

## **OPD Staff Attorney Liaison Report**

Prepared for January 19, 2012 Commission Meeting  
by Nick Aemisegger, Jr., Staff Attorney Liaison  
Submitted January 10, 2012

Please refer to the attached memorandum regarding concerns OPD attorneys have regarding the legality of Ms. Hood taking a full-time position with MCU after stepping-down from her position as Chief Public Defender. Please also refer to the attached summary of responses to a recent survey of OPD attorneys. This survey focused on OPD attorney reaction to the ACLU Report. A blank copy of the survey is included for your reference.

| Question   | Total | Yes | No | % Agree | Comments   |
|--|-------|-----|----|---------|--|
| 1) Agree with ACLU's assessment of OPD's failure to collect essential caseload data? | 42    | 30  | 12 | 71%     | 1) agree but problem seems to be fixed with new closing forms; 2) disagree and object because task will fall on already overworked attorneys; 3) JW is cumbersome to use and full of inaccuracies. I don't have time for data entry, and I don't know why OPD buys into reporting this info. to legislature for funding. Prosecutors don't track in 6-minute increments to get funding; 4) JustWare tracking is occurring but it is unclear whether that data is being used productively (2)   |
| 2) Agree with ACLU's assessment of OPD's poor management practices?                  | 43    | 36  | 7  | 84%     | 1) micromanagement by central office is the problem (7); 2) agree but should be better with removal of Randi (2); 3) "not enough communication or leadership in terms of goals - turnover is totally unacceptable"; 4) terrible human resource management; 5) Report is right on   |
| 3) Agree with ACLU's assessment of OPD's failure to control caseloads?               | 44    | 38  | 6  | 86%     | 1) agree but attribute to lack of funding (4); 2) "OPD has always acted like they were working on caseloads but nothing was implemented state-wide and enforced - no teeth to anything and in some jurisdictions they were overloading their attorneys to look good to central office"; 3) Attorneys in my region routinely get 30-40 "points" of cases per month when it should be nor more than 12 - we cannot adequately represent this number of clients   |
| 4) Agree with ACLU's assessment of OPD's failure to evaluate attorney performance?   | 37    | 31  | 7  | 84%     | 1) performance evals are useless (2); 2) evals bad but ACLU criteria not tell whole story - reduction of charges most important; 3) no repercussions for poor performance; 4) no face-to-face meetings, no real evaluations  |
| 5) Agree with ACLU's assessment of OPD's failure to provide adequate training?       | 44    | 30  | 14 | 68%     | 1) mentoring is good in our office (3); 2) too many young attorneys are just pushed to do things they have no experience to do and no one to turn to - mentors should be assigned; 3) "training has been awesome"; 4) "I wish I had more formal training in everything I do"; 5) "we are trained, but a more uniform program - not so focused on a trial! - needs to happen"; 6) New attorneys are thrown to the wolves. They don't know what an omnibus hearing is. It is unfair to clients and attorneys. Trainings are focused on trials, whereas we need help on day-to-day defense lawyering skills. Trials are a small part of what we do. No one helps new attorneys know whether an offer is fair, how to negotiate, etc.; 7) Boot camp is not sufficient. Trial training takes too much precedence over the day-to-day hearings, plea negotiations, and client control issues we face |
| 6) Agree with ACLU's assessment of OPD's access to investigators and experts?        | 40    | 24  | 16 | 60%     | 1) agree but attribute to lack of funding (3); 2) never been denied access to investigators or experts; 3) never asked for investigator because under impression they are only to be used for felonies (2); 4) "I have specifically been discouraged from using both experts and investigators by my Regional Manager without any consideration of the effect on my clients"; 5) Our investigator works extremely hard but has about 10-15 homicides and SIWOCs, leaving little time to assist misdemeanor attorneys. I do not have enough time to watch all videos, and barely enough time to review all police reports. Having an investigator who is already overburdened prevents me from doing a thorough investigation on nearly 100% of cases. Most cases have clear culpability, but I feel hamstrung on the cases where my clients have legitimate issues.                            |
| Other Comments   |       |     |    |         | 1) generally agree with report, but process used by ACLU needlessly harsh, one-sided and unfair (2); 2) "I was not pleased by OPD's very defensive response to the American University Report. I hope the agency can respond more constructively to the ACLU Report"; 3) "this agency needs experienced managers or it is doomed to failure"; 4) hiring decisions usually fixed prior to interviews - rigged system  |

Survey Questions

1. Do you generally agree or disagree with the ACLU's assessment on OPD's failure to collect essential caseload Data?
  - Agree
  - disagree
  - Explain, (optional) \_\_\_\_\_
  
2. Do you generally agree or disagree with the ACLU's assessment of OPD's poor management practices?
  - Agree
  - Disagree
  - Explain, (optional) \_\_\_\_\_
  
3. Do you generally agree or disagree with the ACLU's assessment of OPD's failure to control caseloads?
  - Agree
  - Disagree
  - Explain, (optional) \_\_\_\_\_
  
4. Do you generally agree or disagree with the ACLU's assessment of OPD's failure to evaluate attorney performance?
  - Agree
  - Disagree
  - Explain, (optional) \_\_\_\_\_
  
5. Do you generally agree or disagree with ACLU's assessment of OPD's failure to provide adequate attorney training?
  - Agree
  - Disagree
  - Explain, (optional) \_\_\_\_\_
  
6. Do you generally agree or disagree with the ACLU's assessment of OPD attorney's access to investigators and experts?
  - Agree
  - Disagree
  - Explain, (optional) \_\_\_\_\_

Any additional comments, (optional) \_\_\_\_\_  
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