# The Challenges of a Managing a Municipal Law Department

**By**

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## The Challenges of Managing a Municipal Law Office

Managing a law office in a municipal setting can present unique challenges. The purpose of this paper is to provide an overview of those challenges. It is not the author's intent to thoroughly analyze each issue. Rather, a number of issues will be identified with the intent to create the basis for further discussion. An important first step in developing an effective management plan is to "name" the challenges that city attorneys face.

These issues are identified in this paper in two broad categories. The first category consists of those issues that are not unique to municipal law offices – they are issues that all general counsels face as they manage the business of providing legal advice inside an organization. However, these issues are discussed in the context of how a municipal law office setting creates an additional layer of complexity that the general counsel of a private sector organization generally does not face. The second category of issues includes those that the author believes tend to be unique to the municipal government – or at least to the government – setting.

These issues are worthy of an analysis beyond what can be done in an overview such as this one. This paper is beginning of that analysis, and the author hopes to see further dialogue among the members of IMLA.

## I. *The Business of Managing a Law Department*

Like any organization, city governments must recruit and retain talented people and provide those people with the development and tools that they need to do the job if the organization is to be successful and fulfill its mission. These fundamental needs form the basis of the success of any organization, public or private. Law offices, like all other aspects of an organization, must focus on these fundamentals if they are going to be successful in delivering top quality legal service. Several categories of concerns are discussed below.

### A. **Staff**

Recruitment and retention of talented staff is an essential duty of any manager. No organization can expect to successfully fulfill its mission if it is faced with the inability to attract good people or with significant turnover on a regular basis. What are the aspects of a successful approach to recruit and retaining qualified staff?

#### 1. *Compensation*

In addressing issues with staff, compensation is always an issue. Your ability to recruit and retain talented people will always be dependent upon your ability to provide them with a compensation package that is competitive. Being actually competitive with the private sector, particularly with regard to attorneys, is unlikely in a government setting, and fortunately not required, given many great people's desire to perform public service. But even with that desire, ultimately people may be forced to either not take the job you offer or not stay because they cannot afford it.

City attorneys, like all other department heads in city government, should be prepared to fight for the compensation for their staff. It will typically be difficult to

compete with public demands for public safety resources, public works demands and similar issues that are more evident to the constituents of elected officials. However, city attorneys should understand how to benchmark salaries against those of surrounding jurisdictions and in other places, if appropriate. Performing a meaningful compensation study is not simply an exercise in asking other employers what they pay. It is more complicated than that, and if you are going to engage in that activity, you should seek the help of a qualified compensation expert.

Another important aspect of addressing the compensation question with your employees is to be sure that they understand the true nature of the compensation package you are actually offering them. Compensation is more than simply the take home pay, although that is by far what people care most about. But, you may be able to recruit or retain your good employees more effectively, if you explain to them the total value of what the city offers in the way of compensation – including pay, health care, retirement benefits, and other benefits such as educational assistance. Most of us lack a fundamental understanding of the breadth of a compensation package, and employers are wise to take the time to communicate that information to employees.

2. ***Training and Development/Evaluations***

Another important aspect that should be part of your plan to recruit and retain is to have a well thought out plan for professional development of your staff. If this aspect of your work as a manager is done well, it provides the city attorney a real advantage over the private sector. Many attorneys, particularly young attorneys, seek employment in the public sector because they believe the work will be important and that they can gain experience in this setting that a private law firm will not provide. Given the leaner

staffing levels in government settings and the often fascinating work that arises in the public sector, you should be able to meet these expectations. But it won't happen by accident.

However, if you don't properly manage the training and development aspects that come with recruiting inexperienced attorneys, you will likely leave them disappointed and are unlikely to retain them. In addition, your department won't have the reputation of a place where young attorneys thrive. In house departments, in the public or private sector, often lack the resources to properly train staff. Therefore, it is imperative that you, as manager of the city law office, ensure that your staff is structured in such a way that appropriate attention is given to this important aspect of your work. The risk you run if you don't is, not only that you will lose staff but you will have attorneys performing work for which they are not qualified. Even those attorneys who have great potential and are capable of figuring it out on their own without a lot of support will not see your office as a place of long term employment if they don't see support for their development or believe it is a system in which there is no focus on their ability to thrive.

The same issue arises with more senior staff. As your experienced staff settles into a career in public service in your office, you should not lose sight of the fact that good employees, and perhaps professionals in particular, need to feel like they are not stagnating. Sometimes this need manifests itself as a desire to get promoted. But, in any setting, the number of people who can actually be rewarded for their good work through a promotion is small. Therefore, it is incumbent on a manager to find other ways to provide professional development to good staff. This development can take the form of opportunities to attend seminars on particular critical issues for your client, to participate

in bar or other community activities, or to be selected to perform some important task for your office, like conducting a training session for less experienced staff.

It is far too easy for a manager to overlook the continuous development needs of experienced staff and to just assume they are satisfied in their present position. If professional development is not on your radar screen as a manager, you will likely find yourself surprised when experienced staff – in particular the ones you want to keep – announces one day that they are leaving for a new challenge.

An essential part of any plan to develop your staff has to be a meaningful evaluation system. Often the system developed by an organization focuses on line operations staff and translates poorly to the type of work done in a law office. It is incumbent of the city attorney to take whatever evaluation system that the city imposes and create additional tools for the managers to use that accurately reflect the work of the legal staff and provide meaningful feedback. A thorough discussion of the evaluation process and evaluation instruments and the accompanying metrics is beyond the scope of this paper. As an aid to your consideration of this issue, the evaluation instrument for attorneys being implemented next year in the City of Atlanta Law Department is attached to this paper.

3. ***Mentoring***

Mentoring should be a formalized aspect of your management practices. Many of the issues that interfere with your ability to retain staff can be addressed through proper communication. Given the likelihood that it is impossible for the city attorney to communicate as often and as thoroughly as is necessary, having a team of experienced committed staff members to help you send the messages you want your staff to hear can

make an importance difference in how successful you are in keeping your employees informed and satisfied.

It is critical to remember, however, that if you are going to task a group of employees in your office with the job of mentoring other employees, you have to make the time to frequently and completely communicate with them. It is far too easy to assume as you go about your day to day work that your staff knows as much about what is going on within the department or the city as you do. This is rarely the case. Learning to communicate effectively is one of the most difficult aspects of any leader's job. More often than not you will find that no matter how well you think you are communicating, you are rarely as successful as you think you are. The best adage to remember is that you can never over communicate. When you are really tired of hearing yourself say something and believe that your staff must consider you a "broken record," you may actually be getting to the point at which many of them are beginning to understand what you are trying to say.

4. ***Succession planning***

As a city attorney implements good management practices within his/her department, part of that plan must include how to institutionalize those practices so that they are sustained even if the city attorney is replaced when the administration changes. Part of good institutionalization of those practices will come from properly structuring the department so that is working effectively. That issue is discussed below. The other aspect of that institutionalization is solid succession planning.

Succession planning is an often overlooked aspect of a manager's job. This problem occurs in many settings, but may be more prevalent in a government setting in

which the top manager is a political appointment and is less likely to be the position for a long period of time. The importance of planning for the future of a law department cannot be overemphasized. If as city attorney, you are dedicated to creating good management practices, part of your focus must be on how you ensure that those practices survive a change in administration of the government and perhaps your tenure as city attorney. This institutionalization of good practices, as well as effective day to day management of the department, is build on a foundation of thoughtful succession planning.

Part of your mission must be to identify and develop the future managers and leaders of your department. Having good people ready to step into places with more responsibility does not happen without a plan. Your succession planning should involve identifying those people who could take on additional responsibility if one of your senior staff is suddenly unavailable – the "hit by a truck" scenario. In addition, you should have a well thought plan for how you intend in the long term to create the leaders of tomorrow. Having a plan to identify high potential employees and then creating opportunities for them to learn new skills and for you to evaluate their skills and likelihood of success at a higher level are important aspects of a department manager's role.

## B. **Structure of the Law Department**

### 1. ***Practice Groups***

Successful management of a law department requires that you give thoughtful consideration to how to structure the organization for maximum efficiency and effectiveness. This determination will vary from office to office depending on the size of the department and types of work that is being done. In this discussion, I will focus on

my particular office as an example of the issues that a city attorney can encounter and how they could be addressed in order to illustrate those particular challenges. Although your office likely has different needs, the illustration might be useful.

When I became city attorney, the office had a staff of about 65 with about 35 attorneys. The department was loosely divided into two groups, but the division had little relationship to management or division of the work. Attorneys were, in many instances, expected to perform all types of legal work – litigation and transactional. Many of the attorneys' assignments were "client focused," meaning that an attorney did all the work for a particular department, no matter what the issue. There was little focus on development of expertise or on management of work load. This system produced a great deal of inefficiency and in certain aspects of the work, a disturbing lack of legal expertise applied to particular issues. This model reflected a view, which may have been appropriate in the past, that a "generalist" attorney can provide the legal support the client needs. The complexity of the issue facing Atlanta today is simply too great for this model to work effectively.

One of the first things that I did was to divide the department into four practice groups and begin the process of focusing attorneys on particular aspects of the client's needs. An organizational chart of the City of Atlanta Law Department is attached.

The practice groups are not designed to be "silos." Rather they are meant to focus a set of attorneys and support staff on particular aspects of the work with expectation that the groups will work together to solve overlapping problems. My expectation is that my Deputy staff will work together to create a department that seamlessly addresses the client's needs in a consistent and efficient manner.

2. ***Ratio of support staff to attorneys***

To effectively deliver legal services, particularly in an environment where resources are constrained, it is important to achieve an appropriate balance between professional and support staff. Having a sufficient ratio of paralegals and legal secretaries to attorney staff and having these paraprofessionals properly deployed can significantly increase a law department's ability to achieve it mission and create client satisfaction. It is important to remember that attorneys typically need training and management in order to achieve proper deployment of the support staff. In addition, paralegal and administrative staff needs to be trained and managed to seek the appropriate level of work in order to maximize their effectiveness.

C. **Technology**

A key driver of more effective delivery of legal services is technology. Often in a municipal setting where resources are tight, law offices lag in the implementation of today's legal technology tools. This is an area where city attorneys should focus attention, learn about the tools available, and make every effort to implement them within the municipal law office. The pay back is significant. In addition to the ubiquitous items like e-mail and calendar programs, city attorneys should acquaint themselves with tools such as matter management systems, document management software, and litigation support software. Programs such as these are now essential elements of a successful approach to lawyering, not luxuries.

Use of technology is important within the municipal setting for several reasons. Efficiency is created through the sharing of documents through a document management

system, eliminating the need to reinvent pleadings, legal opinions and contracts by each individual attorney. This efficiency also supports knowledge management activities and provides a basis to ensure consistency in how issues are addressed. Through software programs such as document management and litigation support tools, the legal work can continue seamlessly even when staff turnover occurs. Documents are easily accessible, and case strategy and information are retained even if counsel is replaced.

Understanding the scope and nature of the many matters handled by the law department, through use of a matter management system, assists the city attorney with planning for and justifying staffing and budget requests. Department wide use of calendars allows for better management of staff. Litigation support software enhances the ability of attorneys to manage their cases and caseload, and its use within a municipal setting levels the playing field for attorneys who litigate against private firm attorneys, who most often have these tools available today.

### D. **Inside/Outside Counsel Balance and Management**

An issue that city attorneys who run large in-house departments must consider is when it is necessary and appropriate to engage outside counsel to handle a particular matter. Once again, the budgetary constraints that municipal law departments face can influence this decision. City Council members and even members of your own staff might look upon a request for funds for outside counsel as inappropriate, thinking that such money is better spent on inside resources or not spent at all. This type of thinking is dangerous and could create significant detrimental effects for the city.

Attorneys have an ethical obligation not to handle matters in which they have no expertise. Given the complexity of issues facing municipalities today, it is inevitable that

such issues will arise for the municipal law office. Such matters might include patent infringement lawsuits, challenges to the city's pension funds by the Internal Revenue Service, complex class action litigation, and difficult bankruptcy issues. Additionally, at times the sheer size of a matter may require a depth of resources that a municipal law office simply doesn't have and is unlikely to achieve, at least not in the short term. Carefully targeting which types of matters should be sent to outside counsel is essential to the wise use of limited dollars for outside counsel.

Equally essential is the proper management of the outside counsel after they are engaged. Such management must include setting the expectations of the outside firm on the type of communication and budget management you expect as well as properly training and managing your own staff to perform that management. It is critical that you develop a set of guidelines for outside counsel and ensure that they are well communicated and properly adhered to by outside counsel. Attached to this paper are the *Guidelines for Outside Counsel* used by the City of Atlanta Law Department.

E. **Mission and Vision/ Sustainability**

Fundamental to successful management of a municipal law office is a meaningful mission and vision statement that the staff understands and embraces. This mission and vision should be tied to how your people are evaluated and how your managers manage. The statement has to be tied to everything that the department does from employee evaluations to budgeting. It should be developed in collaboration with your staff and implemented consistently by your managers. Doing so will help to ensure sustainability of your plan. The Mission and Vision of the City of Atlanta Law Department is attached to this paper.

## II. *Unique Challenges of the Municipal Law Office*

Within a municipal law office, as well as other government offices, there exist some unique challenges that do not exist in a private law firm or corporate law office environment. These challenges arise from the political nature of the client as well as the many facets of the client and make implementation of the good management practices discussed above more difficult.

Practicing in an environment run by elected officials creates obstacles to the implementation of good management practices that do not exist in the private sector. These challenges can be summed up in the adversarial nature of an organization controlled by elected officials who, although they generally have the organization's best interests at heart, must also consider their own best interests particularly during election years. An in-house counsel at a corporation would be very unlikely to face a situation in which senior management makes a decision about good management practices and budget priorities and then has to face a challenge from employees who have another forum in which to raise their discontent. City Council members often feel compelled to respond to employee complaints about compensation, retirement benefits, and how the city is managed, even if they understand the need for managers to make tough decisions.

In addition to the political challenges that arise in this setting, attorneys face the ethical dilemmas of representing multiple parts of an organization that often fundamentally disagree. The rules of professional conduct do not neatly answer questions for city attorneys who represent both the mayor and the city council and must respond to both, even when they are directly at odds. These ethical challenges can cause

considerable stress on the staff attorneys, and management of these challenges should be part of what your managers understand and address.

Finally, city attorneys have to grapple with the fact that implementation of good management structures and activities take a long time. Given that in many cities, city attorneys are political appointments who are not necessary long term employees, it may be impossible to get good practices implemented and institutionalized. Your strategy should keep this fact in mind, and you should train your managers in how to manage and ensure that they are equipped to carry on with the plan even if you are replaced with a change in administration.