

MONTANA PUBLIC DEFENDER COMMISSION  
**BUDGET COMMITTEE MEETING**

Park Plaza Hotel, Helena, Montana

**Minutes**

**January 9, 2009**

*(Approved at the July 23, 2009 Commission Meeting)*

**Call to Order**

The meeting of the Budget Committee was called to order by Committee Chair Jennifer Hensley at 10:20 a.m.

**Commissioners Present**

Tara Veazey, Jennifer Hensley, Steve Nardi, Mike Sherwood, Bill Snell, Fritz Gillespie, and Ken Olson

**Other Interested Parties**

Randi Hood, Chief Public Defender; Harry Freebourn, Administrative Director; and Scott Crichton, American Civil Liberties Union of Montana (ACLU)

**Approval of Minutes**

The minutes of the October 10, 2008 meeting were approved as submitted.

**Financial Results – FY 2009 (July 1 through December 31, 2008)**

Mr. Freebourn presented the financial statement (exhibit B-1). Commissioner Hensley asked about the contract attorney costs in Billings. Chief Hood replied that there is a significant amount of contract work in Billings, partly due to the difficulty in staffing. In addition, the Billings region is responsible for the large number of cases in Hardin, Red Lodge and Columbus, which are handled by contractors. It is difficult to calculate the cost-effectiveness of FTE versus contract attorneys, but the system needs both. Contractors will always be needed to handle conflicts and work cases in rural areas. However, an FTE base allows greater control in maintaining standards and provides a pool of “for sure” attorneys who will always take cases.

Mr. Freebourn answered questions regarding cost differences between regions. It is still not clear that all regions are counting cases in the same way, and some regions support multiple offices (e.g. Billings and Bozeman have only one office, while the Kalispell region has offices in Kalispell, Polson and Libby).

**2011 Biennium Budget Update**

The Office of Budget and Program Planning (OBPP) budget items for the next biennium (exhibit B-2) are for discussion only, as things can change quickly throughout the legislative budgeting process. Commissioners Miller, Sherwood and Nardi will appear on behalf of the Commission before the joint appropriations subcommittee on January 23.

The EPP items include carryover pay raises, vacancy savings, inflation and fixed costs. Additional vacancy savings (from 4% to 7%) are in that item and amount to \$832,000. Commissioner Veazey said that increased vacancy savings actually equates to reduced FTE. Mr. Freebourn agreed, saying that even if the legislature agrees to the 8 additional FTE that are requested to support the increase in caseload, the lack of funding will make it impossible to pay for those positions. Commissioner Veazey asked Mr. Freebourn to add a column to the report showing the FY 09 actual figures.

Commissioner Hensley asked the Grants Committee to request stimulus funding from our congressional delegation. She expects that the poor economy will increase the OPD caseload significantly, and will contact the Governor's office to find out the protocol for requesting funds. Commissioner Sherwood offered to provide a federal study documenting the probable results of the economic downturn. Commissioner Nardi said that reducing the number of misdemeanor cases could result in a substantial decrease in caseloads. He suggested working with judges to take jail time off the table at the beginning of some misdemeanor cases that usually result in fines, which would make the defendant ineligible for OPD services.

The committee members mentioned the importance of educating legislators, especially in light of term limits. Many new legislators aren't familiar with agency issues or even the budget process.

Commissioner Gillespie asked how the proposed OPD budget compares to what the prosecution is getting. He said that disparity between funding for the defense and law enforcement has always been a problem. Mr. Freebourn said the career pay ladder was an attempt to get OPD attorney salaries in line with the prosecution. It is unlikely that the pay ladder will be reinstated in the OBPP budget, but Chief Hood would be happy if vacancy savings were returned to 4%.

Commissioner Snell discussed collaborating with tribal governments to seek funding for public defenders in tribal courts. He and Commissioner Russell will explore the possibilities.

#### **Public Comment**

There was no public comment.

#### **Old Business/New Business**

Commissioner Hensley will approach the Governor's office regarding the procedure to request economic stimulus funds, and will keep Commissioners Snell and Russell informed.

#### **Adjourn**

The meeting adjourned at noon.