

Assigned Counsel Division Newsletter

Volume 18, June 2018

Announcing Private Bar Attorney Award to be Presented at the Annual SPD Conference

The Wisconsin State Public Defender is pleased to announce the creation of a new annual award. The award will recognize a member of the Assigned Counsel pool for his or her exceptional service to indigent defense.

The ideal candidate will have consistently displayed great dedication and excellence representing SPD clients and by working to help improve services for indigent defense. The recipient will be chosen by members of the SPD Board, and the award will be presented at the SPD's Annual Criminal Defense Conference in Milwaukee.

The SPD is grateful for all that the private bar attorneys do to improve defense services and provide high-quality legal services to our clients.

More information and nomination materials will be sent out soon.



Special points of interest:

- **New Private Bar Attorney Award**
- **Appellate Attorneys: Opting into a Case**
- **Trial Attorneys: Your work is not over if the Court makes a favorable defense ruling and dismisses.**
- **Loss of Attorneys in North and Central Wisconsin**
- **Upcoming SPD Training Events**
- **SPD On-Demand Training**
- **Q and A: My Scope of Appointment**
- **ACD Billing Q and A**

Trial Attorneys: Your work is not over if the Court makes a favorable defense ruling and dismisses.

If the trial court grants a defense motion to dismiss and the State files a notice of appeal from that order, the attorney needs to notify the appellate division at once so that the SPD can appoint counsel. If the attorney does not notify the appellate division of the dismissal and appeal, the SPD has no way of knowing that the State is appealing. If new counsel is not appointed, the trial attorney is responsible for the appeal.

Follow the link below for more information:

[Perfecting Appeals in WI Defender Cases](#)

Honoring the Memory of Robin Kennedy, Joe Crawford, and Paul Goetz

Northern and Central Wisconsin are still feeling the recent loss of three area attorneys. Robin Kennedy (Marathon County), Joe Crawford (Madeline Island) and Paul Goetz (Lincoln County) collectively served SPD clients for over 80 years. We were privileged to work with these attorneys and grateful to have them on our active private bar lists.

Attorney Kennedy was an active member of the Marathon County Bar who took a variety of cases out of multiple offices in central Wisconsin. She was a particularly strong advocate for our juvenile clients, and was well respected in the Courts.

Attorney Crawford specialized in mental health cases. Joe was always ready to jump in at a moment's notice to accept an SPD appointment, taking nearly 2,000 Chapter 51 and Chapter 55 cases for the SPD during his tenure as a private bar attorney. He will be sorely missed by those who knew him in the community.

Attorney Goetz accepted a high volume of appointments in four counties: Marathon, Lincoln, Langlade and Taylor. His many years of faithful SPD service are a testament to his commitment to indigent defense.

The local SPD Trial Offices would like to extend their appreciation to all of the attorneys who honored these attorneys by accepting appointments for the cases these attorneys had pending.

The offices still have many other cases that need appointment. If you are able to help by taking one or two cases, please reach out to Jodi Severson (seversonj@opd.wi.gov or 715-345-5392).

"We can't help everyone, but everyone can help someone." -Ronald Reagan

Opting into the Case

Under the e-Filing statute, clerks are not required to send paper copies of the electronic court record in post-conviction proceedings anymore. Rather, attorneys will have to opt-in to the electronic filing system in order to view the electronic court record. (Please note that clerks should still be giving attorneys copies of items in the record that have not been electronically scanned into the case).

It is essential that you promptly opt-in to your cases.

First, for court reporters to electronically "serve" an attorney with transcripts, that attorney needs to be opted into the case. Without the attorney opted in, the court reporter does not have the ability to give the attorney electronic access to the transcript. Second, the failure to opt in to the case early could have a substantial impact on timelines under Ch. 809. Third, opting in early allows the attorney an opportunity to see if they need to follow-up with the clerk on any missing items in the record (for example, if the attorney does not have electronic access to the PSI after opting in, the attorney can call the clerk to get access).

Electronic Transcript Access and Deadlines

Under the e-Filing statute, transcripts are now electronically filed through the circuit court's new e-Filing system. The requesting attorney is not "served" with a copy the transcript until the court reporter has given that attorney electronic access to view the e-Filed transcript. Under [Wis. Stat. § 801.18\(15\)\(b\)](#), upon "making arrangements for payment, the court reporter shall indicate which users may have access to the electronic transcript." The granting of electronic access (and corresponding notification from the CCAP e-Filing system) is integral to assessing statutory deadlines in our cases. See [Wis. Stat. § 809.30\(2\)\(h\)](#):

"Notice of appeal, post-conviction or post-disposition motion. The person shall file in circuit court and serve on the prosecutor and any other party a notice of appeal or motion seeking post-conviction or post-disposition relief within 60 days after the later of the service of the transcript or circuit court case record."

WisLAP
Wisconsin Lawyers Assistance Program

For life's challenges confidential help
is available 24 hours a day.

For a confidential consultation –

Phone: 800-543-2625

Email: callwislap@wisbar.org

Web: wisbar.org/wislap

Upcoming SPD CLE Trainings

Watch the [SPD Training Division webpage](#) for more information and registration details for these upcoming SPD trainings.

Working as a Team: An Institute for Attorneys and Investigators

September 10-14
Lake Lawn Resort
Delavan

Representing Kids in Chapter 938 Delinquency Cases

October 31
Hyatt Regency Hotel
Milwaukee

SPD Annual Criminal Defense Conference

November 1-2
Hyatt Regency Hotel
Milwaukee

SPD On Demand Training

The SPD Training Division is excited to announce the following Forensic Science Training Courses.

[Fundamentals Of Digital Forensics for Litigators](#)

[Forensics Issues in OWI Cases](#)

[Eye Witness ID](#)

[Litigating Daubert & other Pretrial Motions on Forensic Science](#)

[Cell Tower Forensics](#)

[Litigating Science Dependent cases](#)

ACD Certification Courses available:

[Juvenile Certification Course](#)

[Probation, Parole and Extended Supervision Revocation Cases](#)

[Chapter 51 Certification Training](#)

Q and A: My Scope of Appointment

Q: After the sentencing hearing, my client sent a letter to the court requesting the return of their property. Would I represent the client at the "property return hearing"? Would this issue be within my scope of appointment for this client?

A: It depends on when the motion is filed.

This motion may be filed as part of the underlying criminal case and is generally within the appointed attorney's discretion to litigate as part of the SPD appointment. However, the SPD will not ordinarily reimburse an attorney for bringing this motion after final adjudication or judgment. The best practice is for the attorney to identify before disposition whether there is any property belonging to the client that is being held by law enforcement.

If there is such property, the attorney and the client may wish to make an informal request for return initially. If the agency declines to release the property and fails to respond promptly, the attorney and client should consider whether a motion is appropriate. Consideration should be given to the nature and value of the property, as well as any risk that additional examination or testing of the property could result in additional prosecution of the client.

ACD Billing Q and A

My client is a witness for another trial.

Q: My client is a witness for another trial and I will be attending court with them. Can I bill my time and expenses for this court appearance?

A: Yes, if the subpoena is related to the case for which you are appointed. Travel time, mileage, preparation time for the appearance, and the time for the appearance would be reimbursable.

Time slip entries for the same task multiple times in one day.

Q: I have multiple phone calls or emails with my client in one day. Should I create a time slip entry for each?

A: No. You should enter the information in one time slip entry.

Example: Client Phone/Video Conference– In the **Detail** box you would include the total for all calls i.e. x4.

If you would like to create a time slip entry for each call/email, please be sure to include information like 1st, 2nd, or AM/PM in the Detail box so that the auditors know it is not a duplicate entry.