

OFFICE OF THE STATE PUBLIC DEFENDER



STEVE BULLOCK
GOVERNOR

KRISTINA NEAL
CONFLICT COORDINATOR

STATE OF MONTANA

Phone: (406) 444-0104
Fax: (406) 444-2669
PO Box 200145
Helena, MT 59620-0145

January 5, 2017

To: Montana Public Defender Commission
From: Kristina Neal, Conflict Coordinator
RE: Report to the Commission

UPDATES

Conflict cases: For the first half of fiscal year 2017, I appointed counsel in 3,457 cases. At the same time comparison for last fiscal year (July 1-December 31, 2016), I had appointed counsel in 3,238 cases, or an increase in approximately 219 cases. I have attached a copy of a report of the case counts from the first half of this fiscal year and the first half of last fiscal year. The increase has been predominately in youth in need of care cases, which grew by 167 appointments.

Staffing: At the start of this fiscal year, my program was staffed by 9.5 FTE; myself, 7.5 assistant public defenders, and one support staff. My two attorneys in Missoula handle predominately district court cases in Missoula, Ravalli, and Mineral Counties but will occasionally handle cases in other areas such as Polson, Thompson Falls, Anaconda, Deer Lodge, and Philipsburg, when needed. I have designated specific judges for these attorneys so that they can maximize their time and minimize travel and wait-time. My two attorneys in Great Falls handle district court cases in Cascade County and Region 6 (Havre). Similar to Missoula, these attorneys are assigned specific judges. In Billings, two of my attorneys handle district court cases and one attorney primarily handles misdemeanor and youth court cases. My half-time position in Helena handles DN cases.

Program 3 utilizes the same case weighting and time tracking systems as Program 1. Marsha Parr provides me monthly updates in which I can evaluate whether the attorneys in Program 3 are entering their time into the case management system in a timely fashion. My attorneys in Missoula, Great Falls, and Helena either work from a home-based office or have their own established office, and we provide an office stipend¹. In Billings, I was able to find office space in the lower level of the same building as the Billings Program 1 office.

¹ The office stipend is \$200 per month. OPD's office stipend policy is [here](#).

Mitigation Plan: As part of the mitigation plan, to reduce contractor costs and provide more predictability in the budget, I have hired seven modified FTE attorneys and two investigators:

Billings: I have hired three attorneys (two are half-time and one is a three-quarter time position). One of these attorneys will handle district court and misdemeanor criminal cases. The other two attorneys will handle DN cases. I have divided the courts between the two DN attorneys, again to maximize efficiency.

Whitefish: I have hired one half-time attorney. She handles misdemeanor cases in Flathead County Justice Court, Whitefish City Court and other surrounding courts.

Missoula: I have hired three attorneys (two are full-time and one is half-time). Two of the attorneys will handle misdemeanor cases and will split the courts in Region 2. The half-time attorney will handle district court cases in Missoula, Ravalli, Mineral and Lake counties.

Investigators: I hired Brett Lund as a full-time investigator in Billings. Brett retired after years in law enforcement in the Billings area and was working as a contract investigator for OPD. I hired Preston Davis as a full-time investigator in Missoula. Preston previously worked as a private investigator in Kentucky and Baltimore and worked for the Washington D.C. Public Defender Office.

These new modified employees are in home-based offices or provide their own office and we provide an office stipend. With the addition of these new modified employees, my program has essentially doubled its FTE presence. To assist my support staff with the extra work associated with these new modified positions, I have brought on a student intern, with the Helena College of Technology, on a one-quarter to half-time basis dependent on his class schedule and availability.

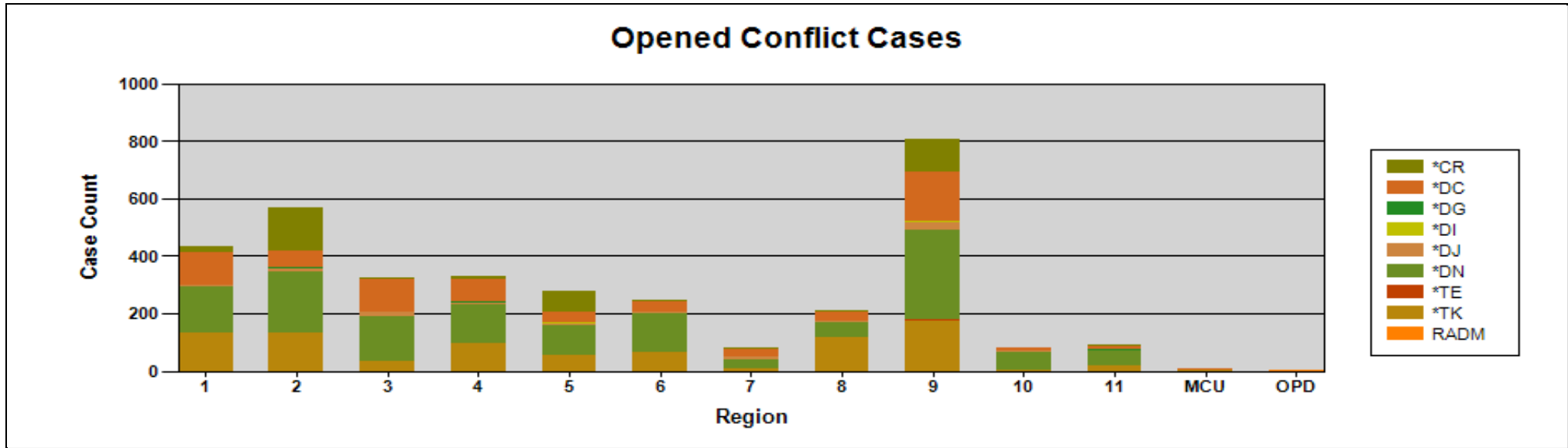
I will still need to rely on contract attorneys in areas of the state in which I do not have an FTE presence². Further, I also need to assign cases to contract attorneys when multiple parties are involved. For example, in jurisdictions which the courts routinely appoint an attorney for the children in a DN case, the local OPD office will generally keep the most time-intensive client and will refer the other parent (or parents) and children to my office. Since it would be a conflict for me assign an FTE to one party and conflict counsel to the other parties, in that situation, I need to assign all the parties to private conflict counsel, who work as independent contractors. However, in jurisdictions in which the court does not routinely assign counsel for the children, and only one other parent is referred to my program, such as Billings and Helena, I can assign the case to an FTE. I handle criminal cases, in which multiple co-defendants or other conflicts are presented, in a similar manner.

² The vacancy postings ran state-wide. In the areas in which I am still using contract counsel, I either did not have applicants or did not have applicants that met the skill set for the types of cases in that area.



Office of the State Public Defender: OPD Opened Conflict Cases by Type Report

Period from: 7/1/2016 through 12/31/2016

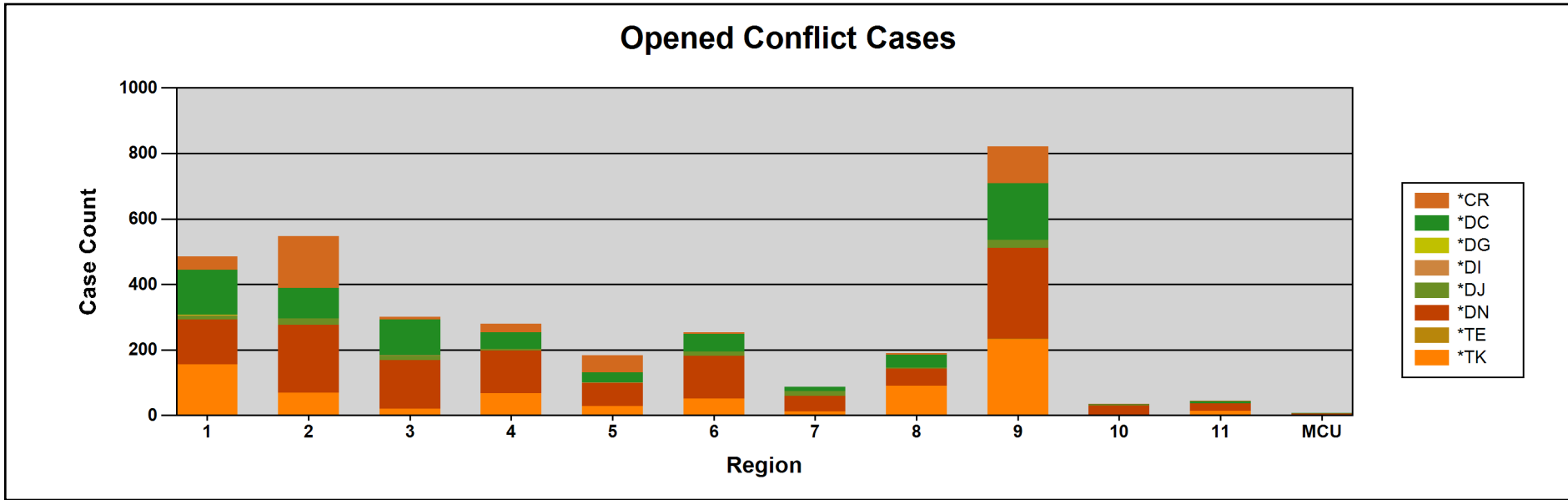


	*CR	*DC	*DG	*DI	*DJ	*DN	*TE	*TK	RADM	Total
Regional Office, Region 1	25	110	0	0	9	160	0	132	0	436
Regional Office, Region 2	147	59	1	0	12	213	0	134	0	566
Regional Office, Region 3	6	111	0	0	18	156	0	34	0	325
Regional Office, Region 4	8	78	3	0	3	140	0	96	0	328
Regional Office, Region 5	73	36	0	3	4	104	0	57	0	277
Regional Office, Region 6	3	39	0	0	2	139	0	63	0	246
Regional Office, Region 7	5	25	0	0	8	31	0	11	0	80
Regional Office, Region 8	4	35	0	0	5	52	0	117	0	213
Regional Office, Region 9	112	171	0	1	33	309	1	180	0	807
Regional Office, Region 10	0	9	0	0	5	63	0	3	0	80
Regional Office, Region 11	3	14	1	0	1	55	0	18	0	92
Major Crime Unit	0	5	0	0	0	0	0	1	0	6
Office Of State Public Defender	0	0	0	0	0	0	0	0	1	1
Total	386	692	5	4	100	1,422	1	846	1	3,457



Office of the State Public Defender: OPD Opened Conflict Cases by Type Report

Period from: 7/1/2015 through 12/31/2015



	*CR	*DC	*DG	*DI	*DJ	*DN	*TE	*TK	Total
Regional Office, Region 1	41	137	1	2	12	136	0	156	485
Regional Office, Region 2	159	93	0	0	19	208	0	69	548
Regional Office, Region 3	8	109	0	1	15	147	0	21	301
Regional Office, Region 4	26	50	0	0	5	130	0	68	279
Regional Office, Region 5	53	30	0	1	2	70	0	28	184
Regional Office, Region 6	6	53	0	0	14	130	0	51	254
Regional Office, Region 7	0	14	0	0	14	48	0	12	88
Regional Office, Region 8	5	39	0	0	4	51	0	91	190
Regional Office, Region 9	113	173	0	0	24	277	1	233	821
Regional Office, Region 10	1	3	0	0	1	30	0	0	35
Regional Office, Region 11	1	7	0	0	0	23	0	14	45
Major Crime Unit	0	3	0	0	0	5	0	0	8
Total	413	711	1	4	110	1,255	1	743	3,238