

OPD Staff Attorney Concerns

Prepared for August 29, 2011 Commission Meeting
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1) No Quality Control/Supervision (affects retention)

- a. No meaningful mentoring
- b. No meaningful training for new attorneys re core competencies in their practice areas
- c. Experience 2 new attorneys:
 - i. One here 9 months the other 12 months
 - 1. Neither had mentor
 - 2. Neither had performance evaluation
 - 3. Neither had meaningful follow-up
 - 4. Neither had training re core competencies
- d. No quality control for experienced attorneys
 - i. How know clients are being served well
- e. Not fair to clients
 - i. Luck of the draw – excellent representation v. questionable representation

2) Central Office interfering with daily operations – creating conflicts

- a. Mandated end to practice of substituting judge
 - i. Randi substituting her jmt for that of atty to detriment of client
 - ii. Is this OK – duty to client v. duty to Randi
 - iii. Striking judges – will be an issue in Missoula?
- b. Conditioned not to ask for certain expenses b/c “know” will not get it
 - i. Some places worse than others
 - ii. Generally - Investigators with misdemeanors
 - iii. Generally - Most expert requests re misdemeanors
- c. Denial by nonresponse
 - i. Request for experts submitted timely to central but no timely reply
 - 1. Practically, results in denial
- d. Interference/denial of MH requests
 - i. Discouraged to request
 - ii. Requested and denied

3) Caseloads

- a. Case-weighting system
 - i. Flaws with current system
 - 1. Red Flag v. Trigger?
 - 2. No meaningful guidelines – what does it really mean
 - 3. No teeth – blow by 12.5 and no consequences for mgmt.
 - ii. Assuming red flag, not working

1. Mgmt not coming to us
 2. Attys reluctant to complain b/c colleagues will have to carry their load
(HUGE FACTOR)
- b. Numbers still too high
 - i. 80 cases + a homicide (overall, better, but still bad)
 - c. Not evenly spread
 - i. MCU v. Staff Attys
 1. MCU atty #s are low
 2. Staff attys still handling major crimes + large caseload
 3. Disproportionate # of MCU attys located in Western Montana
 - a. Most of the sparsely populated communities in Eastern MT
 4. Not fair to attys or clients
 5. Inefficient use of resources
 - ii. Within offices, belief that many attys are not carrying their fair share of cases
 1. Transparency would help – make the numbers known

4) Lip Service to AU Report

- a. E.g., Performance Evaluations
 - i. Not individualized
 - ii. Not meaningful
- b. Superficial policies – no follow-through

5) Treatment Court

- a. Need specialized training for these courts
- b. Are we even representing these people
- c. Judges doing things not appropriate
- d. New charges arising from confessions in treatment court
 - i. Ethical issues/obligations?

6) Support Staff

- a. Low Pay
- b. Need more support staff rather than attys
 - i. They spend too much time on JW
 - ii. Handling IQs
 - iii. We do a lot of our own stuff (basic paperwork/filing)

7) Comp Time

- a. Some offices won't approve – people work extra but not report it
- b. People losing comp time each year

8) Low Pay/Retention for beginning attorneys

- a. Losing good attys because very low starting pay and no oppty to increase it
- b. Pay ladder not funded – huge problem