

MONTANA PUBLIC DEFENDER COMMISSION



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Date: June 17, 2010
To: Montana Public Defender Commission
From: Chairman Mike Sherwood
RE: Chairman's Report

- 1. Montana Judges Association:** I'd written the MJA asking whether it would consider beginning a dialogue regarding whether and, if so, how that association would evaluate our system's performance. Judge Nels Swandal responded by saying he could put me on their May 13 agenda in Helena. I attended. I asked the judges to take an action which would allow a dialogue to be opened up. A motion was made and seconded. It passed. Judge Irigoien from Sidney agrees to serve as a contact person for the MJA. I've sent an e-mail to both Commissioner Chuck Petaja and the Judge. I've asked Chuck to contact the judge and initiate the dialogue.
- 2. The AU Study call:** Caroline Cooper, is the person behind the scenes for the AU study folks, sent me a follow-up questionnaire which I did not open and ignored for a while. I thought a questionnaire was not enough response to their study. I had intended to write an extensive status report. When I finally opened the questionnaire, I found it called for extensive responses. I unilaterally answered it and forwarded it back to Ms. Cooper. I did so unilaterally primarily because I lacked the time and interest in trying to invite comment. I've attached a copy of my response to this report. She then e-mailed indicating her folks wanted a conference call. I asked if that meant with only me or the commission as a whole. She said they had contemplated it would just be with me, but would be open to others participating. I sent out a query. No commissioner responded.

On 05/14/10, Caroline Cooper called. She put me on the line with Judge Singer and Jim Hennings. We had a chat that lasted hours. It went as follows:

- a. They asked for my immediate concerns. It old them I was frustrated with trying to get some meaningful input from our contract lawyers. Hennings suggested we look at the Oregon Defense Organization's board structure. It provides a strong voice on the side of individual attorneys. Both suggested we might encourage NALDA to get involved in soliciting our Contract Lawyers to participate in the evolution of the system.
- b. I told them I was very frustrated with not getting any meaningful or reliable information theoretically available on JustWare. They indicated this was a regional

and central management problem of the highest priority. Regional managers need to be told that failure to input is not an attorney's failing; it is the Regional Manager's failing. Staff needs to be pulled even from other vital tasks to review and require input from attorneys and other staff. If a region is not producing full, competent data, the regional manager should be replaced. If the Chief Public Defender is not requiring full and competent data from the managers, the Chief Public Defender should be replaced. The data is essential to our survival.

- c. I also told them I continued to be concerned about the accuracy of the information the PDC is receiving. Their response paralleled what I'd heard in Kentucky. Communication is the key. They were insistent that the communication needed to be structured rather than casual and frequent rather than intermittent. They felt the regional managers and central OPD should be meeting more.
- d. We spent some time thanking each other. They liked the written communications policy I'd implemented and my publishing the documents to the website. I told them that I thought we now had most job descriptions, but I'd failed to get one done for Randi.
- e. I told them that, theoretically, a lot of good things seem to be happening, but lately, every time I bumped into the system in the course of my practice, I was disappointed in what I saw.

They iterated the need for frequent and structured communication as a need to insuring compliance. I told them I was averse to having some sort of OPD central compliance officer,

It certainly wouldn't help any bad attitude problems (whether based on reality or not) between our front-line troops and OPD central.

- f. With respect to Item 3. Job Descriptions and evaluations, I told them OPD had gotten things done. Evaluation forms were provided for our review. When I bumped into a regional manager, however, the manager said he or she knew nothing about now having a job description. Communication continues to be a problem.
 - g. They encouraged me and all those in the entire system to stick with it, although, at the end of our conversation, Hennings reminded me that there is more to life.
3. **Recognition of AU Team.** I wasn't the one who asked for this study, but I was up to bat when it came in. These folks did a lot of work. They gave us a lot insight. We need to do something to acknowledge them. A simple thank you, won't due. With that said, I don't have the foggiest notion as to what would be appropriate or the propriety of the PDC taking any given step.