

MONTANA PUBLIC DEFENDER COMMISSION
BUDGET COMMITTEE MEETING
CONFERENCE CALL

Public Location: Helena Regional Office
139 North Last Chance Gulch, Helena, MT 59601

MINUTES

(Approved at the July 12, 2016 meeting)

Committee Members Present

Fritz Gillespie (Chair), Helena; Bonnie Olson, Marion; Margaret Novak, Chester; Roy Brown, Billings

Committee Members Absent

None

Agency Team Members Present

Bill Hooks, Chief Public Defender; Kristina Neal, Conflict Coordinator; Chad Wright, Chief Appellate Defender; Harry Freebourn, Administrative Director; Wendy Johnson, Contract Manager; Carleen Green, Accountant; Cathy Doyle, Administrative Assistant

Interested Persons

Malissa Williams, Office of Budget and Program Planning (OBPP); Greg DeWitt, Legislative Fiscal Division

1. Call to Order

Committee chair Fritz Gillespie called the meeting of the Budget Committee to order at 1:05 p.m.

2. Approve Minutes of November 16, 2015 meeting (*Action Item)

Commissioner Olson moved to adopt the minutes as drafted. Commissioner Brown seconded and the motion carried.

3. Zero Based Budget

Administrative Directory Harry Freebourn led the committee through the EPP presentation, beginning with global issues on page 34. This document will introduce concepts as talking points which can be further developed at the committee's direction. The full Commission will be asked to adopt a budget at the May 17 meeting.

Mr. Freebourn explained the zero based budget. Since the legislature made OPD's funding one-time only, the anticipated expenditures for FY 17 will be the source for the zero based budget being developed for FY 18 and 19. The zero based budgets for all programs are on pages 36-49.

Change packages begin on page 51, starting with Program 4. Mr. Freebourn invited questions and comments on each item as he went through them.

Page 52, to provide direct support to the Commission, is a carryover item that has not gone forward in previous sessions. The committee agreed that the Commission does not need positions at this time, and can continue being supported with existing FTE.

The positions on page 53 to support the Chief Administrator represent two areas that have been identified as weaknesses in the organization—human resources and communications. The third item, the contract program, continues to grow; it supports all three programs with only two FTE. Contract Manager Wendy Johnson believes that the proficiency determination process could be improved with additional staff, perhaps an investigator or a paralegal. The agency reorganization also brings the question of whether Ms. Johnson will have increased oversight responsibilities; historically, she has provided a second level of review and approval for Program 1 contractor claims, but Programs 2 and 3 have had only one level of review, the program manager.

Chief Public Defender Bill Hooks explained the time and workload study proposed on page 59. This would be a method for evaluating the work of non-attorneys (support staff and investigators), which the case weighting system does for attorneys. The study would help the agency to improve its focus and come up with a formula for the best staff/attorney ratios. Commissioner Brown said we don't need a study to tell us we are overworked, and those funds could be used to hire additional support staff. Commissioner Olson said the study that was done for the court system was extremely valuable. Chairman Gillespie agreed that the independence of that study seemed persuasive to the legislature and others, but said that where it fits into the agency's priorities is another question.

Program 1 change packages start on page 62. The payroll costs include salary, benefits and health insurance. There are change packages to address the 56,000 hours of excess case weight (page 63) and to address future caseload growth (page 64). Commissioner Novak pointed out that the excess hours create comp time, which is an unseen cost that will have to be paid in the future; this is another reason to address the excess case weights aside from the heavy workload that contributes to turnover.

There was considerable discussion regarding the proposal to increase the contract attorney rate (page 70). The consensus was that a rate increase is in order, but it will need to be done incrementally. Staff were asked to work up some scenarios for dollar or percent increases. Mr. Freebourn will also provide the study that developed the target rate of \$88 per hour.

Additional eligibility determination specialists (pages 71-2,) could help control the number of new cases and ensure that all clients are qualified to receive services. There are some large offices where eligibility determination is the employee's primary responsibility, but there are additional job duties for the eligibility specialist in every office in the state. It is difficult to know exactly how much effort is currently going into the eligibility determinations and what the additional staffing needs are without a time and workload study.

Resource advocates (page 73) perform a social work function. This has been successfully piloted in the Helena region. In addition to freeing up the attorneys to do legal work while supporting clients with special needs (housing, mental illness, chemical dependency), an unanticipated benefit is better and quicker resolution in DN cases with less litigation.

The change package to address manager caseloads on page 75 is based on the current OPD Policy 114, Management Caseload Limitations. Chief Hooks plans to limit caseloads even further, with no cases at all for the regional deputies in Missoula and Billings, which would change these numbers.

The contingency case growth funding on page 76 would apply if the five-year average of 3.5% growth is exceeded.

Program 3 shares many of the same challenges as Program 1 and has similar change packages. The contract case increase on page 82 shows the projected shortfall for the 2017 biennium if it is not mitigated. Commissioner Olson asked about the plan to reduce contractor costs by increasing FTE in the conflict program. Although FTE and contractors have a similar cost per hour (when overhead is included), the advantages are that an FTE attorney can take more cases than a contractor, there is more control over the work product, and there is a fixed cost for budgeting purposes.

Program 2 will need a change package to handle excess caseload. Chief Appellate Defender Chad Wright is still reviewing those numbers.

4. Prioritize Change Packages

Mr. Freebourn said the first priority should be the zero based budget; the personal services numbers represent the actual number of current FTE. He asked the committee to prioritize the 18 change packages using the budget worksheet. Chairman Gillespie set a deadline of May 3 for committee members to submit their rankings to Mr. Freebourn.

5. Public Comment

Greg DeWitt, Legislative Fiscal Division, suggested that the committee rank change packages by program; items such as contingency case growth funding may be ranked differently for each program.

6. Recommendations for Full Commission

Mr. Freebourn will consolidate the committee members' priorities to present to the full Commission on May 17. Commissioner Novak asked what the impact on FTEs would be if legislation eliminating penalties for certain misdemeanors carried next session. Chief Hooks said that there would be no layoffs, but it would help with excess caseload. The estimated fiscal impact to OPD for SB 90 (presented in the 2015 legislative session) was approximately \$500,000 per fiscal year for FY 17-19.

7. Adjourn

The meeting adjourned at 3:35 p.m.