

CHIEF PUBLIC DEFENDER
REPORT TO THE MONTANA PUBLIC DEFENDER COMMISSION
JUNE 17, 2010

Caseload

I have closed out all of my cases except one first offense DUI which is set to go to trial in late July. I anticipate spending another 4 hours in preparation for what should be a one day trial.

Indigency review

Harry Freebourn and I initiated an indigency review project to check on how each region was determining indigency, who was doing the determination, and what kind of verification was being required. We also wanted to gather information on the number of questionnaires that are returned. Finally, we wanted to know how many people were qualified on income guidelines and how many come within the hardship criteria.

We spoke individually with each person in each region who had a part in indigency determination. While we found a great deal of uniformity in the determination process, we are developing policy to primarily deal with the issue of verification. Most of the regions do require verification in the form of pay stubs or tax returns. The policy will require, at a minimum, verification in all cases coming within the hardship criteria. An interesting note is that the percent of persons being qualified under the hardship criteria is less than approximately 10%.

There are changes in the determination procedure that we are making which are more procedural than policy. For example, we are determining the most effective way to get back the questionnaires. Some regions have a return rate close to 100%. Others are lower.

The new policy will be introduced at the support staff training next week.

Disaster preparedness

Harry, Barb Kain, Diane Stenerson, John Coulthard, and I have been developing our disaster preparedness plan with the Department of Administration. We are ahead of the schedule given us by the Governor in our plan.

Department of Justice Liaison

I have had two contacts with Stephanie Baucus from the U.S. Department of Justice. She has been assigned to be a liaison with public defender systems or offices in several western states. The next contact with her will include Eric Olson and we are discussing some grants that Ms. Baucus may be able to point us towards. We have been discussing grants for social workers and those involving juvenile evaluators.

Mentoring

I have set up mentoring meetings in the Helena office. I have spent 1 ½ hours on dealing with difficult clients and developing client relationships and the same amount of time on voir dire. Invited to these meetings have been all the Helena attorneys as well as the Major Crime Unit attorneys. The turnout and reception have been good. I thought this was a good use of my time since the Helena office is staffed with a number of fairly inexperienced public defenders.

Caseload valuations/Labor-Management Committee

As will be further discussed at the Commission meeting, the Labor-Management Committee has made good progress on refining the valuation given to various cases in the CWS. I have only one

further recommendation to make to the committee and that is to build in some valuation for instances in which a case actually goes to trial, termination, or adjudication.

Budget work

Harry and I have spent considerable time in monitoring the FY10 budget as this fiscal year draws to a close, trying to make plans for the upcoming year, as well as the two subsequent years. We have reviewed each region's current budget with the managers in the region. Those discussions have then proceeded to determine any extraordinary needs anticipated in the FY11 year and special requests into the following two years. While we all would like to see more resources, particularly in the area of support staff (including investigators), we do not have any available FTEs at this time.

As part of each of these discussions, we have encouraged managers to keep thinking creatively and to not, despite the budget woes, lose sight of the first responsibility to the representation of the clients.

Workforce

To try to meet the needs of the regions and offices without excess FTE or money, we have been able to employ a number of student interns in almost every region. The student interns are doing everything from helping input JustWare, to accounts payable, to work on the file maintenance project. We currently employ 13 student interns (one each in the Appellate, MCU, Miles City, Helena PD, and Legal/Training; two in Central Accounting; and six doing grant-funded records management work in various offices).

We also have ten volunteer interns, including three support staff in Billings, and legal interns in Missoula, Bozeman, Helena and the Appellate office. Some of these are law students who are able to get credit or are just looking for experience.

Meeting with the Legislative Finance Committee

Harry and I met with the Legislative Finance Committee on June 15, 2010. Pat Gervais, analyst with the Legislative Fiscal Division, presented information on our agency related to cost control. Her report dealt with indigency determination, removing jail time from some crimes, reviewing the kinds of cases we do, and caseload limits for managers. I addressed the same issues with the committee. Based on questions from the committee, we will be providing them with data on the number of cases we handled for violations of local ordinances. We will also provide data on the number of cases we handled in which the crimes charged are part of the discussion relating to removing jail time.

John R. Justice loan forgiveness

The loan forgiveness legislation has been funded and Montana is eligible to receive \$100,000 to be equally divided between prosecutors and public defenders for loan forgiveness. The grant required the Governor to designate a state agency to manage the money and develop the plan for distribution. The Governor has appointed the Montana Board of Crime Control. Lily Yamamoto, an employee with the Board, is in charge of developing the plan for distribution and will manage the program. I have met with her and have designated Harry, Eric Olson, and Jon Moog as our representatives on her working group.

Continuity planning

Beginning in early July, I and my central office management team will be developing a continuity plan for the agency. We will also develop continuity plans with management in the regions. I will present a plan to the Commission at the next meeting.