

THE DEFENDER



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Inquiries, articles and suggestions
are always welcome.

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FROM THE EXECUTIVE DIRECTOR'S CHAIR

by Jack Rogers

The Indigent Defense Commission was established in 2008 by W.Va. Code 29-21-3b. As required, the Commission reported to the Legislature by 15 January 2009, recommending four more Public Defender offices be opened beginning 1 July 2009. The Commission also recommended that the hourly rate for appointed counsel rise to \$75/105 (out of court and in court, respectively). This raise was intended to compensate for the cumulative effect of inflation since 1 July 1990, when the rate was set at \$45/65. (See full report at www.wvpds.org).

Governor Manchin caused a bill to be introduced in the 2009 Regular Session to implement these recommendations (S.B. 260/H.B. 2405) but the Legislature did not enact legislation. The Governor deserves a great deal of credit for supporting these recommendations and for supporting additional (supplemental) funding this fiscal year.

We ran out of funds on March 10, 2009. Since Public Defenders are routinely under budget, a small amount will become available June 1, 2009. The Legislature is currently in recess until 26 May 2009 so the Governor can more accurately estimate anticipated revenues for FY 2010. No supplemental funding action will be taken until some time after that date, if at all this fiscal year. The likelihood is that we will not begin paying vouchers again until 1 July 2009 (and even then, must continue to give priority to abuse and neglect billings).

PDS began this fiscal year with a deficit of at least \$13 million dollars. The accrued liability survey routinely done at the end of each fiscal year showed \$9.5 million dollars unpaid as of 30 June 2008. In addition, in the 2008 Regular Session, the Legislature reduced the Governor's FY 2009 recommendation for PDS by \$3.5 million dollars. Further, because of the shortened time period for submission of vouchers (four years, reduced to 90 days), more vouchers were submitted in FY 2009, despite not being included in the accrual survey. Absent the requested \$9.5 supplemental funding, we will begin FY

2010 with at least a \$20 million dollar deficit.

In the light of the above, it is unfortunate that the only significant, realistic cost savings (opening more Public Defender offices) was defeated. Along with the loss of Public Defender offices, the only chance of raising the hourly rates in the foreseeable future was also defeated. While the prospect of funding the raise was dim, the standard could have been set for the future.

The reluctance of a few Judicial Circuits to accept a Public Defender office will make funding private counsel more difficult. Despite paying \$16 million dollars by 10 March 2009 (an all-time record), we currently have over \$16 million dollars in vouchers sitting unpaid in this office. To put this figure in perspective, an entire year's payments averaged \$14-15 million dollars until FY 2006. In that year we paid out \$16.7; in FY 2007, \$16.2; and in FY 2008, \$22 million dollars. Clearly, both the Governor and the Legislature have provided a significant amount of support. But the overwhelming number of vouchers received has drained the well.

Given that the world-wide recession is now affecting West Virginia I do not anticipate much good news in the immediate future.

Jack Rogers
Executive Director, PDS

WV SUPREME COURT UPDATE

Spring 2009 Term Updates

All cases may be viewed online at: [http://www.state.wv.us/wvsca/docs/spring09/\(case#\).htm](http://www.state.wv.us/wvsca/docs/spring09/(case#).htm)

State v. Willett, No. 33835 – January 30, 2009 – Per Curiam (*Raleigh County – Hutchison, J*)

404(b) EVIDENCE

The appellant and her husband purchased a home in Beckley and maintained a home in Florida. Informants advised the authorities that the appellant was transporting large amounts of drugs from Florida to West Virginia. The police obtained a search warrant for the appellant's home and discovered over 3,000 prescription pills.

The appellant was indicted for four counts of possession with intent to deliver controlled substances and conspiracy. During trial, the State presented the testimony of Alan Reed, who had provided the police with information leading to the initiation of the criminal investigation. Reed testified that he had, over a two-year period, visited the appellant's home "about 50 to 100 times" to purchase narcotics, and had brought other individuals to the home for the same purpose. The appellant testified on her own behalf that she did not sell drugs, but that she had "hoarded" the drugs for her personal use.

Following her conviction on these charges, the appellant challenged the trial court's decision to admit Reed's testimony. The appellant asserted that the evidence violated Rule 404(b) of the West Virginia Rules of Evidence.

Held: The Court reviewed the appellant's argument under the standards of *State v. McGinnis*, 193 W. Va. 147, 455 S.E. 2d 516 (1994). The Court noted (1) that the State had properly filed its notice of intention to use 404(b) evidence; (2) that the State had declared that the purpose of the evidence was to demonstrate motive, planning and intent on the part of the appellant; and (3) that the trial court had conducted an evidentiary hearing and had found that the prosecutor had satisfied the requirements of Rule 404(b).

The Court rejected the appellant's assertion that the evidence was unreliable due to the non-specific nature of the dates of the transactions and the lack of corroboration. The Court also rejected the appellant's claim that the probative value of the evidence was outweighed by its prejudicial effect.

Affirmed.

State v. Reed, No. 34136 – February 5, 2009 – Per Curiam (*Ohio County – Mazzone, J.*)

ATTORNEY CONFLICT OF INTEREST – HEARSAY TESTIMONY – FAILURE TO DISCLOSE RECORDS – SUFFICIENCY OF EVIDENCE

The Appellant was accused by his daughter J.L.R. and two young sisters, J.P & A.P, of sexual assault. The allegations resulted in two indictments, with over sixty charges, against the Appellant.

Prior to trial the court granted a request from the Appellant to depose an investigating officer who was scheduled for a military deployment. The videotaped deposition was later used as substantive evidence to prove the allegations made by J.L.R., who did not testify at trial. The remaining victims testified and provided details of the Appellant's actions. The Appellant was convicted of sixty-six felony charges and was sentenced to term of 385 to 875 years imprisonment.

On appeal, the Appellant asserted (1) that the videotaped deposition should not have been admitted because the

Appellant's counsel at the time had a conflict of interest and that the videotaped deposition contained inadmissible hearsay; (2) that the State had failed to disclose criminal and psychological records of the victims and another witness; and (3) that the evidence was insufficient to support the convictions.

Held: In addressing the Appellant's argument regarding the videotaped deposition, the Court noted that the Appellant had agreed on the record to allow his previous counsel to conduct the videotaped deposition. The Court noted that the Appellant "could not agree to allow [prior counsel] to represent him, notwithstanding a possible conflict of interest, and then complain about the representation because of that same conflict of interest." The Court determined that the Appellant had thereby waived any possible error in regard to the conflict of interest issue.

In regard to the hearsay issue, the Court noted that defense counsel had failed to object to any hearsay statements during the taking of the deposition. Citing Rule 15(f) of the Rules of Criminal Procedure, the Court noted that counsel was obliged to make proper objections at the time of the deposition.

The Court further held that the Appellant had "failed to cite to anything in the record ...which shows that the trial judge ordered disclosure of psychological records concerning A.P., J.P. or J.L.R.". The Court also noted that the Appellant had not adequately briefed the issue of the State's alleged failure to provide the criminal records sought by the Appellant.

Finally, the Court denied the Appellant's argument that the evidence was insufficient to sustain his convictions. The Court held (1) that while there may have been potential right-of-confrontation issues regarding the Appellant's convictions involving the absent witness J.L.R., the Appellant had not objected to the testimony and had thus failed to preserve the issue; and (2) that any issues regarding inconsistent testimony of A.P. and J.P. were matters of credibility for the jury to resolve.

Affirmed.

State ex rel. Office of Disciplinary Counsel v. Mooney, No. 34592 – February 27, 2009 – Per Curiam

ATTORNEY DISCIPLINE – CONTEMPT PROCEEDINGS

The respondent attorney was the subject of disciplinary proceedings based upon a complaint filed by a client in a disability case. The attorney admitted to the underlying Statement of Charges and was admonished by the Court. In an Order dated May 22, 2008, the Court further required that the respondent (1) sign and follow a period of supervised practice for one year; (2) undergo psychological testing and follow any recommended treatment plan; (3) complete additional Continuing Legal education and (4) pay the costs of the disciplinary proceeding.

On October 17, 2008 the Office of Disciplinary Counsel ("ODC") filed a petition with the Court for a rule to show cause as to why the respondent should not be held in contempt of the Court's previous order. The petition alleged that the respondent had failed to comply with any of the provisions of the May 22 Order, had failed to reply to requests from the ODC for compliance information, and was the subject of an additional ethics complaint.

The Court granted the petition and ordered the respondent to appear at a February 3, 2009 hearing before the Court. The respondent failed to appear at this hearing.

Held: The Court found the respondent to be in contempt of its May 22, 2008 order, and ordered the immediate suspension of the respondent's license until she had fully complied with the order.

License Suspended

INDICTMENTS – FATAL VARIANCE BETWEEN INDICTMENT AND EVIDENCE

The appellant was indicted under W. Va. Code § 60-3-22a(b) for nine counts of furnishing alcoholic liquors to minors. At trial, the evidence established that several minors, while engaged in a party with the appellant’s daughter and with the appellant’s knowledge, had removed and consumed a quantity of Coors Light beer from the appellant’s refrigerator. Several hours later, two of these minors were killed in an automobile accident. During post-trial motions, the appellant argued unsuccessfully that the beer consumed by the minors was classified as “non-intoxicating beer”, and that non-intoxicating beer is not included in the definition of “alcoholic liquors” under the Code.

Held: The Court noted that “the main issue [at trial] should have been whether the defendant could be convicted under an indictment charging the “furnishing of alcoholic liquor” to persons under the age of 21 years when the State could only prove the “furnishing of beer.” “ The Court noted that the Legislature had prescribed different definitions of “non-intoxicating beer” and “alcoholic liquors” based on higher alcohol content. The Court observed that there was no evidence at trial that the appellant had provided “alcoholic liquors” as defined in the statute, to underage persons.

Noting the State’s concession during oral argument that the appellant had been indicted under the wrong statute, the Court considered the State’s argument that the legislative intent of the statutes demonstrated that furnishing non-intoxicating beer could be prosecuted under §60-3-22a(b). The Court observed that while the appellant had made no objection to the alleged error at trial (and had expressly consented to a jury instruction including beer within the definition of alcoholic liquor), the variance between the indictment and the evidence presented was substantial enough to constitute a reversible constructive amendment of the indictment.

Reversed

State ex rel. Smith v. McBride, No. 34155 – March 12, 2009 – Davis, J. (*Kanawha – Walker, J.*) (*G. Castelle, Chief Defender, Kanawha PD Office, for appellant*).

NEWLY DISCOVERED EVIDENCE – EVIDENTIARY AUTHENTICATION

The appellant was convicted of two counts of first-degree murder in 1993. After his direct appeal was denied, the appellant filed a habeas corpus petition in 1997. The petition was amended on several occasions, and an omnibus hearing was held in January of 2006. At the hearing the appellant alleged, *inter alia*, (1) that Tommy Sells, a convicted murderer in the State of Texas, had provided a confession to the crimes which constituted newly discovered evidence and provided grounds for *habeas corpus* relief, and (2) that the circuit court had erred in the omnibus hearing by admitting a recantation letter from Sells without proper authentication. The petition was denied following the hearing.

Held: The Court first addressed the issue of the authentication of the Sells’ recantation letter. The Court noted that under Rule 8(c) of the Rules Governing Post-Conviction Habeas Corpus Proceedings in West Virginia, authentication is not mandatory but that a circuit court “may” require authentication of any material offered under the Rules. The Court also noted that there was no definite proof that the circuit court had even considered the letter, but that to the extent that it was considered such consideration was not an abuse of discretion.

The Court also determined that the appellant had failed to meet all of the elements for obtaining a new trial based on newly discovered evidence. The Court agreed with the circuit court that the appellant had failed to satisfy the fourth prong of the test, *i.e.*, that the evidence if admitted would produce a different result at trial.

The Court held that Sells' confession was not credible due to a number of factual inaccuracies in his statement about the crime (layout of the crime scene, property removed from the home, presence of pets in the home), in addition to "numerous" recantations of the confession by Sells. The Court determined that Sells' "implausible" confession and the strength of the evidence against the appellant would not produce a different result at a new trial.

Affirmed.

State v. Hatley, No. 33919 – March 13, 2009 – Per Curiam (*Lewis - Keadle, J.*)

JURY SELECTION – REMOVAL FOR CAUSE – PRIOR RELATIONSHIP WITH PROSECUTING ATTORNEY

The appellant was indicted for first-degree robbery. During jury selection, a prospective juror stated that the prosecuting attorney had represented him a few years earlier in preparing real estate documents. The juror also indicated that he would consider hiring the prosecuting attorney in the future. The circuit court refused to strike the juror for cause and the appellant exercised a peremptory strike to remove the juror.

On appeal, the appellant argued, *inter alia*, that the prospective juror should have been disqualified from the jury panel because of his prior attorney-client relationship with the prosecutor and his statement that he would continue to use the prosecutor's services should the need arise.

Held: The Court held that the trial court had abused its discretion in failing to strike the prospective juror. Citing the language of *O' Dell v. Miller*, 211 W. Va. 285, 565 S.E. 2d 407 (2002), that any doubts as to striking a juror for cause should be resolved in favor of the excusing the juror, the Court held attorney-client relationships between the juror and a prosecuting attorney merit "the closest scrutiny".

The Court determined that the prosecutor's relationship with the juror was fairly recent (within a few years of the appellant's trial), and that a "relationship of trust" had been established between them, as indicated by the juror's willingness to continue to utilize the prosecutor's services.

Noting that the relationship "raise[d] a well-grounded suspicion of bias or prejudice", and further noting that the juror's statements that he would not be biased or prejudiced was "insufficient to allay this suspicion", the Court noted that any doubt as to the juror should have been resolved in favor of excusing the juror.

Reversed and Remanded.

U.S. SUPREME COURT UPDATE

United States Supreme Court
Selected Opinions
January 14, 2009- March 31, 2009

(To review text of opinions please see <http://www.supremecourtus.gov/>)

Herring v. United States, 129 S. Ct. 695, 172 L. Ed. 2d 496 (January 14, 2009), *reh'g denied*, 2009 WL 804385 (March 30, 2009)

EXCLUSIONARY RULE – WHEN ORIGINAL ARREST WARRANT INVALID

Petitioner Herring was arrested by law enforcement officials based upon information from a neighboring county indicating a pending failure to appear warrant. A search incident to the arrest revealed methamphetamine and a firearm. Subsequent to the arrest, officials learned that the failure to appear warrant had been rescinded several months earlier and was no longer valid.

Herring was charged under 18 USC §922(g)(1) and 21 USC §844(a) for possessing the gun and drugs. He moved to suppress the evidence on the grounds that the initial arrest had been illegal because the warrant had been rescinded prior to the arrest. The District Court and the Eleventh Circuit supported the denial of the motion on the grounds of the officer's good-faith belief in the validity of the warrant information.

Held: The Court affirmed the denial of the suppression motion. The Court held that the exclusionary rule did not apply in the circumstances of this case because the application of the rule would have no appreciable deterrent effect and would outweigh the costs of its application. The Court noted that the rule was designed to deter deliberate, flagrant or reckless police misconduct as opposed to police actions based on simple negligence.

Affirmed. [*Roberts, Scalia, Kennedy, Thomas and Alito. Dissenting – Ginsburg, Stevens, Souter and Breyer.*]

Vermont v. Brillon, 129 S. Ct. 1283 (March 9, 2009)

SPEEDY TRIAL - DELAYS ATTRIBUTED TO DEFENSE

Respondent Brillon was arrested in July 2001 on felony charges. Over the next three years, Brillon was represented by at least six different attorneys on the charges. He was tried on the charges in June 2004, convicted and was sentenced to 12 to 20 years in prison. The Vermont Supreme Court reversed the convictions on the grounds that under *Barker v. Wingo*, 407 U.S. 514 (1972), the State had failed to provide the respondent a speedy trial. The Vermont Court noted that a considerable period of the pre-trial delay was brought about by assigned counsels' "failure or unwillingness ...to move the case forward."

Held: The Court determined that the Vermont Supreme Court erred in its *Barker v. Wingo* analysis by attributing to the State delays sought or obtained by assigned counsel. Noting that "delay caused by the defendant's counsel is also charged against the defendant", the Court also noted that the Vermont Court had failed to take into account the respondents disruptive behavior in the assessment of the three-year delay between arrest and trial.

Reversed. [*Ginsburg, Roberts, Scalia, Kennedy, Souter, Thomas and Alito. Dissenting – Breyer and Stevens.*]

Rivera v. Illinois, 129 S. Ct. 1446, (March 31, 2009)

PEREMPTORY CHALLENGES – GOOD-FAITH ERROR IN DENIAL

Petitioner Rivera was charged with first degree murder. During jury selection, Rivera’s attorney sought to use a peremptory challenge to excuse juror Gomez. The trial court denied the challenge because the court believed that Rivera was exercising his challenges in a manner prohibited under *Batson v. Kentucky*, 476 U.S. 79 (1986) and its progeny. The jury, with Gomez as the foreperson, found Rivera guilty of first degree murder. The Illinois Supreme Court eventually affirmed the conviction, holding that while it disagreed with the trial court’s assessment that there had been a *Batson* violation, it rejected Rivera’s contention that Gomez’ seating on the jury automatically qualified as reversible error.

Held: The Court discussed whether it is a violation of federal Due Process for a trial court to erroneously deny a peremptory challenge to a juror in a criminal case. Noting that “peremptory challenges are not of federal constitution dimensions” and that such challenges are traditionally a matter of state law, the Court held that the erroneous denial of an otherwise valid peremptory challenge does not require automatic reversal of the underlying conviction. The Court observed,

“[i]f a defendant is tried before a qualified jury composed of individuals not challengeable for cause, the loss of a peremptory challenge due to a state court’s good-faith error is not a matter of federal constitutional concern. Rather, it is a matter for the State to address under its own laws.”

Affirmed. [*Ginsburg, J. for a unanimous Court*].

Arizona v. Gant (<http://www.supremecourtus.gov/opinions/08pdf/07-542.pdf>) - Decided April 21, 2009

US SUPREME COURT LIMITS AUTOMOBILE SEARCHES INCIDENT TO ARREST

Gant was arrested for driving on a suspended license. After Gant was handcuffed and secured in the police car, the arresting officers searched his car and discovered drugs and drug paraphernalia. Gant challenged the search as unconstitutional under the 4th Amendment. While the trial court affirmed the search, the Arizona Supreme Court reversed, holding that the search was unreasonable under the Fourth Amendment.

Held: The search was unreasonable. The US Supreme Court adopted the reasoning of the Arizona Supreme Court that *New York v. Belton* and *Chimel v. California* did not authorize such searches once the suspect was securely detained in the police car. The Court held that “[p]olice may search a vehicle incident to a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe that the vehicle contains evidence of the offense of arrest. When these justifications are absent, a search of the arrestee’s vehicle will be unreasonable unless police obtain a warrant or show that another exception to the warrant requirement applies.”

Affirmed. [*Stevens, Scalia, Souter, Thomas and Ginsburg for the majority – Breyer, Alito, Roberts and Kennedy dissenting.*]

REGULAR SESSION – 2009 WEST VIRGINIA LEGISLATURE

(Here is a list of selected legislation from the 2009 Regular Session of the West Virginia Legislature. Please note that this list includes bills that completed legislative action as of April 13, 2009, and do not reflect potential executive vetoes. Enrolled versions of the bills may be reviewed at <http://www.legis.state.wv.us/>.)

	Title	Status	Effective Date
SB 99	Sentencing discretion for certain youthful offenders	Completed legislative action	Completed Legislation awaiting Governor's signature
SB 263	Disclosing certain inmates' personal communications	To Governor 4/9/09 - House Journal	Completed Legislation awaiting Governor's signature
SB 278	Creating felony offense of willful failure to provide certain drug benefits	House received Senate message	Completed Legislation awaiting Governor's signature
SB 293	Creating felony offense of unauthorized practice of certain health care professions	Completed legislative action	Completed Legislation awaiting Governor's signature
SB 338	Creating additional seventeenth judicial circuit court judge	House Message received	Completed Legislation awaiting Governor's signature
SB 341	Transferring juvenile justice database administration to Supreme Court	To Governor 4/9/09 - House Journal	Completed Legislation awaiting Governor's signature
SB 344	Authorizing mental hygiene commissioners sign readmission orders	Completed legislative action	Completed Legislation awaiting Governor's signature
SB 347	Correcting code reference related to extended supervision for certain sex offenders	House received Senate message	Completed Legislation awaiting Governor's signature
SB 370	Relating to community corrections program fees	House received Senate message	Completed Legislation awaiting Governor's signature
SB 451	Relating to crime victims' compensation awards	Completed legislative action	Completed Legislation awaiting Governor's signature
SB 521	Including telecommunications devices as jail contraband	House received Senate message	Completed Legislation awaiting Governor's signature
SB 612	Relating to willful nonpayment of child support	House received Senate message	Completed Legislation awaiting Governor's signature
SB 760	Authorizing Supreme Court to develop pilot pre-trial release programs	House Message received	Completed Legislation awaiting Governor's signature
SB 761	Relating to illegal entries upon certain property	House received Senate message	Completed Legislation awaiting Governor's signature
HB 2404	Relating to inmate reimbursement for medical services provided to persons held in regional jails	House Message received	Completed Legislation awaiting Governor's signature

HB 2407	Relating to trustee accounts and funds, earnings and personal property of inmates	House received Senate message	Completed Legislation awaiting Governor's signature
HB 2418	Relating to exempting certain records of the Division of Corrections and Regional Jail Authority from the Freedom of Information Act that, if released, could aid inmates in committing unlawful acts	House received Senate message	Completed Legislation awaiting Governor's signature
HB 2419	Providing inmates a reduction in sentence for completion of education and rehabilitation programs	House received Senate message	Completed Legislation awaiting Governor's signature
HB 2536	Adding language that includes railcars and locomotives in the category of railroad property that is illegal to interfere or tamper with	Completed legislative action	Completed Legislation awaiting Governor's signature
HB 2566	Expanding applicability of increased penalties for crimes against certain protected persons	Completed legislative action	Completed Legislation awaiting Governor's signature
HB 2684	West Virginia Drug Offender Accountability and Treatment Act	House Message received	Completed Legislation awaiting Governor's signature
HB 2695	Providing criminal penalties for a hunter who fails to render aid to a person the hunter shoots while hunting	House received Senate message	Completed Legislation awaiting Governor's signature
HB 2701	Relating to an escape of any person from the custody of the Division of Juvenile Services	Completed legislative action	Completed Legislation awaiting Governor's signature
HB 2737	Authorizing the Administrative Director of the Supreme Court of Appeals to hire regional or specialized probation officers	House received Senate message	Completed Legislation awaiting Governor's signature
HB 2738	Registering protective orders with the West Virginia Supreme Court of Appeals	House Message received	Completed Legislation awaiting Governor's signature
HB 2739	Enhancing the service and enforcement of domestic violence protective orders issued by state courts	House Message received	Completed Legislation awaiting Governor's signature
HB 2788	Protecting incapacitated adults from abuse or neglect by a caregiver	Completed legislative action	Completed Legislation awaiting Governor's signature
HB 2877	Increasing the monetary penalties, removing the possibility of incarceration and adding community service for a minor who misrepresents his or her age when purchasing alcohol	Completed legislative action	Completed Legislation awaiting Governor's signature
HB 2920	Eliminating the felony conviction for a second or subsequent conviction of petit larceny	Completed legislative action	Completed Legislation awaiting Governor's signature
HB 2952	Clarifying that a terroristic threat is a felony regardless of intent to actually commit the threatened act	House received Senate message	Completed Legislation awaiting Governor's signature

HB 2958	Increasing the fines for a trespassing conviction pursuant to certain circumstances	Completed legislative action	Completed Legislation awaiting Governor's signature
HB 3036	Relating to notice and publication requirements for expungement petitions	House Message Received	Completed Legislation awaiting Governor's signature
HB 3120	Increasing the WV Prosecuting Attorneys Institute's executive council's elected members from five to seven and permitting the appointment of special prosecutors in juvenile delinquency, child abuse or neglect proceedings	House Message received	Completed Legislation awaiting Governor's signature
HB 3305	Relating to the powers and duties of probation officers	Completed legislative action	Completed Legislation awaiting Governor's signature
HB 3314	Relating to concealed handgun licensing	Completed legislative action	Completed Legislation awaiting Governor's signature

UPCOMING EVENT

REGISTRATION OPENING SOON FOR:

WEST VIRGINIA PUBLIC DEFENDER SERVICES 2009 ANNUAL PUBLIC DEFENDER CONFERENCE

JUNE 19 & 20, 2009
Snowshoe Mountain Resort
Snowshoe, West Virginia
(877) 441-4386

***Brochures will be mailed during the first of May.**

Please feel free to contact Erin Fink at WVPDS at (304) 558-3905 ext. 57708 if you have any questions.

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