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SUMMARY REPORT:

MONTANA PUBLIC DEFENDER LEADERSHIP AND MANAGEMENT WORKSHOP
(DECEMBER 3-4, 2009 in Great Falls)

PART 1:
BACKGROUND

OPD Training Coordinator Eric Olson contacted me on October 27, 2009 inquiring whether I would be available to assist OPD with further training relating to leadership and management. ¹

Mr. Olson explained that Montana Chief Public Defender Randi Hood wished to engage her leadership team in a team-building exercise that would assist OPD toward meeting clear and attainable management goals and objectives during 2010. Specifically, Ms. Hood challenged me to present the material in a format that will motivate the members of the OPD leadership/management team to:

Make themselves better lawyers a year from now than they are now.

Make their staff lawyers better lawyers a year from now than they are now.

Make their offices operate more efficiently a year from now than they do now.

Provide better service for their clients a year from now than they do now.

Following initial discussions with Mr. Olson, he and I agreed that I would travel to Great Falls, Montana on December 2 in order to meet with all members of OPD's leadership team on December 3 and 4, 2009. The workshop was arranged at the Holiday Inn in Great Falls.

Prior to arriving in Montana, Mr. Olson and I had several telephone conferences during which we reviewed the history of OPD and, in particular, discussed the three (3) leadership/management conferences OPD has conducted in prior years, including the agenda I presented in 2008. During the course of these teleconferences, Mr. Olson and I formulated a general agenda of issues to be addressed at the workshop. A particular area of focus was the concerns raised in the audit report prepared by a team from American University.

¹ As you know, I am Education and Strategic Planning Manager for the Kentucky Department of Public Advocacy and co-chairman of National Legal Aid and Defender Association Defender Trainer Section. Furthermore, in February 2008, I conducted a day and a half long leadership workshop for the Montana O.P.D. in Missoula.

As part of my pre-workshop preparation I received and carefully reviewed:

- (a) the American University audit report (hereinafter “the audit;”)
- (b) copies of OPD’s individual “regional management plans;”
- (c) several memos prepared by Eric following his meetings with Randi Hood and Harry Freebourn;
- (d) OPD’s planned “***Orientation Program***” for new hires, which will include a look at State policies and procedures, OPD policies and procedures, common sense rules for survival on the job, an introduction to the particular locale and workplace, and some (very basic) substantive public-defender law;
- (e) OPD’s ***Trial Preparation Mentoring Program*** for attorneys, as set forth in OPD Policy no. 118; and
- (f) OPD’s new ***Statewide Major Crimes Trial Unit***. We specifically discussed how managing attorneys should deal with questions from their staff pertaining to OPD Policy no. 150.

As we prepared for the workshop, Mr. Olson and I discussed that one of the challenges facing Montana’s indigent defender agency is merging different regional “cultures” into a viable, efficient and credible unified system for providing indigent legal defense services. This is not unlike the situation with which the Kentucky Department of Public Advocacy has been dealing for the last thirty-plus years.

PART 2:
THE ESSENTIAL QUESTION:
WHAT ARE THE PROBLEMS OPD NEEDS TO ADDRESS, ACCORDING TO THE AUDITING
TEAM?

“Observed Management Problems” cited by the audit team include:

1. Inadequate supervisory control
2. Inadequate attorney evaluation
3. OPD is deficient in obtaining and providing its managers with the “information” necessary to manage effectively.
4. Inadequate caseload control structure in place

In order to ensure that the scope of the leadership conference addressed concerns highlighted in the audit report, we agreed that the workshop protocol should incorporate the following dialogue.

- With regard to the auditing team’s observation that there was currently inadequate supervisory control within OPD’s management structure:

- A discussion of the degree to which supervisors' individual caseload responsibilities are interfering with management.
 - A discussion of whether, under the OPD scheme, there are different ways to "supervise". (In other words, what are the minimum expectations of providing "effective" supervision?)
 - A discussion regarding how important OPD leaders believe it is that Montana's Chief Public Defender have her "hands on" every region.
- With regard to the auditing team's observation that there was currently inadequate attorney evaluation:
 - A revisiting of one of the major topics I discussed with the leadership team during the February 2009 workshop – how to insure quality representation by performance coaching and evaluation.
 - A discussion concerning the methods by which Regional Deputies can assess the work that the contract lawyers are doing. (Including "brainstorming" the topic of trying to develop a structure which might make Regional Deputies more comfortable evaluating the non-FTE contract lawyers who provide services in their regions.)
- With regard to the auditing team's observation that OPD is deficient in obtaining and providing its managers with the "information" necessary to manage effectively:
 - A discussion pertaining to what kind of data OPD's leadership team needs in order to measure and improve its management efficiency?
- With regard to the auditing team's observation that there was currently inadequate caseload control structure in place within OPD:
 - A discussion and understanding about case load levels in Montana's various offices. (Including sharing with the leadership team my knowledge and experience dealing with this same issue in other state defender systems, including Kentucky.)
- In addition, if time permitted, and with regard to other areas of concern expressed to me by Randi Hood, Harry Freebourn and Eric Olson, I also wanted to:
 - Discuss and reiterate the importance of setting up and conducting regular office meetings.

- Identify and refine the methods and manner by which the members of OPD's leadership team deal with issues pertaining to "stress" and "personal conflict" in the workplace.
- Understand and discuss how the members of OPD's leadership team handle inquiries, suggestions, and complaints dealing with caseload in these financially challenging times.
- Understand and discuss how the members of OPD's leadership team keep their staff informed about Central Office policies and decision-making
- Assist OPD and its leadership team in developing rapport between local offices/attorneys and the Major Crimes Defense Unit
- Discuss the importance of keeping a "management journal" (and ensuring that it is monitored and "reinforced" by upper management)
- Explore ways OPD can "sell itself to the community" and to educate the public about the valuable contribution OPD makes to positive community development?
- Begin the process to identify the measurable professional development objectives OPD wants to achieve over the course of the next 12 months
- Begin the process to identify the measurable professional development objectives OPD wants its staff attorneys to achieve over the course of the next 12 months
- Begin the process to identify the measurable professional development objectives OPD Central Office wants to achieve over the course of the next 12 months
- Prior to commencing the workshop itself, Randi Hood, Harry Freebourn, Eric Olson and I met face-to-face. They provided me with specific information pertaining to several other OPD plans and procedures.

PART 3: THE WORKSHOP STRUCTURE

In studying the Montana model, the issues identified by the audit , the regional plans submitted to Ms. Hood by her regional deputies, and the lessons I had learned from my prior workshop experience with the OPD, I determined that the most effective method of interacting with the OPD leadership team for this workshop would be to employ an approach developed by Laura J. Spencer of the Institute of Cultural Affairs, as explained in the book Winning Through Participation. (Kendall/Hunt Publishing, 1988). This system (called the "*Technology of Participation System*" – or "**TOPS**") sets out a proven technique for helping groups identify issues and solve problems The **TOPS** approach has proven valuable for me on other occasions and in other settings.

Briefly, the **TOPS** process involves attacking a focus question – in this case Randi Hood’s desire to improve the quality of leadership within the OPD – by employing a five-stage process of (1) mapping out practical visions for the agency; (2) analyzing underlying contradictions (challenges and obstacles to attaining those visions; (3) discussing, then setting, strategic directions for OPD’s leadership team to take in overcoming the contradictions and realizing the visions; (4) designing measurable systematic actions the leadership team can take to attain the vision; and (5) structuring a timeline for implementing those actions.

PART 4: THE WORKSHOP

The workshop commenced at 1 PM on Thursday afternoon. Twenty-three people were in attendance. In addition to Randi Hood, Eric Olson and Harry Freebourn, the leadership team in attendance included every regional deputy director except one (who was unable to attend due to medical-related travel restrictions), every managing attorney, the Chief Appellate Defender, and the OPD contract officer.

The opening session began with a general overview of the issues and problems identified by the audit report and then moved into an interactive round table exercise during which the participants worked to define a list of “Practical Vision Goals” for OPD in 2010 (see below). After mapping out the goals, the group turned its attention to identifying and analyzing the obstacles that might impair OPD from attaining the stated goals. Prior to adjournment for the evening – shortly after 6:00 PM – the focus of the workshop turned to discussion of strategic planning.

The workshop resumed on Friday morning at 8:00 AM. Having completed **TOPS** stages 1-3, the group next directed its efforts toward developing proposals for specific and measurable steps OPD’s leadership team can take over the course of the next twelve months to accomplish one or more of the specifically identified practical goals. The large group broke into five separate smaller groups, with each group selecting a specific target goal and action plan for its attainment. During the final session of the workshop spokespersons for each small group summarized the group’s objective and framed a timeline for achieving the objective.

The workshop adjourned shortly after 1:00 PM in order to allow sufficient time for all participants to drive home in daylight.

INPUT FROM THE PARTICIPANTS (HOW THE OPD LEADERS WANT TO ADDRESS THE ISSUES)

TOPS Phase I: Here is a list of the “practical vision goals” the OPD leaders identified for the upcoming year.

- (a) Fund the agency so as to be able to achieve mission
- (b) Improve our public image
- (c) Organizational development
- (d) Organizational structure
- (e) Improve systemic leadership
- (f) Improve professional development
- (g) Report more meaningful and reliable data
- (h) Increase efficiency of communication with legislative bodies
- (i) Implement structural change within OPD central office
- (j) Partner more effectively with the private bar
- (k) Implement more progressive technology methods
- (l) Adopt a more holistic approach to client service

TOPS Phase II: Here are the most immediate “challenges and barriers to achieving the goals” the OPD leaders identified.

- (a) Confusing/frustrating internal communications
- (b) Institutional or structural blocks
- (c) Negativity associated with the “Defender culture”
- (d) Informational deficits (a/k/a “garbage in / garbage out”)
- (e) Enormity of the prioritization challenge
- (f) Poor Public Image
- (g) Dynamic diversity of the client base and the geographic area
- (h) Relations with others within legal profession
- (i) Unsteady alliances
- (j) Hurdles to adopting a holistic approach
- (k) Economic recession

(l) Hurdles inherent in Management

TOPS Phase III: Here are “solutions” proposed by the OPD leaders to surmounting the most immediate challenges and barriers.

- (a) Take “small steps” – but move forward
- (b) Advocate for student loan forgiveness legislation
- (c) Offer more meaningful training to support staff
- (d) Conduct team building workshops
- (e) Hire a communications officer
- (f) Identify and fix problems with structure
- (g) Create an annual roundtable meeting for all players in justice system
- (h) Form committees to do various projects
- (i) Build coalition to advance social justice legislation
- (j) More clearly define management duties
- (k) Broader program of trial schools
- (l) Hire social workers
- (m) Hire a deputy director
- (n) Encourage managers to meet regularly with union reps
- (o) Urge contract attorneys to get more organized
- (p) Promote public service awareness; i.e., “know your rights”
- (q) Track program improvement with yearly audit updates
- (r) Create better performance evaluation measurement tools
- (s) Reengineer input to output process
- (t) Complete the pay ladder
- (u) Alert the press to human interest stories
- (v) Engage in more effective strategic planning

- (w) Recognize that attorneys cannot serve 2 masters
- (x) Attend community meetings
- (y) Develop incentives for positive action
- (z) Create internships for 2nd year law students
- (aa) Write a grant for new program
- (bb) Conduct effective time management training
- (cc) Continue to identify needed policies
- (dd) Invite legislative liaison - at meetings
- (ee) Encourage opportunities for attorney advancement within the agency outside the area of management
- (ff) Implement meaningful manager caseload standards
- (gg) Build an effective community outreach program
- (hh) Build an effective legislative outreach program
- (ii) Conduct breakout sessions at workshops

TOPS Phase IV: The large group subdivided into five smaller teams. Here are the goals which each team identified, the measurable actions that each team proposes to take to move toward attaining the goal, and the deadlines the team has set.

(a) Team A: "Improve the OPD Information Gathering Process"

- (1) Select a data group to review and provide information
- (2) Look at the current information to determine if it is worthwhile or not. If it is valuable, use it. If it is not worthwhile, either fix it or dump it.
- (3) Define meaningful information and design reports which will provide that. Then, go back and develop appropriate information feeder systems.

(b) Team B: Establish better communication with the public

- (1) Find sources to provide adequate funding to accomplish this task
- (2) Meet monthly to discuss communication issues
- (3) Help OPD offices foster local community contacts
- (4) Develop a communications officer or network for OPD

(c) Team C: Identify and improve structural problems within OPD

- (1) Define “management duties” for OPD personnel
- (2) Determine how many managers are required for each region or district
- (3) Allocate management duties
- (4) Determine appropriate manager caseload levels

(d) Team D: “Expand the agency’s training program”

This team identified four groups for expanded training. The recommended action plan for each is discussed below.

- (1) Attorneys: Increase the number of trial schools offered for attorney staff and for contract attorneys.
- (2) Support staff (paralegal, secretarial, clerical): Increase the frequency and content of the JustWare training program. Provide an annual training conference for support staff.
- (3) Management: Establish a twice-yearly schedule for OPD leadership conferences. Conduct regular training sessions dealing with management themes, Montana employment law and progressive discipline.
- (4) Investigators: Offer separate track training for investigators. Ask investigators what training they need.

(e) Team E: Increase recruitment and improve retention

- (1) Reformat the Performance Evaluation process
- (2) Create workplace and career incentives for OPD personnel
- (3) Develop a method to mitigate student loan indebtedness
- (4) Complete the development of the career ladder

TOPS Phase V: Deadlines vary. Most teams identified both intermediate (60 – 90 day deadlines) and final task completion deadlines (1 year).

CONCLUSION

Within the obvious limitations imposed by the parameters of the timeframe utilized (an afternoon and a morning) the workshop was quite successful. All of the leadership team demonstrated their strong commitment to improving Montana’s indigent defense system. Although it was not possible to delve too deeply into some of the issues and topics raised by the Chief Public Defender in advance, the participants did take full

advantage of this opportunity to engage in an open and candid exchange of ideas. To that end, it produced the most insightful analysis available in that the suggestions for improvement came from across the leadership spectrum and not just from the “Central Office.”

It should be clearly noted that this workshop represents yet another single step on the path toward improving the quality of management within OPD. Teams must be encouraged to maintain focus on the individual goals and objectives identified during the leadership workshop.

The challenges identified in the audit, in large part, are representative of the issues facing all state-wide indigent defense systems. Montana is not alone in trying to strike the right balance between the necessity of leaders representing clients (both to provide examples of high quality work and to lessen the crushing caseload of those they supervise) and the time it takes to provide supervision and administrative duties of management.

In closing, let me extend my thanks to you for including me in your ongoing leadership training program. I am excited at the progress OPD has made since my last visit and I am confident, based on my conversations and interaction with Randi Hood and the entire leadership team, that the OPD has the understanding, commitment, and wherewithal necessary to effectively meet the challenges inherent in operating an efficient and competent indigent defender agency. To the extent that I can provide additional assistance to the Montana Office of the Public Defender I remain available and interested.

Submitted this 16th day of December, 2009.

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