

Contract/Conflict Attorney Information Form Responses

1. Thoughts/Opinions/Suggestions as to OPD Assignment of Cases:

- a. Should get paid to do civil driver license revocations, the civil hearing can be a great discovery tool
- b. Some defendants go weeks without counsel, it takes too long to determine if a defendant is disqualified;
- c. Very happy with Matt McKittrick and allocation of cases;
- d. It seems to be working well.
- e. DN cases ebb & flow..... but the current method seems to work
- f. I think you could do better assigning felonies to the Red Lodge attorneys rather than having attorney travel from Billings;
- g. On DN cases it would be nice to have a variety of appointments (not always representing parents); also it seems assignments come in waves, I'll get 3 or 4 in one month and then nothing for 3-4 months;
- h. It seems to be a fair distribution to available and competent contract attorneys. When I finish a few cases, more are offered. The caseload remains fairly constant.
- i. Continuity – if a client has been convicted and is revoked, should have the same attorney who is familiar with the case and client is comfortable with.
- j. Our Attorney, Doug Day, is very good at assignment of cases.
- k. I feel that I am just a resource in Big Horn County for OPD when their favorite contract attorneys are not available.
- l. Please think about assigning private attorneys to assist PD Attorneys with complex homicide cases. Let us teach them how to work a case up for trial. It will result in less trials and better results for the clients. Most important it will train PD attorneys to be better and reduce your costs down the road.
- m. I think Ed does a good job in giving me cases. Usually they are difficult and he knows that I will make sure they are handled correctly and completed in a competent manner.
- n. The OPD case load is not consistent;
- o. I would like the choice to do more OPD work in the future; I enjoy it; (Peter Lacny).
- p. I think DN cases should be assigned to those committed to ongoing research and continuing education in this area of practice;
- q. I think criminal matters should be conflicted out of the State OPD office, not assigned to an FTE in another Region;
- r. I think that 20-25 cases is an okay #. It depends on the Misd-Felony ratio. Too many Misd-Felonies bounces you around between courts and gets to be difficult;
- s. Not getting complex felony cases. (Ben Anciaux)
- t. Have to do a conflict check when case is first assigned to avoid getting a case started and then half-way through give it back. (reg 2);
- u. I handled an assortment of misdemeanor cases through the beginning of 2009 and am still available to help (Minot Maser);

2. How can OPD improve our system?

- a. \$80.00/hour fee
- b. Do not know where to call with a legal question
- c. The brief requested had only Federal Law referenced, no help
- d. Think original counsel should stay on appeals
- e. Too much time spent on filling out paperwork
- f. No problems

- g. Regional Manager should be honest with Contract Attorneys; I was told I'd have to wait 6 months to receive contract cases while other former FTE's took cases with them;
- h. Conflict situations within OPD should be more carefully considered in multi-defendant cases;
- i. Denial of payment for services representing Ronald Smith (capital offense case);
- j. Need a support system in plan for Contract Attorneys (i.e. brief banks, investigators, etc.);
- k. OPD needs to be more consistent when Contract Attorneys are paid;
- l. \$75.00/hour is base minimum as to what we need to be paid to keep experienced criminal attorneys under contract;
- m. To prepare contested DUI cases, I need an expert and the experts I have been in contact with are ridiculous (Reg 10);
- n. I need more money for copies, especially if the case is a felony;
- o. Larry M. explained the expert witness/MH provider system to me, but I still think that asking a provider to complete claim forms and vouchers is too much;
- p. Have been told that the Missoula Child Family Services will no longer host treatment team meetings..... I refuse to allow a client of mine to attend without legal representation, I see an increase in depositions;
- q. I have had no issues; everyone I've had contact with has been willing to help, patient and prompt;
- r. With the current compensation and office overhead we are practically doing pro bono work. I think most continue because they enjoy the work.
- s. OPD is great ---- the fee could definitely be higher, it is too low given today's economics.
- t. The \$25.00 office stipend is insufficient when so much paper is generated on DN cases and must be printed. Toner cartridges, long distance, and postage is more expensive then stipend allowance.
- u. More \$\$\$ per hour; state rate is too low for Contract Attorneys, Federal Court is even \$80.00/hour;
- v. Quit violating the rules of professional conduct by assigning multiple PD attorneys to co-defendants.
- w. I would appreciate improving the billing process – including the speed of payment and audit of bills;
- x. Referrals to Contract Attorneys should be based on experience, commitment and qualifications;
- y. If a Contract lawyer represents a client on a pending matter, that attorney should also receive any other pending matters against that client;
- z. Lower courts need to contribute to the budget more than they are;
- aa. It makes more sense to do a statutory fee on every ticket for OPD costs, rather than to ask the court to assess costs;
- bb. It is difficult for me to comment on this directly since I only work with DN cases and nothing is normal with DN cases...
- cc. Consult with the Contract attorneys about improving the system on a regular basis;
- dd. The system and the managers are excellent, especially Matt McKittrick. I just think the pay per hour could be improved. However, I am opposed to forming a union, which was recently suggested through emails.

3. *Comments on OPD Payment Process:*

- a. Questions on how someone who does not work in my office decides how much time is too long to spend on a specific task
- b. Doesn't think it should take 30 days to get paid
- c. \$25.00 Monthly Stipend amount does not cover expenses; some felony and DN cases require numerous copies and we cannot depend on the client to return all discovery so we have to copy it;
- d. Good;

- e. A few glitches have occurred over the years, but overall, just fine;
- f. Process has improved;
- g. Payment process is fine but sometimes I get two checks in one month;
- h. Very prompt;
- i. I feel sorry for attorneys who do not have a payment plan in place; I have been paid anywhere from 9 days after submitting a claim to the very end of the 30-day time limit; consistency would assist my office greatly;
- j. I do not think I should have to provide copies of briefs during the payment process;
- k. I had a very late payment of one of my claims due to OPD's payment process but Lynn MacMillan was very helpful when it was brought to her attention.
- l. Increase monthly stipend amount;
- m. Any questions have been answered promptly and respectfully; I've always received payments on time;
- n. There was a little bit of a learning curve for myself and secretary to adjust to the lower payment and allocation of hours, but we have adjusted.
- o. Seems reasonable efficient, no real problems with it;
- p. I believe the pay rate is a joke. I lose money by taking these cases. I do it because I care about the clients and I feel I can make a difference in their lives. I know our firm can and does provide better representation than they would if represented by the PD Office.
- q. It is a difficult and time consuming process – it is especially time consuming and frustrating to have honest bills audited and to justify my work;
- r. Could be improved (but gave no suggestions)
- s. The payment process is okay, I don't like the direct deposit, I would rather have the check sent to me (Patrick Paul).
- t. Worked fine for me;

4. Do the various trainings offered by OPD meet your needs?

- a. Can't attend all of the training, would like to but Contract Attorneys have to pay for their own travel, lodging, and fees ---- can't devote the time away from private practice and it's not feasible.
- b. Would like to see more DN trainings;
- c. Training should be centrally located – Great Falls, Missoula, Helena --- NOT West Yellowstone;
- d. Need more DN trainings; would like to know what other attorneys around the state are doing to address this issue;
- e. Please give us more lead time so we can attend.
- f. I would like training to represent parties in DN cases but I need at least 3 months advance notice to calendar and adjust schedules;
- g. Need Legislative updates;
- h. I would prefer if they were not always Friday afternoons.
- i. I do like the yearly CLE's for OPD. I would like the CLE's to be more centrally located in the state.
- j. Training continues to improve but the annual OPD training excluded Contract Attorneys from advanced trial training and discounts on rooms;
- k. What to do if it looks like a case is going Federal?
- l. Could use more Child Abuse and Neglect training.