

MONTANA PUBLIC DEFENDER COMMISSION
STRATEGIC PLANNING COMMITTEE MEETING

Goodkind Building, 139 North Last Chance Gulch
Helena, MT 59601

March 12, 2012

MINUTES

Approved at the August 8, 2012 Meeting

Call to Order

Committee Chair Ken Olson called the meeting of the Strategic Planning Committee to order at 10:05 a.m.

Committee Members Present

Ken Olson, Great Falls; Chuck Petaja, Helena

Committee Members Absent

Bill Snell, Billings

Agency Team Members Present

Joslyn Hunt, Chief Appellate Defender; Harry Freebourn, Administrative Director

Interested Parties

Fritz Gillespie, Commission Chair, Larry Murphy, Contract Manager; Carleen Green, Accountant; Peter Ohman, Region 8 (Bozeman) Regional Deputy Public Defender (via phone); Courtney Nolan, Assistant Public Defender (via phone)

Approval of Minutes from February 10, 2012 Meeting

The minutes were approved as drafted.

Review the strategic plan (updated to reflect current operations)

Administrative Director Harry Freebourn reviewed the strategic plan. There were some minor tweaks, but nothing substantial. One map was changed to reflect all locations including Virginia City, and language was inserted into the Goals and Objectives advocating for parity in pay for employees.

Outstanding Issues

Conflict Office Costs/Organization

Chairman Gillespie supports creating Program 3 for the Conflict Coordinator to help track those costs. The conflict function would expand to include a second FTE attorney to do PCR instead of contracting it out, and an administrative support position.

Civil Program Costs/Organization

The committee discussed ways to control DN costs and explored the idea of putting a civil unit together. Contract Manager Larry Murphy has been assigned to go through all 20 specialty courts to define what they do in order to allow the Public Defender Commission to decide whether OPD should be participating in them. The subcommittee which is tasked with

researching OPD's role in Treatment Courts consists of Bill Snell, Chris Daem, Matt McKittrick, Dan Minnis and Myshell Uhl. Mr. Murphy will add an FTE and a contract attorney with Chairman Gillespie's permission.

Commissioner Petaja would like to know how much the agency is spending on DI, DG, DN, and youth court cases as well as specialty courts. He suggested tying them all together into a civil bureau to better show the fiscal impact of these civil cases to the legislature.

Region 8 (Bozeman) Deputy Public Defender Peter Ohman questioned whether there would be different attorneys for the civil program. He and Mr. Murphy are of the opinion that youth cases are criminal cases and they should not be involved in a civil program. Commissioner Petaja agreed.

Mr. Ohman had concerns about how a civil program would operate; in smaller towns and regions, there may not be enough work to keep an FTE busy on just civil cases. He described how things are handled in Region 8. Mr. Freebourn said that a single FTE could work for multiple programs (civil and criminal) with expenditures being tracked through payroll timekeeping.

Mr. Freebourn stated the explosion of civil cases eats up the resources for criminal cases, which is the core mission. With a separate program for civil cases, you can choose to transfer funding to the civil program, or possibly stop serving those cases if funding runs out in that program. There was discussion about how supervision of employees in Program 4 would work and how costs would be allocated. Approximately 15-20% of funding would be shifted to the civil program. Commissioner Petaja likes the idea of being able to show costs by program; it is a way to ask the legislature if their intent was to provide and fund specific services.

Commissioner Petaja made a motion to include Program 4, civil division, as part of the Strategic Plan and amend the various sections of the Strategic Plan as appropriate, and to also set up the Conflict Coordinator as Program 3. Commissioner Olson seconded and the motion passed unanimously. It will be presented to the full Commission for approval.

The preliminary recommendations that the committee will submit to the full Commission for review and approval are:

1. No changes to the regional configurations
2. Implement Program 3
3. Implement Program 4

Caseload Limits

Courtney Nolan joined the call to discuss the Caseload Limits Committee (CLC). Ms. Nolan is a member of the Labor Management Committee and is involved with collective bargaining negotiations. The Case Weighting System was devised as a way to measure the workload, and the next question is to address how much can be done; caseload limits have become a bargaining issue. The CLC was established, consisting of three union and three management attorneys, to look at data on what people are doing and how much time is required by case type with a goal of developing recommendations for caseload limits.

All Program 1 attorneys were asked to verify two reports generated from the case management program: cases opened by attorney by month; and cases worked on by an

attorney (open or closed). The CLC will also look at a third report specific to time spent for certain case types (by certain time keepers deemed to be reliable) to establish an average amount of time per case. So far the attorney response has been disappointing, impeding the CLC's progress.

The CLC's intent is to focus on mitigating excessive caseloads for individual attorneys, but the agency as a whole may also reach a point where the Commission and the legislature would have to be notified that limits have been reached and the line has been drawn where ethically the agency cannot take on more cases without additional funding. The more empirically sound data there is to justify that decision, the better. The Commission must look at the issue from the perspective of the system as a whole. Commissioner Petaja asked the CLC to provide case cap language for the goals and objectives that are part of the strategic plan.

Mr. Freebourn recently met with Legislative Fiscal Analyst Greg DeWitt, who is researching a report on caseloads, including information from other states. Mr. Freebourn has confidence in the information generated from the Case Weighting System. Ms. Nolan said that case caps are becoming an issue nationwide.

Commissioner Petaja made a motion to table the question on caseload caps until they hear back from the CLC.

Old Business/New Business (*Action Items)

Set next meeting date

The committee doesn't have additional outstanding items and did not schedule another meeting.

Public Comment

There was no public comment.

Adjourn

The meeting adjourned at 12:05 p.m.