

**CONTRACT COMMITTEE MEETING REPORT**

**TO:** Montana Public Defender Commission

**FROM:** Charles E. Petaja, Chairman of Contract Process Committee

**RE:** Report for Contract Committee Meeting on 8/18/2010

**ATTENDANCE:** Chairman, Charles Petaja, Ken Olson, and Commission Chairman, Fritz Gillespie

**SUBJECT:** Meeting was called to order; minutes of July 24, 2010 were read and approved; American University recommendations No. 12, 13 and 32 were agenda items for committee discussion

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**Item 12 - Evaluation of Contract Attorneys**

- A. Mr. Murphy reported progress for evaluation of contract attorneys, including self evaluation, peer evaluation and supervising attorney evaluation. Self evaluations from most contract attorneys have been received by the managing attorney. Evaluation requests from regional supervisors have been requested. Follow up for input from judicial has not been completed.
  
- B. Discussions took place concerning CLE requirements for contract attorneys as required. Contract attorney CLE participation has not been tracked by OPD. Verification of CLE courses completed by contract attorneys may be verified by the State Bar CLE Committee. Mr. Murphy reported that generally contract attorneys have not been willing to take additional CLE courses beyond the annual 15 hour requirement, as required by the OPD standard, without some payment and compensation for additional travel time. The Committee suggested that contract attorneys be required to include a list of CLE courses attended in their monthly billing submittals. Contract attorneys who fail to take required CLE credits may not be utilized on future cases or their priority for PD appointment be reduced. **Evaluation process of contract attorneys for OPD is still ongoing.** Date for final OPD agency evaluation of all contract attorneys to be completed before the end of the year.

**Item 13 - Prohibit contract attorneys from taking a fee case that was originally an assigned case by the system.**

- A. Randi Hood reported that **this provision has been adopted by the OPD and is included in the Amended Standards and distributed to all contract attorneys.**
- B. It is noted that state law prohibits public employees from taking fee generated cases for 6 months following termination of employment. Further discussion is required regarding cases assigned to the OPD that subsequently become fee generating cases. The OPD should have some right to seek reimbursement.
- C. There was significant discussion concerning the one (1) page indigency qualification form currently used by the OPD. The form needs significant improvement to include all information pertaining to Applicant's income, expenses, assets, debts and supporting documents. In addition, the form should include notice requirement to OPD when the Applicant's financial situation changes (i.e. new job, additional income, reduced expenses, sale of assets, etc.)

**Item 32 - Contract attorney access to automated legal research**

- A. This provision is in place and currently being used by OPD throughout the state. 50 licenses are currently in use. Waiting list of 20 more applicants will be filled when list reaches 25 or more. There will be a major Lexis presentation at the October meeting in West Yellowstone.

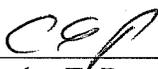
**Other Issues**

Finally, the Contract Committee did discuss some questions raised by Commissioner Jim Taylor in his 8/12/2010, letter to Commission members.

- C. OPD tracking of CLE requirements of contract attorney;
- D. Possible conflict issue with contract managing attorney also managing major crime unit.

These items were left open for further discussions at the Commission meeting on August 30, 2010.

DATED this 30 day of August, 2010.

  
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Charles E. Petaja, Chairman  
Contract Process Committee