

OFFICE OF THE STATE PUBLIC DEFENDER



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HELENA, MONTANA 59601

To: Randi Hood/Harry Freebourn
From: Jon Moog
Date: August 16, 2010
Re: Retention/Recruitment Management Team Progress

This team is comprised of myself as leader, Joslyn Hunt, Matthew McKittrick, Betty Carlson, and Roberta Drew.

The team has had numerous phone conferences, mainly attended by myself, Hunt, and McKittrick. The team has invited Larry Murphy and Barb Kain to attend on occasion.

COLLECTIVE BARGAINING COMMITTEE PERSONNEL COMMITTEE

Recommendations 3 and 11

The main assigned task within the AU recommendations is to devise an objective and meaningful process to evaluate the performance of FTE attorneys as well as contractors. It should be noted that OPD has had a performance evaluation in place since at least the Fall of 2009, which is attached to this memorandum. FTE attorneys were to have been evaluated by their supervisors by the first of the calendar year utilizing this evaluation form.

The team is well under way in refining this evaluation, with Ms. Kain's input. We have already agreed to reduce the number of ratings ranges to 3, 0 being 'fails to meet expectations'; 1 being 'meets expectations'; and 3 being 'exceeds expectations', for each question within each competency.

The team is also revising the questions within each competency category, and attempting to weight each competency based on value to the profession. A draft revised evaluation will hopefully be available at the committee meetings, with a goal of continuing to fine tune the original evaluation form with input from the committees.

CONTRACTS COMMITTEE

Recommendation 12

The team is further dedicated to assisting Mr. Murphy in his evaluations of contract attorneys. Mr. Murphy detailed his process, including self-evaluations, peer evaluations, and agency evaluations, at a prior team meeting. All present members of the team offered insight and advice on regional-level evaluation of contractors.

Finally, the team is working with Ms. Kain and others concerning FTE-attorney student loan repayment, a federally-funded program being administered by the Montana Board of Crime Control. Funds are expected to be available by grant following October 1, 2010. The agency has devised a proposed formula for determination of awards based on financial need, length of service, and regional difficulty in retaining or recruiting, among other criteria.

PERFORMANCE EVALUATION FORM				
PERFORMANCE EVALUATION SUMMARY RECORD				
Employee Name		Employee ID Number		PE Due Date
Position Title Public Defender		Position Number		Hire Date
Supervisor		Covering Period from _____ to _____		
Type of Review		<input checked="" type="checkbox"/> Probationary	<input type="checkbox"/> Annual	<input checked="" type="checkbox"/> Other
EVALUATION INFORMATION				
Weight	3 = Critical to the job	2 = Important to the job	1 = Useful to the job	NA = Not applicable
COMPETENCIES	TOTAL POINTS FOR EMPLOYEES MEETING EXPECTATIONS (2 x WEIGHT)	WEIGHT NA-3	EMPLOYEE RATING	OVERALL EMPLOYEE RATING
1. Commitment	6	3	0.00	0.00
2. Communication	6	3	0.00	0.00
3. Influence	6	3	0.00	0.00
4. Initiative and Accountability	6	3	0.00	0.00
5. Personal Effectiveness	6	3	0.00	0.00
6. Thinking and Problem Solving	6	3	0.00	0.00
7. Knowledge of the Organization and the Legal Profession	6	3	0.00	0.00
8. Legal Skills	6	3	0.00	0.00
9. Safety	6	3	0.00	0.00
	54			0.00
	TOTAL POINTS		Percentage	TOTAL POINTS
				0.0%
<p>The Total Possible Points are measured against the meets expectation standard of performance (rating of 2). An employee who receives above expectation ratings or exceed expectation ratings will receive an overall employee rating greater than the Total Possible Points For Employees Meeting Expectations. Employees receiving needs improvement or unacceptable ratings will receive an overall employee rating less than the Total Possible Points Total Possible Points For Employees Meeting Expectations.</p>				
Post-Appraisal Authentication:				
Employee: _____				
(Signature and Date)				
I acknowledge that I received this evaluation, reviewed it, and had an opportunity to discuss any questions with the supervisor/evaluator. I understand that my signature does not signify agreement or disagreement with the contents of the evaluation and that I may submit a written response within the time allowed by administrative policy or collective bargaining, whichever is applicable.				
<input type="checkbox"/> Employee comments attached				
Rating supervisor: _____				
(Signature and Date)				
Reviewing Manager: _____				
(Signature and Date)				
<input type="checkbox"/>				
Reviewer comments attached				

EMPLOYEE COMMENTS:

RATING SCALE

4. Significantly Exceeds Expectation - Performance consistently exceeds the expectation on this competency. This level of performance is consistent throughout the appraisal period and the employee contributes to the achievement of the agency's and unit's mission, goals and objectives. The employee is a role model for others and encourages the behavior in others.

3. Exceeds Expectation - Performance exceeds the expectation on this competency. The employee at this level actively steps out of normal day-to-day roles and seeks out opportunities to contribute to the success of the agency's and unit's mission, goals and objectives.

2. Meets Expectation - Performance meets the expectations on this competency. Performance is consistent with what is expected of the employee in the position. The employee does what is asked and what is defined in the job profile.

1. Needs Improvement - Performance did not meet expectations on this competency. Performance falls below of what is expected of the employee in the position. Performance is poor to marginal. The need is evident for the employee to improve performance in one or more aspects of the competency. Performance fails to contribute much at all to achievement of the agency's or unit's mission, goals and objectives. (Examples missed deadlines, failure to follow agencies policies and procedures).

0. Unacceptable - Performance is totally unsatisfactory and significantly fails to meet the expectations of the position. Extensive improvement is needed. Performance fails to contribute to, hinders, obstructs or negatively impacts the achievement of the agency's or unit's mission, goals and objectives. (This person should already be on serious corrective or disciplinary action plan.)

NA - Not rated. I have not observed the person in circumstances in which the competency can be rated.

BEHAVIORAL RATINGS

1. Commitment		Rating
1. Exhibits long-term commitment to the organization		0
2. Demonstrates dedication to community service		0
3. Does not hesitate to do extra work when required and as appropriate		0
4. Demonstrates individual effort in support of organizational mission and goals		0
5. Expresses pride in the work of the organization		0
6. Keeps current professionally and continually strives to improve ability to apply new knowledge		0
7. Anticipates client needs and develops or provides services to meet those needs		0
8. Has an "accountability" attitude; remains sensitive to the public nature of state funding and exercises individual and professional "ownership" in using all resources in the most efficient manner		0
Number of observed behaviors:	8	TOTAL
		0
PERFORMANCE LEVEL = total divided by # of observed behaviors		0.00

COMMENTS:

2. Communication		Rating
1. Proactively informs and resolves problems/issues with client		0
2. Views situations from client perspective to better respond to their needs and concerns		0
3. Is sensitive and uses good judgment in receiving, communicating, and managing confidential information		0
4. Communicates at others' level of understanding or interest		0
5. Negotiates agreements that are acceptable to involved parties		0
6. Displays confidence and poise		0
7. Maintains eye contact, enunciates properly and projects voice while varying tone or inflection of speech to keep listeners' attention		0
8. Writes clearly, logically and effectively; eliminates unnecessary detail		0
Number of observed behaviors:	8	TOTAL
		0
PERFORMANCE LEVEL = total divided by # of observed behaviors		0.00

COMMENTS:

3. Influence		Rating
1. Communicates work-related knowledge to others		0
2. Coaches, develops and mentors others		0
3. Inspires confidence with management, associates, peers and subordinates		0
4. Sets an example for others by establishing challenging work goals		0
5. Works well under pressure; adapts to change		0
6. Creates an enthusiastic, positive work climate and energizes subordinates by example		0
7. Supports and facilitates cooperation between others both intra- and inter- departmentally		0
Number of observed behaviors:	7	TOTAL
PERFORMANCE LEVEL = total divided by # of observed behaviors		0.00

COMMENTS:

4. Initiative and Accountability		Rating
1. Examines each issue from multiple angles and seeks practical, workable solutions; does not automatically choose the first solution		0
2. Handles day-to-day work challenges effectively		0
3. Handles interruptions effectively to stay on task		0
4. Identifies and knows where to acquire resources		0
5. Uses time wisely		0
6. Reliable and dependable in handling issues or situations before they escalate		0
7. Actively engages in professional self-development opportunities		0
8. Maintains strong working relationships within the organization		0
Number of observed behaviors:	8	TOTAL
PERFORMANCE LEVEL = total divided by # of observed behaviors		0.00

COMMENTS:

5. Personal Effectiveness		Rating
1. Actively pursues learning and self development		0
2. Effectively balances professional and personal responsibilities		0
3. Maintains ethical standards in both internal and external business dealings		0
4. Gains the confidence of employees and clients by respecting the confidentiality and privacy of their concerns and needs		0
5. Is patient and even-tempered with others		0
6. Maintains business-like and positive approach, optimism and motivation		0
7. Is proactive and willing to take a leadership role without being asked		0
8. Aware of and sensitive to co-worker workload and offers assistance when necessary		0
Number of observed behaviors:	8	TOTAL
PERFORMANCE LEVEL = total divided by # of observed behaviors		0.00

COMMENTS:

6. Thinking and Problem Solving			Rating
1. Understands, comprehends, and defines issues			0
2. Recognizes, appreciates and applies situational subtleties and nuances that are not immediately observable			0
3. Asks appropriate questions and knows when to seek clarification to get necessary information			0
4. Weighs the risks and benefits associated with multiple alternatives before taking action			0
5. Possesses accurate assessment skills; exhibits healthy skepticism; extracts truth from fiction			0
6. Appropriately balances needs and desires with available resources and constraints			0
7. Resourceful and quick-thinking			0
Number of observed behaviors:	7	TOTAL	0
PERFORMANCE LEVEL = total divided by # of observed behaviors			0.00

COMMENTS:

7. Knowledge of the Organization and the Legal Profession			Rating
1. Knowledge of Criminal Procedures from Initial Appearance - Trial - Sentencing - Appeal			0
2. Knowledge of Rules of Evidence			0
3. Knowledge of OPD Policies and Procedures			0
4. Knowledge of court personnel - Prosecutors - Probation Officers			0
Number of observed behaviors:	4	TOTAL	0
PERFORMANCE LEVEL = total divided by # of observed behaviors			0.00

COMMENTS:

8. Legal Skills			Rating
1. Communicates information according to the OPD and State policies, procedures and guidelines .			0
2. Establish good working relationships with clients.			0
3. Maintains contact with clients.			0
4. Willing to file motions and go to trial.			0
5. Abides by standards established by the OPD and the Commission.			0
6. Legal Research			0
Number of observed behaviors:	6	TOTAL	0
PERFORMANCE LEVEL = total divided by # of observed behaviors			0.00

COMMENTS:

SAFETY RATING SCALE

3. Clearly Superior - Identifies and pursues solutions to safety issues. Initiates steps to provide a safe working
 2. Fully Successful - Complies with the Department's Safety Program as outlined in its Workplace Safety Policy. Is current on required safety training. Understands the importance of safety as it applies to work tasks. Performs work in accordance with safety procedures. Practices safe work habits (e.g., ergonomic principles; uses safety equipment). Does not perform work if is unsafe to do so.
 1. Somewhat Successful - Does not consistently follow safety procedures. Does not consistently practice safe work habits. Lapses in completion of required safety training. Does not consistently respond to safety issues in the workplace.

9. Safety		Rating
1. Complies with the OPD Safety Program as outlined in its <i>Workplace Safety Policy</i> .		0
2. Observes all safety rules, and applies accident prevention principles while performing duties.		0
3. Reports all workplace accidents or injuries to the supervisor or designee.		0
Number of observed behaviors:	3	TOTAL 0
PERFORMANCE LEVEL = total divided by # of observed behaviors		0.00

COMMENTS:

COMMENTS:

CONTINUOUS IMPROVEMENT OBJECTIVES: This would be completed to provide information as to what the employee will be expected to do to bring needs improvement ratings into compliance (i.e. include information as to what will be required to correct performance, training, etc.)

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PERFORMANCE EVALUATION FORM				
PERFORMANCE EVALUATION SUMMARY RECORD				
Employee Name	Employee ID Number	PE Due Date		
Position Title	Position Number	Hire Date		
Supervisor				
Covering Period from		to		
Type of Review	<input type="checkbox"/> Probationary	<input checked="" type="checkbox"/> Annual	<input type="checkbox"/> Other	
EVALUATION INFORMATION				
Competency	TOTAL POINTS FOR EMPLOYEES MEETING EXPECTATIONS	WEIGHT	EMPLOYEE RATING	OVERALL EMPLOYEE RATING
1. Knowledge of Relevant Law (20%)	40	20%	8.00	8.00
2. Written Advocacy (18%)	20	18%	3.60	3.60
3. Legal Analysis (14%)	35	14%	4.90	5.60
4. Research (10%)	10	10%	1.00	1.00
5. Oral Advocacy (10%)	30	10%	3.00	3.00
6. Client Service (10%)	40	10%	4.00	4.00
7. Professionalism (10%)	30	10%	3.00	3.00
8. Initiative and Accountability (4%)	25	4%	1.00	1.00
9. Influence (4%)	35	4%	1.40	1.40
TOTAL	265	100%	29.90	30.60
			Percentage	102.34%
The Total Possible Points are measured against the meets expectation standard of performance . An employee who receives above expectation ratings or exceed expectation ratings will receive an overall employee rating greater than the Total Possible Points For Employees Meeting Expectations. Employees receiving needs improvement or unacceptable ratings will receive an overall employee rating less than the Total Possible Points Total Possible Points For Employees Meeting Expectations.				
Post-Appraisal Authentication:				
Employee: _____				
(Signature and Date)				
I acknowledge that I received this evaluation, reviewed it, and had an opportunity to discuss any questions with the supervisor/evaluator. I understand that my signature does not signify agreement or disagreement with the contents of the evaluation and that I may submit a written response within the time allowed by administrative policy or collective bargaining, whichever is applicable.				
Employee comments attached				
Rating supervisor: _____				
(Signature and Date)				
Reviewing Manager: _____				

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(Signature and Date)

Reviewer comments attached

EMPLOYEE COMMENTS:

RATING SCALE

7 – 10 Exceeds Expectation - Performance exceeds the expectation on this competency. The employee at this level actively steps out of normal day-to-day roles and seeks out opportunities to contribute to the success of the agency's and unit's mission, goals and objectives. This level of performance is consistent throughout the appraisal period. The employee is a role model for others and encourages the behavior in others.

4 - 6 Meets Expectation - Performance meets the expectations on this competency. Performance is consistent with what is expected of the employee in the position. The employee does what is asked and what is defined in the job profile.

0 - 3 Needs Improvement - Performance did not meet expectations on this competency. Performance falls below of what is expected of the employee in the position. Performance is poor to marginal. The need is evident for the employee to improve performance in one or more aspects of the competency. Performance fails to contribute much at all to achievement of the agency's or unit's mission, goals and objectives. (Examples missed deadlines, failure to follow agencies policies and procedures).

NA - Not rated. Have not observed the person in circumstances in which the competency can be rated.

1. Knowledge of Relevant Law and Legal Profession (20% of Total)		Rating
1. Montana Criminal Law; Montana Constitutional Law; Montana Rules of Criminal and Appellate Procedure		5
2. Montana and Federal Rules of Evidence		5
3. United States Constitutional Law.		5
4. Abuse and Neglect Law		5
5. Civil Commitment Law		5
6. OPD Policies, Procedures, and Standards		5
7. Court personnel and procedures.		5
8. Rules of Professional Conduct.		5
Number of observed behaviors:	8	TOTAL
		40
PERFORMANCE LEVEL: Rating x Weight		8.00

COMMENTS:

2. Written Advocacy (18% of Total)

	Rating
1. Writes in plain language.	5
2. Uses coherent and well-cited legal argument.	5
3. Eliminates unnecessary detail.	5

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4. Uses story and character to advocate client's position.			5
Number of observed behaviors:	4	TOTAL	20
PERFORMANCE LEVEL: Rating x Weight			3.60
COMMENTS:			
3. Legal Analysis (14% of Total)			Rating
1. Understands and defines issues.			10
2. Possesses accurate assessment skills and applies situational subtleties not immediately observable.			5
3. Asks appropriate questions and seeks clarification when necessary.			5
4. Recognizes the strengths and weaknesses within arguments and makes decisions accordingly.			5
5. Weighs the risks and benefits associated with multiple alternatives before taking action.			5
6. Logically addresses opposing arguments and authority.			5
7. Makes decisions that increase the probability of the client receiving meaningful relief.			5
Number of observed behaviors:	7	TOTAL	40
PERFORMANCE LEVEL: Rating x Weight			5.60
COMMENTS:			
4. Research (10% of Total)			Rating
1. Conducts electronic and manual research of case law, statutes, regulations, procedural rules, and legislative history.			5
2. Identifies controlling case law and statutes regarding the legal question at issue.			5
Number of observed behaviors:	2	TOTAL	10
PERFORMANCE LEVEL: Rating x Weight			1.00
COMMENTS:			
5. Oral Advocacy (10% of Total)			Rating
1. Speaks comfortably and clearly.			5
2. Demonstrates understanding and control over the relevant facts and law.			5
3. Responds thoughtfully to questions in a manner that advances the clients' claims.			5
4. Uses themes.			5
5. Maintains eye contact; enunciates properly and projects voice, while varying tone and inflection.			5
6. Displays confidence and poise.			5

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Number of observed behaviors:	6	TOTAL	30
PERFORMANCE LEVEL: Rating x Weight			3.00
COMMENTS:			
6. Client Service (10% of Total)			Rating
1. Proactively informs and resolves problems with clients.			5
2. Communicates information pursuant to OPD and State policies.			5
3. Establishes good working relationship with clients by seeking their input.			5
4. Maintains contact with clients.			5
5. Views situation from clients' perspective to better respond to their needs and concerns.			5
6. Speaks and writes to clients at their level of understanding, and convey information to them accurately.			5
7. Negotiates agreements that are best for the clients.			5
8. Shows willingness to file motions (and go to trial).			5
Number of observed behaviors:	8	TOTAL	40
PERFORMANCE LEVEL: Rating x Weight			4.00
COMMENTS:			
7. Professionalism (10% of Total)			Rating
1. Abides by OPD standards.			5
2. Uses judgment in receiving, communicating, and managing confidential information.			5
3. Abides by the Professional Rules of Conduct			5
4. Actively pursues learning and self development.			5
5. Effectively balances professional and personal responsibilities.			5
6. Maintains business-like and positive approach.			5
Number of observed behaviors:	6	TOTAL	30
PERFORMANCE LEVEL: Rating x Weight			3.00
COMMENTS:			
8. Initiative and Accountability (4% of Total)			Rating
1. Communicates work-related knowledge to others.			5
2. Inspires confidence with management, associates, and peers.			5
3. Sets an example for others by establishing challenging work goals.			5
4. Works well under pressure; adapts to change.			5

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5. Creates a positive work climate.		5
Number of observed behaviors:	5	TOTAL
PERFORMANCE LEVEL: Rating x Weight		1.00
COMMENTS:		
9. Influence (4% of Total)		Rating
1. Handles day-to-day work challenges effectively.		5
2. Handles interruptions effectively, and stays on task.		5
3. Uses time wisely.		5
4. Handles situations before they escalate.		5
5. Maintains working relationships within the organization.		5
6. Proactive and willing to take a leadership role without being asked.		5
7. Sensitive to co-workers'		5
Number of observed behaviors:	7	TOTAL
PERFORMANCE LEVEL: Rating x Weight		1.40
COMMENTS:		
CONTINUOUS IMPROVEMENT OBJECTIVES: This would be completed to provide information as to what the employee will be expected to do to bring needs improvement ratings into compliance (i.e. include information as to what will be required to correct performance, training, etc.)		