

To: Montana Public Defender Commission

From: Randi Hood, Chief Public Defender

RE: Field Reports Summary, October 1 – December 31, 2010

### **A. Operational Issues**

- a. Provision of Services – There were no significant changes in the provision of services in each region, other than:

Region 1 did lose all but one contract attorney in Lincoln County. We added another attorney to the office to allow some flexibility in sending an FTE from Kalispell to Libby. There is an experienced attorney new to Libby who has expressed a desire to come to work for us. No decision will be made on this until after the legislature.

Region 3 lost its Cut Bank attorney, Dan Minnis, when he became the Regional Deputy Public Defender for Region 6. An attorney in Shelby that did a lot of work for us left to join the county attorney office in Glacier County.

- b. Each region outlined, in their original report, the provision of services in each court and in each type of case. No changes were noted in the current report.
- c. Court staffing – No new issues identified.
- d. Court Issues - Court issues identified are:

Several regions are dealing with new district court judges and judges in courts of limited jurisdiction. The concern with some, not all, is that they are overtly prosecution oriented.
- e. Stakeholder issues – There is a new sheriff in Great Falls who is working to try to improve access to jails by allowing weekend visits as well as providing a room in which to meet clients. In both Regions 10 and 7, certain prosecutors are so difficult that a number of contractors are unwilling to take cases in those counties.
- f. Client complaints – No new information other than some regions continue to report a drop in complaints.

### **B. Caseloads**

- a. Personal caseloads - All RDPDs have reduced their caseloads and are continuing to move themselves to second chair on cases or simply being the mentor for the case.
- b. Jury trials –

All regions continue to note cases being tried and motions being filed. For example, in Region 8 (Bozeman) they did four felony trials resulting in two acquittals, one hung jury and one conviction. Their only two misdemeanor trials resulted in acquittals. Offices continue to have success in motions work. Motions are either being won or are resulting in reduced charges. We also see good results growing out of fine investigative work. For example, in Region 5 (Butte) they got an arson dismissed and a possession of contraband by a correctional officer also dismissed based upon information turned up by our investigators.

- c. Major upcoming trials – Most regions reported upcoming trials, usually multiple ones. Work continues to avoid the death penalty in the Kalispell case.

### **C. Contractors**

- a. Many regions are reporting a shortage of contract attorneys in certain counties (Regions 1, 3, 4, 5, 7, 8, 9, 10, 11)
- b. Contractor issues – nothing new
- c. Meeting with Contractors – same meetings as in the past report

### **D. Office Issues**

- a. Meeting with staff – No new information.
- b. Future staffing needs – most identify the need for more support staff (Kalispell, Missoula, Great Falls, Butte). Several identify the need for another attorney (Billings, Bozeman, Butte, Helena)
- c. Office leases – The process of identifying new office space is ongoing. Kalispell has outgrown its office space and we now have located two potential locations. They have an investigator camped out in their conference room which has made office meetings difficult. Glendive will probably be moving within the year but we have yet to identify space. The Butte Public Defender office's lease will expire later this year and we are looking at all options including finding a new location.

### **E. Informational Issues**

- a. Case certification – No new information.
- b. Quirky IQ issues – No new information.
- c. Denials and overruling – every region denies some people within the timeframe and rarely does that determination get overturned by the judge and when they do, it is generally in a court of limited jurisdiction. We continue to make side agreements for payment with people who haven't qualified but can't hire an attorney.
- d. Number of people not qualifying – see above
- e. Case weighting system – it is clear that all managers are aware of those attorneys who are 'red flagged' on the case weighting system and were able to discuss what they had done about it.
- f. JustWare – there is still general concern about the need for further resources to comply with the requirements of JustWare. There was also reference to the efforts being made to get attorneys to enter their time.

### **F. Financial**

- a. Every region was able to discuss their budget, both in terms of shortfalls and savings
- b. Needs – printers, furniture, staff
- c. Long term budget changes – greater costs in providing attorneys for children (Billings); challenges of servicing areas without readily available contract lawyers (Lewistown, Butte); the potential death penalty case in Kalispell.
- d. Classification issues – no new information
- e. FTE levels – Recognize the need for the pay ladder to continue to be implemented to keep attorneys. One regional would like to have the ability to increase pay based on merit.

f. Vendor payments – No new information.

**G. Standards Compliance**

No new information except that they are aware of Eric's standard compliance project and have no issues with that.

**H. Agency Policies**

No new information.

**I. Top Ten Challenges – NEW challenges identified:**

- a. New judges
- b. Need the replacement of some items – phones, digital recorders
- c. Pay adjustments for merit