Best, et al. v. Grant County

Monitor's Report

First Quarter, 2008

April 20, 2008

Submitted by Francisco Rodriguez, Settlement Monitor

Monitor's Activities

My goal is to visit Grant County at least once per month. During the first quarter of this year, I travelled to Ephrata on three separate occasions:

- January 7-9, 2008
- February 4-5, 2008
- March 3-5, 2008

While in Ephrata, I observed court proceedings, reviewed court files, and met with public defenders.

In addition to site visits, I maintain regular contact with supervisor Alan White via email and telephone. I also have periodic contact with individual defenders, investigators, and counsel for both parties.

Access to Information

The Settlement Agreement provides that the Monitor shall have broad access to information concerning the Grant County public defense system. Supervising Attorney Alan White and his assistant Aracely Yanez, have always been very cooperative in responding to my requests. The Grant County Superior Court Clerk's Office also continues to be very accommodating in my requests for access to court files. Finally, June Strickler, Administrative Assistant to the Board of County Commissioners, has been helpful whenever I have requested her assistance with records requests.

My only difficulties in obtaining access to information have been due to objections raised by counsel for the County. In my last report, I noted that the County had declined to produce a copy of correspondence relating to a potential violation of the Settlement Agreement involving private practice by its defenders. I formally requested the information on November 16, 2007 and asked that it be provided as soon as possible. I did not receive a copy of the letter until February 15, 2008.

During the first quarter, I again experienced some resistance to providing me with the information necessary to carry out my duties. Shortly after my last report was released, Supervising Attorney Alan White informed me that he had been instructed to limit my access to information by requiring me to make a public disclosure request for anything beyond the information that typically accompanies his monthly reports. Mr. White further informed me that I would not be permitted to attend public defender staff meetings unless specifically invited. I subsequently discussed my concerns regarding these new polices with counsel for the County and was assured that there had been a misunderstanding. As far as I have been able to discern, I have continued to receive the same level of cooperation from Alan White as before.

2007 Compliance

The parties dispute whether the County complied with the Settlement Agreement in 2007. That dispute has now been submitted to me for findings and recommendations. Plaintiffs have asserted violations relating to first appearance coverage, the Supervising Attorney's responsibilities, conflicts counsel, part-time defenders, investigators, and several other issues. The County had denied these alleged violations.

Supervising Attorney

The Settlement Agreement requires the Monitor to oversee and evaluate the performance of the Supervising Attorney. In past reports, I have identified several areas of concern relating to the Supervising Attorney in Grant County. My concerns generally fall into the following categories:

(1) Lack of independence/authority;
(2) Conflicting roles;
(3) Excessive workload; and
(4) Ineffective leadership/management style.

These issues continued to be problematic during the first quarter to varying degrees.

It is my impression that the County was less involved in the day-to-day operation of the public defense program during the first quarter than it had been in the past. Both the County Commissioners and counsel for the County made themselves available to provide guidance to Mr. White as requested, but by and large, the County was more responsive and less interventionist than in the past. I consider this a very positive development.

The County also seemed to involve Mr. White more directly in some recent hiring decisions. Mr. White interviewed and recommended that the County hire Tom Stotts as an investigator. He was also asked to recruit attorneys for the County's conflicts panel. In the past, Mr. White's involvement in the hiring process has been either non-existent or an afterthought. With both Mr. Stotts and the conflicts panel, however, Mr. White seems

to have taken the lead. I consider this to be a more appropriate role for the Supervising Attorney. Yet despite giving him a greater role in minor hiring decisions, the County continues to bypass Mr. White when making major hiring decisions. For example, I recently learned that the County has apparently interviewed and offered a contract to a new defender that Mr. White has never even spoken to.

In terms of workload, despite my recommendations to the contrary, the County continues to require Mr. White to supervise both district and juvenile court. By his own admission, Mr. White has no time to actually supervise the attorneys assigned to those courts. He essentially functions solely as an administrator. While his administrative responsibilities are not as burdensome as true supervision would be, that work still requires a substantial investment of time and effort by both Mr. White and his assistant. Administering these other courts clearly detracts from the time available to felony defenders and seems contrary to the requirement that the County employ a "full-time" felony supervisor.

Ultimately, Mr. White must work within the constraints he has been given as Supervising Attorney. In 2007, he struggled with those constraints in attempting to manage a rebellious and insubordinate staff without sufficient authority to enforce discipline. To make matters worse, his leadership style was ill-suited to the situation. In 2008, the staff is much more receptive to Mr. White's leadership. The defenders seem to respect him personally and professionally and to accept his authority over them. The working environment in general seems much more cooperative and collegial.

Mr. White showed good judgment in several managerial decisions during the first quarter. When one of the new defenders was involved in a multi-week trial, for example, Mr. White was careful to ensure that none of that defender's new clients were in custody. When he learned that prosecutors intended to seek restitution for the costs of defense investigation, he took steps to ensure that confidential information relating to investigation would be protected. When one of the defenders suddenly became unavailable due to a medical emergency, he responded quickly and appropriately by re-assigning his cases to new counsel.

Handling crises and managing attorney workloads are essential skills for an effective supervisor, but Mr. White's core responsibility remains ensuring that indigent defendants in Grant County receive quality representation. Toward that end, I challenged Mr. White to improve attorney performance in 2008 by focusing on some of the persistent problem areas from last year. More specifically, I asked Mr. White to focus on jail visits, investigation, motions, and case coverage.

I was disappointed last year to discover that Mr. White was unaware of problems with jail visits and investigation rates until I pointed them out to him. Accordingly, I asked Mr. White to monitor those areas more closely in 2008 and to take prompt corrective action if necessary. In particular, I urged him to pay close attention to the practices of the newly hired defenders who lacked any track record with the County. Unfortunately, as discussed in more detail below, I observed many of the same problems with jail visits and investigation this year that I noted in my reports last year. Moreover, Mr. White was

again surprised to learn about these problems. He indicated that due to his other responsibilities, he simply did not have sufficient time to scrutinize the attorneys' jail visits and investigation requests as he had planned.[1] Mr. White and I recently engaged in a productive dialogue about these issues, and he has already taken steps to address them with the defenders, both individually and as a group.

With respect to motions practice, at the beginning of the year, Mr. White and I discussed the oft repeated assurances in his reports that the defenders are filing appropriate motions. What emerged from our discussion was that Mr. White's assurances were based not on any hard facts but rather on his general impressions of defender practice. In 2008, I asked Mr. White to takes steps to verify the accuracy of his impressions. In response, Mr. White has developed a system whereby he identifies potential motions prior to attorney assignment and later checks in with the attorney to determine whether the suggested motion was actually filed. This approach offers not only a way to evaluate defender motion practice but also a mentoring opportunity. The system has not yet been in place long enough to produce any usable data, but I have reviewed numerous case assignments that contain notes from Mr. White to defenders about potential motions. Mr. White needs to be diligent in following up with the defenders as to whether motions have been pursued, but overall, I am please with his efforts in this area.

The last area I asked Mr. White to focus on was limiting his coverage of cases to emergency situations. In the past, Mr. White had spent far too much time in court as the primary coverage option for defenders. Given his heavy workload, Mr. White and I agreed that his time was better spent on other work and that he should only provide coverage as a last resort. In reviewing case files this quarter, I found that Mr. White was still handling some hearings, but his court appearances did seem to be less frequent. Moreover, when he did provide coverage, his explanations for doing so suggest that it was limited to appropriate situations.

Overall, Mr. White did not make as much progress in the first quarter as I had hoped. He handled the unexpected challenges with which he was presented quite well, but he did not accord sufficient importance to the more basic aspects of supervision. Mr. White understands and agrees that he must give issues such as client contact and investigation more attention in the future. Accordingly, I fully expect to report substantial improvement in these areas next quarter.

Staffing/Caseloads

The County began 2008 with a substantially different defender staff than in 2007. Five of its nine defenders joined the program late last year or early this year. Moreover, one of

[1] I have no doubts about Mr. White's work ethic. As I have noted before, his workload and the County's expectations of him are excessive. There is simply not enough time available for him to do all that he should, and he sometimes struggles to prioritize his many competing responsibilities. Moreover, in addition to spending time handling a variety of crises during the first quarter, Mr. White was away for a week attending a management training seminar in Kentucky and for another week on a family vacation.

the returning full-time defenders, Mike Aiken, recently suffered a major stroke and will be out indefinitely. It is my understanding that the County intends to convert its two part-time defenders to full-time and to hire a new defender as well. Two-thirds of its defender staff will then have been hired in the last six months or so.

Although it is difficult for any defender program to handle such a high level of turnover, the overall effect of the staffing changes in Grant County seems to have been positive. My initial impression of the quality of the new lawyers has been favorable. There is definitely much more collegiality among the defender corps.

The use of part-time defenders continues to be an issue. The Settlement Agreement requires the use of full-time defenders except that the County may employ no more than two part-time defenders with the prior approval of the Monitor. The County hired two new part-time defenders this year without my approval. Last fall, when I learned that the County intended to hire part-time defenders for 2008, I urged the County to seek approval before moving forward. The County elected not to seek approval and signed contracts with two part-time defenders.

Several months later, the County changed course and sought approval for the part-time defenders it had already hired. I requested additional information regarding the candidates, met with the proposed part-time defenders, and sought input from the County regarding the need for part-time defenders as opposed to full-time defenders. As I neared a decision, the County chose to withdraw one candidate and convert him to full-time and asked that I take no action on the other while the County assessed its staffing needs. Both attorneys have received significant case assignments this year as part-time defenders despite not being approved.

In terms of caseloads, the Settlement Agreement establishes a yearly limit of 150 case equivalents per year. To ensure that case assignments are distributed somewhat evenly throughout the year, the County has adopted additional monthly and quarterly caseload limits. During the first quarter, the County adhered to its monthly caseload limits with respect to every defender. In two instances, the County slightly exceeded quarterly limits. One attorney exceeded his quarterly limit because he was unexpectedly assigned to handle child support cases for Mike Aiken. The second defender exceeded her limit by only a partial case equivalent.

At present, four of the six full time defenders are on a pace to exceed annual caseload limits. It is difficult to assess the significance of this fact so early in the year. If current trends continue, Supervising Attorney Alan White is projecting a staffing shortfall of 83 case equivalents. Some but not all of that shortfall can be absorbed by converting existing part-time defenders to full-time. To handle the remaining cases and provide a reasonable caseload cushion, the County will need to hire an additional defender.

Caseload fluctuations during the year may alter staffing needs up or down, but there are at least two reasons to believe that Mr. White's current caseload projections may be low. First, the County's first quarter figures for contempt cases underestimate the actual

number of case equivalents worked due to a change in the definition of a contempt case. This change was instituted unilaterally by the County this year. Second, most of the defenders did not report their extraordinary hours in time to be included in Alan White's most recent monthly report. As a result, the current caseload numbers do not include all credits earned in the first quarter.

Training

Local training opportunities for Grant County defenders are rather limited. The Supervising Attorney occasionally organizes lunch-time trainings on Mondays or Tuesdays when the defenders are most likely to be in Ephrata for court. During the first quarter, Mr. White arranged one such training, an informational session on Grant County Mental Health. The director of that agency gave a presentation regarding the services available and how defenders could help clients gain access to those services.

Mr. White also arranged for the State Office of Public Defense (OPD) to offer a two-hour training session in Ephrata on misdemeanor appeals. He solicited the training because most of the felony defenders had been recently assigned to handle RALJ appeals and had no appellate experience.

The County has also continued to financially support defenders who attend relevant trainings outside of Grant County. Two defenders recently attended an intensive three and a half day workshop on cross-examination in Leavenworth, Washington, conducted by Jerry Spence's Trial Lawyers College. They report that the seminar was excellent. In addition, the County agreed to send Supervising Attorney Alan White to Kentucky to attend a National Legal Aid and Defenders Association training entitled "Nuts and Bolts of Supervision and Management." Finally, it is my understanding that three of the County's defenders have applied to attend the National Criminal Defense College in Macon, Georgia this summer. I am hopeful that one or more of them will have the opportunity to attend.

In the future, I hope that Grant County will also take greater advantage of its own training resources. One of the defenders has suggested that each defender give a lunch-time training to the group on a topic of his or her choosing. Such trainings would provide an opportunity for the County's defenders to share their particular knowledge, experiences, and expertise with the rest of the group.

First Appearances

The Settlement Agreement requires that the County provide representation at initial appearances for all indigent defendants. In addition, Supervising Attorney Alan White has adopted a written policy requiring the public defenders to visit in-custody defendants prior to their first appearance in court. Each of the defenders is assigned to cover first appearances for a week at a time on a rotating basis throughout the year. The coverage

attorney is required to visit in-custody defendants prior to court in order to obtain the information necessary to make a bail reduction and/or release motion.

During the first quarter of 2008, the Grant County defenders consistently made the required jail visits for the first time during my tenure. In the past, some defenders have been quite diligent while others have not. This quarter, seven different defenders covered first appearances and each consistently made the required visits. The number of visits per week ranged from 10 to 25 visits with an average of more than 16 per week.

Defenders have expressed increasing frustration with the burden of handling first appearances in addition to their caseloads. First appearance calendars are heaviest on Mondays and Tuesdays, the same days defenders have extremely busy schedules handling arraignments and pre-trial hearings for their assigned clients. It is not uncommon to have 10 or more first appearances on a given day. Defenders are expected to visit these defendants in jail, represent them at the initial appearance, and handle all of their other cases at the same time. One defender deemed first appearance coverage a "nightmare" and described the impact on his other clients as follows:

> I want to let everyone know how much this is costing OUR clients. I have not been able to return all of my phone calls. I have not been able to discuss offers with my clients. I have not been able to work on my cases. I have not been able to do client interviews. With the exception of meeting with my own clients on Wednesday, and my own cases from Monday and Tuesday, I have done nothing to help my existing clients AT ALL.

Jail Visits

Grant County has adopted a written policy on client contact and jail visitation. The policy requires defenders to make contact with all new clients within five business days of receiving the assignment. For in-custody clients, a jail visit is required. Meeting with the client in the courtroom or in hallway outside the courtroom is not sufficient. Moreover, the jail visit must take place prior to arraignment "if at all practicable."

Grant County's jail visit policy is not particularly strict or burdensome. Five business days is ample time to arrange to visit a new client in the jail. By way of comparison, all King County public defense contracts require a jail visit within one business day of assignment. In terms of logistics, the Grant County jail is located within the same building as the court. An attorney could walk from the courtroom to the jail in less than 30 seconds. In most cases, defenders could be meeting with their clients within five minutes of leaving the courtroom.

Unfortunately, in cross-referencing case assignment logs and jail visit records, I found that Grant County defenders were rarely making jail visits as required. In the cases I reviewed, defenders visited their in-custody clients prior to arraignment only 25% of the time. With the time frame expanded to the full five business days, performance improved

somewhat but still only reached 39% compliance. Moreover, the percentage of clients who receive prompt visits has steadily decreased over time during the first quarter:

	January 2008	February 2008	March 2008
Visit before arraignment	36%	26%	11%
Visit within 5 business days	56%	37%	21%

It was fairly common during the first quarter for jailed clients to wait two to almost three weeks for an attorney visit. A few cases were particularly egregious. For example, two different defendants had to wait 49 days before receiving a visit from their assigned attorney. In both cases, the initial visit occurred on or after the date originally scheduled for trial. In a third case involving multiple class A sex offenses, the defendant waited 27 days for a visit.

Such delays are completely unacceptable, and the County should not tolerate such behavior. I have repeatedly urged greater vigilance in ensuring that defenders visit in-custody clients in a timely fashion. To the best of my knowledge, the County has not adopted additional safeguards, monitored jail visits more closely, or taken any action against defenders who violate the jail visit policy. Defenders are unlikely to make jail visits a priority unless the County clearly and unequivocally requires them to do so.

Investigation

Grant County currently has four approved public defense investigators. One investigator has asked to reduce his workload significantly in 2008, and it is my understanding that the County has agreed to accommodate his request. During the first quarter, several defenders complained that at least two of the County's investigators seemed overworked and were not as prompt as they should be in completing case assignments. Although the investigators have been instructed to request caseload relief whenever necessary, they seem reluctant to do so.

The Grant County Commissioners recently expressed concern that the County did not have a sufficient number of approved investigators for its public defense program and asked that I approve two additional investigators. I concur in their assessment that more investigators are needed. Unfortunately, I was not able to approve the candidates submitted by the County. One did not have a private investigator's license and posed conflict of interest issues. The other was not licensed except through a previously disapproved investigator and indicated he was no longer interested in a position as a public defense investigator. I have encouraged the County to publicly advertise for investigators in the future so as to ensure access to a broad pool of qualified applicants.

The County submitted an additional investigator for approval just last week. After meeting with him, checking references, and reviewing samples of his work product, I

approved Tom Stotts as appropriate for felony defense investigations. I anticipate that the County will finalize contract terms with him shortly.

During the first quarter of 2008, the overall rate of investigation for Grant County felony defenders was 38%. That figure represents an increase over the rate for both last quarter and last year. Most of the public defenders continue to make regular use of investigators on their cases. A few, however, are not requesting investigation very often at all. As has consistently been the case in prior quarters, the part-time defenders had the lowest rates of investigation. Because these attorneys must balance their public defense work with private cases, often in other jurisdictions, I suspect that they are not able to devote as much time to their indigent clients in Grant County as the full-time defenders.

The rates of investigation by attorney were as follows:

62%	Full-time defender
58%	Full-time defender
54%	Full-time defender
52%	Full-time defender
38%	Full-time defender
19%	Full-time defender
9%	Part-time defender
5%	Part-time defender

The three attorneys with the lowest investigation rates requested investigation in only 8 out of 74 cases. These rates are particularly troubling in a system such as Grant County's where most cases are not resolved until shortly before trial. In such a back-loaded system, one would expect relatively higher rates of investigation because of the difficulty in determining which cases will go to trial until very late in the process.

Investigation is essential to prepare for trial, to allow the client to make informed decisions about plea offers, and to negotiate from a position of strength. Defenders who fail to investigate their cases are gambling that the case will not proceed to trial. When the hoped for resolution does not materialize, they must either go to trial unprepared, accept whatever plea offer is available, or beg for more time to do the investigation that should have already been completed. Such a practice makes no sense when investigators are readily available.

I have asked Supervising Attorney Alan White to monitor investigation requests more closely and to stress to all defenders the importance of investigation. At the start of the year, Mr. White met with one of the returning defenders to discuss his investigation rate of less than 20% last year. No doubt as a direct result of that discussion, that defender's rate of investigation increased to 38% this quarter. I am hopeful that Mr. White will have similar success with the defenders who had unusually low rates of investigation this quarter.

Client Complaints

The Settlement Agreement requires the Supervising Attorney to establish a system to track and investigate complaints from indigent defendants regarding their assigned attorneys. To satisfy this requirement, Alan White maintains a dedicated telephone line for client complaints. Calls to the complaint line are logged and dealt with as appropriate.

Until recently, inmates had been unable to leave messages on the complaint line. As a result, Mr. White's office received a large number of calls to the complaint line from in-custody defendants whom he was unable to identify and who were unable to report their complaints. Sometime in mid-February, however, the County was finally able to configure the jail phone system to allow inmates to leave messages on the complaint line.[2] In January and February, prior to this configuration change, Mr. White received 47 calls from inmates who we unable to leave their names or complaints. Since the jail phone system has been adjusted, there have been no further calls of this kind.

The most significant remaining problem with the complaint line is limited voicemail space. Apparently, a single mentally ill inmate calls repeatedly each month and frequently fills up the answering system's voicemail capacity. Once the system reaches capacity, callers are unable to leave a message and instead receive a generic automated message. The inmate in question is a district court defendant who has been in custody for quite some time and is not expected to be released anytime soon.

As far as substance, most of the calls to the complaint line this quarter were similar to those in prior quarters and consisted of requests for attorney contact or attempts by inmates to get messages to individual defenders. These calls were not particularly remarkable or concerning. Moreover, I suspect that the volume of calls will decrease once the last few glitches with the jail phone system are resolved and all inmates have direct telephone access to their assigned lawyers. The complaint line logs should be monitored regularly, however, to determine whether clients of certain defenders are responsible for a disproportionate share of the calls. Such a pattern could be an early indicator of problems.

Overall Quality of Representation

The quality of representation in Grant County has improved somewhat but continues to be inconsistent. In some instances, I have observed work of a very high caliber. In others, I have reservations about whether basic constitutional standards are being met. Overall, I observed more positive than negative during the first quarter. Basic issues such as investigation and jail visits continue to be an issue, but there has been improvement

[2] It should be noted that one of the Grant County Commissioners personally tested the jail phone system in February in order to determine whether it was now possible to leave a message on the complaint line from the jail. Alan White tested the jail phone system again in March to confirm that inmates could leave messages using both the English and Spanish access codes.

even in those areas. At the same time, some of the defenders seem to be litigating motions and even going to trial more frequently than was the case last year. These are very positive developments for the program as a whole.

In reviewing court files this quarter, I found written motions filed by a variety of defenders. Defenders had filed basic suppression motions, Knapstad motions, and motions to compel discovery. I found three separate motions filed in a single case. The motions that I reviewed seemed to raise valid legal issues and the briefs in support were reasonably well-written. My one major concern with respect to motions is the fact that just a few defenders seem to be responsible for the vast majority of the motions.

Several defenders have also been raising more complex legal issues in preparation for upcoming trials in a number of serious cases. In one three strikes case, defenders challenged whether a prior conviction should count as a strike when the defendant had been misadvised by prior counsel. The defenders convinced the court that the challenge was not time barred, but the motion was eventually transferred to the Court of Appeals as a PRP. In that same case, counsel have consulted with experts and are preparing to present a diminished capacity defense. In another case with an imminent trial date, defenders are preparing an insanity defense to rape charges. In yet another, defenders are exploring the legal implications of the police using a Spanish interpreter to elicit statements from a murder defendant whose primary language is actually Mixteco.

Some of the defenders also took on the recurring problem of obtaining criminal history information from prosecutors and police. Access to criminal history has been a point of contention since long before I became Monitor. Recently one of the defenders began making a concerted effort to litigate the issue in her cases, filing motions to compel and obtaining subpoenas from the court in a large number of cases. The court eventually scheduled a consolidated hearing on the issue, but the parties reached an agreed resolution before the matter was heard.

The defenders' zealous advocacy on this issue is an example of what has been missing in Grant County. This was information to which the defenders were obviously entitled but were consistently being denied. Defenders frequently grumbled about the problem but did little to change the practice. Finally, through the persistent efforts of one defender, it appears some progress has been made on what had been a chronic problem. The only disappointing aspect of this effort was the fact that so few defenders participated. All of the defenders and their clients stood to benefit, but most failed to step up and join the fight. As a result, one defender took the brunt of the criticism for the entire group including a frivolous motion for sanctions filed against her by the prosecutor's office. In the future, I hope that the defenders will develop more of a sense of common cause and learn to work together to address such systemic problems.

In addition to improved motions practice, the number of trials was also dramatically higher in the first quarter. There were six trials involving Grant County public defenders, four jury trials and two bench trials. There were only ten trials all of 2007, so the current defenders are well ahead of last year's pace. Two of the jury trials in January were

handled by defenders who have now left the program, but the other four trials involved current defenders. In fact, two of the new defenders have already had jury trials in felony assault cases, and both won not guilty verdicts. A third defender returning from last year had two bench trials this quarter, and she too earned a not guilty verdict in one of them. The increased number of trials is certainly very promising, and I hope that the current group will sustain its more aggressive approach. I also hope that some of the returning defenders will reflect upon their own trial practices as some have not been to trial in over a year.

While there was much to applaud about the quality of representation in the first quarter, there were cases that caused concern as well. In one case, for example, a Grant County public defender pled a client guilty to his first felony just six days after receiving the assignment. The defendant pled guilty as charged even though he had no prior felony history, and the statement of probable cause revealed a strong suppression motion. The assigned attorney did not visit the client in jail until the day of the guilty plea. To be fair, the client was released immediately from custody with credit for time served, so one could argue that this case should be viewed as a success. Nonetheless, I question whether the defendant could make a knowing, voluntary, and intelligent decision as to relinquish his trial rights and plead guilty when he had only spent perhaps 12 minutes meeting with his attorney on day of the plea.[3]

In another case, a defender signed an agreed order for a competency evaluation without ever having visited the client. The agreed order allowed the State's expert to evaluate the defendant not just for competency but also sanity and capacity even though those defenses were not yet at issue in the case. After the evaluation was completed, the defense stipulated to a 90 day commitment to Eastern State Hospital with advance authorization for the use of forced medications. Jail records reflect a single jail visit between the date of the evaluation and the agreed order allowing forced medication; the visit lasted five minutes.

Finally, I reviewed a forgery case in which the statement of probable cause revealed both a strong suppression motion and several good trial issues. The assigned attorney never pursued a motion to suppress. Instead, a week before trial, the defendant pled guilty to a single count of forgery. His only additional exposure at trial would have been to a second count, which likely would have been deemed "same criminal conduct" for sentencing purposes and should not have affected the sentencing range. Under the circumstances, there was very little reason not to pursue the suppression motion and if denied, proceed to trial.

In the first quarter, Grant County public defenders made significant progress in motions practice and the number of trials held. As the above cases illustrate, however, there remains room for improvement. In the future, I hope to see the quality of representation become more consistent, with all of the defenders making jail visits in a timely fashion, investigating a reasonable percentage of their cases, litigating motions, and if appropriate, going to trial.

[3] The attorney involved visited two clients that morning for a total of 24 minutes.

Conclusion

Grant County public defenders appear to have raised their standard of practice in the first quarter. I am seeing more investigation, more motions, and more trials. There is now a collegiality among the defenders and a sense of mutual respect between the defenders and their supervisor which had been missing last year.

In the next quarter, I hope to see substantial improvement with respect to jail visits, greater use of investigation by some defenders, and more defenders bringing motions and going to trial.