

MONTANA PUBLIC DEFENDER COMMISSION  
**CONTRACTS PROCESS COMMITTEE MEETING**  
State Capitol, Room 152  
**July 24, 2009**

*Approved at the August 18, 2010 Meeting*

**Call to Order**

The meeting of the Contracts Process Committee of the Montana Public Defender Commission was called to order at 12:00 p.m. by Committee Chair Mike Sherwood.

**Commissioners Present**

Caroline Fleming, Miles City, Mike Sherwood, Missoula; Tara Veazey, Helena; Stephen Nardi, Kalispell; Jennifer Hensley, Butte; Kenneth Olson, Great Falls; and Richard (Fritz) Gillespie, Helena

**Other Interested Parties**

Randi Hood, Chief Public Defender; Harry Freebourn, Administrative Director; Scott Crichton, American Civil Liberties Union of Montana (ACLU); and Judge Sheldon Singer, representing the American University evaluation team

**Approval of Minutes**

The minutes of the January 9, 2009 meeting were approved as submitted.

**Examples of Past Responsibilities**

This committee was involved in the discussion regarding ancillary proceedings in a death penalty case that a contract attorney was working on. The billing issue was resolved ad hoc, but the committee realized that a standard on ancillary proceedings was needed. Commissioner Sherwood drafted a standard for consideration by the Standards Committee, and the language is included in the Standards Committee materials.

The Contracts Committee also realized that the Standards were drafted prior to the development of the Memorandum of Understanding, and so the Standards refer to “contracts” instead of the MOU. The draft of this new standard is also in the Standards Committee packet.

The Contracts Committee identified a problem related to private attorneys who want OPD to assume responsibility when their clients run out of money. There was some language related to this in an early draft of the Standards, and this is also in the Standards Committee packet.

**Billing Procedures**

A new process for contract attorneys to scan their bills to the agency is in development. The hope is to improve the turn-around time for paying bills, as well as reducing the amount of paper required. Hopefully the contractors will find it of benefit.

Commissioner Gillespie said that contractors need to understand how important providing

disposition information is to the Commission so that they can demonstrate the services being provided to the Legislature. Chief Hood said that Contract Manager Larry Murphy is planning to travel around the state again, and this will be a good opportunity for him to show the contractors how recordkeeping might benefit them.

Chief Hood said that recently Mr. Murphy questioned two bills where he asked to see the motions the attorneys were billing for, and both attorneys eventually admitted they hadn't actually done the work. Although the 200 plus contract attorneys are overwhelmingly good attorneys, this sort of thing is very disheartening. In response, an auditing process is being developed to spot check court files so that there is some assurance that contractors are billing for services actually performed.

### **Public Comment**

Judge Singer commented that he never let an attorney withdraw from a case just because they were out of money. Commissioner Sherwood said that in Montana judges let attorneys out for virtually no reason.

### **Old Business/New Business (\*Action Items)**

The three draft standards related to ancillary proceedings, the MOU and private attorneys whose clients are out of money were referred to the entire Commission.

### **Adjourn**

The meeting adjourned at 12:30 p.m.