

MONTANA PUBLIC DEFENDER COMMISSION
STRATEGIC PLANNING COMMITTEE MEETING

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

October 21, 2015

MINUTES

(Approved at the November 16, 2015 meeting)

Committee Members Present

Bonnie Olson (Chair), Marion; Roy Brown, Billings; Margaret Novak, Chester; Brian Gallik, Bozeman

Committee Members Absent

None

Agency Team Members Present

Bill Hooks, Chief Public Defender; Kristina Neal, Conflict Coordinator; Eileen Larkin and Koan Mercer, Appellate Defender Office; Wendy Johnson, Contract Manager; Peter Ohman, Training Coordinator; Carleen Green, Accountant

Interested Parties

Malissa Williams, Office of Budget and Program Planning; Greg DeWitt, Legislative Fiscal Division; Bruce Spencer, State Bar of Montana; Niki Zupanic, Public Policy Director, American Civil Liberties Union of Montana (ACLU)

1. Call to Order

Committee Chair Bonnie Olson called the meeting of the Strategic Planning Committee to order at 9:30 a.m.

2. Approval of Minutes of September 16, 2015 Meeting (*Action Item)

Commissioner Brown moved to approve the minutes of the September 16, 2015 meeting as drafted. Commissioner Gallik seconded and the motion carried.

3. Update on Staff Tasks from September Meeting

Chief Public Defender Bill Hooks reported that he gathered his management team for a planning meeting to begin developing goals and objectives for Program 1. As the biggest component of OPD, his resource needs impact the entire agency. The group also developed some goals for the Commission to consider, including creating an organizational structure that will give the agency one voice by creating a position of executive director. Their second suggestion is that the Commission use some of its discretionary funding to hire a workload study—an empirically-based time study for

attorneys, support staff, and investigators separating case-related and non-case-related functions. Chief Hooks said this type of study has been done in other places throughout the country and it provides a strong basis for making resource decisions. There is also a benefit in terms of data provided by an outside entity to give to funders and other stakeholders to show a clear articulation of needs.

As a follow-up to the October 2 Commission meeting, Chief Hooks has initiated a consultation with the National Association for Public Defense (NAPD). Fred Friedman, former Minnesota public defender, will come to Montana in early December to visit the Billings office, and will then tour the rural offices in the eastern part of the state. NAPD will also offer remote consultation on organizational changes. Chief Hooks clarified that the time study would be a separate process conducted by a different entity.

Commissioner Olson supported the idea of a workload study. She said the court system workload study created great credibility in the legislature and with other stakeholders. She and Chief Hooks have had a number of conversations and agree that major areas of concern are getting contract attorneys into the hinterlands and the amount of travel required, good reasons for Mr. Friedman to visit those areas.

The committee discussed the executive director position at length, including how it would relate to the current management positions, how to fund a position at that level, and the desirability of cost-neutrality. Creating an executive director position would be an opportunity for broad discussion of how to redefine roles at all levels, including that of the Commission. Commissioner Olson sees the Commission as retaining the policy-making role while giving up supervision of the individual programs. Chief Hooks said that the majority of other states have a commission structure in place to create independence and remove political interference. In our case, the Commission also brings various constituencies to the conversation and allows representation of a wide array of perspectives.

Chief Hooks said that the current structure not only creates confusion, but the potential for internal conflict as each manager advocates for the needs of their individual programs. It doesn't lend itself to clarity or efficiency in decision making. No other states or state agencies have structures similar to ours. Serving on the Montana Board of Crime Control has been informative for Chief Hooks; he can see how having one person in charge has made a good agency that much better.

Assistant Appellate Defenders Eileen Larkin and Koan Mercer are managing the Appellate office during the interim until a new chief is hired. Ms. Larkin pointed out that their office was separated from Program 1 as the result of a Montana Supreme Court decision. The Court decided that the Appellate division would be less likely to file ineffective assistance claims if they continued to report to the Chief Public Defender, who was overseeing employment, budgets, etc. Ms. Larkin is not sure how

those legal and ethical reasons for separating the programs would relate to the executive director position.

Commissioner Olson invited public comment.

Niki Zupanic, ACLU Public Policy Director, thanked Ms. Larkin for bringing up the concern about conflicts in relation to the executive director position. Ms. Zupanic doesn't think the St. Dennis decision precludes creation of that position, but the independence of the three programs must be maintained.

Conflict Coordinator Kristina Neal echoed Ms. Larkin and Ms. Zupanic's concerns. She supports creation of the executive director role, and would like to separate out the human resource, IT and budgeting functions that serve all three programs and that are now part of Program 1.

Mr. Mercer suggested that legislative action would be needed to revise the positions that are currently in statute. He is also concerned about the conflict issue, and suggested that the executive director and the support functions be established as Program 4 to create independence. If a time study is conducted, the Appellate office would like to be included.

Commissioner Olson noted that the draft strategic plan will eventually be presented to the full Commission for their review and approval. She asked if the committee members wished to add the position of executive director to the draft strategic plan. Commissioner Gallik moved to adopt the language Chief Hooks drafted in the additional Program 1 Goals and Objectives to create a position of executive director. Commissioner Novak seconded and the motion carried.

4. Review/Discuss Draft Strategic Plan

Chief Hooks offered a general suggestion that a broader plan be developed, rather than limiting the plan to three to five goals. He also urged the Committee and the Commission to view the strategic plan as a changing document that will grow over time. It can't be done quickly if you want to get buy in from all the stakeholders, and there are a lot of people willing to help and roll up their sleeves to work on this.

The Committee discussed the current draft plan, beginning with the length of the mission statement, and eventually agreed to one concise sentence:

We provide effective assistance of counsel and equal access to justice to financially qualified individuals.

Commissioner Novak moved to adopt the one-sentence mission statement. Commissioner Brown seconded and the motion carried.

The group moved on to revising the vision statement. They decided that timelines belong in the goals, and that trying to control the intake of cases is unrealistic. Several

suggestions were made, resulting in the following language:

Represent our clients with skilled legal teams to assure that justice is served in a fair and balanced manner at a reasonable cost. Work more closely with stakeholders, and enhance public understanding of the importance of preserving fundamental rights for all the citizens of Montana.

Commissioner Novak moved to adopt the revised vision statement. Commissioner Brown seconded and the motion carried.

The Committee continued to work on revisions to General Goals I and II. Those changes will be incorporated in the next draft of the plan.

5. Public Comment

There was no additional public comment.

6. Set Next Meeting Date

The next meeting will be scheduled for November to finish reviewing and revising the draft plan.

7. Adjourn

The meeting adjourned at 11:25 a.m.