

To Whom It May Concern,

Before I joined the Office of State Public Defender team I was in the United States Air Force. Coming from such a structured military background with no lack of supervision and plenty of policies/guidelines to follow, I figured I would fit right in with OPD. I have now been with the OPD for four years as of October, two of which have been with the Major Crimes Unit. When I started with the Major Crimes Unit, we had a team of four Attorneys (including our Supervisor) and two Support Staff. Shortly after J. Thomas Bartleson was removed due to political spitefulness between Randi Hood and William Hooks, MCU has had no supervision what so ever. But now I find myself having to write a letter to explain why the Major Crimes Unit shouldn't be removed. I first ask both Mr. Hooks and Mr. Cruse do you even have the slightest idea exactly what this unit does? Yes, we have less cases than any other Regional Office, less attorneys, less support staff, but we travel all over the state. These attorneys handle cases that I believe most people wouldn't even know how to begin to handle. I invite anyone to sit by my side any day of the week and begin to understand what it is that I myself do as a team player to keep MCU afloat without supervision. Then maybe do the same with any of the MCU attorneys then make your determination if MCU is worth keeping.

A prime example of the lack of supervision is trying to get either Mr. Hooks or Peter Ohman to reply back to a simple email. I have many emails that still have yet to receive a response from either. Yes, some emails have been answered, but it seems as it is only 25% of the emails go answered. How are we supposed to function without a supervisor whom refuses to communicate, supervise or simply hold meeting with their employees? Often times it takes anywhere from two weeks to two months for Mr. Hooks to assign a case that was referred to us. I often have to forward the same email four or five times just to get a response. Often times it will be the Regional that notifies us that MCU has declined/accepted the case. Getting signatures for Pre-Approvals, Supplementals, Miscellaneous Claim Forms or other miscellaneous bills can take from two weeks to four weeks. I myself have now been the only Support Staff for over a year, time and time again I ask and plea for the vacant position to be filled. I have worked 73 hour of over time this year and 106.50 last year. But to be honest I have weekly appointments and hardly have to use my sick leave due to having to work excessive hours. In the past year on planned vacations I have had to work, due to the lack of another Support Staff. For example, in April I had three days to train an individual with no legal background to take my place for the two weeks of vacation. Thus I had to still worked 51.5 hours during my vacation due to Mr. Hooks lack of urgency in hiring another individual to take my place while I was on vacation. Even though I initially notified Mr. Hooks of the planned vacation on 1.17.2016. Yet, another example is after myself and the previous Support Staff spent hours washing and organizing the trial clothes for clients, as they were in multiple location and it would take more time than necessary to find the correct sizes, I suggested that Region 4 and MCU use a form called Trail Clothes Request and the MCU Support Staff could find the clothing and get it to the attorney in a timely manner. I was told that all the clothing belonged to Region 4 and that I was trying to create bureaucracy. After forwarding the email chain to Mr. Hooks, he merely stated he would need to think about the issue and would get back to me and that was a year ago. Even after I stated that in the past year MCU had to spend \$598.94 to purchase clothing due to the fact that there was no accountability for the trial clothing and this simple form would help the agency keep track of whom used what and where the clothing was. If we are trying to save money this seems like something small but I do believe it would help the agency save a bit of money.

I want to give you an example of just how much goes into any give case that MCU takes on. State vs. Johnston, we took the case over at the very beginning, which makes things extremely less difficult than in the middle of a case, I have placed into JustWare over 2,500 documents, this doesn't determine the number of pages just the number of documents. When I get anything I have to extract the documents, rename the documents, place the documents into JustWare, print out a copy of the documents that the client receives, do a letter listing what the client receives and calendar any future court dates. This is the process for the client only. I could go on into detail on what the process is for the in house/remote/co-counsel attorneys or investigators, but it might take another two pages to explain that. Another example, is last month alone I scanned over 4,000 documents for 23 cases. Sadly, that was actually a light month on incoming documents, which doesn't include the documents received via email. This month alone I scanned over 10,000 documents for 25 cases. This also doesn't include the other duties I am task to do, monthly/weekly reports, hotel reservation, fleet manager, client jury trial clothes, incoming bills, etc.,

In Mr. Cruse's letter in the public defender newsletter he stated that "communicating with people is at the heart of everything we do. We communicate in order to influence, educate, praise, discipline, and most often for the pure joy of having conversation. . ." He even further stated "I never have a problem making a decision, I just [don't] like making one without all the facts. . ." However, Mr. Cruse, MCU approached you and ask to sit down with you. Well, he has never communicated with me or any other person in the MCU about what we do nor have you had that meeting we suggested. There for I think it is safe to say that he doesn't have the facts on what MCU does or why it is needed in this agency and he is wrong to want to eliminate MCU.

Destiny Carter

To whom it may concern,

My name is Steven Scott and I have been with the Office of the Public Defender since June, 2010. I was hired into the Major Crimes Unit in June, 2010 and have been working in this unit ever since. When I was first hired, we had 4 attorneys, 2 secretaries and an intern. Our case loads were 10-12 cases and we traveled the entire state of Montana handling major crimes. My supervisor at the time was Larry Murphy. He supervised major crimes and did the contractor supervision as well. Under Mr. Murphy, we had meetings at least once every two weeks so everyone kept apprised of what was going on with the cases and dealing with referrals in a timely manner. When Mr. Murphy retired, we were left without a supervisor, and except for a brief supervision period under Tom Bartleson, which he did very well at, we have not had an active supervisor for several years. In fact, between the time when Larry retired and Tom was removed from the supervisor position, we have had one meeting, one, with the acting supervisor during this entire time. I can't recall the exact time lines for the above.

When I first joined the unit, our job was to travel the state of Montana handling major crimes. Homicides, child sex crimes, arson and other major crimes take an inordinate amount of time and effort. It is not uncommon for discovery in a murder case to be over 5,000 pages, excluding the text messages and facebook posts. It is also common to have to wade through 40-65 CD/ DVD's as well. In some homicide cases and even other cases I have handled, the facebook and text messages alone comprise over 15,000 pages. It takes a huge investment in time to look through this amount of discovery. Our other function was to help train newer attorneys in the more rural, and even not so rural areas of the state on how to represent someone on these types of crimes, so that they could learn and be able to do these types of crimes in the future. We were also utilized a great deal on co-defendant cases where the local region would take one person and we would take the other, instead of immediately farming the case out to a contract attorney. All of this began to change when Larry Murphy retired.

Today, we have 3 attorneys, 1 secretary and no intern. We have had an open attorney and secretary position since March, 2016. Our case loads are down to 1-4 cases per attorney. We are a necessary, but very under utilized unit at this time due to lack of supervision or interest in our unit. Currently the way cases are assigned make no sense. We have one attorney in Billings, but we are sending an attorney from Helena to Sidney to handle cases. Meanwhile, the attorney in Billings is

being sent to Bozeman to handle a case. We have also noted in the past year where a defendant committed a murder in Miles City and then committed another murder a couple days later in Missoula. The Miles City Regional asked for MCU to take the case. This was denied, twice. In the meantime, an OPD attorney in Missoula took the Missoula case and then got a contract attorney to help him on the case in Missoula, however, the Miles City Regional only got contract help from an attorney out of Billings to help with the Miles City case. They are being forced to drive to Missoula to visit the client. Miles City to Missoula is an 8 hour drive, one way. The client has 4 attorneys, where he should have one attorney who can handle both of his cases at the same time. This is what MCU was designed to do, but for whatever reason, decisions were made to not have MCU in this case.

Another example of why MCU is necessary is a case I just handled. We had a client that was accused of raping a woman on an Amtrak train near Wolf Point, MT. One of the witnesses on the case lives in Florida. It became necessary at one point in the case to fly to Florida to take her deposition due to her failing health. It was a three day trip to do this. We had another case several years ago where one of the MCU attorney's had to fly to Missouri to interview a witness on a case. The witness had been incarcerated in Missouri, but the client had indicated they would have information on the case in Missoula. Again, a three day trip.

The Major Crimes Unit is a necessary and vital unit for being able to handle complex and large cases and mentoring of younger attorneys. What the unit has lacked for ages is a supervisor that cares about the unit and understands how to utilize the unit effectively, or even wants any input or discussion with the attorneys in the unit. I would ask you to not eliminate the unit as it is vital to the mission of OPD and frankly would result in a very negligible cost savings to the agency.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Scott", written over a horizontal line.

Steven Scott

Assistant Public Defender

September 29, 2016

J. Thomas Bartleson  
Assistant Public Defender  
Major Crimes Unit  
139 N. Last Chance Gulch  
Helena, MT 59620

Re: Abolition of the OPD Major Crimes Unit

Members of the Public Defender Commission:

My name is Tom Bartleson. I have been a member of the Major Crimes Unit (MCU) at OPD in Helena since August 2012. In just over four years with MCU I have tried 18 felony cases in ten different counties throughout Montana, from Hamilton to Glendive. I wish I was here to tell you about MCU in person, but I'm starting my 19<sup>th</sup> MCU trial today in Hamilton. Because of the preparation involved in this five-count rape of a child and incest case, I will try to keep this letter short.

I feel betrayed by the administration of OPD. When I first joined MCU we had four FTE assistant public defenders, a part-time supervisor, two support staff and a student intern. After our supervisor retired we had no supervisor for about six months. Then, in part because of the leadership and supervisory experience I had gained during a decade on Active Duty in the U.S. Army Judge Advocate General's Corps, I was selected to replace Larry Murphy as the MCU supervisor in addition to serving as a line attorney. I supervised MCU for just under a year. It has been over a year now that MCU has had no supervisor. During that time we also lost an attorney to retirement and a legal secretary to Region 4. Neither position has even been advertised for, let alone filled with a replacement. Applications have finally been taken for a new MCU supervisor, but that position has not been filled. I lost my supervisory position in part because of what I took as my loyalty to a colleague, Randi Hood. I was also criticized for having too many cases.

Let that sink in. If the rationale for abolishing the Major Crimes Unit is that it is cost inefficient, that is because of how we have been used in the absence of leadership. Thirteen months ago, a month before I lost the job of MCU supervisor, I carried the following caseload: seven homicides, two sex offenses and a political conflict case. That's ten major cases. One of the sex cases involved multiple victims and was tried with 16 charges. I currently have a caseload that is a fraction of what I can do. Although I officially have nine clients, in two of their cases we're awaiting a judgment from the court after sentencing, one is awaiting sentencing, and one is a drug case my client picked up while out on bond for attempted deliberate homicide—and I got him acquitted for the attempted murder. Still, among my current caseload I carry cases in six different counties, which saves OPD money. If one of those cases goes to trial later as scheduled on Halloween, it will be the 11<sup>th</sup> different county I have tried a case in.

When I was MCU supervisor we had regular meetings to discuss our caseloads and other issues. In the year since I was relieved we have had one group meeting, and that was because our office manager demanded it. We have made repeated requests to have our vacant FTE positions filled, without help. In general, we are not consulted about whether we will take a new case. In general, we are not consulted about our caseloads. In general, it takes longer to assign new referrals than it used to, which could prejudice our clients. I have never said I cannot take another case. Before Larry Murphy retired, we once had three new referrals at the same time. I told Larry, "Well, I've never had a murder committed with a pipe, and I've never had a serial rape case, either. So, I could take either of those two." He gave me both of them. As a leader I evaluated each of the members of my team and coached one of them to improve rather than taking punitive action that could lead to a firing. None of us has been evaluated or observed in court in the year we have had no supervisor.

Part of the reason that I feel betrayed is that I met Scott Cruse when he was wandering around the building before a meeting. I took him around and introduced him to the other members of our team in the Helena office. We all said we would love to talk with him about MCU and he said that he would look forward to it. Then, before ever having that meeting he proposed abolishing our unit. It is short-sighted to think that getting rid of MCU will save money; having MCU saves money. It would be nice if we were fully resourced and staffed, but we have been making do in a vacuum of leadership as well as we can. If we had met I think Mr. Cruse would have seen that we are an asset that has not been used properly.

Sincerely,



J. Thomas Bartleson  
Assistant Public Defender

**Subject:** FW: MCU-Closing Plan

**Date:** Friday, September 30, 2016 at 9:12:35 AM Mountain Daylight Time

**From:** Mathews, Clark

**To:** Timm Twardoski AFSCME MT Council 9 (afscme@montana.com)

Hey Timm, I sent this to Scott Cruse this morning.

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**From:** Mathews, Clark

**Sent:** Friday, September 30, 2016 9:04 AM

**To:** Cruse, Scott <SCruse@mt.gov>

**Subject:** MCU-Closing Plan

Hi Scott,

My name is Clark Mathews. I'm one of the 3 attorneys in the Major Crimes Unit. I work in Billings, in an office by myself. We've never met or communicated in any fashion. However, I understand you believe closing the Major Crimes Unit is in the interest of the agency and the clients we represent, as it was outlined in the mitigation plan. I was made aware of this for the first time this week, causing me stress and anxiety on top of the incredible workload I have right now.

I'd prefer to attend the commission meeting on Monday, Oct. 3, but instead, I'll be preparing for an Incest trial set to begin Oct. 4 in Yellowstone County. If my client is convicted, he'll face a mandatory minimum of 25 years in prison without the possibility of parole. I spent yesterday traveling to Great Falls (7 hours round-trip) and back for a pre-trial conference on a Homicide trial set to begin in Sidney, Region 10, later in October. I also was recently assigned an Incest case from Region 8, currently set for trial in November. I have a triple homicide set for March in Carbon County, Region 9, and a homicide in Billings set for April (a conflict for Region 9.) I had a client sentenced last week to Mitigated Deliberate Homicide in Billings to 45 years.

I have worked for the agency since February 2011. In that time, I have worked in different capacities, full-time in Municipal Court, full-time in Yellowstone County District Court, and the last year and a half in the MCU office. I have also spent time on the labor-management committee and negotiated the last two collective bargaining agreements. I have worked through 2 chief public defenders. I have had several different supervisors, 1 retired only to have his position remain unfilled (Richard Phillips), 1 supervisor relieved of his supervisory duties, only to have his position remain unfilled (Tom Bartleson). I have probably worked with close to 50 different FTE staff attorneys who have come and gone during my time (The Billings office has a high turnover rate.) During this time, I have tried to do my job to the best of my abilities, but at times, I believe the agency does not view its experienced, dedicated staff attorneys as valuable resources.

I understand your concerns are that (1) the MCU attorneys have lower case-weights than other attorneys and (2) the various regions also handle similar type cases. As for your first concern, I don't believe the case-

weights come close to properly allocating the difference in the severity of the crimes charged. When I worked in Municipal Court, my case weights were routinely double the suggested amount, far higher than they are now. But my workload wasn't even close to as significant as it is now. Even when I worked in Yellowstone County District Court full-time, my case weight numbers were higher, but my workload was not as bad. The case weights don't tell the whole story.

As for your second concern, I'm frankly not sure what the point may be, as it is certainly a true point but not really a reflection on the value of MCU. I can tell you that when I was a FTE in Region 9, I also worked homicides and sex cases. But I didn't do it exclusively and I didn't have to travel. It was a more manageable task to represent because I usually only had one or two of those at a time.

But, if MCU were truly unnecessary, why did Region 8, the Bozeman office, refer an incest case to us after working it for five months? Because the case is not going to settle, and likely to go to trial is my guess. The incest case I have next week is a conflict for Region 9. Who would take that case? (An attorney from the conflict office is now co-counsel, but at the time I was assigned the case, the conflict office was not put in place.) The answer, it would be an attorney with an MOU that would bill on an hourly basis. Who would take the homicide I have in Sidney, Region 10? The only person qualified in that office is the Regional Deputy, which would take a manager away from managing, something the agency has, at times, also expressed as a thing to avoid.

Finally, where do you anticipate me (one of the resources you refer to) being reallocated to? And how will that save money? Will my current cases be re-assigned? How will my caseload differ after I have been re-allocated? Other than me being assigned more cases?

You are welcome to contact me by phone [REDACTED]

Thanks,  
Clark Mathews