

May 8, 2000

The Hon. Robert P. Horgos  
816 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

**RE: Doyle v. Allegheny County Salary Board**  
First Report to the Court by The Spangenberg Group

Dear Judge Horgos,

As you know, the Consultant Agreement between the parties in this matter and The Spangenberg Group, dated November 1, 1999 (“the Contract”), calls upon The Spangenberg Group to submit a report to the Court every six months. The purpose of this report is to document the progress made under the contract during this six-month reporting period. We are pleased to submit our first such report to you.

**Introduction**

The parties began negotiating with The Spangenberg Group concerning this particular work in the early Summer of 1999, many months before the Contract was finally executed. Because of the urgent need for assistance, we arranged with the plaintiffs’ attorneys to receive an advance of the anticipated contract amount and began work in August of 1999. As detailed in this report, The Spangenberg Group completed substantial work in anticipation of the execution of the Contract. In the absence of a contract, however, that work was not formally reported to you. Accordingly, we will review the substance of that work, also.

We think it is important to note, at the outset of this report, that we have had to overcome several substantial obstacles and shifting expectations during the course of our work to date. For example, during and immediately after our first site visit, in August 1999, we reviewed all of the work completed by the Office of Public Defense and the prior consultants. We were disappointed to find almost no documentation that was useful in satisfying the requirements of the Settlement Agreement.

Likewise, you are aware that during the first several months of our work, Kevin Sasinoski was engaged in a campaign for a judgeship on your court. Thus, we had to compete with the demands of such a campaign on his available time. When he was not available, we worked closely with the other managerial staff and made good progress. Nevertheless, the election of Mr. Sasinoski in November 1999 (and the election of Mr. Roddey) introduced a great deal of uncertainty at all levels of government, particularly in the Office of Public Defense. Under those circumstances, we felt it was important to proceed ahead. Therefore, during the months between the election and the appointment of Susan Ruffner, we redoubled our efforts. We worked long hours with the management team to develop and implement critical policies and procedures, many of which were complete when Mr. Roddey announced the appointment of Sue Ruffner to head the Office of Public Defense.

With the appointment of Susan Ruffner as the new Director, the nature of our work shifted again. Naturally, there was a period during which The Spangenberg Group and Ms. Ruffner had to learn to trust each other. Indeed, one of Ms. Ruffner's first letters to us included a discussion of "[her] concerns about the various document[s]" that had been produced prior to her appointment and her stated position that the policies and procedures we had developed with the management team "are not deemed 'posted and implemented' . . . ." Although her concerns were ultimately resolved, we spent considerable time with Ms. Ruffner in Pittsburgh, going over everything done up until that time and discussing the wide variety of issues presented by the Settlement Agreement. As we will demonstrate in this report, a strong momentum towards positive change has again been built and a positive relationship exists between The Spangenberg Group and Ms. Ruffner. Reaching this point, however, has required us to negotiate a landscape of changing circumstances that no one could have foreseen. We hope that this report will help you to understand how we have traveled down that road thus far.

### **The Creation of a Work Plan**

In accordance with the Contract, we worked with the management team and developed a Draft Work Plan, which was published to the parties and the union on or about November 30, 1999.<sup>1</sup> The Spangenberg Group received comments from the ACLU and the Union, as well as comments in person, by e-mail, fax, and letter from persons who requested anonymity. Appropriate suggestions were adopted and incorporated into the Final Work Plan, which was published on January 24, 2000.

Mr. Roddey appointed Ms. Ruffner to be Director of the Office of Public Defense in February 2000. We immediately made contact with her and, shortly thereafter, Mr. Spangenberg made a visit to Pittsburgh to discuss the status of the Settlement Agreement and Ms. Ruffner's plans for the future of the Office of Public Defense.

On April 6, 2000, the parties held a meeting that we attended and over which Mr. McGough presided, to discuss the progress of the various tasks set forth in the Settlement Agreement, as well as Ms. Ruffner's plans for the future implementation of the Settlement Agreement. We believe that Mr. McGough has already reported to you on the substance of that meeting, which was, in our opinion, very encouraging. After that meeting, The Spangenberg Group and Ms. Ruffner submitted a Revised Work Plan to the parties, a copy of which is attached as Appendix A. Although the parties have until May 8, 2000, to submit objections to the revised plan, we do not anticipate any objections that cannot be accommodated. You will note that the Revised Work Plan contemplates that all of the major tasks of the Settlement Agreement will be completed by the end of this year.

---

<sup>1</sup> As you know, the Settlement Agreement required the Office of Public Defense, with our assistance, to provide the parties and the Union with notice and an opportunity to make suggestions prior to the implementation of certain policies and procedures. Although is not required as to every product of our consultancy, we decided quickly that it would be helpful to give such notice as to each product. Our idea was to keep all of the parties and the Union informed and to gain their insights on the various matters on which we are working. Accordingly, as part of our initial work plan, we proposed that all documents be provided to the parties, the Union and the staff of the Office of Public Defense, to be followed by a thirty-day comment period (a process that we refer to hereinafter as "publication"). The Revised Work Plan maintains that procedure.

### **Overview of the Major Areas of Progress**

The Spangenberg Group is pleased to report that substantial work has been completed on several tasks identified in the Revised Work Plan. These include, but are not limited to:

- (1) Publication of Written Job Descriptions and Qualifications;
- (2) Publication of an Interim Merit Hiring Policy (including policies to ensure that new hires meet minimum job qualifications);
- (3) Publication of a Policy on Outside Practice for Attorneys Hired After January 1, 1999;
- (4) Drafting of Written Practice Standards for trial and appellate attorneys;
- (5) Drafting of Written Practice Standards for capital cases;
- (6) Drafting of a Proposed Plan for the Annual Allocation of Resources; and
- (7) Initial Drafting of a Long-term Deployment plan.

Details on the published documents are provided below.

In addition, several important administrative changes have been implemented. Many of these changes go beyond the technical requirements of the Settlement Agreement. These include, but are not limited to:

- (1) A commitment by Ms. Ruffner to work full-time, with no outside practice of law, and not to seek judicial office while serving as Director;
- (2) An agreement by all management level attorneys to work full-time, with substantial restrictions on outside practice, including no criminal practice;<sup>2</sup>
- (3) An agreement by seventeen (17) formerly “part-time” attorneys to relinquish their right to maintain a private practice under the Arbitration Award and to become “full-time” attorneys for the Office of Public Defense;
- (4) An arbitration award between the attorney’s union and the county that will, by 2002, afford public defenders base salaries that are roughly commensurate with the base salaries of prosecuting attorneys with similar longevity.

---

<sup>2</sup> During the April 6, 2000, meeting of the parties, there was substantial discussion concerning the results of the hearings before your Honor last December, concerning the motion by Mr. Sasinoski to increase the salary ranges for management level attorneys. Mr. McGough indicated that he would report the substance of those discussions to you and, accordingly, we do not discuss them here.

**Details of Progress on the Specific Tasks in the Settlement Agreement**

*Preparing Written Job Descriptions and Qualifications.*

Prior to the appointment of Ms. Ruffner, we worked closely with the management team of the Office of Public Defense to prepare, revise and publish Job Descriptions and Qualifications for the following positions: Director, Deputy Director, First Assistant, Supervising Attorneys, Defender Attorneys, Paralegal, Office Manager, Legal Secretary, Clerk/Typist, Supervising Investigator, Investigator, Intake Clerk, and Law Clerk. We began drafting a description for Social Worker, also, although no such position yet exists within the Office of Public Defense. We did not draft a description for Administrative Assistant, because the former Administrative Assistant had resigned her position to work for Judge Sasinoski and there were no plans to fill the position (the Office Manager has assumed the additional responsibilities).

As mentioned previously, when Ms. Ruffner became Director, she initially expressed concerns about all of the policies and procedures previously prepared with our assistance. She seemed to be concerned that the management team with whom we had worked in developing them had no authority to implement them (they were implemented after Judge Sasinoski left the office). The Spangenberg Group worked long and hard with Ms. Ruffner to review and revise the Job Descriptions and Qualifications, spending many hours on the phone and in person during the first few weeks of her administration. Ultimately, some revisions were made to the Job Descriptions and Qualifications, most of which drew on Ms. Ruffner's considerable experience with human resource matters and knowledge of existing county personnel policies.

The revised job descriptions and qualifications were submitted to the parties for their approval at the April 6, 2000 meeting and are enclosed for your reference as Appendix B. Because the parties previously reviewed and accepted the substance of these documents before Ms. Ruffner's appointment, we fully expect that the descriptions and qualifications will be approved by the parties and will be implemented on or about May 10, 2000.

*Preparing Written Practice Standards for Attorneys and Staff*

The Spangenberg Group's first step in implementing practice standards was to incorporate, solely by reference, the National Legal Aid & Defender Association standards ("the NLADA standards") and the American Bar Association standards into the job descriptions for all defender attorneys. We did so in conjunction with the management team that remained in place after Judge Sasinoski's departure. After Ms. Ruffner became director, she began a much more comprehensive study and review of the NLADA Standards and their application to local practice. Since then she has timely produced a comprehensive and specific set of standards for trial and appellate attorneys. Although the standards are still under our review, we can confirm that they are "modeled after national standards," as required by Paragraph 16 of the Settlement Agreement and we believe that they represent a substantial step forward in the improvement of attorney practices. Ms. Ruffner is to be commended for timely satisfying this obligation, especially given the other pressing matters she has had to address in a short time. Likewise, her management staff and other employees are to be credited with producing an extensive product that addresses an important issue.

Also in accordance with the Revised Work Plan, on April 24, 2000 Ms. Ruffner produced a timely draft set of standards for capital cases. We are currently reviewing these standards as well, prior to their publication to the parties, but we can confirm that they, too, are consistent with the terms of Paragraph 16 of the Settlement Agreement.

Standards in Juvenile cases are scheduled to be drafted by May 15, 2000, and standards on Mental Health matters by June 1, 2000. After our review and a thirty-day period for comments from the parties and the union, we expect that all of the Attorney Practice Standards will be in place by September 1, 2000.

*Developing a Merit Hiring Policy*

A merit hiring policy was not required either by the Settlement Agreement or by our Contract. Nevertheless, the former director and the previous consulting team decided that such a policy would be in the best interest of the Office of Public Defense. When we began this project, we agreed that such a policy was important. Accordingly, in conjunction with Deputy Director Brennan and the management team, we prepared,

revised and implemented a merit hiring policy prior to the appointment of Ms. Ruffner. As with the Job Descriptions and Qualifications, Ms. Ruffner had concerns about the authority of the management team to implement this policy. Nevertheless, after a fair amount of time spent with Mr. Spangenberg, Ms. Ruffner and The Spangenberg Group agreed on a modestly revised Interim Merit Hiring Policy. The policy is styled an “interim” policy because changes to the policy may be required after the County adopts an Administrative Code. That policy was published to the parties and the union on April 6, 2000, and is enclosed for your reference as Appendix C. If fully implemented, these policies will go a long way towards ensuring that only qualified candidates are considered and hired by the Office of Public Defense.

As with the Job Descriptions and Qualifications, the major aspects of the Interim Merit Hiring Policy were reviewed and accepted by the parties and the union prior to Ms. Ruffner’s appointment, so we expect that the revised policy will likewise be accepted and implemented on or about May 6, 2000.

*Preparing a Plan for Procuring Funds From Sources Other than the County.*

From the first time we visited Pittsburgh on this project, in August 1999, we have been discussing with almost everyone we meet a variety of ways to obtain alternative funding and resources. These include both public and private sources and both one-time and sustainable grants. Ms. Ruffner appears to have the political wherewithal to pursue these sources effectively and has drafted an Alternative Funding Plan, which we are currently reviewing. It will be published to the parties and the union on May 10, 2000.

*Develop Policies to Ensure that New Hires Meet Job Qualifications And, After January 1, 1999, New Attorney Hires Do Not Have Private Practices.*

We are confident that the Office of Public Defense has developed sufficient policies to ensure that new hires meet job qualifications and that new attorneys do not have private practices. First, the jointly-developed Interim Merit Hiring Policy, discussed above, will screen out candidates who do not meet the minimum job qualifications. *See e.g.*, Interim Merit Hiring Policy, at paragraph 11 (requiring the hiring panel to review applications to assure that the candidate possesses the minimum job qualifications). Ms. Ruffner appears to be ready, willing and able to consistently apply this policy. Similarly, Ms. Ruffner’s

implementation of that policy includes notification to all prospective attorney candidates of the policy that successful candidates will be prohibited from maintaining an outside practice. Appendix D is a sample letter to an attorney candidate acknowledging receipt of an application and informing them of the full-time nature of the position.

Likewise, we have prepared and Ms. Ruffner has revised a Policy on Outside Practice for Attorneys Hired After January 1, 1999. The policy is consistent with the terms of the Settlement Agreement. It requires attorneys hired after January 1, 1999 to certify annually that they are not engaged in the practice of law outside the Office of Public Defense. A copy of this policy is enclosed as Appendix E.

*Make Regular and Periodic Site Visits*

Before our Contract was approved by the County, The Spangenberg Group made four site visits: August 9-10, 1999 (Robert L. Spangenberg and William R. King); September 1-2, 1999 (Mr. King); September 28-29, 1999 (Mr. Spangenberg and Mr. King); and October 13-16, 1999 (Mr. Spangenberg and David J. Newhouse). Since the execution of the contract, we have made four more site visits: December 6-9, 1999 (Mr. Spangenberg and Mr. King); and January 3-4, 2000 (Mr. Spangenberg); February 16-19, 2000 (Mr. Spangenberg); and April 5-6, 2000 (Mr. Spangenberg and Mr. King).<sup>3</sup> All told, we have spent more than 200 hours on site in connection with this project.

During the course of our site visits, members of The Spangenberg Group have met numerous times with persons interested in the implementation of the Settlement Agreement, including, but not limited to: Kevin Sasinoski, William Brennan, all members of the management team and many attorneys and staff of the Office of Public Defense, your Honor, W. Thomas McGough, Daniel Booker and the Roddey Transition Subcommittee on the Office of Public Defense, Eric Anderson, Michael Miller, Claudia Davidson, Sean Audley, Jane Harter, County MIS and Human Resource administrators, members of the Advisory Panel and, of course, Susan Ruffner.

---

<sup>3</sup> Mr. Spangenberg went to Pittsburgh with Mr. King on April 5, 2000, with the intention of staying through April 6, 2000, and attending the meeting of the parties on that date. While he and Mr. King were meeting with Ms. Ruffner on April 5, 2000, however, Mr. Spangenberg was called by the Office of the U.S. Secretary of State, and asked to attend a meeting with Madeline Albright on April 6, 2000. After completing as much work as he could on April 5, Mr. Spangenberg left Pittsburgh to attend that meeting. Mr. King remained in Pittsburgh and attended the meeting of the parties.



*Application of The Side Agreement Between the Parties and the Union*

The *Side Agreement Between the Parties and the Union* requires the consultant and the Chief Public Defender to “include on a regular and frequent basis, representatives of the Office’s Union and non-union staff in the development, promulgation and implementation of policies and procedures contemplated in Section C [entitled, “Policies and Procedures”] of the Settlement Agreement.” While preparing our draft Written Job Descriptions and Qualifications, The Spangenberg Group met with many OPD staff members (both union and non-union) and we received their comments and suggestions on a variety of topics (we did *not* discuss the negotiations of the Union with the County over the contract that was then the subject of arbitration). Initially, there was some confusion over the way in which the Union would designate a representative for purposes of the Side Agreement. Since then, however, the parties and the Union have agreed that this term of the Side Agreement is satisfied by following the procedures in the draft work plan, i.e., providing copies of any draft “Section C” policies to the Union, through Mr. Audley, 30 days prior to the proposed date of implementation.

**Details of Administrative Changes**

As noted above, there have been several changes in the way the Office of Public Defense is administered that are technically not required under the Settlement Agreement but which we feel are important advancements for the office. There are too many changes to discuss in detail here, but we feel it is important to mention some of the most important.

*The Director Of The Office Of Public Defense Has Made A Full Time Commitment to the Office of Public Defense*

Ms. Ruffner has made a commitment to work full-time in the Office of Public Defense and to refrain from practicing law outside the Office of Public Defense. This is important for at least two reasons. First, it sets a good example for the rest of the office. Second, it means that there will be someone actively managing the office every day, all day. Along with her commitment to work full-time as the Director, Ms. Ruffner has also committed not to seek judicial office while she is working as the Director of the Office of Public Defense.

*All Managers Have Agreed To Work Full-Time, With Restrictions On Outside Practice*

Following the appointment of Ms. Ruffner, all members of the management team were informed that a condition of their continued employment at the Office of Public Defense was that they severely limit their outside law practice. Accordingly, all management level attorneys have agreed to work full-time in the Office of Public Defense and to limit their private practice to vacation and personal time and only in non-criminal matters. A copy of the policy implementing this agreement is attached as Appendix F.<sup>4</sup> Again, this agreement sets a positive example for the rest of the office and helps to assure sufficient management resources to implement the changes necessary in the Office of Public Defense.

*The Conversion of Seventeen “Part-Time” Attorneys to “Full-Time” Status*

Perhaps the most important change that has occurred since we began work last year is one of which you are well aware – seventeen attorneys have relinquished their right to maintain an outside practice and are now working as “full-time” employees of the Office of Public Defense. We don’t think that we can overstate the importance of this development. Although the Settlement Agreement provides a mechanism for increasing the staff to make up for “part-time” attorneys, a substantial influx of new, untrained attorneys would have been difficult for the Office of Public Defense to effectively employ at this stage. By converting existing lawyers to “full-time” status, the Office of Public Defense maintains a sense of continuity that it might not have had otherwise.

At the same time, those attorneys who converted to “full-time” status have gained the benefit of an agreement brokered by Ms. Ruffner to increase their base salaries by 2002 to levels that are commensurate with the base salaries paid to prosecuting attorneys with similar longevity in their office. Under the agreement, some differences in salaries will remain, because the two offices use different systems to set salaries. Ideally, of course, both the Office of Public Defense and the Prosecutor’s Office would use the same

---

<sup>4</sup> Of course, all managers hired in the future will be barred from all private practice as per the Settlement Agreement.

classification system. That remains a possibility, but will require long-term planning by county policymakers. In the short-term, the present agreement represents a major improvement, as demonstrated by the fact that only a few attorneys had indicated they would convert to "full-time" status prior to the agreement, whereas seventeen attorneys opted to give up their right to private practice under the new agreement. This development has been a huge boost to the morale in the Office of Public Defense. For your information, we enclose a memorandum prepared by Ms. Ruffner describing the details of the agreement as Appendix G.

Credit for this major development can be given to many persons involved in this matter: the plaintiffs for creating real pressure towards this improvement; the County and Union for negotiating in good faith; and last, but certainly not least, to Ms. Ruffner for recognizing a win-win situation and mediating the final result.

### **Issues on the Horizon**

#### *The Plans For Hiring New Attorneys and Supervisors*

As you are aware, the Settlement Agreement provides mechanisms for increasing the staffing in the Office of Public Defense over time. At the meeting of the parties on April 6, 2000, there was some disagreement as to how many attorneys need to be hired to satisfy the current requirements of the Settlement Agreement. The parties did agree, however, to share the current county payroll records (without salary information) and to work to resolve the issue. In any event, the number of vacancies is around 16 FTE attorneys. Whatever the number, Ms. Ruffner plans to hire that amount in two steps: one half in or around June, 2000 and the second half in or around September, 2000. Among this group, Ms. Ruffner intends to add 2 supervisors. The hiring process has already begun, with the publication of job announcements. Interviews began today.

#### *Integrating Computers and a Computerized Case Management System*

The level of computer technology in the Office of Public Defense has risen dramatically over the course of our work. Last fall, after carefully reviewing the FY 1999 budget expenditures, we were able to identify a substantial sum of money that would have

lapsed at the end of the year. Working with Jane Harter in the Budget Office, we were able to assist the Office of Public Defense in procuring some two dozen new personal computer systems. These systems have been deployed in various divisions of the Office of Public Defense and slowly but surely attorneys and staff are obtaining training and access to computerized research, e-mail and other technological tools that will increase the quality of work.

Likewise, Ms. Ruffner has managed to get the Office of Public Defense involved in the County Information Management System (CIMS) project. Prior to Ms. Ruffner's appointment, the Office of Public Defense was contemplating a system that, in our opinion, was unworkable. Our computer systems analyst, discouraged the Office of Public Defense from pursuing that system. After Ms. Ruffner proposed using the CIMS project as a case management system, Mr. Newhouse reviewed the project and finds that it is capable of providing the Office of Public Defense with the necessary tools to manage its case information, with due regard for client confidentiality and security. The fact that the Office of Public Defense is now "at the table" means that its needs will now be considered. We are currently considering short-term solutions to some of basic case management issues (e.g., conflict checking). Although it will likely be more than one year before it is fully implemented, the CIMS project can provide the necessary tools to allow the Office of Public Defense to better track and manage its case information.

### **Conclusion**

There is simply not enough time to report to you on all of the progress we have made in implementing the terms of the Settlement Agreement to date. Nevertheless, I hope that we have provided you with enough information to conclude that everyone has made substantial progress towards the goals set forth in the Settlement Agreement.

If you should have any questions or would like any additional information, please do not hesitate to call on us.

Respectfully yours,

Robert L. Spangenberg, Esq.  
President

cc: M. Susan Ruffner, Esq.  
W. Thomas McGough, Esq.  
Robin L. Dahlberg, Esq.  
Michael M. Miller, Esq.  
Sean P. Audley, Esq.