

MONTANA PUBLIC DEFENDER COMMISSION

Conference Call Meeting

Public Location: Helena Regional Office
139 N. Last Chance Gulch, Helena MT 59601

June 4, 2012
MINUTES

Approved at the August 27, 2012 Meeting

Commissioners Present

Margaret Novak, Chester; Charles Petaja, Helena; Richard (Fritz) Gillespie, Helena; Ann Sherwood, Pablo; Alfred Avignone, Bozeman; Kenneth Olson, Great Falls; Majel Russell, Billings

Commissioners Absent

Christopher Daem, Billings; William Snell, Billings

Staff Members Present

William Hooks, Chief Public Defender; Wade Zolynski, Chief Appellate Defender; Larry Murphy, Contracts Manager; Kristina Neal, Conflicts Coordinator; Harry Freebourn, Administrative Director

Liaisons

Christopher Abbott, liaison for union attorneys

Interested Persons

Niki Zupanic, Public Policy Director, American Civil Liberties Union of Montana (ACLU); Ray Fanning, Assistant Professor, University of Montana School of Journalism.

1. Call to Order

The Montana Public Defender Commission meeting was called to order by Chairman Fritz Gillespie at 10:05 a.m.

2. Discussion: Draft Response to American University/American Civil Liberties Union of Montana Evaluations (*Action Item)

Chairman Gillespie invited comments from Commission members, especially corrections, additions, or suggested changes. The members complimented the Chair and thanked him for producing a very thoughtful and thorough document. Commissioner Sherwood suggested approaching the University of Montana School of Law to assist in producing the trial books. Commissioner Petaja said that the Strategic Planning Committee is still working on language addressing what happens when the system as a whole has reached a maximum caseload. Chairman Gillespie agreed that other than identifying a process for seeking a supplemental appropriation there is no mechanism in place to deal with maximum caseloads. He suggested looking at how other states are handling this issue, as well as entering into discussions with the State Bar, the Chief Justice, and others to develop solutions.

3. Public Comment

Assistant Appellate Defender Chase Rosario submitted written comment. She thanked Chairman Gillespie for his dedication and the immensity of his effort. She suggested a change to paragraph 114 regarding the nearly 40% turnover rate in the appellate office. She also asked that a sentence be added in paragraph 59 to state that based on Chief Appellate Defender Wade Zolynski's recent meeting with Chief Justice McGrath, the Chief Justice believes that the appellate office submits a high quality product and does not file frivolous appeals.

Chairman Gillespie invited oral public comment. Niki Zupanic, Public Policy Director for the ACLU said to add the ACLU to the long list of people who appreciate all of the time that went into the report.

Union attorney liaison Chris Abbott agreed that it is a thorough, evidence-based report and applauded the Chair for his hard work. He also said that it bears repeating that the agency and the Commission acknowledge that the American University (AU) and ACLU reports were intended to make the system better and that their efforts are appreciated. He asked Chairman Gillespie to consider changes to paragraphs 109-110 regarding retaliation; they are old concerns that are no longer at issue with new management.

Chief Zolynski was impressed with the staggering amount of detail in the report. In regard to paragraph 88, he said that the appellate office sends out weekly case updates on noteworthy cases, including decisions from the U.S. and Montana Supreme Courts. Following up on the earlier point raised by Commissioner Petaja, Chief Zolynski and Chief Public Defender Bill Hooks are gathering information from other parts of the country on case caps and refusing cases. Chairman Gillespie would like to have something definitive in place before the session begins so that he can testify on how OPD will respond when the maximum is reached.

4. Action Item: Modify/Approve Response

Commissioner Novak moved to issue Chairman Gillespie's response to the AU and ACLU evaluations on behalf of the full Commission, and to authorize the Chair and OPD staff to make minor corrections as needed prior to publishing the final document. Commissioner Olson seconded the motion. Chairman Gillespie, with the Commission's approval, will revisit the paragraphs identified during public comment, and will update all of the footnote references to correspond to the ACLU's published report in the interest of eliminating confusion. There was no further discussion, and the motion carried unanimously by roll call vote.

5. Adjourn

The meeting adjourned at 11:00 a.m.