

OFFICE OF THE STATE PUBLIC DEFENDER



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To: Montana Public Defender Commission

From: Kristina Neal, Conflict Coordinator

RE: Report to the Commission

UPDATES

Organizational Changes to the Conflict Coordinator Office:

Although since inception the Conflict Coordinator Office has been independent of the Chief Public Defender and the Appellate Defender and has reported directly to the Public Defender Commission, the budget for the Conflict Coordinator Office came from these entities. During fiscal year (FY) 2015, the executive branch formally approved the Conflict Coordinator's Office to be a separate program. Therefore, conflict costs are now isolated from the other two programs for tracking and appropriations purposes.

Draft Case Numbers:

In FY 2015, I appointed counsel in approximately 5,900 cases which is a 16% increase year over year. In FY 2013, I appointed counsel in 4,726 cases and in FY 2014, I appointed counsel in 5,104 cases which was a 9% increase. Therefore since 2013, I have seen a 25% growth in cases. Dependent and neglect cases have increased by 21%, felony cases have increased 25%, and lower court cases have increased by approximately 35%. The regions with the most significant case increases have been Missoula, Helena, Havre, Billings, and Glendive. For example, in the Billings region, I have experienced an increase of 580 cases between what I assigned in 2013 and what was assigned in 2015.

Current office structure

My office is staffed by 3.00 FTEs—myself, one assistant public defender, and one support staff. My assistant public defender works from her home and is based out of Great Falls. She handles cases primarily in the Great Falls region. However, when needed, she has also been assigned cases from the Helena, Havre, and Lewistown regions. The Conflict Coordinator Office utilizes the same case weighting system as the Public Defender. With the exception of the caseload handled by my attorney in Great Falls and a very small number of cases being handled by MCU, currently conflict cases are almost exclusively assigned to contract counsel.

Turnover:

During FY 2015, my office lost its attorney in Great Falls and both of its part-time administrative support staff. All positions have been replaced. Funding received from the 2015 legislature has allowed my program to increase wages to the 2014 markets, which may help prevent future turnover.

FY 2015 Expenditures and the Current Budget for FY 2016

In FY 2015, the Conflict Coordinator Office spent approximately \$7.3 million in contractor, payroll and other costs. FY 2016 budgets are currently being developed. However, given the increases in caseloads noted above, there is no reason to believe that expenditures would be any less than in FY 2015. I will discuss my operating plan in a later section.

Stressors in the system

In many areas of the state, the contract attorney pool cannot support the caseload growth.

In eastern Montana, the primary pool of contract attorneys is located in Billings. Glendive, Miles City, Wolf Point, and Wibaux each have one OPD contract attorney. Essentially, no other contract attorneys are available in the Miles City and Glendive regions. Therefore, all over-flow and conflict cases from the Miles City and Glendive regions must rely on these attorneys and also the attorneys in the Billings pool. The Lewistown region must also rely upon the Billings attorney pool for Musselshell County overflow and conflict cases, as well as any cases which its two Lewistown attorneys are unable to handle. Additionally, the Billings region relies heavily upon the Billings contract pool in assigning contract/overflow cases.

Consequently, delays can occur in assignment of cases. When the contract attorney pool is overburdened, it takes longer before I can find an attorney to accept the case. When the Billings contract pool is completely depleted and unavailable for a Billing case, I have been relying upon my attorneys in Bozeman to provide counsel, which comes at a cost. Currently, I only have seven attorneys in Billings available to handle a felony case assignment. The other attorneys have indicated that their caseloads are such that they cannot accept any new cases.

Operating plan

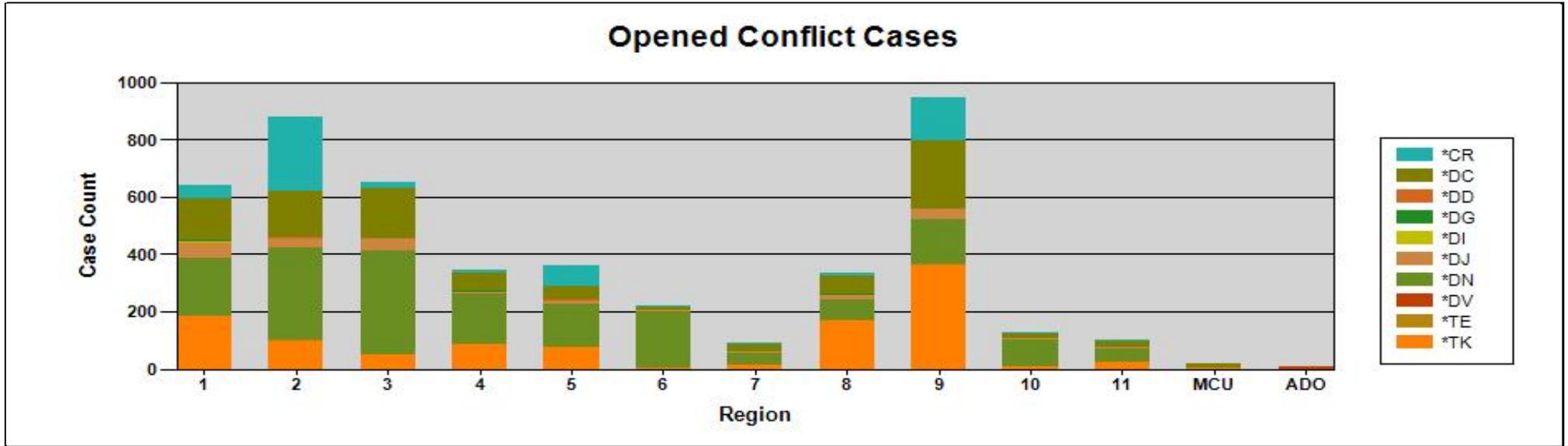
For FY 2016, my draft plan brings on six modified FTE to work in a home-based setting, similar to the assistant public defender that I currently have in Great Falls. My rationale behind this plan is due to the lack of attorney resources in various parts of the state and to replace variable costs with fixed cost resources. The attorneys' locations will be based on regional needs and regional conflict attorney costs. Therefore, if I am able to place and hire these attorneys, the estimated FY 16 budget, for both payroll and contractor costs, will be approximately \$7.9 million. By replacing some contract attorney costs with modified FTEs, my program could save an estimated \$200,000 versus relying solely on contracted services. In theory, the amount of savings would increase in future years as the FTE attorneys take on more cases at a fixed cost that would have gone to the contract workforce at a variable cost.

My vision is that over time, the long-term operating plan would gradually replace contract attorneys with FTE attorneys and support staff, so that my program would have conflict attorneys in most regions throughout the state and resemble the Public Defender Program (Program 1) as a hybrid between use of FTE and contract attorneys. This proposed long-term solution, even with payroll and office expenses, could result in more savings over time. Moreover, this plan would provide consistent representation at a fixed cost.



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

Period from: 7/1/2012 through 6/30/2013

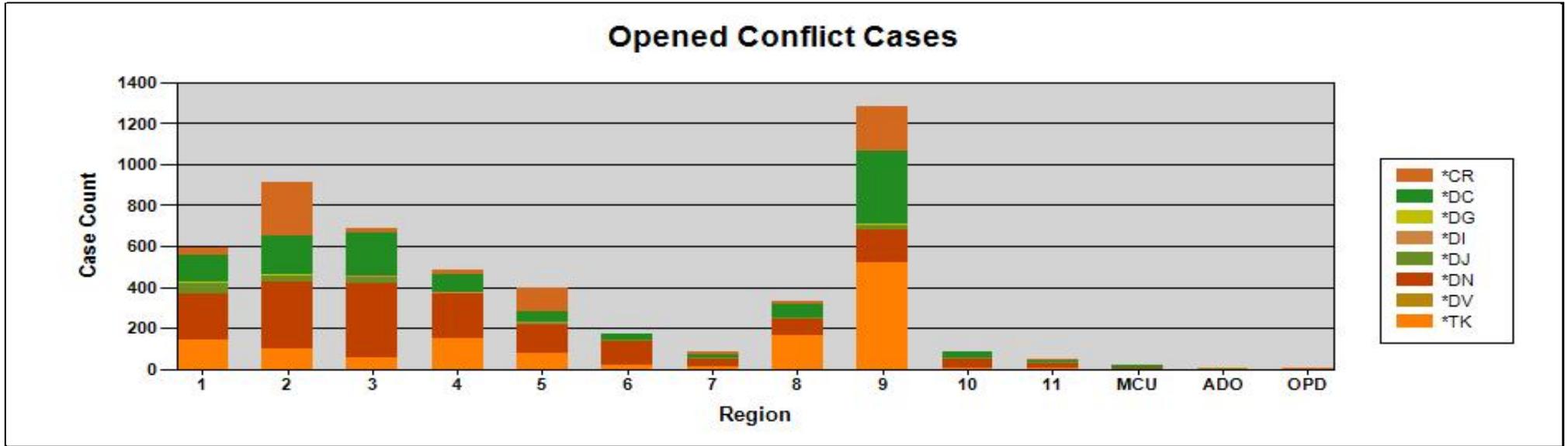


	*CR	*DC	*DD	*DG	*DI	*DJ	*DN	*DV	*TE	*TK	Total
Regional Office, Region 1	50	144	0	3	2	58	199	0	0	186	642
Regional Office, Region 2	260	161	1	0	0	38	321	0	1	99	881
Regional Office, Region 3	21	175	0	0	0	41	360	0	0	52	649
Regional Office, Region 4	11	60	0	1	0	13	173	0	0	87	345
Regional Office, Region 5	71	45	1	0	0	15	153	0	0	74	359
Regional Office, Region 6	1	13	0	0	0	4	202	0	0	2	222
Regional Office, Region 7	2	29	0	0	0	4	38	0	0	16	89
Regional Office, Region 8	8	64	0	3	1	15	74	0	0	170	335
Regional Office, Region 9	147	238	0	0	0	37	155	0	1	367	945
Regional Office, Region 10	4	21	0	0	0	1	94	0	0	10	130
Regional Office, Region 11	2	26	0	0	0	3	47	0	0	25	103
Major Crime Unit	0	19	0	0	0	0	0	0	0	1	20
Appellate Defender's Office	0	0	0	0	0	0	0	6	0	0	6
Total	577	995	2	7	3	229	1,816	6	2	1,089	4,726



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

Period from: 7/1/2013 through 6/30/2014

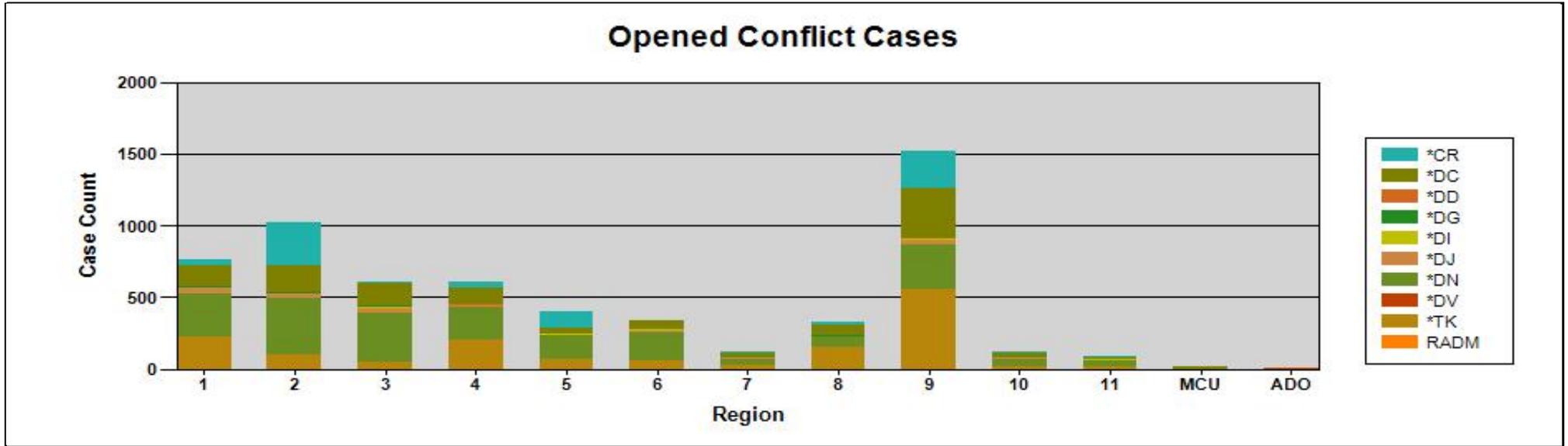


	*CR	*DC	*DG	*DI	*DJ	*DN	*DV	*TK	Total
Regional Office, Region 1	34	128	1	0	62	223	0	141	589
Regional Office, Region 2	261	186	3	0	37	326	0	99	912
Regional Office, Region 3	24	207	0	1	37	361	0	57	687
Regional Office, Region 4	18	91	0	1	8	216	0	149	483
Regional Office, Region 5	118	51	0	2	14	135	0	78	398
Regional Office, Region 6	0	28	0	0	6	121	0	18	173
Regional Office, Region 7	9	21	0	0	7	35	0	10	82
Regional Office, Region 8	18	64	0	0	7	78	0	165	332
Regional Office, Region 9	219	352	1	0	30	160	0	521	1,283
Regional Office, Region 10	0	26	0	0	2	52	0	4	84
Regional Office, Region 11	1	10	0	0	3	27	0	7	48
Major Crime Unit	0	17	0	0	0	1	0	0	18
Appellate Defender's Office	0	0	0	0	0	0	7	0	7
Office Of State Public Defender	1	3	0	0	1	3	0	0	8
Total	703	1,184	5	4	214	1,738	7	1,249	5,104



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

Period from: 7/1/2014 through 6/30/2015



	*CR	*DC	*DD	*DG	*DI	*DJ	*DN	*DV	*TK	RADM	Total
Regional Office, Region 1	38	152	0	3	1	41	301	0	229	0	765
Regional Office, Region 2	308	184	0	1	5	32	399	0	98	0	1,027
Regional Office, Region 3	5	165	0	1	4	44	344	0	44	0	607
Regional Office, Region 4	40	115	1	0	3	10	238	0	199	0	606
Regional Office, Region 5	111	44	0	0	1	6	172	0	67	0	401
Regional Office, Region 6	0	67	0	0	1	12	204	0	54	1	339
Regional Office, Region 7	7	32	0	0	0	14	40	0	26	0	119
Regional Office, Region 8	17	75	0	2	0	3	71	0	156	0	324
Regional Office, Region 9	267	353	0	0	1	37	315	0	552	0	1,525
Regional Office, Region 10	1	32	0	0	0	3	68	0	13	0	117
Regional Office, Region 11	3	13	0	0	1	2	47	0	19	0	85
Major Crime Unit	0	16	0	0	0	0	0	0	0	0	16
Appellate Defender's Office	0	0	0	0	0	0	0	5	0	0	5
Total	797	1,248	1	7	17	204	2,199	5	1,457	1	5,936