

OFFICE OF THE STATE PUBLIC DEFENDER



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April 13, 2012

TO: Montana Public Defender Commission

FROM: Eric Olson, Training Coordinator

RE: Training Report

Standards Verification completed: As of the verification follow-up target date (March 31, 2012) 114 additional staff attorneys and 59 contract attorneys had verified familiarity with the OPD standards relevant to their areas of practice. This represents a verification rate of close to 100 % for staff attorneys but only about 34 % for contract attorneys. Regional deputies have been provided with the names of staff attorneys who have verified. The contract manager has been provided with the names of contract attorneys who have verified.

Attorneys not verifying will be contacted by regional deputies or the contract manager and requested to complete the verification process by April 20, 2012. The next round of computer based verification instruments will be posted on or before May 1, 2012 for verification by June 30, 2012.

Leadership V (follow-up): Following the December 8-9, 2011 leadership conference all regional deputies and managing attorneys were requested to conduct a post-conference staff meeting and to provide confirmation of completion to the training office so further follow-up could be conducted by the chief public defender and his leadership training team. As of March 31, 2012, central office and three regional deputies had responded. The training coordinator and the new chief public defender met on March 29 to discuss how to promote more efficient follow up. After receiving suggestions from the leadership conference facilitator, the training office is following up with local offices in an attempt to complete the task. Once full compliance has been obtained leadership training will resume in preparation for the next system-wide leadership conference (Leadership VI), the date of which has not yet been set.

Dynamic Defender Development Group: The Dynamic Defender Development Group, established by the Interim Chief Public Defender at the Fairmont leadership conference, met for one day in the Central Services conference room in Butte on March 29, 2012. The group is comprised of Chief Public Defender Bill Hooks, Chief Appellate Defender Joslyn Hunt, Training Coordinator Eric Olson, Peter Ohman and Anne DeWolf (Bozeman), Dan Minnis (Havre), Doug Day (Lewistown), Katie Green (Missoula), Matt McKittrick (Great Falls), and Nick Aemisegger (Kalispell). At the meeting

the group worked on: (1) updating the legal resources within the OPD Brief Bank; (2) reviewing and posting standards verification instruments; and (3) developing and discussing innovative and dynamic ways of improving delivery of public defender services. The meeting agenda is attached to this memo (Attachment "A").

IQ training: Marsha Parr has completed system-wide training on the IQ determination process. OPD offices now have designated IQ specialists and are employing a uniform and consistent method of determining eligibility. The list of designated IQ specialists is attached to this memo (Attachment "B").

Boot Camp: The OPD conducted its annual boot camp trial skills training program during the week of February 21-24, 2012. Utilizing facilities provided by the University of Montana Law School and the Missoula County District Court, twenty-four staff attorneys received an opportunity to engage in intensive and individualized courtroom trial instruction. The program focused on cross examination and voir dire. During the voir dire portion of the agenda staff attorneys questioned a 20 person jury panel made up of volunteers from the law school, the street law program at Hellgate High School, and the local community.

The lead instructor for the program was Deja Vishny, a faculty member at the National College of Criminal Defense in Macon, Georgia and Director of Training for the Wisconsin State Public Defenders. Experienced OPD trial attorneys served as team instructors. Though he had not yet officially begun his tenure as chief public defender, Bill Hooks traveled to Missoula and welcomed the attorneys to the training event.

All staff attorneys hired by OPD since the date of the last boot camp (August 2010) were invited to attend. The list of participating attorneys and instructors (Attachment "C") and the program agenda (Attachment "D") are attached.

Standardized OPD Trial Notebook: Having requested and received direct input from OPD regional deputies the Training Department is in the process of finalizing the prototype for a standardized OPD criminal trial notebook (district court and courts of limited jurisdiction) for use by staff attorneys. The model will be ready for review and approval by the Chief Public Defender on or before May 1, 2012. Parties interested in contributing further ideas and resources should contact Eric Olson.

Standards of Practice for Children's Advocates in DN Cases: The OPD Training Office has completed the first draft of (a) Standards for Attorneys Appointed to Represent Children in DN Cases and (b) Standards for Attorneys Appointed to Represent Court Appointed Special Advocates / Guardians ad litem. Both drafts are under review by members of a subcommittee of the Montana DN Work Group and should be ready for presentation to the Public Defender Commission at its next regularly scheduled meeting.

The training department also projects that standards for attorneys appointed to represent CASAs and GALs representatives will be ready for review by the Commission at the same time.

Cultural communication: With the continuing assistance of facilitators from the National Coalition Building Institute in Missoula, the training department is preparing to conduct its fourth system-wide cultural communication workshop. (NCBI has been collaborating with OPD since 2007.) The title of this year's program will be: "Cultural Conceptions of Guilt and Innocence." Subject to meeting the challenges of geography and court-calendar conflicts, the workshop will be presented sometime between May 21 and June 8, 2012.

Youth Court Defender Meeting Staff attorneys regularly assigned to appear on behalf of youth in delinquency (youth court) matters met in Missoula on March 1, 2012. Attending were Bill Hooks, Joslyn Hunt, Eric Olson, Leta Womack (Region 1, Kalispell), Katie Green, Brian Yowell, and Stephanie DeBoer (Region 2, Missoula), Betty Carlson (Region 3, Great Falls), Anne-Marie Simeon (Region 9, Billings), as well as regional deputies from regions 6, 7, 10, and 11 (Havre, Lewistown, Glendive and Miles City). OPD Social Worker Jennifer Wilson (Region 2, Missoula) also attended. The agenda is attached (Attachment "E").

Desk Top Training: Development of a regular program of training, delivered to attorneys on their desktops, continues. The training department expects to deliver the first topic by July 1, 2012. Among the topics under active development are (1) Federal Consequences of State Criminal Convictions; (2) Procedures and Client Communication Issues Associated with Filing Appeals; (3) Protocols for Interviewing Children, and (4) Immigration Issues (Phase III). A survey posted on the OPD training page solicits suggestions from attorneys for training topics. (Go to http://www.surveymonkey.com/s/OPD_FY2013_TrainingSurvey)

Support Staff Annual Conference: The 2012 annual support staff conference is set for June 26-27 at the Colonial Red Lion Hotel in Helena.

Capital Case Litigation Training Conference II: Tentatively set for second week of July, 2012. To be held at the UM Law School.

Summer DUI workshop: Attorney Wendy Holton has agreed to assist the training department in setting up and conducting a comprehensive trial conference dealing with the topic of how to defend a DUI case. The confirmed conference site is Livingston and the proposed dates are July 25-27 or August 1-2, depending upon instructor availability.

OPD Investigator Annual Training Conference: Tentatively scheduled for August 29-30, 2012 at Fairmont.

7th Annual OPD Statewide Training Conference (Attorneys): The 2012 annual conference has been set for October 10-11 at the Billings Depot conference center. Featured programs will include "The Law of the Plea" and "Applying the Colorado Method of Jury Selection in Non-capital Cases."

Attachment A

DYNAMIC DEFENDER DEVELOPMENT GROUP STRATEGY SESSION (March 29, 2012)

People attending/invited

Team "A":

CPD (Bill Hooks)
Peter Ohman (Bozeman)
Katie Green (Missoula)

Team "B":

ADO (Joslyn Hunt)
Doug Day (Lewistown)
Anne DeWolf (Bozeman)

Team "C"

Nick Aemisegger (Kalispell)
Dan Minnis (Havre)
Matthew McKittrick (Great Falls)

AGENDA

- 8:00 AM – 8:15 AM: OPDBB (Group)
 - History of OPDBB
 - Tom Schoenleben will provide update on OPDBB, how it is organized, and where we are headed with it
- 8:15 AM – 10:00 AM: OPDBB (Teams)
 - Teams meet to review, update briefs, remove redundant or stale briefs
 - Briefs have been assigned to individuals and placed on CD for review
 - Note any areas of practice which have not been either partially or fully addressed in briefs
- 10:00 AM – 11:00 AM: OPDBB (Entire Group)
 - Discuss and develop "Latest Cases" tab (Koen's and Jennifer's weekly summaries)
 - Discuss and develop "Breaking News" tab
 - Discuss and develop "Instructions" tab
- 11:00 AM – 1:30 PM: Develop CBT-V instrument for next verification period (May 1 – June 30)
 - Team A: DC / DJ / CLJ / Federal consequences
 - Team B: DI / DG / DD / MH
 - Team C: DN / MRPC / Immigration

- 1:30 PM – 2:30 PM: Discussion of Ideas being utilized by other PD systems
 - Regional homicide units / or beefing up of MCU?
 - How can we redirect our focus to remind ourselves that it's about the clients
 - Incentives/awards to help allay burnout
 - Clear policy on removal of counsel from case
 - Collateral consequences resource bank
 - Using Skype (video) to save time and improve communications
 - Engaging the assistance of the private bar (Adopt-a-Case)
 - Client feedback / comprehension / satisfaction form
 - Rolling days off / flex scheduling ?
 - Forming alliances with pretrial services and other players in the criminal justice system
 - Aggressive initial stage bargaining / pretrial services paralegal?
 - Community Outreach / Know Your Rights workshops / regular media contact / legislative liaison efforts
 - Post social services phone numbers and conduct regular collaborative sessions
 - Is something like Miami-Dade's Early Release Unit viable for Montana?
 - Regular client communication facilitation/training sessions
 - How do we improve the visible image of the OPD to project competence and instill confidence?
 - How can we develop and implement the concept of disposition specialists?
 - Regular and recorded inter-(OPD)-office communication sessions

Attachment B

Indigence Determination Specialists

Region 1 Tara Winterrowd, Mary Roth

Region 2 Amanda Johnson

Region 3 Chris Kitch

Region 4 Sheena Broadwater

Region 5 Ann Allen

Region 6 Jamie Moore

Region 7 Gail Hikel

Region 8 Christine Thomas

Region 9 Loretta Hergett

Region 10 Ronda Hansen

Region 11 Linda Conard

Appellate Defender Sarah Braden

Indigence Determination Coordinator/Trainer Christine Thomas

Attachment C

BOOT CAMP ROSTER

Coordinator: Eric Olson (OPD Training Coordinator)

Guest instructor: Deja Vishny
Training Director, Wisconsin State Public Defenders
Faculty Member, National College of Criminal Defense (Macon, Ga.)

Team A

Instructors: Larry Lafountain (Great Falls)
Dave Stenerson (Interim Chief Public Defender)

Participants: Greg Rapkoch (Kalispell)
Bernadette O'Donnell (Billings)
Benjamin Williams (Billings)
Jona Lagerstrom (Butte)
Charity McLarty (Glendive)
Paul Neal (Great Falls – Contract Attorney)

Team B

Instructors: Steve Scott (Major Crimes)
Steve Eschenbacher (Polson)

Participants: Alex Jacobi (Billings)
Brook Baracker (Billings)
Abram Hardy (Lewistown)
Nicole Klein (Great Falls)
Kristina Lucero (Missoula)
Sheila Newman (Miles City)

Team C

Instructors: Randi Hood (Major Crimes)
Walter Hennessey (Butte)

Participants: David Maldonado (Billings)
Amanda Gordon (Kalispell)
Mark Frisbie (Great Falls)
Stephanie DeBoer (Hamilton)
Jillian Haynal (Kalispell)
Steve Williams (Helena)

Team D

Instructors: John Putikka (Kalispell)
Ed Sheehy (Central Services)

Participants: Andres Haladay (Helena)
Kelly Henkel (Missoula)
Ben Kolter (Kalispell)
Merry Marr (Billings)
Stephanie Mann (Havre)
Clark Matthews (Billings)

Attachment D

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

TUESDAY (February 21)

Registration (4:00 PM – 4:30 PM)

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

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

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

WEDNESDAY (February 22)

Wednesday sessions at UM Law School (Castles Center)

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

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

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

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

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

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

THURSDAY (February 23)

Thursday morning session at UM Law School (Castles Center)

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

Lunch: 11:00 AM – 12:30 P.M.

Thursday afternoon session (Courtroom – Missoula County Courthouse)

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

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

FRIDAY (February 24)

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

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

Adjournment: 2:00 PM

Attachment E

YOUTH DEFENDER STRATEGY SESSION

March 1, 2012

Regions attending/invited

Region 1 – Kalispell (Leta Womack)
Region 1 – Polson (Steve Eschenbacher)
Region 2 – Missoula (Dave Stenerson)
Region 2 – Hamilton (Carol Johns)
Region 3 (Betty Carlson)
Region 4 (Sam Haddon)
Region 5 (N/A)
Region 6 (Dan Minnis via t/c)
Region 7 (Doug Day via t/c)
Region 8 (Peter Ohman)
Region 9 (N/A)
Region 10 (N/A)
Region 11 (N/A)
MCU (N/A)
ADO (Joslyn Hunt)
CPD (Bill Hooks via t/c)

AGENDA

- The need for treating trauma in many of our clients
- Post-disposition follow-up particularly for Pine Hills placements
- ADO's policies regarding youth law issues and appeals
- Training issues
 - NACDL Juvenile Law Webcast Training: "Representing Juveniles in Adult Court" – March 6-7, 2012
 - 2012 NJDC Leadership Summit
 - OPDBB / Semi-annual verification in DJ Standards
- Developing an accredited internship for UM graduate school social workers focusing on youths
- Issues specifically pertaining to MT's youth court act – e.g. what process do other counties use when the prosecutor revokes a consent decree ... straight to disposition or does the case start anew; probable cause and detention hearings – rules of evidence apply
- Need for regular updating on youth probation and youth court policies around the state

- Update on sexual offender registration practices
- Case accounting (NJDC)
- Laura Reed's sentencing issue
- Youth probation fees (0 to \$50 to \$100)
- George's Juvenile Colloquies Project
 - Summary
 - The booklet
 - Implementation in Montana (?)
- JDAI progress report
 - White Paper
 - National Training Houston April 24-26
- *Matter of TML, 2012 MT 9*
 - Given the ruling from the Court should we file motions to close/terminate jurisdiction of youth court upon completion of the term of probation, commitment to the department, age 18, etc. depending upon the circumstances of the case?
- Kids under 18 who are getting lifetime convictions for DUIs, etc.
 - What can we do about this?
- Immigration consequences
- Wrap around services – Bob Peake
 - How do we keep ourselves educated about what resources and funding is available and how we can access it?
- Shackling
 - What is the situation around the state with this sensitive issue?
 - Do we need to communicate with YPO's and YCt judges about ensuring that it is addressed?
 - If so, what is the best approach?
 - Tom's research project

This will be a free flowing agenda, but the following items are designated to begin at approximately the times indicated because of our need to accommodate the individual speakers:

- 11:00 AM: Deb Matteucci
 - A plan to coordinate and train on a coordinated statewide basis
- Noon: Bill Hooks will join the conference and we will update him
- 1:30 – 2:00 PM: Ami Thurber (NCBI – Missoula)
 - The role language impairment plays in our clients' lives
 - Youth language/culture training

Office of the State Public Defender

FY 12 PLANNED
TRAINING PROGRAMS
 July 1, 2011-June 30, 2012

<u>Date of Training</u>	<u>Description of Training</u>	<u>Internal Personnel</u>		<u>External Personnel</u>		<u>Totals</u>
		<u>Attorney</u>	<u>Non-Attorney</u>	<u>Attorney</u>	<u>Non-Attorney</u>	
August 15 - 19, 2011	University of Montana Capital Training Initiative (Defense - Part	17	0	4		21
August 29-31, 2011	Investigator Training Conference (Butte)		19			19
September 2011	PACE University Public Defender Fellowship Program (UNLV Boyd School of Law plus week long placements in Miami and the Bronx)	2				2
October 12, 2011	NACC Child Welfare Specialist "Red Book" Training	7		11	26	44
October 12-13, 2011	OPD Statewide Training Conference (Whitefish)	104	3	28		135
	- Ethics Issues in Conflict Cases					0
	- Montana Supreme Court/US Supreme Court Case Law Update					0
	- Protecting the Record					0
	- Immigration law for Defenders II					0
	- DUI Practice Tips - DRE Evidence					0
	- Forensic Use of Neuropsychological Evaluations					0
	- Restitution Hearing Workshop					0
	- DOC Placement and Programming Policies					0
	- Issues in Courts of Limited Jurisdiction					0
	- Substance Abuse, Mental Illness, and the LAP					0
	- Understanding Psychological Tests					0
	- Science and Law of Eyewitness Evidence					0
	- Lessons and Practice Tips Gained from the Jury Insights Project					0
October 20-22, 2011	National Juvenile Defender Leadership Summit (Seattle)	2				2
November 4, 2011	Grizzly CLE	2		43	1	46
	- Tips and Techniques for Writing Effective Briefs					0
	- Understanding Montana's Marijuana Laws					0
	- Ethical Considerations in Representing Children					0
	- Jury Perspectives of the Trial Process					0
	- Substance Abuse, Mental Illness, and the LAP					0
	- Lawyers and Public Statements: Professional Responsibility Concerns					0

Office of the State Public Defender

FY 12 PLANNED
TRAINING PROGRAMS

July 1, 2011-June 30, 2012

<u>Date of Training</u>	<u>Description of Training</u>	<u>Internal Personnel</u>		<u>External Personnel</u>		<u>Totals</u>
		<u>Attorney</u>	<u>Non-Attorney</u>	<u>Attorney</u>	<u>Non-Attorney</u>	
November 2011	National Forensic Training Program (Austin, TX)	2				2
November 2011	NACDL Defending Drug Cases Seminar (Las Vegas)	1				1
November/December 2011	IT Training					0
December 2011	OPD Leadership V	23	6			29
February 21-24, 2012	OPD Boot Camp (Trial Skills Workshop)	22		1		23
March 1, 2012	DJ Defender Meeting	13	1			14
March 14-16, 2012	MtACDL Annual Conference (Chico Hot Springs)	7				7
Spring 2012	Mental Health Issues Training (Cooperative with DOC/DPHHS)					0
Spring 2012	IT Training					0
June 2012	Cultural Communications Workshop					0
June 26-27, 2012	OPD Support Staff Training Conference					0
FY 13 and Ongoing Training						
July 2012	University of Montana Capital Training Initiative (Defense - Part II)					
July 26-27, 2012	OPD DUI Conference					
Ongoing	New Employee Orientation					
Ongoing	Semi-annual Standards Verification (Dec. 31 , 2011 and June 30, 2011)					
Ongoing	Video/Computer Based					
	- Federal Consequences of State Criminal Convictions					
	- Child Sex Offenders					
	- OPD Brief Bank Update Training					
	- Immigration					
	- DUI Practice Update					
	- Civil Practice Quarterly Reviews					
TBD	Major Crimes/Trial Training Skills Workshop					
	Totals	202	29	87	27	345