

Office of the State Public Defender Administrative Policies

Subject: Determining Conflicts of Interest	Policy No.: 119
Title 47	Pages: 2
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1.0 POLICY

1.1 Conflicts of interest are of paramount concern to the Office of the State Public Defender (OPD). Every office within the system must be scrupulous in avoiding conflicts of interest and in addressing perceived conflicts.

1.2 This policy specifically recognizes that waivers of conflicts of interest are, occasionally, in the best interest of the client and should be used where appropriate, but only if in the best interest of the client.

2.0 PROCEDURES

2.1 When an attorney in a public defender office is assigned a case and a conflict of interest arises, the office shall complete the conflict of interest form (Attachment A) and submit it to the Conflict Defender Division Managing Attorney, or if none, to the Conflict Defender Division Administrator.

2.2 If there is a dispute between the supervising attorney and the Conflict Defender Division regarding whether a conflict of interest exists, they will work to resolve the dispute. If the parties are unable to resolve the dispute, the matter shall be referred to the appropriate division administrators for resolution. If the division administrators are unable to resolve the dispute, the Appellate Defender Division Administrator shall decide the matter for appellate cases, and the Public Defender Division Administrator shall decide the matter for all other cases.

2.3 If a conflict is determined to exist, the Conflict Defender Division Managing Attorney (if applicable) or the Conflict Defender Division Administrator shall assign the case to a Conflict Defender Division staff attorney, to a contract attorney whose name is maintained on the conflict attorney list, or to a public defender employed outside the region with the approval of the Regional Deputy Public Defender.

3.0 CLOSING

Questions about this policy should be directed to:

Office of the State Public Defender
Central Services Division
44 West Park
Butte, MT 59701
(406) 496-6080

ATTACHMENT A
OFFICE OF THE STATE PUBLIC DEFENDER
CONFLICT REQUEST FORM

Date Requested: _____ Case Number: _____

Client Name: _____

Judge: _____

Attorney: _____

Type of Case: _____

Describe the Possible Conflict with Specifics: _____

Requesting Attorney: _____

Conflict: Yes No

Reasoning: _____

Is Client Incarcerated? _____

Next Court Dates (if scheduled) _____

Name of Complaining Witness or Alleged Victim: _____

Name of Co-defendant(s) and Major Witnesses: _____

Conflict Defender Division notes, or documentation attached.

