

OFFICE OF THE STATE PUBLIC DEFENDER



BRIAN SCHWEITZER
GOVERNOR

RANDI HOOD
CHIEF PUBLIC DEFENDER

STATE OF MONTANA

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www.publicdefender.mt.gov

44 WEST PARK STREET
BUTTE, MONTANA 59701

MEMORANDUM

TO: PUBLIC DEFENDER COMMISSION COMMITTEE MEMBERS
FROM: RANDI HOOD
RE: Agency Structural Team Progress

TEAM MEMBERS

Randi Hood, leader
Sherry Staedler
Doug Day
Roberta Drew
Ed Sheehy

AU RECOMMENDATIONS ASSIGNED TO THIS TEAM

PERSONNEL COMMITTEE

- #5** Reduce/eliminate minimum caseloads for managing attorneys
Commission undergoes process to set caseload limits
Agency implements Commission's limits
Maybe change law to delete caseload requirements
Commission explores ways to assess management effectiveness

Caseloads for managing attorneys are currently set by Policy 114

Caseloads for managing attorneys should not be eliminated

Working cases alongside line attorneys helps managing attorneys maintain credibility, assists in mentoring, and promotes ongoing assessment of attorneys

To eliminate caseloads of managing attorneys would adversely impact the system by removing from the courtroom the most experienced attorneys in the system

- #14** Emergency attorney on call 24/7
Commission has moved this to 2015
Agency to seek information on extent of problem

Develop a strategy to address the issue
Negotiate with union to implement strategy
Submit budget item

The team does not see a need or a real benefit to this recommendation at this time. The team agrees with the PDC that this should be deferral to a later time

- #15** Develop a plan to deal with case overloads
Due to lack of attorneys or funding
Develop a strategy with the LMC
Develop reports to identify overloads
Assess impact of Major Crimes Unit on system
Write policy and/or procedure
Communicate policy and/or procedure to stakeholders

The team recommends continued work with the LMC on the Case Weighting system and recommends that the system become a part of policy which includes steps to report excess caseloads

The team believes that the solution to case overloads is ultimately provided by the contract lawyers

- #16** When caseloads are at a maximum level, OPD refuses cases
Develop a strategy with the LMC
Write policy and/or procedure
Communicate policy and/or procedure to stakeholders

Again, the team believes the LMC work on the CWS, and subsequent Policy, will deal with this issue

Contract attorneys would be available to relieve caseloads.

- #21** Remove fear of retaliation for noting agency problems
Consult with LMC about how to locate problem areas
Develop policy and/or procedure to address issue
Communicate decision at annual meeting
Explore other agencies' policies

Prepare a memo or letter to go to each employee of the OPD setting out the state and federal policy against retaliation. The memo or letter would fully endorse those policies and be signed by every manager in the agency. It would also set out the union and state grievance remedies available to anyone who feels retaliated against

- #24** Commission to challenge staff to promote new options
Identify the areas in which staff could promote new options
Staff responds
Rewards for ideas to save \$ or improve services

The team recommends adoption of Policy – Incentive Awards

- #25** Commission should select a secretary that reports to them
Develop a budget item
Write job description/interview/select secretary
Agency revisits/advises: admin/conflict resources

The team defers to the PDC on this recommendation

- #26** Commission should insist on definite lines of authority
Present org chart/reporting policy to commission
Job descriptions to all
Communicate to staff – e-mail/phone calls/web

**Job description have been given to every employee and the employees have been asked to signed off on receiving them.
A detailed organizational chart is on the website and the agency will e-mail employees reminding them of where to find the chart**

- #27** Commission to impose limitations on private practice
Lawyers in system

The team recommends adoption of Policy – Outside Employment which conforms to case law as set out in *State v. Wadsworth*, 275 Mont. 287 (1996)

- #28** Commission require a strategic plan for all regions
Develop format of plan and train regions
Regions develop plan

As part of the regional reports that are now being required of the Regional Deputy Public Defenders, they are required to set out their specific strategic plans for the delivery of services in their regions. The first report is due August 30th and quarterly thereafter

COLLECTIVE BARGAINING COMMITTEE

- #31** Investigator resources provided to misdemeanor cases
Provide commission current communication on issue
Establish policy/procedure to prioritize resource

**The team recommended and the agency adopted Policy – Staff Investigators
The team also developed the investigator request form referenced in the policy**

CONTRACTS COMMITTEE

- #13** Prohibit a contract attorney from taking a fee case that was originally an assigned case
Amend Standards and distribute to attorneys

**Proposed amendment to the Standards is attached hereto
Once the amendment is accepted by the PDC, it will be distributed to
all contract attorneys by e-mail**

LEGISLATIVE COMMITTEE

- #7** Separate Conflict Office reporting to the Commission
Gather input from all areas about problems/issues
Develop a strategy to address the issues
Identify resources necessary to support the strategy
Set a program/reporting/accounting/funding structure
Meet with Governor's Office, OBBP, Legislative staff
Submit legislation/budget items

The team defers consideration of this recommendation until the Supreme Court decision in *St Dennis*

After the decision, the team believes this recommendation should be forwarded to the legislature

As an interim solution, hire a ½ time FTE to be the Conflicts Coordinator and a ½ time assistant and place the supervision under the PDC

- #29** Commission evaluate statutory provision
Develop process/procedure for evaluation
Do evaluation
Identify areas of concern and how to correct
Undergo correction process

The team defers to the Commission on this recommendation

- #30** Commission and staff advocate value of agency to others
Chief on other boards and commissions
Commission/staff briefed on meetings

The Chief is currently on the Board of Crime Control and Council for Courts of Limited Jurisdiction

The Chief will, in the newsletter or by e-mail, report important happenings in those groups to the agency as a whole and report to PDC

BUDGET COMMITTEE

- #18** Establish a separate fund for emergency cases
Establish fund
Agency annual review of emergency fund reserve use
Appellate reports court decisions with agency impact
Agency reports on new legislation fiscal impact

The agency currently establishes a fund under the

Contract Manager to pay for unanticipated contract costs. The amount reserved in FY2010 was \$300,000. It ultimately was used for excess contract costs in the regions

The agency also establishes a fund under the Chief Public Defender for unanticipated costs In FY2010 the amount was \$100,000 which was ultimately used for our shortfall.

Because we are an agency with an annual budget, any reserves we maintain, if not spent within the year, revert to the general fund.

Our fall back positions for any extraordinary expenses remains the supplemental funding process before the legislature

Office of the State Public Defender Administrative Policies

Subject: Management Caseload Limitations	Policy No.: 114
Title: 47	Pages: 2
Section: 1-215(2)(h)	Last Review Date:
Effective Date: 4-23-10	Revision Date:

1.0 POLICY

Pursuant to Section 47-1-215(2)(h), MCA, the following policy sets maximum caseloads for Regional Deputy Public Defenders and the Chief Appellate Defender. The policy is intended to serve the requirements of managers to maintain a caseload alongside the attorneys they supervise, while also effectively managing their offices.

2.0 PROCEDURE

2.1 Maximum caseloads as are defined herein are intended to be strongly recommended while understanding that unusual circumstance in any office may make them unrealistic.

2.2 Maximum caseload limits are expressed in terms of hours per calendar year.

2.3 The maximum caseload limits for each Regional Deputy Public Defender are as follows:

- 2.3.1** Region 1 600 hours
- 2.3.2** Region 2 600 hours
- 2.3.3** Region 3 1000 hours
- 2.3.4** Region 4 1000 hours
- 2.3.5** Region 5 1000 hours
- 2.3.6** Region 6 1400 hours
- 2.3.7** Region 7 1400 hours
- 2.3.8** Region 8 1000 hours
- 2.3.9** Region 9 600 hours
- 2.3.10** Region 10 1400 hours
- 2.3.11** Region 11 1400 hours

2.4 The maximum caseload limit for the Chief Appellate Defender is 1000 hours.

2.5 The Chief Public Defender will monitor the caseloads of the Regional Deputy Public Defenders and the Chief Appellate Defender on a monthly basis, taking into consideration the following variables and any others relevant at the time:

- 2.5.1** Capabilities of the individual
- 2.5.2** Number of personnel supervised
- 2.5.3** Attorney vacancies
- 2.5.4** Management structure

- 2.5.5** Nature and status of cases being handled
- 2.5.6** Travel requirements
- 2.5.7** Extraordinary, temporary circumstances

3.0 CLOSING

Questions about this policy should be directed to OPD at the following address:

Office of the State Public Defender
Administrative Service Division
44 West Park
Butte, MT 59701

Phone 406-496-6080

Office of the State Public Defender Administrative Policies

Subject: Caseload Management	Policy No.: 117
Title: 47	Pages: 2
Section: 1-105	Last Review Date:
Effective Date: 10-1-07	Revision Date:

1.0 POLICY

- 1.1 A mission of the Office of the State Public Defender (OPD) is to insure that no attorney doing public defender work, either as an employee or as a contract attorney, has a workload of such an amount that clients are not being adequately represented and/or the wellbeing of the attorney is jeopardized.
- 1.2 The regional deputy public defenders and the managing attorneys in each public defender office are responsible for managing the workloads of the attorneys they supervise.

2.0 PROCEDURE

2.1 Contract Attorneys

Regional deputy public defenders will review the number of open cases that each contract public defender is carrying to ensure that the workload is manageable and will, at the time any new case is assigned, ascertain that the contract attorney has a workload that allows sufficient time to be devoted to the new case and client.

When a contract attorney's workload will not allow time to adequately represent a client, the client's case shall be assigned to another contract public defender. If another local contract attorney can not be found, the Chief Public Defender shall be so advised and assist in locating counsel for the client.

2.2 Employed Attorneys

Regional deputy public defenders and managing attorneys will discuss workload at least monthly with each employed public defender they supervise. When a public defender expresses a problem with his/her workload, the supervising attorney shall work with the public defender to alleviate the workload. The supervising attorney shall consider doing any of the following:

- A. discontinue assigning cases to the public defender for a specified time;
- B. discontinue assigning specific kinds of cases to the public defender for a specified time;
- C. assign other public defenders to assist on particular cases;
- D. assign extra staff or an investigator to assist on particular cases;
- E. reassign particular cases; and/or
- F. negotiate time off work for the public defender.

The supervising attorney shall consider any other solutions that the public defender suffering excessive caseload may have.

2.3 The regional deputy public defenders and managing attorneys shall keep the Chief Public Defender fully informed about workload problems expressed by the attorneys they manage. The Chief Public Defender shall report to the Public Defender Commission as workload problems arise.

3.0 CLOSING

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Office of the State Public Defender
Administrative Service Division
44 West Park
Butte, MT 59701
Phone 406-496-6080



Brian Schweitzer
Governor

OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

Chief Public Defender
Randi Hood

CASELOAD MANAGEMENT TOOL RULES

Including a Step by Step Process

*as developed and approved by
the Labor Management Committee*

Revised August 13, 2010

1. Every Regional Deputy Public Defender and Managing Attorney will receive this set of rules and instructions that explains how to use the caseload management tool and a form that will be used to track caseload. Every region will follow these rules and use this form.
2. The Regional Deputy Public Defender and/or Managing Attorney will assign and track cases by attorney for the office or region. If the Regional Deputy Public Defender or Managing Attorney is absent they will appoint a backup person who will be an attorney to assign and track cases. Every region will provide the Central Office with a list of those individuals that are approved to assign and track cases including all backup personnel.
3. Cases will be assigned daily and entered into the caseload management form. This information will be reported to the Central Office within 10 calendar days after the end of each month.
4. The form will have 12 months for each attorney and a sum of the activity for the 12 month period at the bottom of each column.
5. For a new attorney any month that does not have "actual information" for case assignments will have 12.5 units in place of the non-existent actual information. Therefore each attorney will begin with 150 units or case assignments (12 months times 12.5 units = 150).
6. This tool is monitoring case intake rather than open cases, therefore, there is no incentive for a staff attorney to keep cases open.
7. One case is any number of tickets or charges an individual received in a specific incident and assigned to one jurisdiction for adjudication (i.e.



Traffic stop results in a speeding ticket, criminal distribution of dangerous drugs and possession – if litigated in the same court – all one case).

8. When a staff attorney's annual case units reaches 150 annual units, the Regional Deputy Public Defender or Managing Attorney must meet with the staff attorney to discuss the attorney's entire caseload.
9. This tool is not a performance measure but is simply used to assess whether resources are being properly distributed and help assure that the agency is not exceeding ethical caseload limits.
10. The LMC agreed to value case units as follows:
 - A. Felonies are split into four groups:
 - i. Property crimes and offenses against public administration and order = 1.00
 - ii. Felony DUI or dangerous drugs = 1.50
 - iii. Crimes against persons (except homicide) = 2.00
 - iv. Homicide = 5.00

Trial Time: add 1.0 to the month when a trial occurs.

Units are assigned based upon the highest crime charged, and then additional units are added to the case as follows:

- v. Three or four charges, add 0.50
- vi. Five or more charges, add 1.00

See Attachment A.

- B. Misdemeanors are divided into two groups:
 - i. All city ordinance violations, disorderly conduct, obstructing, minor in possession and all traffic offenses except DUI/PerSe = 0.30
 - ii. DUI/PerSe and all crimes except disorderly conduct, obstructing and minor in possession = 0.70
 - iii. Cases comprised of five or more charges = 0.70

Trial Time: add 0.50 to the month when a trial occurs.

See Attachment A.

C. Petition to Revoke (PTR) = 0.50 units

D. Dependent and Neglect (DN) = 2.00 units (see note below)

Note: DN case weighting is based upon the cause number of the parent(s), not the number of children, and includes termination proceedings, so trial level preparation is necessary.

E. Guardianship (DG) = 0.50 units

F. Fugitive and out of county warrants = 0.25 units

G. Civil Commitments (DI) = 1.00 units

H. Juveniles

i. Felony = 1.00 units

ii. Misdemeanor or status offense = 0.50 units

I. Developmentally Disabled (DD) = 1.00 units

J. DUI Court (our involvement in these courts will terminate soon)
Treatment Court (??)

K. Travel Time = (applies to any type of case: civil, misd, felony, etc)

i. Add 0.50 to the case units assigned if a case is assigned outside the home region.

ii. Add 2.00 to the monthly units assigned for those who practice in courts located outside of the city where their office is located.

(example, practice in Whitefish Municipal Court, and I work out of the Kalispell office, add 2.0 to my monthly total)

11. Actual monthly case units will replace the 12.5 unit place holder and become part of the calculation of total annual units.

12. This is a “rolling month” process so the most recent actual information replaces the old information and the total is recalculated.

13. Special circumstances:

A. Warrants: If a case goes to warrant status, make no adjustments.

Similarly, if a case comes back from warrant status to active, make no

adjustments unless the case has been re-assigned to another attorney. (Generally, these cases will most likely return to the attorney's caseload within the year.)

- B. Conflicts: If a case is conflicted out of the office after it has been assigned, subtract the appropriate case units from the attorney to whom it was assigned. (Management retains discretion to leave the case credit on the original attorney's count if the case goes to conflict at a late stage after the attorney has worked the case for some time or if the attorney has expended significant hours.) Adjustments should be made in the month in which the transfer takes place, regardless of when the appointment was made (because spreadsheet focuses primarily on current workload it doesn't make sense to go back to previous months and make adjustments).
- C. Co-counsel: If an attorney is full co-counsel, give that attorney a full credit. If the attorney is a trial-only co-counsel, give the attorney one-half of the allotted unit credit.
- D. New hires: Backfill the total number of cases transferred to the attorney at 12.5 units per month beginning with the current month until all cases that have been transferred are accounted for. Backfill to fill out the year with 12.5.
- E. When a case is transferred from one attorney to another the case credit moves with the case (subtract from the original attorney, add to the new attorney). Adjustment should be made in the month in which the transfer takes place, unless more than 15 units are transferred in a given month. If more than 15 units are transferred in a given month, the transfer will be spread across the previous months until the total transfer is accounted for and the other preceding months reflect up to 15 units. Example: Step One: subtract the number of cases taken from that attorney (if any are taken away, an attorney might only receive cases)

Example:

Step One: attorney gives away 20 cases

Jan	Feb	Mar	Apr	May	Jun	
8	12	10	12	10	12	
				-8	-12	(subtract 20 cases)

8	12	10	12	2	0	(total after cases subtracted)

Step Two: add the cases received (gets 30 cases)

Jan	Feb	Mar	Apr	May	Jun	
8	12	10	12	2	0	
			+2	+13	+15	(add 30 cases)
<hr/>						
8	12	10	14	15	15	(total after cases added)

- F. This tool will be reviewed periodically and may be adjusted by the Labor Management Committee.

ATTACHMENT A

Misdemeanor:

0.3 units

-ALL Traffic Offenses (Title 61) (chapters 3,5, 6, 7, 8 9, 11, 13)
Except (DUI / PerSe – 61-8-401 and 61-8-406)

-Crimes (ONLY these three) Disorderly Conduct 45-8-101
Obstructing 45-7-302
Minor in Possession 45-5-624

-All City Ordinance Violations

0.7 units

-DUI / PerSe (Title 61) (DUI 61-8-401 and PerSe 61-8-406)

-Crimes (ALL Title 45) (chapters 2, 5, 6, 7, 8, 9, 10)
Except Disorderly Conduct 45-8-101
Obstructing 45-7-302
Minor in Possession 45-5-624

-If there are **5 or more charges** in one case

Add 0.5 to the month when a trial occurs.

Add 0.5 to the case total for appeals from Justice/Municipal/City court upon the appeal

Add 0.5 to the units assigned if the case is outside of the assigned region).

(Example: Kidnapping charged in Kalispell, but the attorney comes from Missoula = person crime + 0.5 for travel, assign 2.5.)

Assign the unit based on the highest crime charged, then no units for the other charges

EXAMPLES

1- Disorderly, DUI, and open container = 0.7

(because DUI is worth the most, don't count the others)

2- No insurance, obstructing, and driving while suspended = 0.3

(that's the highest unit for any one of them)

3- No insurance, obstructing, no DL, speeding, minor in possession, which goes to trial = 1.2

(even though all are in the 0.3 category, because there are 5 or more charges assign 0.7 + 0.5 because a trial occurred)

Felony:

1.0 units

- Property Crimes (45-6-101 – 45-6-341)
- Offenses Against Public Administration (45-7-101 – 45-7-501)
- Offenses Against Public Order (45-8-103 – 45-8-408)

1.5 units

- Dangerous Drugs (45-9-101 – 45-9-132)
- Felony DUI (61-8-401, 61-8-406)

2.0 units

- Offenses Against the Person (45-5-201 – 45-5-634)
Except Homicide charges

5.0 units

- Homicide (45-5-101 – 45-5-106)

Add 1.0 to the month when a trial occurs

Add 0.5 to the units assigned if there are 3 or 4 charges in the case

Add 1.0 to the units assigned if there are 5 or more charges in the case

Add 0.5 to the units assigned if the case is outside of the assigned region).

(Example: Kidnapping charged in Kalispell, but the attorney comes from Missoula – person crime + 0.5 for travel, assign 2.5.)

Inchoate Offenses (**Solicitation, Conspiracy, and Attempt**), assign units according to the underlying crime.

Example: attempted robbery, assign points for robbery, 45-5-401 = 2.0 units

Assign the units based on the highest crime charged, then look at the number of charges for extra points:

EXAMPLES

- 1- Possession of Dangerous Drugs, Stalking = 2.0
(since stalking is worth the most, don't assign points for PODD)
- 2- Criminal Mischief, Arson, Burglary = 1.5
(even though all are in the 1.0 category, add .5 since there are THREE charges)
- 3- Attempted negligent homicide = 5.0
(even though its attempted homicide, look at underlying charge of homicide)

Office of the State Public Defender

Administrative Policies

Subject: Incentive Awards	Policy No.: xxx
Title:	Pages: 4
Section:	Last Review Date:
Effective Date: 8-5-10	Revision Date:

1.0 POLICY

This policy establishes uniform guidelines for administering the employee incentive award program in the Office of the State Public Defender.

The incentive award program rewards documented outcomes and achievements approved by agency management for implementation.

2.0 PROCEDURE

2.1 Summary

2.1.1 An idea, innovation, suggestion, or prototype is submitted to management.

2.1.2 Management approves the idea, suggestion, innovation, or prototype for implementation after determining it will result in cost savings or improvements to agency operations.

2.1.3 The new idea, suggestion, innovation, or prototype realizes:

2.1.3.1 improved effectiveness or improved services without increasing the cost of operations,

2.1.3.2 measureable cost savings, and/or

2.1.3.3 achievements or outcomes eliminating or reducing the agency's expenditures.

2.1.4 The employee, group or team of employees, or non-employee is nominated for an incentive award.

2.1.5 The Chief Public Defender or designee grants the incentive award and determines its monetary value.

2.2 Eligibility

An employee, a group or team of employees, or a non-employee may receive an incentive award. They do not need to be employed by the agency benefiting from the achievement or outcome or granting the incentive award.

2.3 Nomination Submissions

2.3.1 After the idea, suggestion, or prototype has been approved and implemented by management, incentive award nominations may be submitted.

- 2.3.2** Nominations may come from current agency employees, employees of other state agencies and from non-employees.
- 2.3.3** Nominations for incentive awards are public information and available for review upon request. Requests should be directed to the Central Office, Human Resource Officer or by calling 406-496-6080.
- 2.3.4** Nominations for incentive awards may be submitted on the incentive award nomination form or in another written format. Nomination forms are available on the OPD website or from the Office of the State Public Defender Central Office, 44 W. Park, Butte, Montana 59701.
- 2.3.5** The nomination must include:
 - 2.3.5.1** Name, address, email, and telephone number of person(s) submitting the nomination for an incentive award.
 - 2.3.5.2** Name(s) of individual or group or team of employees nominated, if applicable.
 - 2.3.5.3** The date submitted.
 - 2.3.5.4** A description of how the outcome, achievement or savings exceeds normal expectations for the employee, or group or team of employees, or has an impact on the delivery of service to the public or other customer.
 - 2.3.5.5** The dollar value of the documented savings, including the method used to determine the value.
- 2.3.6** Submit nominations to the Central Office, attention Human Resource Officer, 44 W Park Butte, Montana 59701.

2.4 Incentive Award Committee

- 2.4.1** The incentive award committee is made up of three employees appointed by the Chief Public Defender.
- 2.4.2** The Chief Public Defender will appoint an incentive award program coordinator. This person serves as the chairperson of the incentive award committee. Other responsibilities include tracking nominations, promoting the program, notifying submitters of the status of proposals, arranging presentation ceremonies, obtaining monetary awards, publicizing awards to the agency and media, and preparing the annual award report listing the type and amount of awards the agency presented.

2.5 Nomination Review Process

- 2.5.1** The committee completes the initial evaluation of the nominations for incentive awards, reviewing each nomination received and

making the following non-binding recommendations to the Chief Public Defender:

2.5.1.1 Approval or disapproval of a nomination for an award, and

2.5.1.2 An appropriate value for a monetary or leave award.

2.5.2 The Chief Public Defender makes the final decision to grant incentive awards, and resolves any and all disputes related to granting incentive awards. If the award is to be divided between two or more people, the Chief Public Defender determines the amount each person is to receive.

2.6 Evaluation Criteria

The incentive award committee uses the following criteria to evaluate and prioritize the award nominations:

2.6.1 Evaluate the impact of the outcome, accomplishment or savings on delivery of services to the public or other customers.

2.6.2 Evaluate the outcome, accomplishment or savings in terms of how directly and to what degree they contribute to the agency's objectives, goals and mission.

2.6.3 Compare the outcome, accomplishment, or savings to what is normally expected from the employee, or group or team of employees, through the duties and responsibilities of their positions.

2.6.4 Determine if cost savings or cost avoidance results from activities that are highly original or creative involving innovative or novel approaches developed by the employee or by members of the group or team.

2.6.5 Determine if the results significantly exceed the level of effort or diligence normally expected from the employee's position(s).

2.6.6 Determine if the results required cooperative work efforts possible only through initiatives of group or team members that go above and beyond what is normally expected through existing work structure or organization.

2.7 Presentation of Awards

2.7.1 Once awards are approved by the Chief Public Defender, the incentive award program coordinator will process the awards and coordinate the presentation ceremony.

2.7.2 Incentive awards will be presented at least annually.

3.0 CROSS REFERENCE

Employee Incentive Program, Section 2-18-1101-1103, 1105-1107, MCA
Incentive Award Program, Section 2.21.6701-6703, 6708-6709 ARM

4.0 CLOSING

The Office of the State Public Defender will make reasonable accommodations for persons with disabilities who wish to participate in the Incentive Award Program. To request an accommodation, or for questions about this policy, contact OPD at the following address:

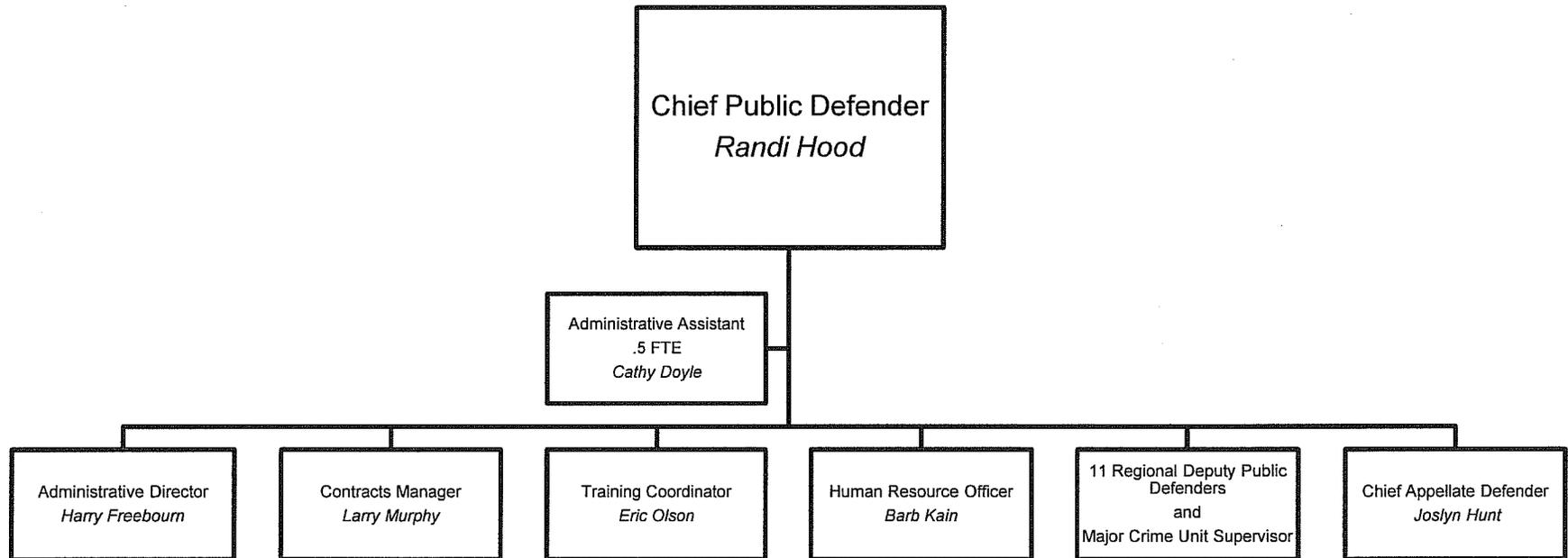
Office of the State Public Defender
Human Resource Officer
44 West Park
Butte, MT 59701
Phone 406-496-6080

OFFICE OF THE STATE PUBLIC DEFENDER

ORGANIZATIONAL CHART

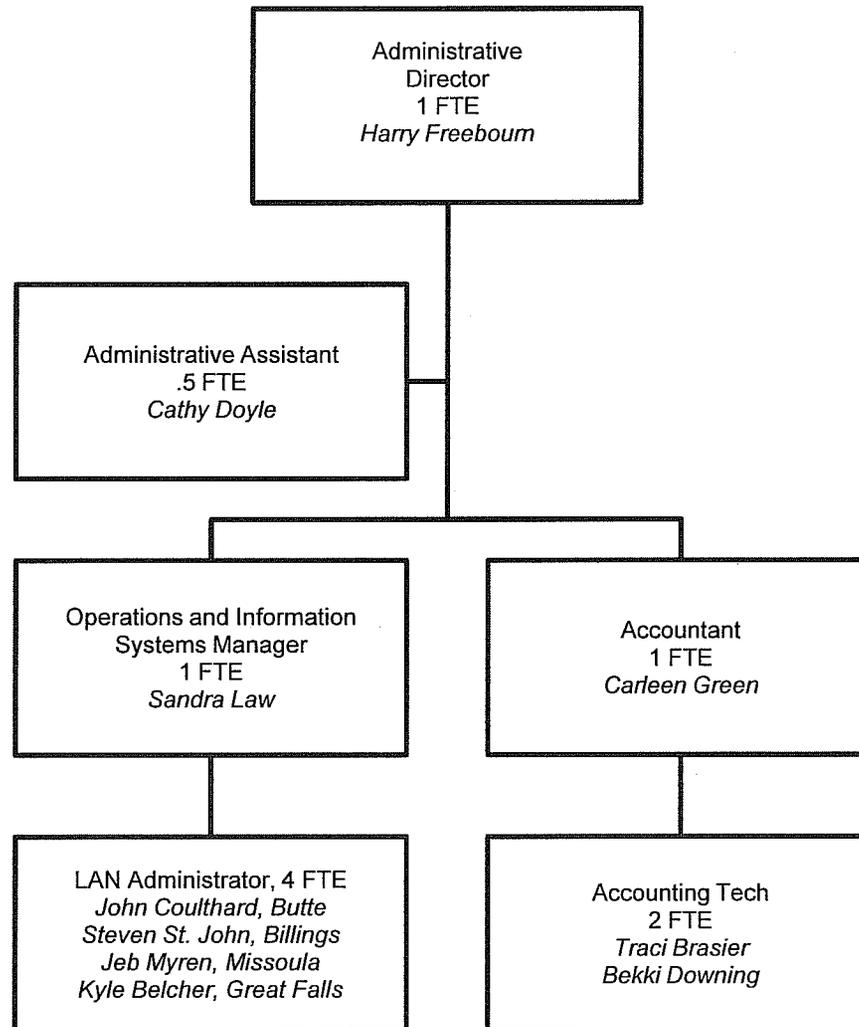
as of June 30, 2010

CHIEF PUBLIC DEFENDER – 1.5 FTE Butte Central Office

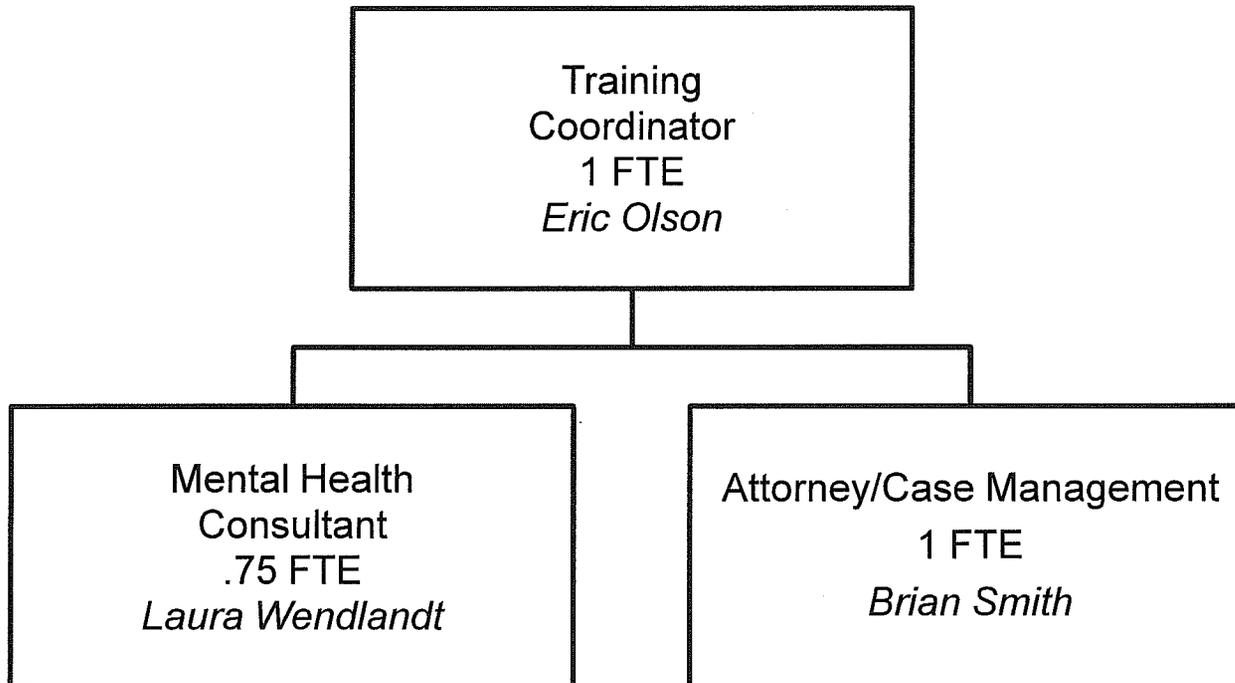


ADMINISTRATION – 9.5 FTE

Butte Central Office



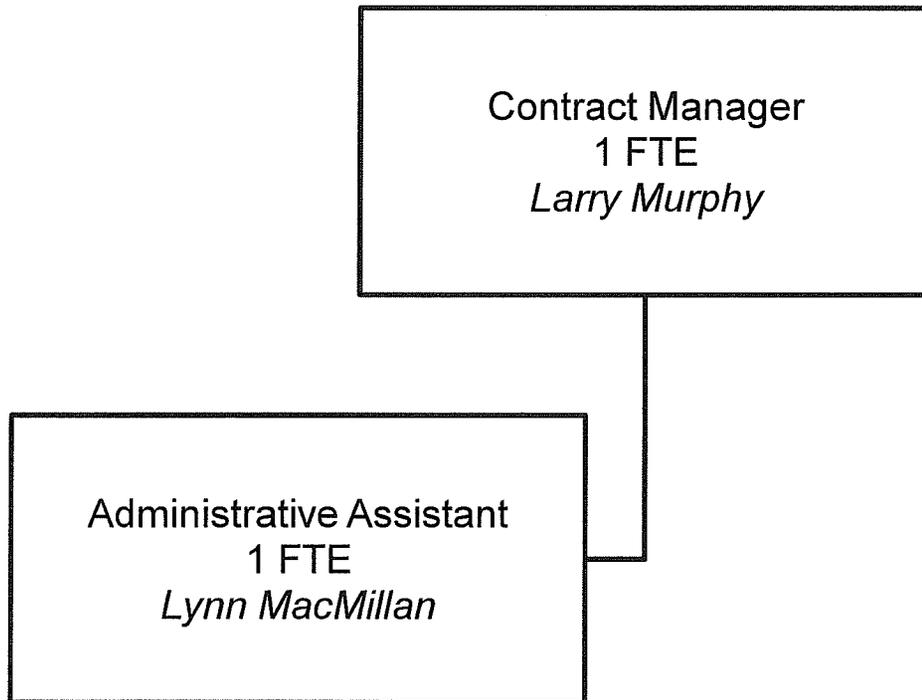
TRAINING COORDINATOR – 2.75 FTE
Butte Central Office



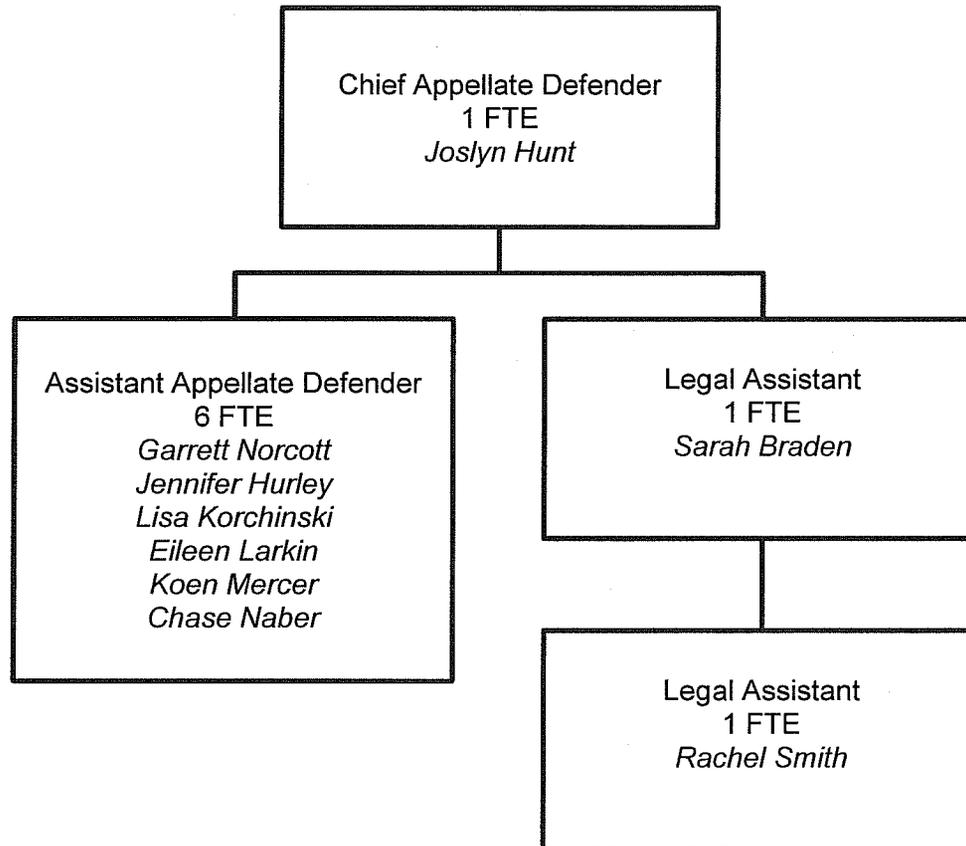
HUMAN RESOURCE OFFICER – 1 FTE
Butte Central Office

Human Resource Officer
1 FTE
Barb Kain

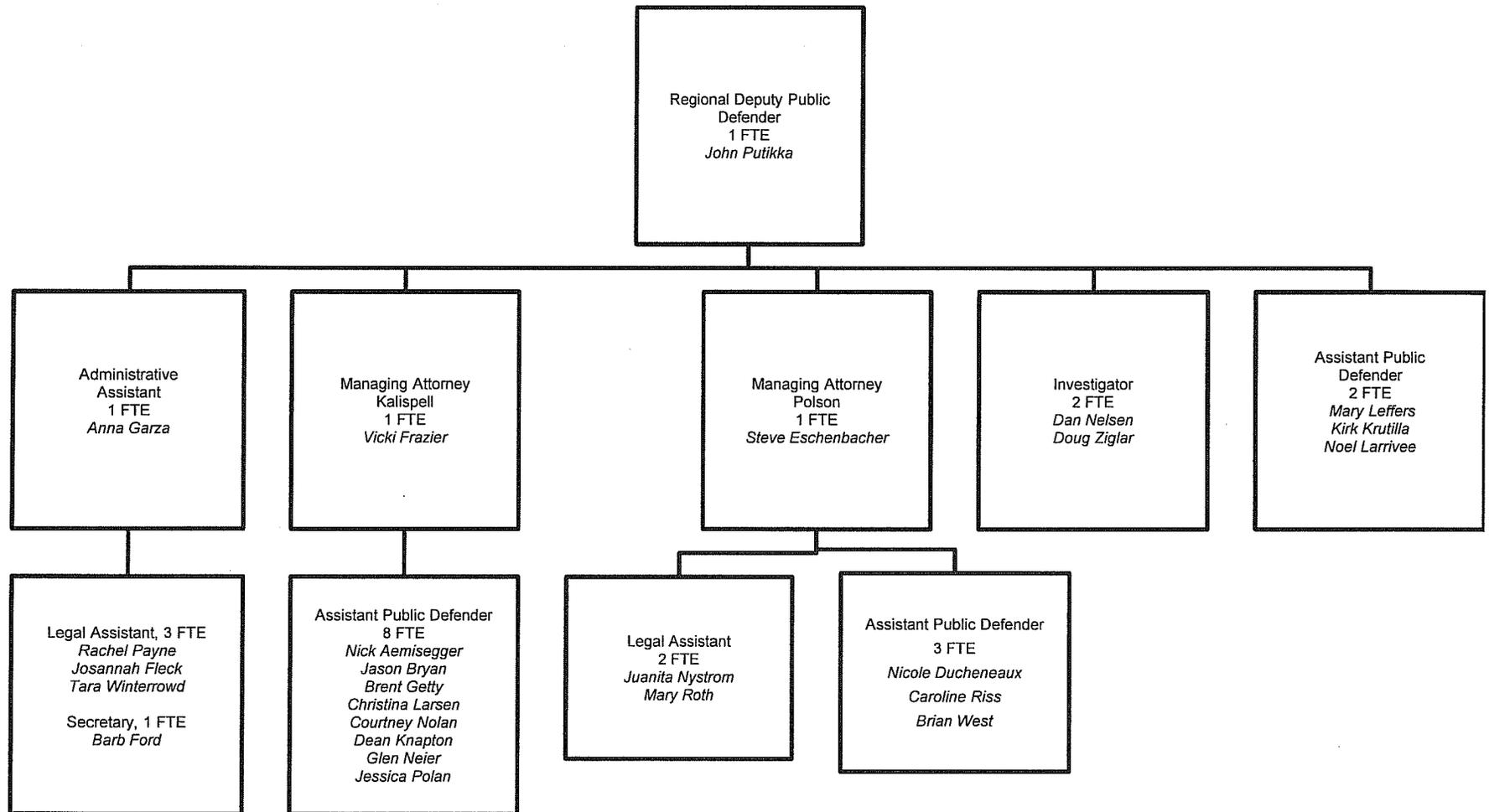
CONTRACT MANAGEMENT – 2 FTE
Butte Central Office



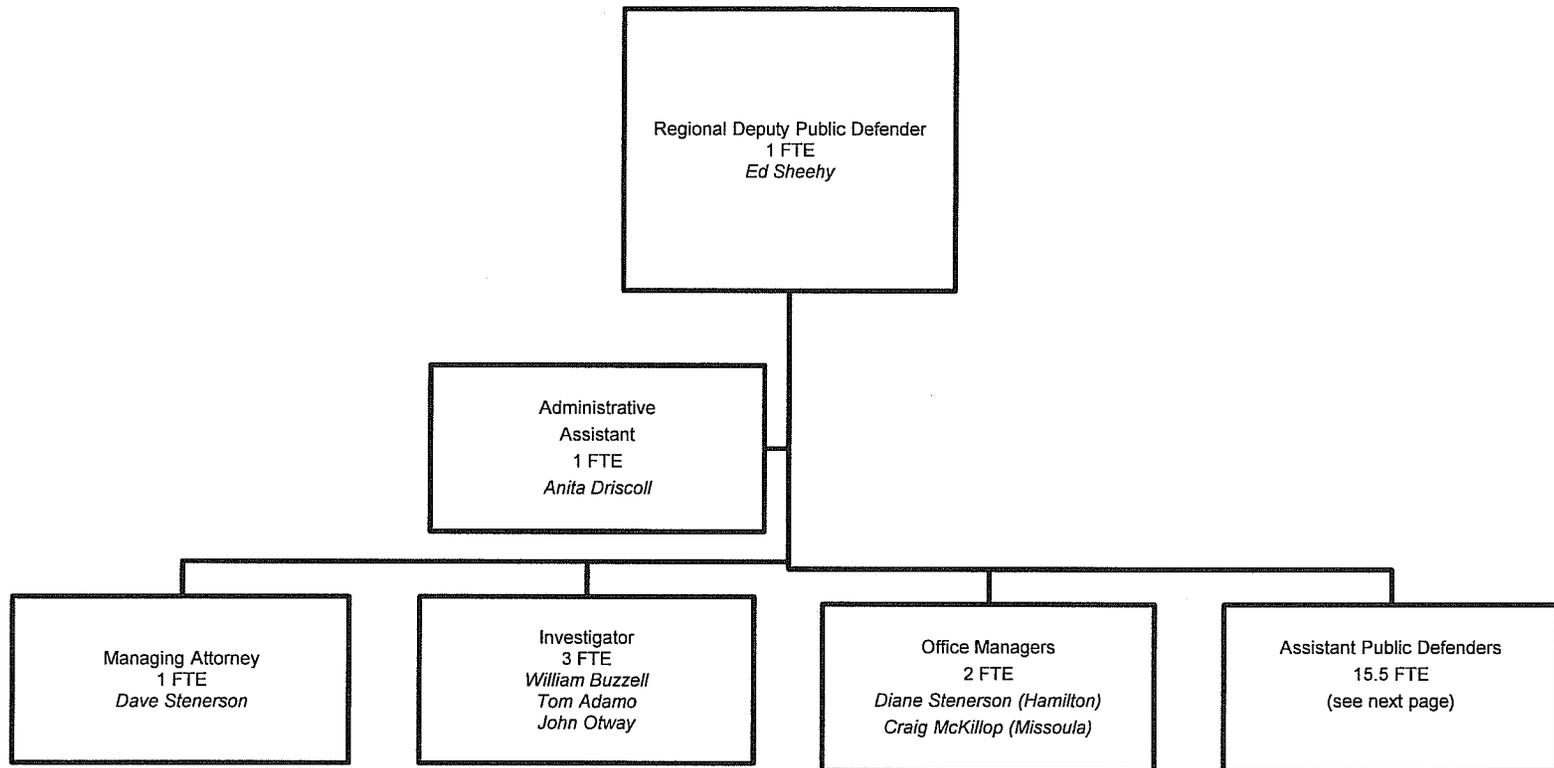
APPELLATE DEFENDER – 9 FTE Helena



REGION 1 – KALISPELL
25 FTE
Kalispell and Polson Offices



REGION 2 – MISSOULA
35.5 FTE
Includes Missoula and Hamilton



REGION 2

Missoula Public Defender Office

Office Manager
1 FTE
Craig McKillop

Legal Assistant, 4 FTE
Sandy Brunner
Malori Brinda
Angela Johnson
Amanda Johnson

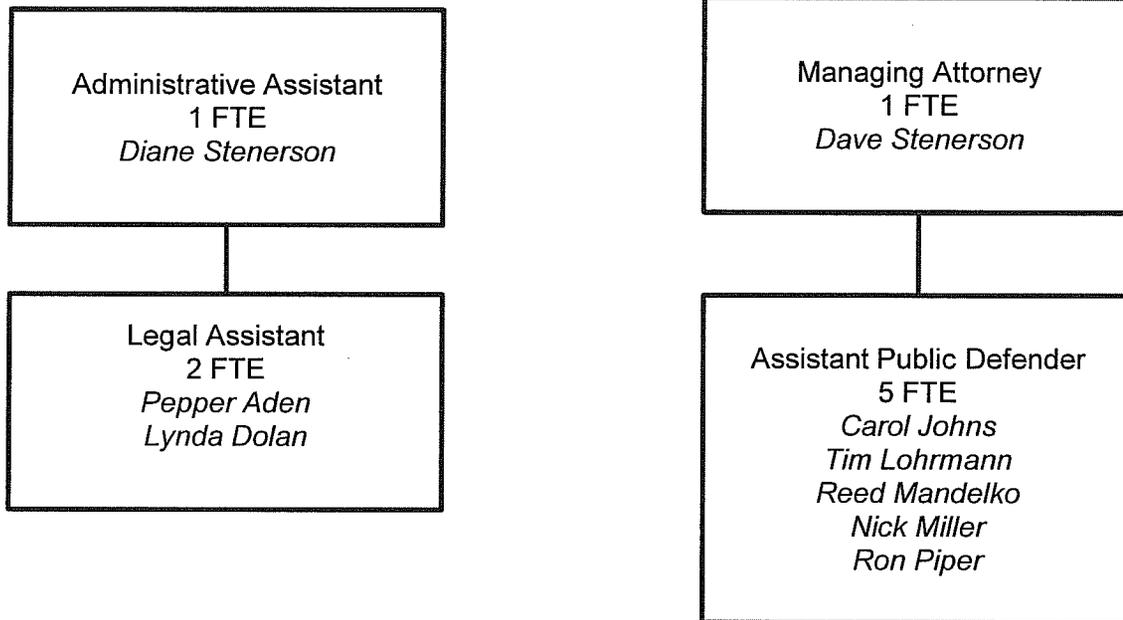
Secretary, 1 FTE
Virginia Custis

Regional Deputy Public Defender
1 FTE
Ed Sheehy

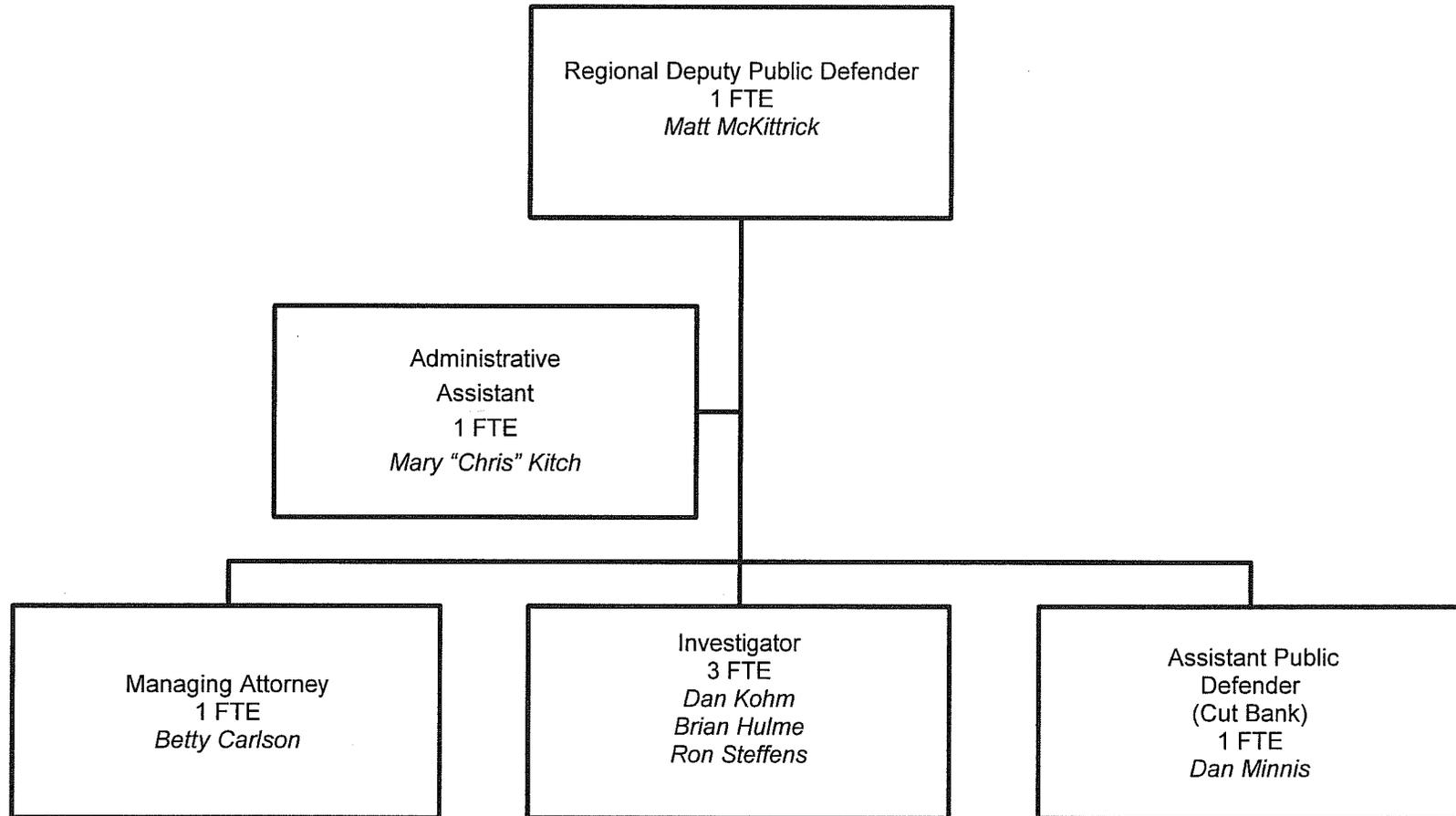
Assistant Public Defender
15.5 FTE
Susan Boyer
Joan Burbridge
Christopher Daly
Kimberly Deschene
Paulette Ferguson
Katie Green
Robert Henry
Greg Hood
Jordan Kilby
Kirk Krutilla
Russell Lafontaine
Eli Parker
Kelli Sather
Scott Shefloe
Myshell Uhl
Brian Yowell

REGION 2

Hamilton Public Defender Office

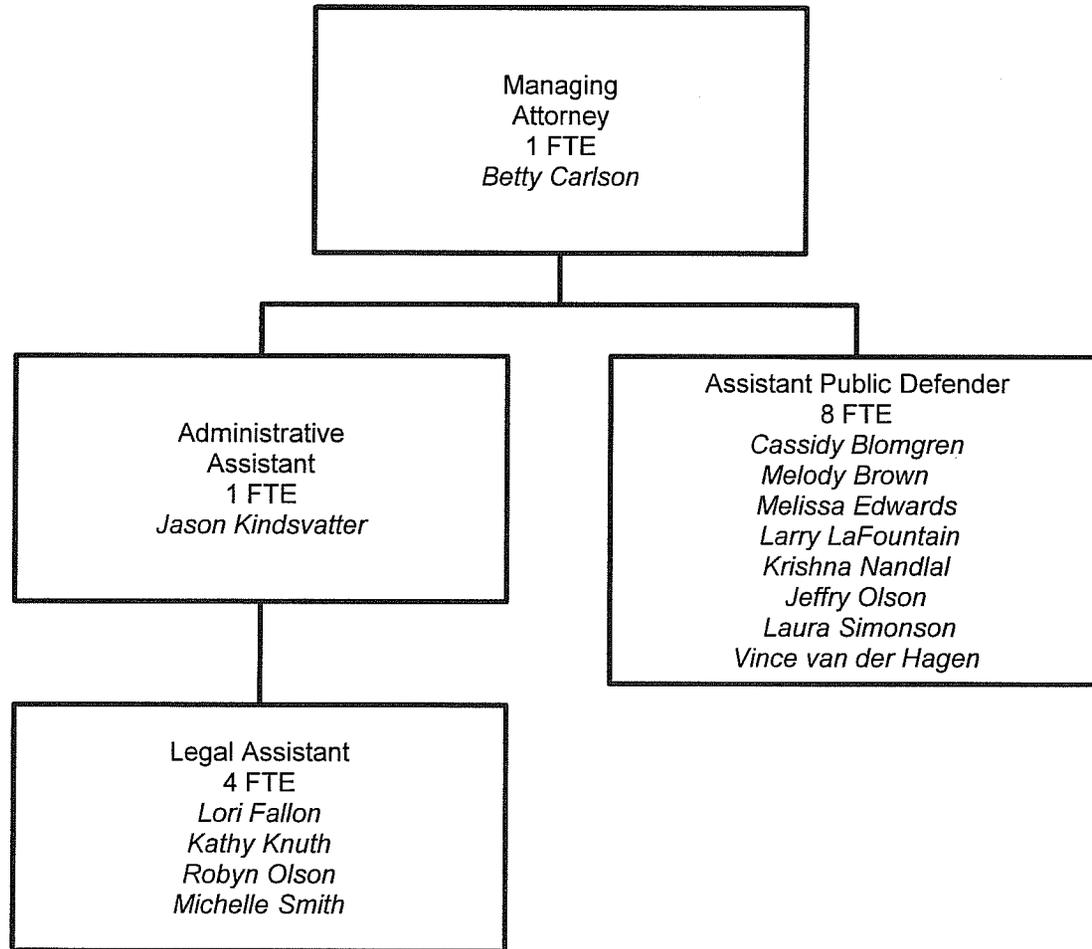


REGION 3 – GREAT FALLS
20 FTE
Regional Office



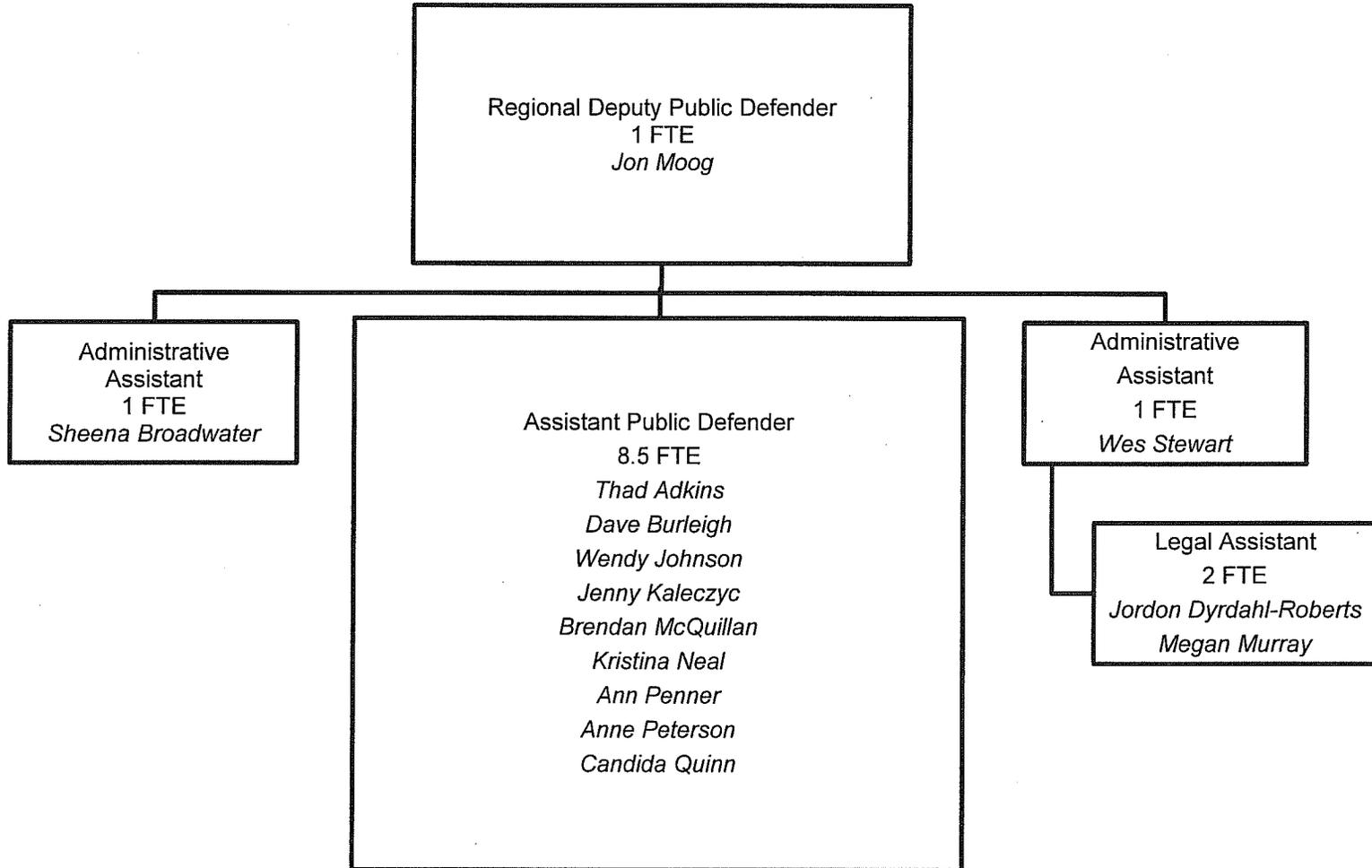
REGION 3

Great Falls Public Defender Office

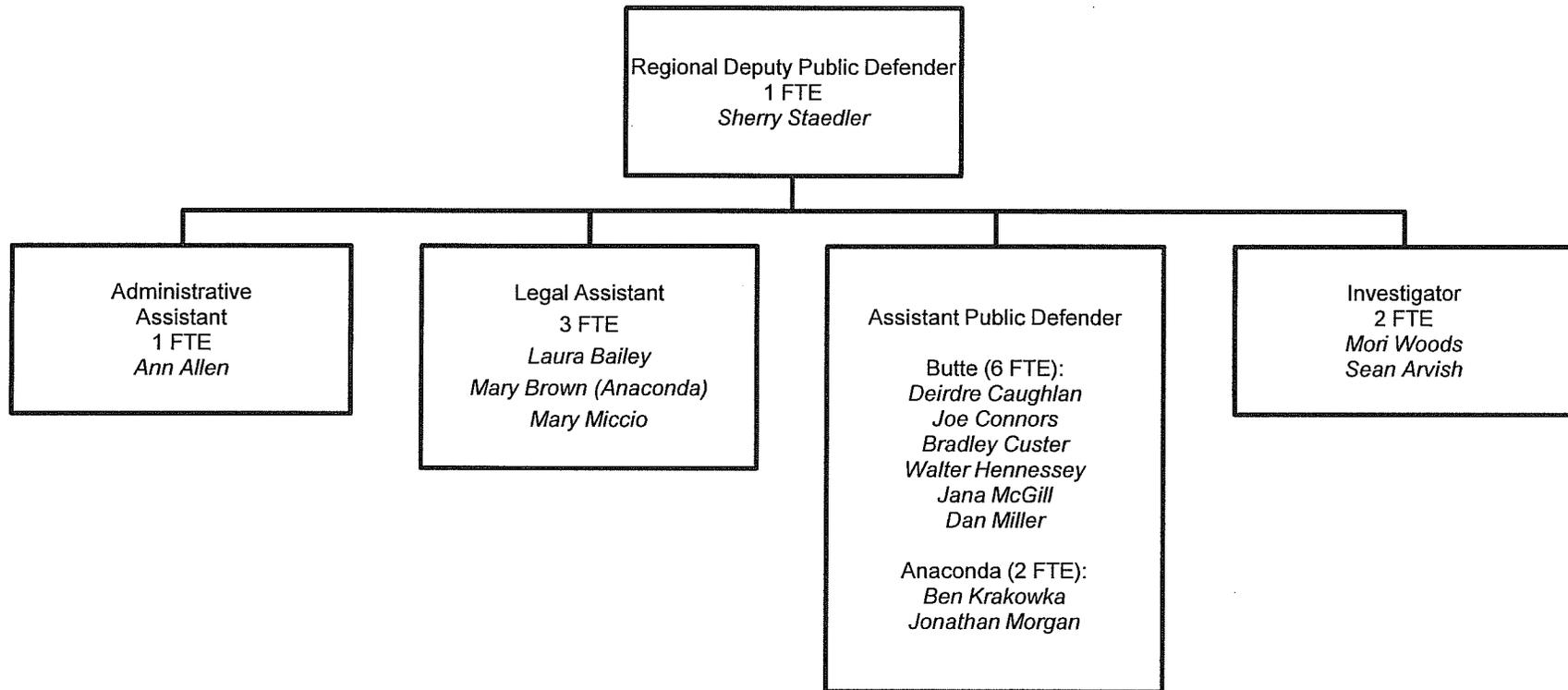


REGION 4 – HELENA

13.5 FTE

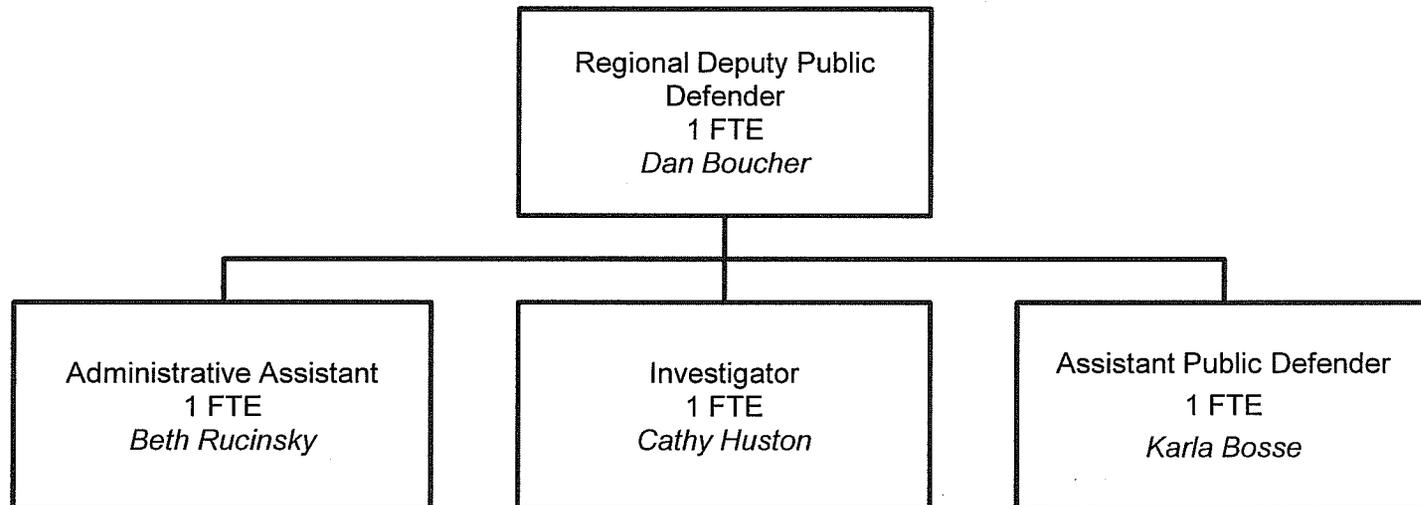


REGION 5 – BUTTE
15 FTE
Includes Butte and Anaconda

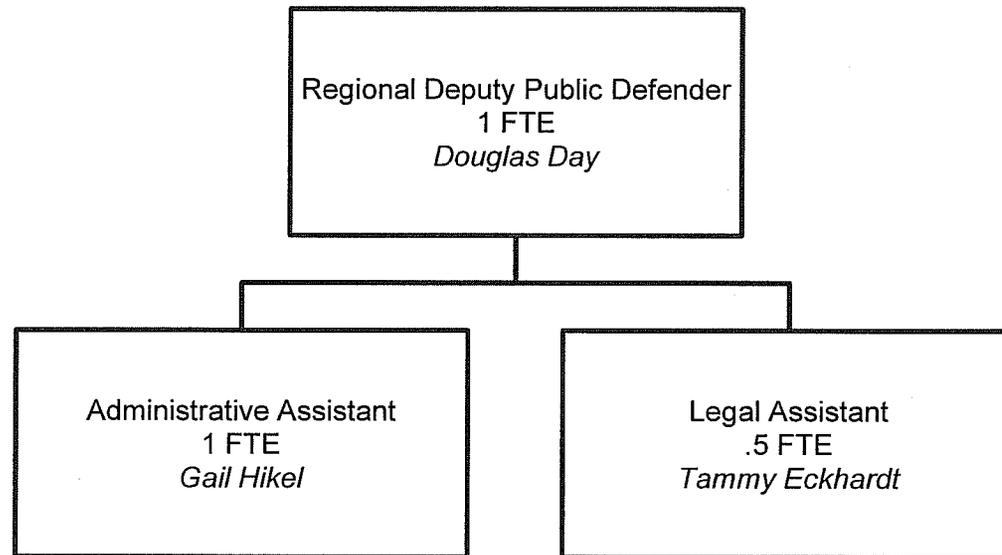


REGION 6 – HAVRE

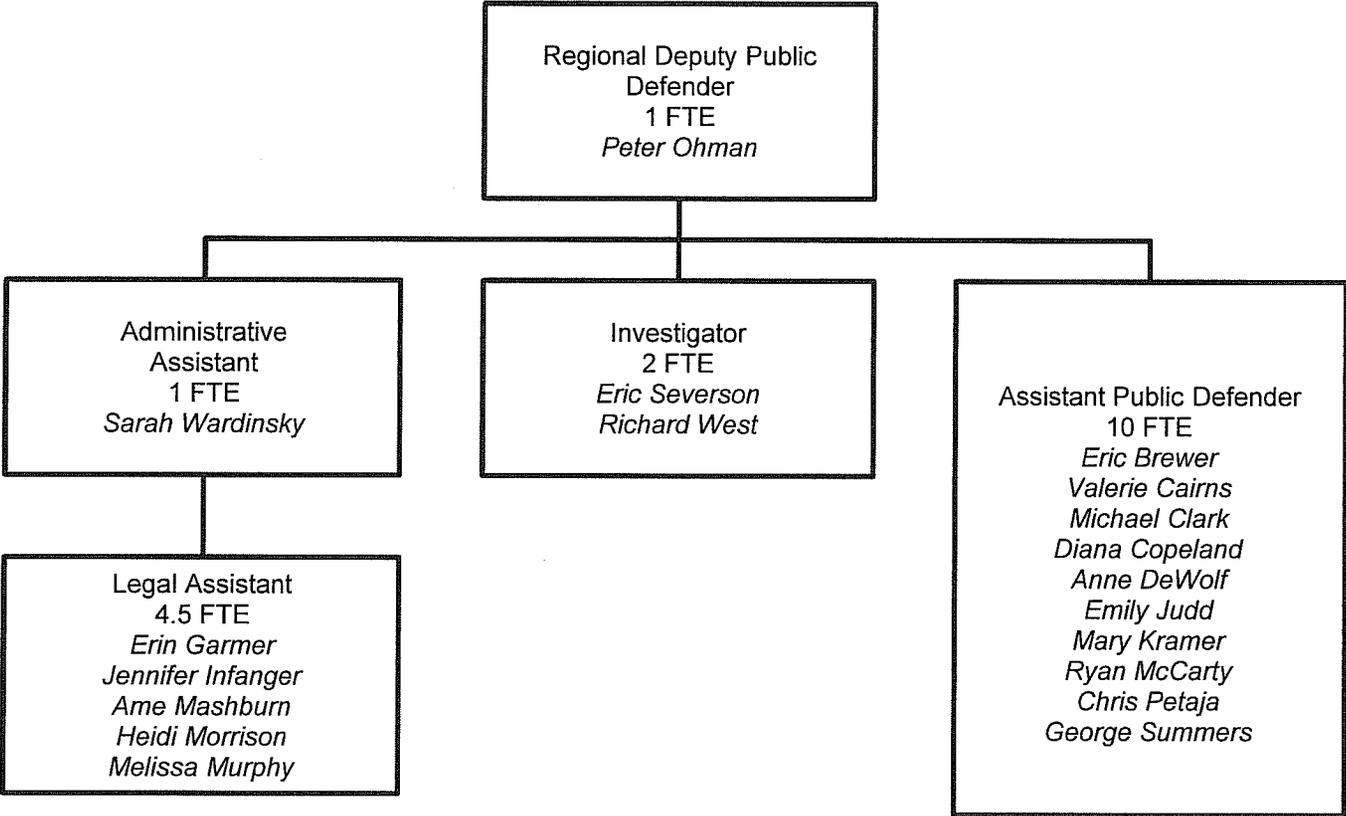
Regional Office – 4 FTE



REGION 7 – LEWISTOWN
Regional Office – 2.5 FTE

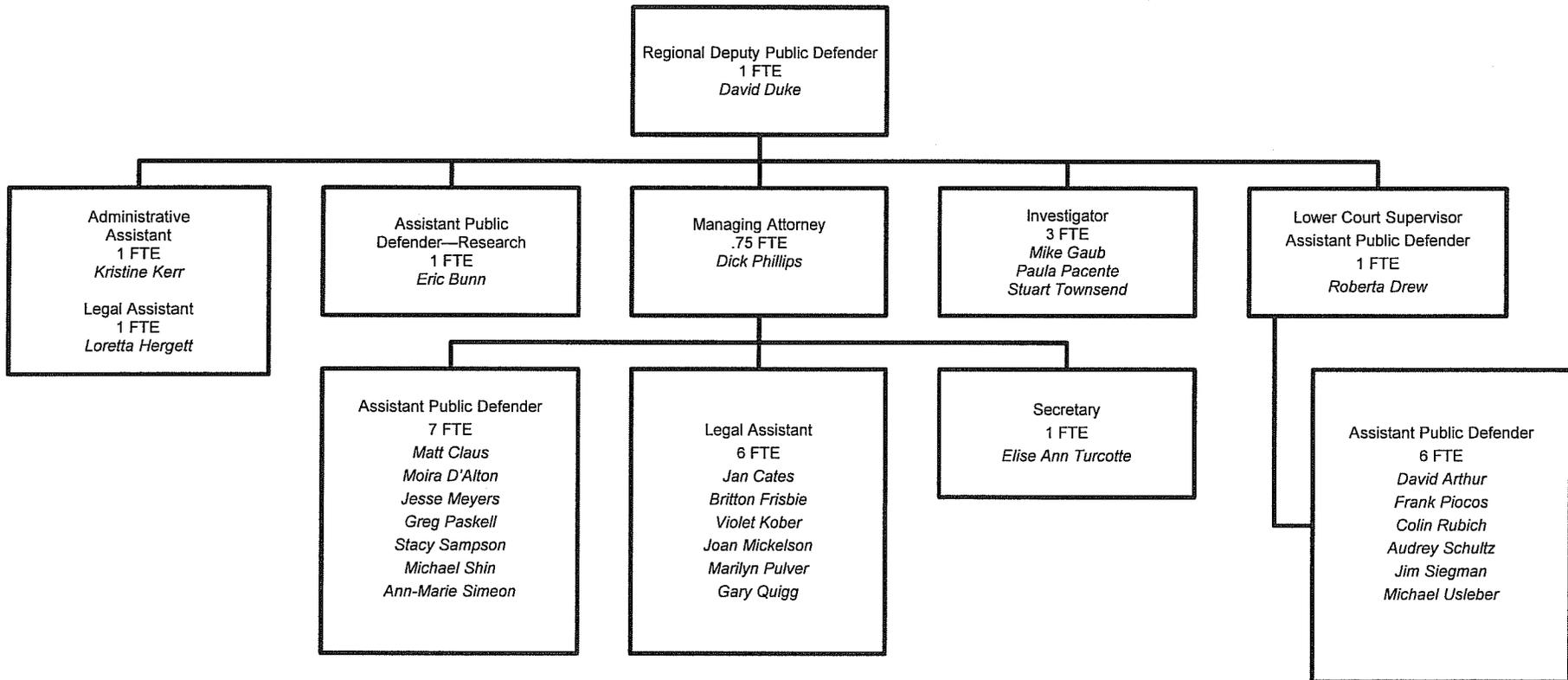


REGION 8 – BOZEMAN
18.5 FTE

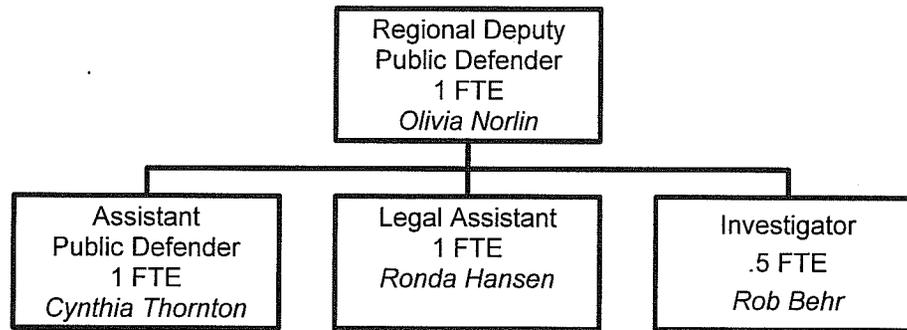


REGION 9 – BILLINGS

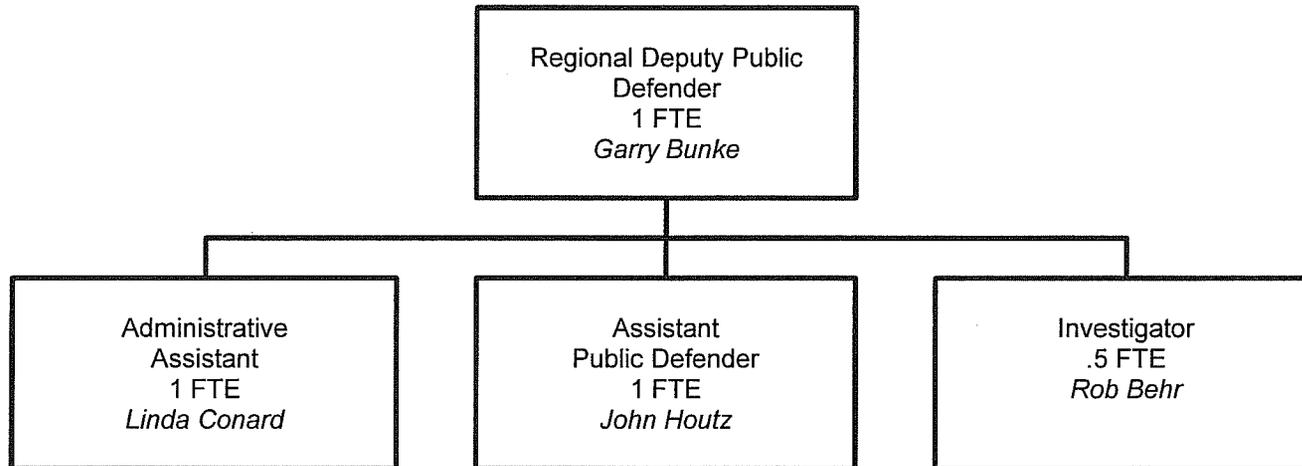
28.75 FTE



REGION 10 – GLENDIVE
3.5 FTE



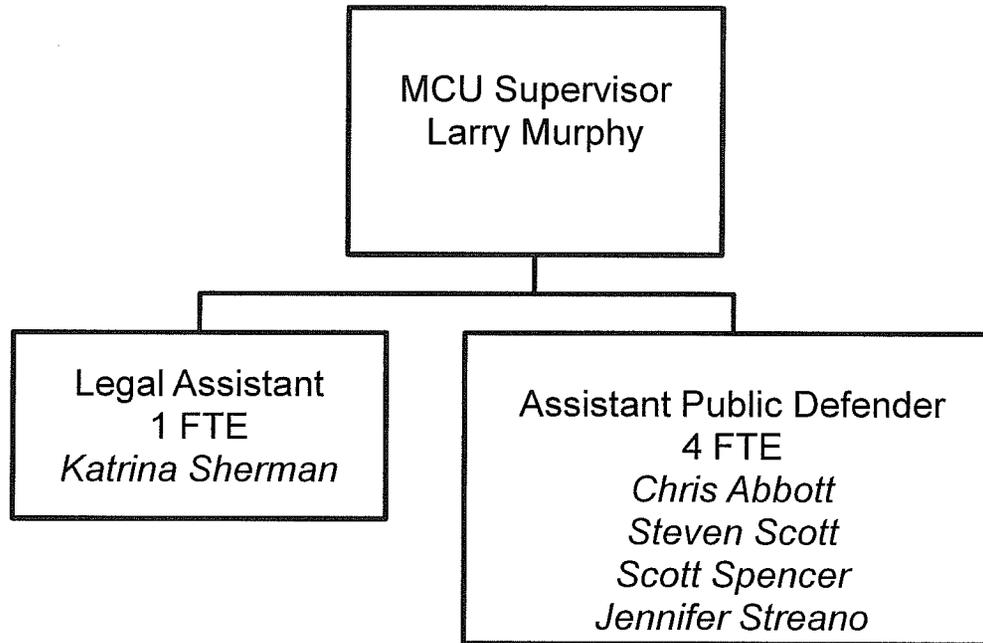
REGION 11 – MILES CITY
3.5 FTE



MAJOR CRIME UNIT

5 FTE

Helena



Office of the State Public Defender Administrative Policies

Subject: Outside Employment	Policy No.: xxx
Title:	Pages: 1
Section:	Last Review Date:
Effective Date: 8-17-10	Revision Date:

1.0 POLICY

- 1.1 In conformance with constitutional and case law, the Office of the State Public Defender (OPD) intends to limit outside employment by full-time employees to prevent conflict of interest situations or the clear appearance thereof.
- 1.2 Any employee engaged in outside employment must advise their regional deputy public defender or supervisor of the nature and details of their outside employment.

2.0 PUBLIC DEFENDERS

- 2.1 Full-time public defenders are restricted from the outside practice of law while on state time or with the use of any state property or resources, except as provided for in the Pro Bono Policy (OPD Policy 525).
- 2.2 Full-time public defenders may not take cases in the outside practice of law that would place the public defender in a conflict of interest situation as defined by Rules 1.7 and 1.8 of the Montana Rules of Professional Conduct.
- 2.3 A public defender engaged in the outside practice of law shall not enter into any agreements for representation with persons who have qualified for public defender services.

3.0 NON-ATTORNEY STAFF

- 3.1 Other OPD employees shall be restricted from outside employment if the outside employment creates a conflict of interest situation or the clear appearance thereof.

4.0 CLOSING

Questions about this policy should be directed to OPD at the following address:

Office of the State Public Defender
Administrative Service Division
44 West Park
Butte, MT 59701
Phone 406-496-6080

Office of the State Public Defender Administrative Policies

Subject: Staff Investigators	Policy No.: xxx
Title:	Pages: 2
Section:	Last Review Date:
Effective Date: 8-10-10	Revision Date:

1.0 POLICY

- 1.1 The Office of the State Public Defender (OPD) has full-time investigators, throughout the state. The number of investigators, however, is small and the caseloads are very high. To insure the best and most effective use of this limited resource, the following policy is adopted.
- 1.2 The regional deputy public defenders, managing attorneys and team leaders in each public defender office are responsible for managing the workloads of the investigators they supervise.

2.0 PRIORITY CASES

- 2.1 It shall be the priority of every OPD office that its full-time investigators work primarily on felony cases.
- 2.2 Investigators are not, however, prohibited from working on misdemeanor cases or civil cases.

3.0 PROCEDURES

The attorney seeking investigative assistance shall do the following:

- 3.1 Submit an investigator request and approval form to the Regional Deputy Public Defender, Managing Attorney or Team Leader for approval.
- 3.2 The request must set forth sufficient detail such that the supervisor can make a sufficient determination of the necessity for investigation.
- 3.3 The request does not need to include all available discovery.
- 3.4 The supervisor must discuss the request with the investigator or investigators, to determine if they have the necessary time to do the investigation sought.
- 3.5 An investigator may only begin working on a case, when an approved request, signed by the appropriate individual, has been received.
- 3.6 Each attorney, after obtaining an approved request, shall supply the investigator every piece of discovery received by that attorney from the inception of the case

and into the trial. The attorney shall not impede the investigator's ability to do their job thoroughly by deciding what items to provide to the investigator.

3.7 Exceptions to the prior approval requirement may be made in emergency situations where an attorney needs immediate photographs of an injured client in jail; photos of a crime scene as it is released by law enforcement; or, other such circumstance.

4.0 CLOSING

Questions about this policy should be directed to OPD at the following address:

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Administrative Service Division
44 West Park
Butte, MT 59701
Phone 406-496-6080

IV. ADMINISTRATION OF DEFENDER SERVICES

2. Delivery of Services

F. (page 19)

- F. Determination of indigence after initial representation by retained counsel.
- a. It is of primary importance to the members of the bar and to the public that a lawyer who undertakes representation of a client in criminal proceedings continues to represent the client at least through the trial stage of the proceedings, unless the continued representation would result in the violation of a disciplinary rule. Continuity of counsel in proceedings should be mandated in order to protect the rights of the client by avoiding, wherever possible, the adverse effect and possible prejudice to the client caused by an attorney's withdrawal.
 - b. The Office of the State Public Defender shall assign counsel to a client initially represented by retained counsel only after a written motion has been made by retained counsel.
 - c. If retained counsel has filed a written motion for a determination of indigence and to withdraw from the case no later than sixty days after counsel has either filed a notice of appearance or actually made a court appearance on behalf of the client, and not less than thirty days prior to trial or any evidentiary hearing, OPD, subject to a determination of indigence, shall assign new counsel to the client.
 - d. When retained counsel makes a written motion for a determination of the client's indigence at a time other than that set forth in paragraph (c), above, and the client meets the financial eligibility requirements for indigent services, OPD shall assign the moving counsel to provide legal services for the client.
 - e. If, upon motion by the Regional Public Defender's Office, a court determines that the foregoing practice has led to abuse by an attorney who has in the past repeatedly requested a determination of his client's indigence after undertaking representation as retained counsel, the court may order continued representation by that attorney without assignment by the public defender's office or cost to the public.
 - f. If contract counsel becomes aware of a client, who has been assigned to a contract attorney by OPD, having or acquiring sufficient funds to hire counsel, the contract counsel shall contact the Regional Deputy Public Defender and request a redetermination of indigency.
 - g. Contract counsel is prohibited from taking any fee from a client assigned by the OPD.