts	-	-	1,725,800	1,725,800
Human Resource Director	1.00	63,400	28,500	91,900
TOTAL	17.00	\$1,017,100	\$3,541,600	\$4,558,700

Montana State Public Defender Financial Plan



Central Office Appointed & Contract Attorney Costs

Region	Site	Costs (2)	% of Costs (1)
1	Kalispell	\$ 1,138,005	19.78%
2	Missoula	1,283,198	22.31%
3	Great Falls	334,429	5.81%
4	Helena	74,632	1.30%
5	Butte	542,447	9.43%
6	Havre	460,964	8.01%
7	Lewiston	289,634	5.03%
8	Bozeman	270,474	4.70%
9	Billings	1,045,633	18.18%
10	Glendive	89,204	1.55%
11	Miles City	224,187	3.90%
TOTAL		\$5,752,807	100.00%

PHASE IN PLAN

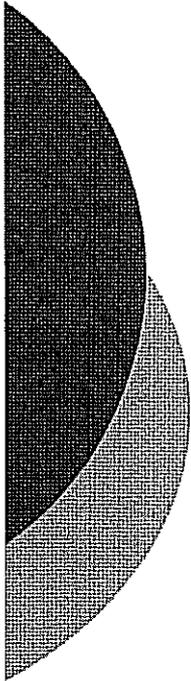
Budget	\$2,588,768
Reduced Cost Listed Above By	\$3,164,040

IDEAL PLAN

Budget	\$1,725,845
Reduced Cost Listed Above By	\$4,026,963

(1) Percentage developed using Judiciary's actual costs for FY 2005.

(2) Cost allocation of Fiscal Note.



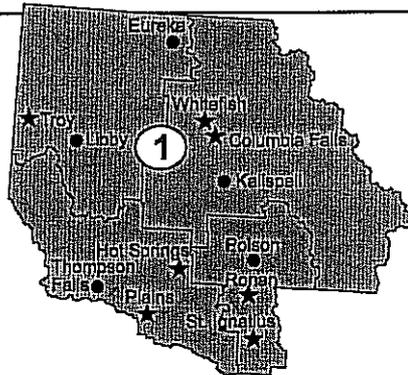
Montana State Public Defender Financial Plan

Appellate Defender Office

PHASE IN PLAN & IDEAL PLAN

FTE	Personal S.C.	Operating Costs	Total
8.00	\$456,915	\$136,616	\$593,531

Montana State Public Defender Financial Plan



Population A/O 2004	139,182
Percentage of State's Population	15.02%
Poverty Population A/O 2000	19,646
Percentage of State's Poverty Population	15.31%

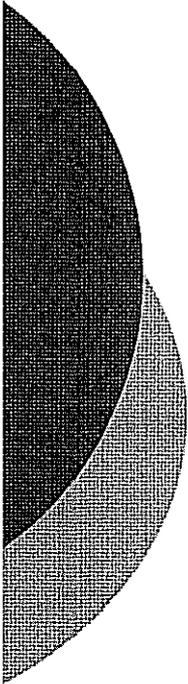
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office - Kalispell	3.30	\$ 204,000	\$ 80,400	\$ 284,400
PD Office - Kalispell	12.00	623,100	179,900	803,000
PD Office - Whitefish	1.60	80,900	66,900	147,800
PD Office - Polson	3.75	185,600	72,700	258,300
TOTAL	20.65	\$1,093,600	\$ 399,900	\$ 1,493,500

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office - Kalispell	4.00	\$ 232,900	\$ 89,300	\$ 322,200
PD Office - Kalispell	12.00	623,100	179,900	803,000
PD Office - Whitefish	2.00	98,100	66,900	165,000
PD Office - Polson	4.00	198,500	72,700	271,200
TOTAL	22.00	\$ 1,152,600	\$ 408,800	\$ 1,561,400

Montana State Public Defender Financial Plan



Population A/O 2004	142,273
Percentage of State's Population	15.35%
Poverty Population A/O 2000	19,216
Percentage of State's Poverty Population	14.97%

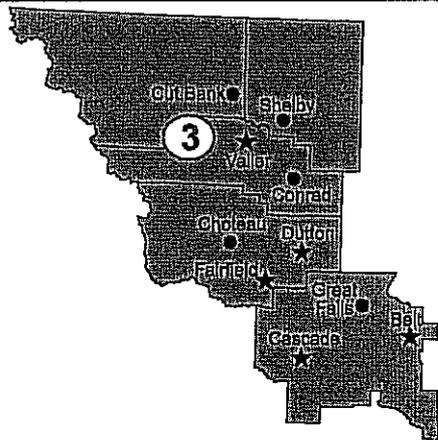
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office - Missoula	6.30	\$ 358,100	\$ 81,200	\$ 439,300
PD Office - Missoula	19.00	1,057,000	151,800	1,208,800
PD Office - Hamilton	6.75	368,500	106,500	475,000
TOTAL	32.05	\$1,783,600	\$ 339,500	\$ 2,123,100

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office - Missoula	7.00	\$ 385,900	\$ 90,200	\$ 476,100
PD Office - Missoula	19.00	1,057,000	151,800	1,208,800
PD Office - Hamilton	9.00	473,000	142,000	615,000
TOTAL	35.00	\$ 1,915,900	\$ 384,000	\$ 2,299,900

Montana State Public Defender Financial Plan



Population A/O 2004	110,882
Percentage of State's Population	11.96%
Poverty Population A/O 2000	17,047
Percentage of State's Poverty Population	13.28%

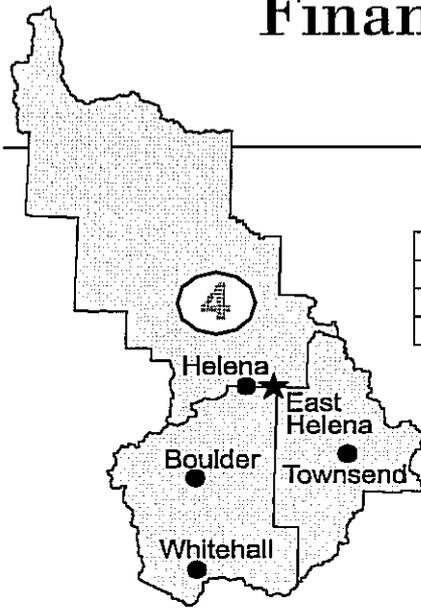
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Great Falls	4.05	\$ 237,600	\$ 78,600	\$ 316,200
PD Office – Great Falls	13.00	657,300	133,700	791,000
TOTAL	17.05	\$ 894,900	\$ 212,300	\$1,107,200

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office –Great Falls	5.00	\$ 275,600	\$ 87,300	\$ 362,900
PD Office – Great Falls	13.00	657,300	133,700	791,000
TOTAL	18.00	\$ 932,900	\$ 221,000	\$ 1,153,900

Montana State Public Defender Financial Plan



Population A/O 2004	73,359
Percentage of State's Population	7.91%
Poverty Population A/O 2000	7,308
Percentage of State's Poverty Population	5.69%

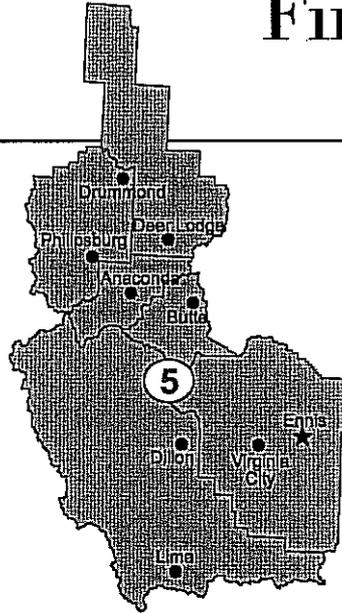
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Helena	4.80	\$ 290,600	\$ 65,000	\$ 355,600
PD Office – Helena	8.00	427,400	59,100	486,500
PD Office - Boulder	1.25	69,500	38,100	107,600
TOTAL	14.05	787,500	162,200	\$ 949,700

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Helena	6.00	\$ 344,800	\$ 72,300	\$ 417,100
PD Office – Helena	8.00	427,400	59,100	486,500
PD Office - Boulder	1.25	69,500	38,100	107,600
TOTAL	15.25	841,700	169,500	\$1,011,200

Montana State Public Defender Financial Plan



Population A/O 2004	67,831
Percentage of State's Population	7.32%
Poverty Population A/O 2000	9,959
Percentage of State's Poverty Population	7.76%

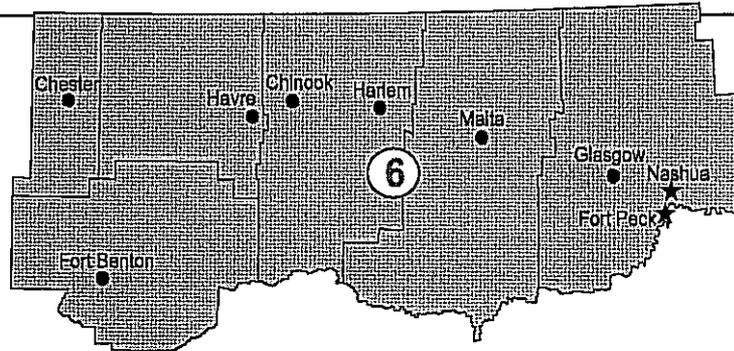
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Butte	3.30	\$ 199,400	\$ 69,600	\$ 269,000
PD Office – Butte	3.75	206,600	87,100	293,700
PD Office - Anaconda	4.00	210,900	26,100	237,000
TOTAL	11.05	\$ 616,900	\$ 182,800	\$ 799,700

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Butte	4.00	\$ 227,200	\$ 77,300	\$ 304,500
PD Office – Butte	5.00	265,300	116,200	381,500
PD Office - Anaconda	4.00	210,900	26,100	237,000
TOTAL	13.00	\$ 703,400	\$ 219,600	\$ 923,000

Montana State Public Defender Financial Plan



Population A/O 2004	42,110
Percentage of State's Population	4.54%
Poverty Population A/O 2000	8,417
Percentage of State's Poverty Population	6.56%

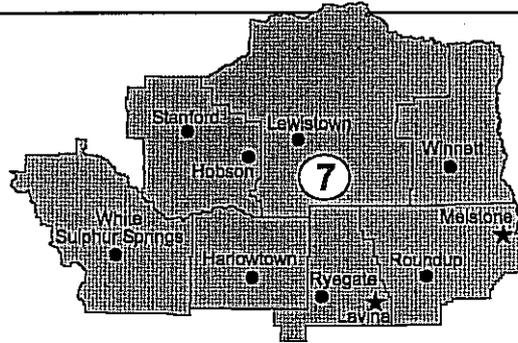
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Havre	2.55	\$ 170,400	\$ 42,400	\$ 212,800
TOTAL	2.55	\$ 170,400	\$ 42,400	\$ 212,800

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Havre	3.00	\$ 190,100	\$ 47,200	\$ 237,300
TOTAL	3.00	\$ 190,100	\$ 47,200	\$ 237,300

Montana State Public Defender Financial Plan



Population A/O 2004	23,899
Percentage of State's Population	2.58%
Poverty Population A/O 2000	4,300
Percentage of State's Poverty Population	3.35%

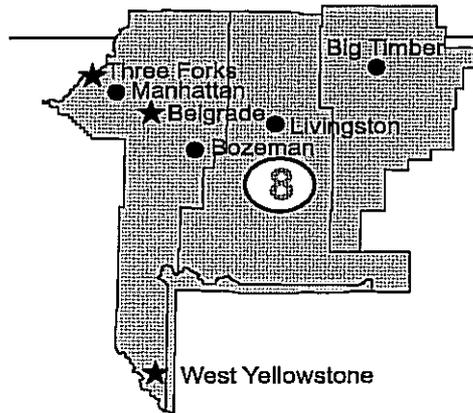
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Lewistown	2.55	\$ 154,600	\$ 39,800	\$ 194,400
TOTAL	2.55	\$ 154,600	\$ 39,800	\$ 194,400

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Lewistown	3.00	\$ 169,500	\$ 44,200	\$ 213,700
TOTAL	3.00	\$ 169,500	\$ 44,200	\$ 213,700

Montana State Public Defender Financial Plan



Population A/O 2004	95,127
Percentage of State's Population	10.26%
Poverty Population A/O 2000	10,502
Percentage of State's Poverty Population	8.18%

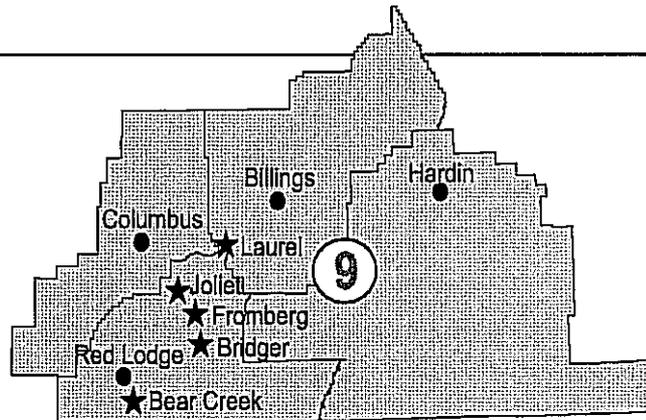
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Bozeman	3.30	\$ 204,000	\$ 71,400	\$ 275,400
PD Office - Bozeman	13.50	690,000	137,500	827,500
TOTAL	16.80	\$ 894,000	\$ 208,900	\$1,102,900

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Bozeman	4.00	\$ 232,900	\$ 79,300	\$ 312,200
PD Office - Bozeman	13.50	715,800	137,500	853,300
TOTAL	17.50	\$ 948,700	\$ 216,800	\$1,165,500

Montana State Public Defender Financial Plan



Population A/O 2004	165,868
Percentage of State's Population	17.90%
Poverty Population A/O 2000	19,544
Percentage of State's Poverty Population	15.23%

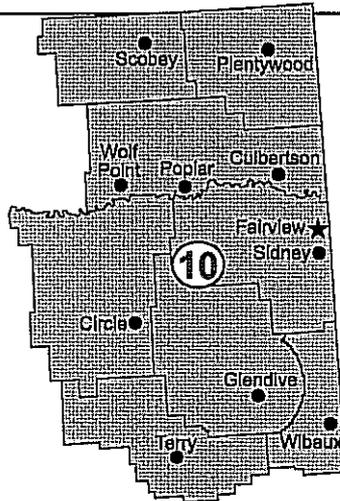
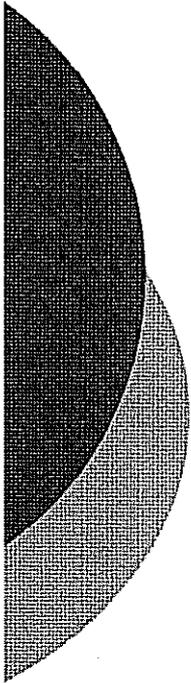
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Billings	4.30	\$ 258,800	\$ 78,500	\$ 337,300
PD Office – Billings	22.50	1,170,100	206,500	1,376,600
TOTAL	26.80	\$ 1,428,900	\$ 285,000	\$1,713,900

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Billings	5.00	\$ 291,500	\$ 87,300	\$ 378,800
PD Office - Billings	22.50	1,170,100	206,500	1,376,600
TOTAL	27.50	\$ 1,461,600	\$ 293,800	\$1,755,400

Montana State Public Defender Financial Plan



Population A/O 2004	37,764
Percentage of State's Population	4.07%
Poverty Population A/O 2000	7,430
Percentage of State's Poverty Population	5.79%

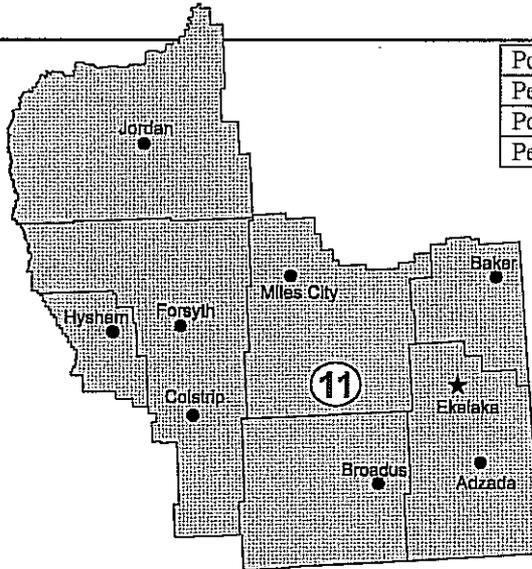
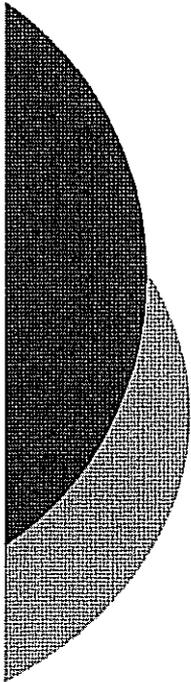
PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Glendive	1.80	\$ 121,000	\$ 37,200	\$ 158,200
TOTAL	1.80	\$ 121,000	\$ 37,200	\$ 158,200

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Glendive	2.00	\$ 126,800	\$ 41,300	\$ 168,100
TOTAL	2.00	\$ 126,800	\$ 41,300	\$ 168,100

Montana State Public Defender Financial Plan



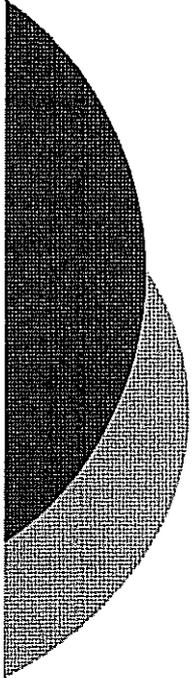
Population A/O 2004	28,750
Percentage of State's Population	3.08%
Poverty Population A/O 2000	4,986
Percentage of State's Poverty Population	3.88%

PHASE IN PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Miles City	3.30	\$ 199,400	\$ 39,700	\$ 239,100
TOTAL	3.30	\$ 199,400	\$ 39,700	\$ 239,100

IDEAL PLAN

	FTE	Personal S.C.	Operating Costs	TOTAL
Region Office – Miles City	4.00	\$ 227,200	\$ 44,200	\$ 271,400
TOTAL	4.00	\$ 227,200	\$ 44,200	\$ 271,400



INFORMATION TECHNOLOGY PLAN

- Communication and computer systems
 - Set up county-managed offices by 7/1/06
 - Set up regional and new public defender offices
 - Develop a support structure for all offices

- Case Management System
 - Keep existing systems in place during FY 2007
 - Design, develop, and install new system in FY 2007

WILLIAM BOGGS

P.O. Box 7881
Missoula, MT 59807
(406) 728-3088

MEMORANDUM

RECEIVED

FEB 13 2006

**OFFICE OF THE STATE
PUBLIC DEFENDER**

Date: 2/10/06

TO: James Park Taylor, Chairman, Montana Public Defender Commission

SUBJECT: Problems relating to status of ongoing appointed cases as of July 1, 2006

1. As of July 1, 2006, the problem will arise as to the representation to be provided indigent criminal defendants and others who as of that date are being represented by court-appointed private counsel. In Missoula County alone, there are hundreds of such cases; I am not familiar with the situation around the rest of the State.

2. Obviously the easiest and best solution in terms of effective representation would be to continue these appointments after July 1, 2006, until representation in the particular case is concluded (or some other cutoff date). However, I foresee a potential major accounting problem with this. At present, the Court Administrator's Office is paying the attorneys' bills submitted on a monthly basis by the individual attorneys handling these appointed cases. What I wonder is: (1) Does the Court Administrator's Office have funds allocated to pay these appointments for FY 2007 (i.e. after July 1)? (2) If not, does the Office of Public Defender appropriation have a sub-account for this purpose, with sufficient funds to carry these cases to completion? If not, what is going to happen?

3. Certainly few appointed attorneys will readily consent to disrupting the continuity of representation--especially in major cases--by having the cases summarily taken from them on July 1, 2006. Yet they also must be paid for the services--even if at the low \$60 per hour rate utilized at present. I think this situation needs to be addressed: it involves many, many cases.

4. One further twist: under Section 47-1-104(5) MCA, after July 1, 2006, no attorneys in the office of the State Public Defender can serve as guardians ad litem in DFS cases. This means that not only will all current private-attorney GAL appointments need to be continued (and compensated) after July 1, 2006, but all appointments currently held by county (to-be-State) public defenders must be reassigned to private counsel (with compensation). What appropriation arrangements have been made to deal with this situation?

5. As I outlined at the Commission meeting in Missoula January 23, 2006, this matter of ongoing case transition is only one of numerous problems immediately presented by the switch to a new system, but I think it should have a very high priority, since here we're dealing with indigent representation that is already being effectively carried out, and ought to continue to be.

CC: Randi Hood, Chief Public Defender



February 22, 2006

EXHIBIT 7

Public Defender Commission
Office of the State Public Defender
44 West Park Street
Butte, Montana 59701

Dear Commission:

By way of introduction, the undersigned, including Kevin Sweeney, Fred Snodgrass, Connie Camino, Dorothea Boniello, and Kris Copenhaver, are the five attorneys contracted to provide legal representation to indigent parents involved with youth in need of care/dependent and neglect cases, and family drug court within the Thirteenth Judicial District, Yellowstone County.

It is our understanding that on July 1, 2006, the State will assume responsibility for all Public Defender work in Montana, including representation of indigent parents in dependent and neglect cases (hereinafter "DN cases"). The proposal is for the PD attorneys to absorb all mom-clients involved in the DN cases. Because this includes our work in the Thirteenth Judicial District, it is our obligation to the Commission to offer the following information and recommendation to make for an efficient transition, as well as an effective implementation of the new system.

BACKGROUND FOR THE THIRTEENTH JUDICIAL DISTRICT

The five District Court Judges in Yellowstone County appoint counsel to all parents as soon as the Department files a Petition for emergency removal of the child from the home. This allows the attorney to meet with the parent-client prior to the initial court appearance, which is typically the show cause hearing.

This is a crucial stage in protecting a parent's rights because by the time the Department of Public Health and Human Services (hereinafter "the Department") gets involved with a family, the parents are typically in crisis. Emotions are raw and the ability to appreciate and comprehend the Department's demands is usually minimal at this point. The Department usually requests adjudication of the child as a youth in need of care and temporary legal custody for up to six months. The Department then obtains a court-ordered treatment plan which, if not completed successfully, can result in the loss of parental rights. Because of the stress of the Department's involvement and the fundamental rights at stake, it is essential that the Court appoint each parent an attorney from the outset of each DN case.

In Yellowstone County alone, 101 new DN cases were filed in 2005. Those cases involved 175 children in the Thirteenth Judicial District. On average, the Department is involved with a family from 12 to 24 months in Yellowstone County and the appointed attorney represents a parent until the case reaches resolution. Between new DN case assignments and pending DN cases, each of us carries approximately 75 cases at any given time.

Of the roughly 375 pending cases, about 20% of the parents have not been in communication with their attorneys at all. Perhaps another 15% on average do not keep in regular contact with their attorneys. In other words, a DN attorney in the Thirteenth Judicial District has at least 57 active parent-clients.

The appointment of attorneys to DN cases in Yellowstone County is done on a rotational basis to insure there are no conflicts created through the appointment. Kevin Sweeney, Fred Snodgrass, Dorothea Boniello, and Kris Copenhaver are each assigned a parent in a DN case as part of that rotation. Connie Camino is the primary Family Drug Court attorney handling appointments in Drug Court (at present that includes 13 clients), and she steps into cases where there are more parents than DN attorneys (including 40 parent-clients not in drug court). This rotation insures that each parent receives appointed counsel that is wholly independent of the other parents' counsel, thus resolving the conflict of interest inherent in each of these cases very efficiently.

Yellowstone County Family Drug Treatment Court (Drug Court) was established to address the huge issue of drug addiction overriding parents' ability to parent. Drug Court is a collaborative effort involving Judge Susan P. Watters, two social workers from the Department of Family Services, a Guardian *ad Litem*, a Deputy County Attorney, the DN attorney, a representative from the CASA program, a representative from State Probation and Parole, a representative from the Women's and Family Shelter, a representative from the Mental Health Center that provides chemical dependency treatment, a Program Evaluator and the Drug Court Coordinator. Court is held at 3:00 p.m. every Thursday afternoon. Prior to Court, at 1:30 every Thursday, the above listed persons participate in "Treatment Team."

The DN attorney does not advocate for her parent-client in the court aspect of Drug Court but rather during the treatment team meeting. Consequently, the parent-client does not know whether the attorney represented his or her interests to the treatment team or not. Often the parent-client will be miffed at the attorney for a sanction they received following the treatment team meeting. Alternatively, the parent-client also does not realize when it is the attorney who persuades the team that the children should be returned, or when specialized services are provided based on the attorney's advice, or that the attorney schedules graduation from Drug Court. The Drug Court DN attorney most often does not get credit for advocating for the client.

We believe it is imperative that the attorneys assigned to represent parent-clients are not only experienced and well-qualified, but they must also be dedicated to protect the most fundamental liberty interest parents possess – the right to parent their children and the preservation of the family unit. Although each of the attorneys representing indigent parents in the Thirteenth Judicial District have separate and varied law practices, each of us share one thing in common: we applied to represent parents in DN cases to ensure quality representation for parents who cannot afford to hire an attorney. DN cases make up between 50 to 60% of each of our law practices. The remainder of our separate practices consists of mostly family law and criminal defense work.

COSTS ASSOCIATED WITH CURRENT DN REPRESENTATION

On rare occasions, the Thirteenth Judicial District sees DN cases that need more than the five attorneys currently providing representation. For the most part, the five attorneys from five different offices currently provide the needed legal services to indigent parents in a cost-effective manner.

It is common for each of the five DN attorneys to bill an average of 75 hours per month for time spent at court appearances, meeting with clients, reviewing and responding to paperwork, and talking with the County Attorneys, social workers and treatment providers. This, of course, varies anywhere from 60+ hours to 100+ hours, depending on the Judges' schedules, the attorneys' other obligations, and the Department's fillings.

We are currently paid by Yellowstone County, which is then reimbursed by the State at the rate of \$60 per hour. Expenses such as office space, photocopies, postage, file storage, long distance telephone calls, and mileage are absorbed by each attorney's respective law office because those expenses are not reimbursed by the County. Of the five attorneys, four have legal assistants, and each of those legal assistants handles a variety of work associated with representing the parents in DN cases. This work is not reimbursed by the County either.

ISSUES RELATED TO TRANSFER ON JULY 1, 2006

The State assumption creates an issue regarding the current DN cases and an issue regarding the future of DN case assignment. Reassigning current DN cases creates attorney-staffing and legal-staffing issues for the State's regional office. If the moms that are currently represented were transferred to the regional Public Defender office as of June 30, 2006, the attorneys there would have to absorb at least 160 new clients. This would add at least 20 new clients to each of the eight Yellowstone County PD attorneys' current caseload. Further, the local office may not be able to take on several of the moms as clients because the local office currently represents the father in a criminal matter, or currently represents a witness against the mom in a criminal matter. Assumption of all the moms on July 1, 2006, would create a conflict nightmare for the staff at the PD office to sort out, and realistically, could take months of reviewing files to address the conflict issues.

The attorneys in the local Public Defender's office would be expected to take on clients at all different stages of the DN proceedings without the necessary training and experience if the State office assumes cases currently in progress. Although some attorneys who work at the Public Defender's office in Billings may have some civil experience, each of them would have to become very proficient in civil procedure in a short period of time to competently represent parent-clients.

In addition, there were 1,162 felony cases filed before the five Judges in the Thirteenth Judicial District last year. In the District Court, Criminal Law and Motion begins at 9:30 a.m. at least three times per week, and on occasion four times per week. Criminal Law and Motion usually last two and one half hours, but can last up to five hours in a day. DN hearings are scheduled each afternoon during the week, and Thursday mornings.

Family Drug Court is held every Thursday afternoon. Needless to say, an attorney handling a mixed caseload of criminal and DN clients could conceivably spend four full days a week in Court. This would leave little time for client contact and/or legal research and writing, let alone time to learn how to proficiently represent parents in DN proceedings.

RECOMMENDATION TO THE COMMISSION

As to implementing the new Public Defender system, we ask the Commission to consider maintaining contract attorneys for DN work. Understandably there will be change, including appointing the Public Defender's office to represent clients in DN cases (as proposed, the public defender office would represent moms in DN cases). We believe our recommendation will allow for a smooth transition to the Statewide Public Defender System without disrupting the current cases or compromising the representation of current clients. Further, we believe our recommendation will provide quality representation for parents of the Thirteenth Judicial District in the future.

CURRENT CASES

Although transferring clients from current DN contract attorneys to the Public Defender's office may seem like the easiest way to assume the cases, we would propose that a more practical and efficient approach would be to allow the attorneys now representing parent-clients to see those clients through final resolution of the particular DN case.

This would create a transition where the PD office is not overburdened. Also, new PD attorneys who have no experience in the field could begin with cases not already in progress, but they could start from the beginning. It would allow for them to receive training in the field prior to diving into the deep end of the pool, such as assuming a case at the last possible stage, namely a permanent custody hearing.

Should the Commission opt to reassign DN cases to attorneys within the actual Public Defender Offices, caseloads should be kept in mind. If each PD attorney has 50 criminal clients, even reassigning mom-clients would increase the eight attorneys' caseload by 20 new clients, again, at all stages of the DN process.

Allowing current court-appointed counsel to continue representation of these parent-clients through final resolution would ensure PD attorneys a manageable caseload during the transition and implementation of the new system. Continued legal representation by counsel familiar not only with the DN process, but also with the dynamics of that particular case, would also provide continuity to the parent-clients.

We ask the Commission to allow each of us to continue representation to the final resolution of each case, for those parent-clients to whom we have been appointed as of June 30, 2006.

FUTURE CASES

Clearly, DN work is closer akin to family law than it is criminal law. Although anyone licensed to practice law in Montana is presumed competent to handle all aspects of the law, attorneys willing to focus their practice on DN work are few and far between.

We each took on this work because we recognized the need to specialize in this area of indigent representation. We strongly urge the Commission to implement a policy within the PD office to designate the assumption of DN caseloads to a specific PD attorney – an attorney willing and able to effectively represent the mom-clients.

This would alleviate the possibility of being in the courtroom all day with a mixed caseload of criminal and DN clients. It would instill confidence in the mom-clients that they would be represented by an attorney specialized in this type of indigent representation, as well as reinforce confidence that their attorney will have time to focus on their case.

Currently, the five contract attorneys are on a rotational assignment that is very efficient and cost effective. We suggest that the PD attorney assigned to mom-clients become part of this rotation system. Keeping conflict costs in mind and barring a conflict from a concurrent criminal matter, this would insure that a solid majority of cases go to the PD attorney. Further, this rotational assignment would allow the PD DN attorney to hone skills specific to the DN process and its idiosyncrasies. A PD attorney designated to just mom-clients would allow the attorney the necessary time for court appointments, meetings with the clients, negotiation with the County Attorney, follow up with the social workers on the individual cases and time to work with treatment providers on behalf of the client. Moreover, it would give the PD DN attorney the necessary resource of reliance on the experience of the current contract attorneys.

The Drug Court DN attorney's ^{role} is quite different from the attorney's role in "regular track" DN cases and certainly different from criminal defense cases. The concern with changing Drug Court DN attorneys is that the learning curve will impact an attorney's ability to represent clients in Drug Court. Additionally, many lawyers may not fit in the system and decide not to be a part of the Drug Court. Consistency on the treatment team provides consistency of experience (sanctions, incentives, return of children home) for the parent-client. A frequent change of Drug Court DN attorneys would result in the parent-client losing her representation on the treatment team while attorneys work through the various ethical issues and questions inherent in representing Drug Court parent-clients. In addition to her continued representation of parent-clients in regular-track cases, the Commission should ~~continue~~ the Drug Court contract with Connie Camino as its specific DN attorney.

^{consider continuing}
Conflict mom-clients and dad-clients should continue to be assigned to contract counsel also willing and able to effectively represent DN clients. Too many contract attorneys would infringe on the specialty of the practice, and the contract attorney may not think it worth the trouble. Fewer contract attorneys would keep the caseload manageable and still worthwhile from a business perspective for the contract attorney to continue in this specialty.

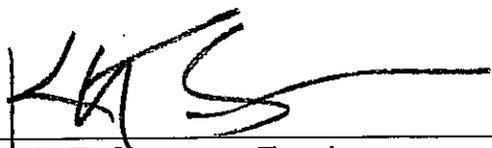
Assigning one parent-client to the PD attorney in every case while still assigning local contract counsel through the rotational system to the other parent-clients would resolve conflict issues, it would provide cost effective representation of parent clients, and insure quality representation for all indigent parents in this, the most voluminous region.

We encourage the Commission to continue assigning conflict mom-clients and dad-clients to those attorneys currently representing the parent-clients.

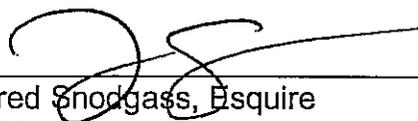
In closing, we would like to extend our appreciation to the Commission for its undaunted efforts in creating and implementing a Statewide Public Defender system. We propose these suggestions to the Commission in an effort to assist in a balanced transition not just for the professionals that work within the judicial system, but also to ensure the protection of fundamental rights for those parent-clients who will be ultimately affected by this new system.

Thank you for your consideration. Should you have questions or wish to more thoroughly discuss these issues, please feel free to contact any of us.

Cordially,



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(406) 256-8060



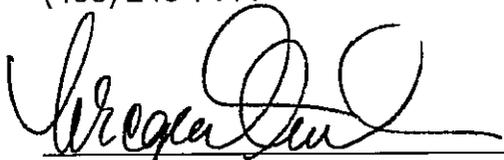
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BILLINGS, MONTANA 59107

EXHIBIT 8

TELEPHONE (406) 252-7503
FAX (406) 252-4074

February 28, 2006

Public Defender Commission
Office of the State Public Defender
44 West Park Street
Butte, MT 59701

Re: Civil Commitments Yellowstone County

Dear Commission:

I have been contacted by the State Public Defender's Office pertaining to the number of cases for 2005 I have represented under court appointment. These matters includes the mental health commitments; developmentally disabled commitments and guardianships filed by the County Attorney on behalf of the Adult Protective Division of the Department of Public Health and Human Services. I do not believe that numbers in and of themselves really reflect the requirements of handling these situations.

I have been appointed and have represented individuals subject to these proceedings since July 1, 1975. The proceedings relating to the mental health commitments are unusual in that not only is one dealing with some very difficult individuals but also there are very strict statutory time limitations in which substantial work is involved in a short time frame. In these proceedings one never knows from day to day what may be coming in. There have been weeks when there have been no filings and the most that I have ever had is 17 new cases in one week. No matter how many cases come in they still have to be handled within the same time frame. Thus, in order to be able to handle the cases that come in, early mornings have to be kept open for hearings; late mornings for evaluations; and late afternoons for new petitions being filed that day.

When a petition is filed the patient is seen that day. The initial appearance is normally set the day following the petition being filed. The evaluation with counsel present is normally the day after the initial and the hearing the day after the evaluation or two days after the initial appearance. In the interim the records must be reviewed; the potential witnesses contacted; any relatives or friends of the patient identified and contacted; and conferences with the professionals involved.

Public Defender Commission
February 28, 2006
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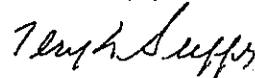
Since the Supreme Court decision of KGF I have entered into a contract with the County and included in that contract is for me to subcontract with an attorney. At the present time I have subcontracted with Victoria Weaver, a former law clerk for Judge Todd. As part of the subcontract is to train an attorney in this area as required by KGF. The subcontract attorney is then available to handle evaluations while I handle hearings and also assists in schedule and conflict situations. With the subcontract attorney and myself we are able to keep in compliance with KGF in protecting the rights of our clients.

Another consideration in the time element is not only is it statutory but also cost factors for the counties of residence. The county of residence is liable for pre commitment expenses if there is no other insurance or funding source from the government. The cost per patient runs from \$1,200 to 2,000 per day depending on the degree of care required. Thus these must also be handled expeditiously with that factor while still representing and protecting the client's rights.

I am enclosing a summary that has been maintained by the County Attorneys Office in Yellowstone County as to the time involved in each case from July 1, 2005 through December 2005. The summary reflects one area from the petition to order. This would be the time frame in which we receive the documents until the matter is resolved. If the weekends, second opinions; and unusual cases as noted, were excluded, the average time from the time we receive the case until the order is entered is 2.4 days. It normally takes 1 day to process the order and therefore we are getting each case resolved in 1 ½ days.

We hope this information is of assistance when the Public Defender's Office is scheduled to take over these cases on July 1, 2006.

Very truly yours,



Terry L. Seiffert
Attorney at Law

TLS:sh

Public Defender Commission
February 28, 2006
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Enc.

cc: Honorable Russell C. Fagg, District Court Judge
Honorable Ingrid Gustafson, District Court Judge
Honorable Susan P. Watters, District Court Judge
Honorable Gregory R. Todd, District Court Judge
Honorable G. Todd Baugh, District Court Judge
Honorable Blair Jones, District Court Judge
Dennis Paxinos, Yellowstone County Attorney
Kemp Wilson, Carbon County Attorney
John Petak, Stillwater County Attorney
Yellowstone County Commissioners

CIVIL COMMITMENT FILINGS

YELLOWSTONE/CARBON COUNTY

2005-123

2004-140

2003-141

2002-127

2001-163

Commitments 2006 Fiscal Year

7/1/05 to 6/30/06

	Patient Name	Billed	Paid	Admission	Detention	Partition	Order	Discharge	Adm - Dis	Det - Dis	Det - Ord	Det - Pot (3>)	Pot - Ord (5>)	Type	Other
1		\$0.00	\$0.00	06/28/05	06/28/05	06/29/05	07/05/05	07/05/05	7	7	7	7	1	6 LNH	
2		\$0.00	\$0.00	06/27/05	06/28/05	06/30/05	07/01/05	07/01/05	4	3	3	2	1	1 CC	
3		\$0.00	\$0.00	07/01/05	07/01/05	07/05/05	07/07/05	07/07/05	6	6	6	4	2	2 CC	Weekend?
4		\$11,049.20	Pending	07/02/05	07/05/05	07/06/05	07/08/05	07/11/05	9	6	3	1	2	2 MSH	
5		\$5,086.00	Pending	06/22/05	07/05/05	07/07/05	07/08/05	07/08/05	16	3	3	2	1	1 DISMISS	
6		\$2,280.00	Pending	07/01/05	07/05/05	07/07/05	07/08/05	07/11/05	10	6	3	2	1	1 MSH	
7		\$0.00	\$0.00	07/05/05	07/07/05	07/11/05	07/15/05	07/15/05	10	8	8	4	4	4 MSH	Weekend?
8		\$8,466.98	\$5,261.93	07/09/05	07/09/05	07/12/05	07/13/05	07/14/05	5	5	4	3	1	1 CC	
9		\$0.00	\$0.00	07/02/05	07/12/05	07/14/05	07/18/05	07/18/05	18	6	6	2	4	4 MSH	
10		\$0.00	\$0.00	07/13/05	07/13/05	07/15/05	07/19/05	07/19/05	6	6	6	2	4	4 MSH	
11		\$0.00	\$0.00	07/13/05	07/13/05	07/15/05	07/19/05	07/19/05	6	6	6	2	4	4 MSH	
12		\$5,665.80	\$3,512.67	07/14/05	07/14/05	07/18/05	07/19/05	07/18/05	4	4	5	4	1	1 DISMISS	Weekend?
13		\$0.00	\$0.00	06/30/05	07/15/05	07/19/05	07/22/05	07/22/05	22	7	7	4	3	3 MMHNC	Weekend?
14		\$4,583.11	\$2,841.53	07/22/05	07/22/05	07/25/05	07/25/05	07/25/05	3	3	3	3	0	0 DISMISS	Frivolous
15		\$10,227.75	\$6,341.21	07/10/05	07/18/05	07/20/05	07/25/05	07/26/05	16	8	7	2	5	5 CC	Disabled?
16		\$7,575.80	Pending	07/17/05	07/27/05	07/27/05	07/29/05	08/01/05	15	6	2	0	2	2 MSH	
17		\$0.00	\$0.00	07/28/05	07/28/05	07/29/05	08/02/05	08/04/05	7	7	5	1	4	4 MSH	Trans Delay
18		\$8,470.30	\$5,251.59	07/27/05	07/28/05	08/01/05	08/03/05	08/03/05	7	6	6	4	2	2 CC	
19		\$0.00	\$0.00	07/21/05	07/21/05	07/29/05	08/05/05	08/05/05	15	15	15	1	7	7 Courtesy	Stillwater
20		\$100.00	Pending	07/27/05	07/27/05	07/28/05	08/08/05	08/08/05	12	12	12	1	5	5 MSH	2nd Opinion
21		\$0.00	\$0.00	08/02/05	08/02/05	08/05/05	08/10/05	08/10/05	8	8	8	3	5	5 MSH	
22		\$0.00	\$0.00	08/02/05	08/02/05	08/03/05	08/04/05	08/04/05	2	2	2	1	1	1???????	
23		\$0.00	\$0.00	08/03/05	08/03/05	08/04/05	08/10/05	08/10/05	7	7	7	1	6	6 CC	?
24		\$8,803.68	\$545.28	08/05/05	08/05/05	08/08/05	08/12/05	08/12/05	7	7	7	3	4	4 CC	
25		\$0.00	\$0.00	08/03/05	08/05/05	08/08/05	08/15/05	08/15/05	12	10	10	3	7	7 Courtesy	Carbon
26		\$8,389.00	Pending	08/10/05	08/10/05	08/11/05	08/15/05	08/15/05	5	5	5	1	4	4 MSH	
27		\$180.47	\$0.00	08/16/05	08/16/05	08/17/05	08/17/05	08/26/05	10	10	1	1	0	0 DISMISS	
28		\$320.29	Pending	08/24/05	08/24/05	08/24/05	08/25/05	08/26/05	2	2	1	0	1	1 DISMISS	
29		\$9,217.30	\$5,714.73	08/21/05	08/23/05	08/24/05	08/29/05	08/29/05	8	6	8	1	5	5 CC	
30		\$8,078.88	\$5,008.91	08/25/05	08/26/05	08/29/05	08/31/05	09/01/05	7	6	5	3	2	2 CC	
31		\$0.00	\$0.00	09/12/05	09/12/05	09/13/05	09/16/05	09/16/05	4	4	4	1	3	3 MSH	
32		\$0.00	\$0.00	09/12/05	09/12/05	09/13/05	09/16/05	09/16/05	4	4	4	1	3	3 CC	
33		\$0.00	\$0.00	09/16/05	09/16/05	09/20/05	09/23/05	09/23/05	7	7	7	4	3	3 Courtesy	Sweetgrass
34		\$11,017.66	\$6,830.95	09/18/05	09/18/05	09/20/05	09/22/05	09/26/05	8	8	4	2	2	2 MSH	
35		\$0.00	\$0.00	09/12/05	09/20/05	09/22/05	09/27/05	09/27/05	15	7	7	2	5	5 DISMISS	
36		\$0.00	\$0.00	09/21/05	09/21/05	09/23/05	10/03/05	10/03/05	12	12	12	2	10	10 MSH	
37		\$8,693.52	Pending	09/24/05	09/28/05	09/28/05	10/04/05	10/28/05	32	30	8	2	6	6 CC	
38		\$0.00	\$0.00	09/26/05	09/26/05	09/29/05	10/03/05	10/03/05	7	7	7	3	4	4 CC	
39		\$0.00	\$0.00	09/27/05	09/27/05	09/30/05	10/05/05	10/05/05	9	9	9	3	6	6 MSH	
40		\$7,368.00	Pending	09/29/05	09/30/05	10/03/05	10/04/05	10/06/05	7	6	4	3	1	1 MSH	

#19 - Private attorney

#20,36,47 - Securing second opinion

#1,37,39,55,60,69 - Weekends

#50 - dialysis patient - agreed to State Hospital but State Hospital would not accept him and the care facility would not allow patient's return