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KEIR BRADFORD-GREY, ESQ.

CHIEF PUBLIC DEFENDER

PA Senate Bill 979: Pennsylvania Center for Effective Indigent Defense Representation

PA Senate Judiciary Committee Hearing: April 1, 2014

Testimony of Keir Bradford –Grey, Esq.

Chairman Greenleaf and Members of the Senate Judiciary Committee:

My name is Keir Bradford-Grey and I am the Chief Public Defender of the Montgomery County Public Defender Office. I wholly support Senate Bill 979 as it would provide necessary training and resources for effective management and leadership of chief county public defenders by supporting the offices' execution of its duties relating to legal representation, training, policy advocacy and risk management reduction.

I was appointed to my position April 1, 2012, exactly two years ago, by County Commissioners Josh Shapiro, Leslie Richards and Bruce Castor. By way of background, I have experience as an assistant public defender in both State and Federal practices. I worked for the Defender Association of Philadelphia for eight years and the Federal Defender Office in the District of Delaware for five years. The experience and expertise I gained from working in those two offices have helped me tremendously in my new position when it came to: setting standards of practice, drafting internal operating policies, initiating systems designed to improve efficiency and setting up structures that establish clear areas of representation and office work responsibilities. While my training and experience provided me with the insight to improve upon the deficient office structure and the need to establish written policy, there was a real need for guidance on key areas which would help secure resources to improve upon the overall efficiency and effectiveness of the office.

Following Philadelphia and Allegheny County, the Montgomery County Public Defender Office is the third largest public defender office in the State of Pennsylvania. With a staff of 55 (consisting of 28 full-time assistant public defenders, 9 part-time assistant public defenders, 4 investigators, 10 support staff and 2 social workers) our office handles the following:

- an adult caseload of approximately 16,000 per year
- a juvenile caseload of approximately 1,200 per year
- mental health caseload of 950 per year
- our office also handles other miscellaneous hearings such violations of probation, contempt of court and state parole violation hearings.

Until my appointment in 2012, the position of the Chief Public Defender, unfortunately, had always been a part-time position. In addition to the part-time status, there had been no continuity in the leadership, since each newly elected board of commissioners would appoint a new chief defender. With a high rate of turnover, this office suffered greatly having no supervisory structure other than the Chief Public Defender and the Deputy Chief in addition to there being no uniformity of expectations as each Chief had their own set of priorities and standards.

While I have been fortunate enough to have county commissioners who have allowed me the autonomy to structure the office in a manner consistent with the constitutional mandate, prior chief public defenders had not had the same level of support. This was evident by the extreme lack of funding and resources allocated to an office that handled such a heavy volume of cases including capital homicides. The political realities and systemic pressures to keep the justice system functioning made this office ripe for providing services that severely undermined the right of the poor to competent and effective representation. This practice added costs to the taxpayers, due to improper oversight resulting in unnecessary delays in cases, causing a backlog in the justice system, litigation of in-effective assistance of counsel claims resulting in new trials and lengthy pre-trial prison confinements for low-level non-violent offenders. For the client this often resulted in a loss of employment, housing and certain medical benefits causing them to remain dependent on state and county resources.

Utilizing my past experience and with the help of trusted advisors, such as Ellen Greenlee and the Philadelphia Defender Association staff, Mr. Robert Listenbee and Mr. Al Flora, the Montgomery County Public Defender Office has made considerable advancements in a number of areas. We were able to put together an office structure with layers of supervision and responsibilities designed to focus on particular areas of practice, such as:

- **Chief of Pre-Trial division-** The Pre-Trial Chief supervises and trains the attorneys handling preliminary hearings, reviews all preliminary hearing reports and screens cases for early dispositions through our newly established Preliminary Hearing Waiver Program, Criminal Justice Task Force Initiative and our Fast Track program. These initiatives and the oversight established to monitor each initiative has allowed us to realize huge savings in criminal justice costs, while providing for alternatives to incarceration for low-level non-violent offenders.
- **Chief of Trial division-** The Chief of Trials supervises our adult trial teams; communicates with team captains regarding work performance of trial lawyers; sets performance standards; conducts performance reviews of team captains and line assistants; plans and develops training for trial attorneys and reviews and files conflict petitions. The Chief of Trials is to develop a Unified Trial Team Program for the representation of defender clients that includes quality representation and efficient use of the court, sheriff and county jail resources. Some of the goals of the program are to avoid unnecessary prison continuance requests by interviewing our clients in a timely manner, thereby allowing the attorneys to identify clients early on in the process that

do not need to be transported to the courthouse for court listings where there will be no resolution of the case. In doing this we have worked with the criminal justice stakeholders to substantially reduce the numbers of inmates transported to court on a daily basis, only to return without seeing the inside of the courtroom. By adequately preparing our cases our attorneys can get a better understanding of which cases will be disposed of at certain court listings thereby decreasing the number of inmate transports by 50% in the first year at cost saving the county \$194.10 per round trip for approximately \$170,000 per year in transportation costs alone.

- **Chief Social Worker** – Our Chief Social Worker helps to identify adult clients who may have mental health issues or have other rehabilitation needs. This individual helps avoid needless incarceration of people who are not dangerous and are in need of treatment, not prison. With the help of our social worker, our lawyers have been able to identify needs and present sentencing alternatives to the court. The cost savings to the county has been huge, but more importantly, our clients are connected with individualized treatment plans which help them function in their communities and reduce recidivism.

- **Chief Investigator** - Our Chief investigator ensures that assignments are distributed proportionately and completed in a timely manner. Prior to creating an investigative unit with oversight, lawyers simply left their files on the desk of an investigator with whom they were comfortable. This created an uneven workload and would often cause viable investigation request to be incomplete due to the disproportionate volume of assignments. The office's investigative unit now has experienced and trained investigators who are held accountable by a supervisor, to ensure the consistent high standard of work for which our investigators are known.

- **Prison Liaison** – The position of the Prison Liaison is a non-attorney with knowledge of the prison system. The prison liaison coordinates prison interviews of our clients; work with the Chief of Pre-Trials to review cases for the quick resolution through the Criminal Justice Task Force; confirms proper time credit; conducts post-sentencing confirmations that our clients sentenced to prison have, in fact, received the sentence handed down in court and are not sitting in custody longer than necessary. Prior to creating this position the clients who have been sentenced by the Court spent more time than intended due to lack of oversight to spot clerical errors on sentencing forms sent by the clerk's office.

These newly created structures have not only provided for quality representation for our clients, but have produced a more effective means of risk management at a cost savings to the county. However, this office continues to face significant challenges. The State of Pennsylvania lacks uniform professional standards. The establishment of the State resource center will provide county chief public defenders, like me, with the necessary tools and training for collecting data to present to funders the cost benefits of properly funding indigent defense systems, set uniform performance expectations and workload standards. As Montgomery County's chief public defender, I am very fortunate to have a supportive board of County

Commissioners, extensive background and training in excellent organizations and critical relationships with key criminal justice leaders. I believe every chief public defender in the state of Pennsylvania should be afforded the proper guidance and support to live up to Gideon's mandate.

I would like to thank you for granting me the opportunity to share my experience and stress the importance of adopting a framework that allows Pennsylvania to serve as a model for other states to emulate.

Respectfully submitted

Keir Bradford-Grey, Esq
Chief Public Defender
Montgomery County PA

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KEIR BRADFORD-GREY, ESQ.
CHIEF PUBLIC DEFENDER

MEMORANDUM

TO: Commissioners

FROM: Keir Bradford-Grey

DATE: August 6, 2013

RE: Montgomery County Public Defender Projects and Initiatives

In the past year, we have developed several community partnerships and initiatives designed to address the legal and extra-legal needs of our clients with the specific goal of preventing their entrance or return to the justice system.

As public defenders, we establish a critical, confidential connection with our clients. We are uniquely situated to assess the strengths and needs of the individuals we represent. To that end, we are implementing a holistic approach to legal representation in order to improve life success for our clients. Through increased training and resources, we seek to identify educational gaps, mental health issues, drug and alcohol addiction, lack of housing, unemployment and other factors that lead clients into the criminal justice system and impact their ability to reform and avoid future law enforcement contact. In turn, holistic representation also benefits the criminal justice system, courts, law enforcement, and the community as a whole by reducing the economic and systemic burdens of recidivism.

Our current community partnerships and initiatives are focused on providing mentors to at-risk juvenile clients, establishing student-run Youth Courts, expunging criminal records for eligible adults and juveniles, and providing internships, externship and clinical programs with local schools to assist students and our clients at the same time.

Partnership with Big Brothers, Big Sisters of Southeastern PA:

Back on Track Program

For several months, the Chief Public Defender and representatives of Big Brothers, Big Sisters of Southeastern PA (BBBS) explored ways to join forces and provide mentors to children who enter the juvenile justice system. Statistics show that children who have positive role models are more likely to succeed academically and avoid law enforcement contact than children who do not have such role models. In July 2013, BBBS received a state grant and the Back on Track Program began. Through this program, the Public Defender program liaison reviews every new juvenile delinquency case to identify children from 11 to 15 years old who reside in Montgomery County and have been charged with low level offenses. The Public Defender program liaison contacts selected clients' parents to discuss the program, the exceptional benefits of mentorship and how to schedule an intake appointment with the Back on Track coordinator at BBBS. The two-year grant provides for 30 children to be matched with Bigs in the first year and 30 children in the second year. Extensive recruitment efforts are well underway to train qualified volunteer mentors throughout Montgomery County. The Public Defender liaison and Back on Track coordinator meet twice a month to discuss referrals and matches. The Montgomery County District Attorney is a partner in the Back on Track Program. This program is considered the very first of its kind in the United States, so data collection is critical to measuring success of the program. It is anticipated that juvenile clients matched with Bigs will have lower recidivism rates than similarly situated clients who do not participate. Statistics are being compiled by both organizations.

Partnership with Local Schools and Criminal Justice Stakeholders:

Youth Courts Initiative

The Public Defender and the Montgomery County Sheriff share the common goal of diverting juveniles from entry into the justice system. This partnership is both unique and mutually beneficial. Implementation of Youth Courts in local schools will allow children to be judged and disciplined by a jury of their peers, rather than receiving the stigma of delinquency adjudication and all the consequences that flow from a juvenile record in the school to prison

pipeline. These courts also reduce the burden on law enforcement responding to minor offenses in local schools and later having to appear in juvenile court.

Approximately 1,150 Youth Courts exist nationwide and we are dedicated to introducing them to Montgomery County. Student volunteers receive basic legal training and hold hearings to determine the appropriate dispositions, or sentences, for student-respondents who break rules or commit low level offenses in school. Youth Courts use positive peer pressure to shape respondent behavior while also teaching student volunteers how to reach consensus and a fair decision.

Youth Court volunteers are supervised by one or two faculty members. Faculty and students are trained by volunteer attorney trainers. Ten public defender attorneys and staff have volunteered to receive training on how to run Youth Courts in order to train students as soon as Youth Courts are available in Montgomery County. We have met with the Sheriff, a Youth Court expert and local school superintendent, principals and school staff to discuss the concept, implementation and training necessary to establish a Youth Court.

Partnership with Villanova Law School:

Montgomery County Public Defender Expungement Clinic

As part of our mission, the Public Defender seeks to assist our clients, past and present, who qualify for expungement, to clear their records. In order to provide this service to Public Defender clients, adult and juvenile, our office has collaborated with Villanova Law School to establish an Expungement Clinic beginning September 2013, which will continue indefinitely. We have agreed to train third-year law students each semester on interviewing techniques, eligibility criteria, forms and filing procedures, and contested hearings in expungement matters with close supervision and oversight within the Public Defender Office. In exchange, the students will provide an invaluable service to our clients and citizens of Montgomery County.

Partnerships with Local High Schools, Universities, Law Schools:

Clinics, Externships and Internships

We have expanded our partnerships with local universities and law schools to provide additional services to our clients. We have developed a Juvenile Justice Externship with Villanova Law School, beginning this Fall. This externship program offers law students the ability to provide intensive attention to a small number of juvenile clients while handling their cases from the initial detention hearing, to the adjudication hearing, and through the disposition hearing. In this externship, fact investigation is a critical component, requiring the extern to conduct hands-on investigation, draft and serve subpoenas, interview witnesses and conduct online research. Externs will research treatment programs and rehabilitative services to advocate at the disposition hearing. In turn, clients will receive holistic representation through a student attorney who is closely supervised in each aspect of their case.

We expanded our college and law school internship programs this summer, providing selected candidates with a broad range of experiences in the social work, investigation, juvenile justice, adult criminal and administrative support units. After a thorough initial training program, students rotated through units, assisting attorneys, investigators, our social worker and support staff with critical projects ranging from archive organization, data collection, legal research, trial investigation to sentencing alternatives and treatment programs. These internship programs will continue under close supervision within our office and partnerships with local schools.

We have also created an internship program for local at-risk youth, targeting students placed in alternative high schools for behavior issues. Interested students are required to submit a letter to the Chief Public Defender, demonstrating their ability and desire to achieve success. Selected students are given an internship in our office that provides true work experience and a reference for future job opportunities.

Partnerships with Stakeholders:

Developing Criminal Justice Policy Initiatives

The Office of the Public Defender is creating additional partnerships with community agencies and criminal justice stakeholders through several critical policy initiatives aimed at reducing recidivism and improving life outcomes for clients.

Racial Justice Improvement Project (RJIP) and Disproportionate Minority Contact (DMC)

The Public Defender is represented on the Montgomery County RJIP Task Force. This task force is one of seven pilot projects throughout the nation, supported by a two-year grant from the American Bar Association, to identify an area of racial disparity and implement a solution through a team of Montgomery County criminal justice stakeholders. The task force is currently reviewing data from various sources, including statistics from the Public Defender Juvenile Unit caseload, to determine how and why certain jurisdictions appear to have disproportionate arrest rates among minority youth. When a concrete issue is identified, the task force will develop a plan to remedy the problem. It is anticipated the program will expand and continue beyond two years with assistance from the ABA in obtaining additional funding sources.

The Office of the Public Defender partnered with Norristown law enforcement and City Council members to host a "Weed and Seed" forum bringing youth and police officers together to discuss common conflicts between police officers and juveniles. The goal of the program is to foster mutual respect and understanding to reduce confrontations and unnecessary arrests of local youth. More forums are anticipated as part of a DMC initiative and partnership between the Public Defender and Norristown Area Communities That Care.

Criminal Justice Advisory Board (CJAB)

The Office of the Public Defender has always been a member of Montgomery County's CJAB. In conjunction with our mission, the office has appointed a representative to join two subcommittees: the Data Collection Committee and the Grants and Funding Committee. Data collection is essential to tracking cases, outcomes and recidivism rates. In addition to tracking our own statistics, the Office of the Public Defender is committed to partnering with all Montgomery County criminal justice stakeholders to gather data and analyze data that will improve delivery of justice and services to our clients. Participation in grants and funding

discussions is critical so that a balanced perspective including the legal and extra-legal needs of our clients is also considered.

Grants and Policy Director:

Essential to Creating and Sustaining Partnerships and Initiatives

The mission of the Public Defender and all of the programs we have implemented cannot be sustained without the ongoing supervision of a Grants and Policy Director. To continue providing client-centered defense, outside grants and funding must be identified, obtained and monitored. The Office of the Public Defender does not currently have a Grants and Policy Director, which is critical to continuing all of the improvements we have made toward community oriented, holistic representation. Our current juvenile investigator is filling the role of liaison, point person, data analyst and committee member for all of these programs and initiatives.

A Grants and Policy Director would work closely with the Chief and Assistant Chief of the Public Defender Office to develop policy initiatives that benefit public defender clients and to obtain funding from a variety of sources to fund those projects. The Director would have a minimum of 10 years of juvenile and criminal justice experience including direct representation of clients as well as a deep understanding of the juvenile and criminal justice systems, statewide reform initiatives, research in the field of juvenile justice and evidence based practices.

In order to develop and sustain close working relationships with key stakeholders at the local, state and national level, the Office of the Public Defender needs a Grants and Policy Director who is responsible for:

- Policy Meetings: hold regular meetings with Attorney Team Leaders in the Adult Unit and all attorneys in the Juvenile Advocacy Unit to identify areas of focus for ongoing policy work. The Director will also work closely with the Policy Committees of JDAP and PCCD.

- Program Development: participate in the development of new programs in Family Court through participating in steering committees and review committees.
- Indigent Defense Reform and Improvement: assist ongoing work to improve access to quality representation.
- Changes in the Law: work with experts in the Pennsylvania Commission on Crime and Delinquency, the Juvenile Defenders Association of Pennsylvania and other organizations to respond to pending legislation or proposed changes to the Rules of Court and Rules of Juvenile Court; work to develop cross-systems consensus on these recommendations whenever possible.

To sustain our existing and developing projects, the Public Defender will seek funding through state and federal funding sources as well as through private grants. It is essential that a Grants and Policy Director monitor funding announcements and discuss relevant opportunities for funding with the Chief and Assistant Chief. This person will also contact funders to discuss projects that the Public Defender would like to pursue or is pursuing that may align with the funding priorities of the office. It will be necessary to:

- Research information about funding opportunities relevant to juvenile and criminal defense practice.
- Prepare project descriptions and grant applications for funding.
- Supervise work done through external funding sources.
- Prepare periodic reports on grant progress .
- Collect data on outcomes of grant-related projects.
- Prepare sustainability plans for the Defender and the Chief/ Assistant Chief of the unit to allow ongoing projects to continue after grant funding expires.
- Implement data collection methods in the Office of the Public defender, in order to apply for new grants and funding opportunities.