

# OFFICE OF THE STATE PUBLIC DEFENDER



STEVE BULLOCK  
GOVERNOR

WILLIAM F. HOOKS  
CHIEF PUBLIC DEFENDER

---

## STATE OF MONTANA

---

To: Public Defender Commission  
From: William Hooks, Chief Public Defender  
Date: September 30, 2016

Re: **Proposal to Abolish the Major Crimes Unit and Reallocate Resources**

The proposal to abolish the Major Crimes Unit merits careful and deliberate consideration. This action would have a significant impact on the agency. I oppose this proposal. MCU provides a cost-effective and experienced resource for the regions and for the conflict coordinator. Abolishing MCU would have an adverse fiscal impact. I offer the following comments to provide context and background for any discussion.

Purpose: The Major Crimes Unit was created by the agency to fulfill several functions:

- to create a unit of attorneys and support staff capable of independently trying complex cases, up to and including death penalty cases;
- to significantly reduce reliance on Regional Deputy Public Defenders and other top management in defending major crimes;
- to reduce workload strain in the regions caused by defending time-intensive major crimes;
- to handle difficult cases in remote areas of the state cost-effectively; and
- to train less-experienced attorneys on criminal defense in complex cases statewide.<sup>1</sup>

Scope: By policy, homicides must be referred to MCU. Other "major" cases that arise in the regions can be referred. Cases can be referred by regional deputies for several reasons, including the fact that the regional deputy doesn't have staff attorneys with sufficient experience to handle the major cases; and the workloads are such that the regional deputy

would have to refer the major case to a contract attorney, which would drive up contractor costs.<sup>2</sup> The Conflict Coordinator can refer to MCU conflict cases that neither the conflict attorneys nor the regional attorneys can take. These conflict referrals are in lieu of Program 3 having to bring in more expensive private attorneys.

In the week of September 26 – 30 alone, MCU received a conflict of interest referral in a deliberate homicide case and a related offense in Sidney; a conflict of interest referral in an attempted deliberate homicide case in Havre; and, a referral from our regional office in Missoula for numerous sexual offense charges that the office was not able to keep. These are three major cases that would require OPD to assign private attorneys, if MCU were not available. MCU also received a referral in another homicide charge, from an office that currently has multiple other homicide cases. A decision on this case is pending.

MCU has cases in Billings, Great Falls, Missoula and Kalispell. MCU attorneys also take cases in Livingston, Hamilton, Sidney, Red Lodge, Wolf Point and Hardin. This unit literally covers the state.

Workload: MCU attorneys travel extensively. Consequently, they cannot take on the same number of cases that attorneys based in regional offices take. Whenever possible, investigative assistance in these cases comes from OPD investigators. In conflict cases, we work with Chief Investigative Supervisor Mori Woods to make referrals to OPD investigators from other regions, so as to avoid conflicts.

Configuration: When fully staffed, the MCU has one attorney who acts as a supervisor and takes case assignments; two attorneys based in Helena; and one attorney based in Billings. This latter position was moved to Billings to cut down on travel time and be more responsive to clients in eastern Montana. The unit also is set up with 2 administrative support positions.

Currently, I have been acting as interim supervisor, assisted by Peter Ohman. We have three full-time attorney positions and one full-time support position, with a part-time support position. This set-up was intended to provide a period in which we could assess the needs of the unit and our agency. We were in the process of moving forward with our plans.

Objective: We posted the position for a supervisor form MCU, accepted applications, and are ready to set up interviews and fill the position. Once a full-time supervisor/attorney is hired, we can implement other ideas for enhancing the function and benefits MCU provides.

Recommendation: MCU was established to meet specific agency needs and challenges. The unit provides us with a resource to meet the legal needs of our clients. Using MCU attorneys and staff is fiscally prudent; without MCU, the regions and the conflict office would have to pay more in contractor costs.

These benefits would be lost if the attorneys in MCU are transferred to regional offices. The proposal as presented does not appear to provide any financial benefit. Certainly the agency would not realize any fiscal benefit in the short-term. If the continued viability or use of MCU is an issue, the discussion should be part of long-term strategic planning.

---

<sup>1</sup> OPD Policy 150 (rev. 2011), ¶¶ 2.1 – 2.5.

<sup>2</sup> OPD Policy 150, ¶ 3.5.8.