



OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

MEMORANDUM

TO: Strategic Planning Committee

FROM: Harry Freebourn

DATE: March 4, 2014

RE: PROGRAM 4 – CIVIL PRACTICE – DISCUSSION PAPER

Issue

During fiscal 2013 the Strategic Planning Committee reviewed the agency's organizational structure to assess if it best served the needs of the system and its clientele. The committee noted that civil case costs are becoming more of the agency's total expenditures. These costs are growing at a rate greater than other types of cases in the criminal practice. Some note that the original mission of the agency was criminal defense and not civil practice but that the civil side continues to use more resources than originally planned. This growth also tends to divert the focus of the agency away from criminal defense as it becomes a larger part of the agency's function.

This paper discusses issues related to establishing a new program (program 4) to segregate costs, resources, and management for civil practice away from other activities in the existing programs.

Advantages

1. Greater financial and operating control as it will have separate "required reporting" to the executive and the legislative branch.
2. Criminal and civil practice will have a separate appropriations and greater focus on their core functions.

Disadvantages

1. Less flexibility to use resources as the agency deems fit as a movement of resources among programs requires approvals and oversight from both the executive and legislative branches.
2. If the program runs out of funds it will need to ask programs 1 and 2 for transfers and if funds are unavailable, it will then go through the supplemental process.

3. Currently FTE do both criminal and civil work. It may be difficult or inefficient to segregate each FTE into each function.
4. Currently, there is no clear plan as how to move other costs into this function and away from other programs. Also, the Conflict function will already have a significant amount of the “civil cases and costs related to the DN function.”
5. It may be confusing to try to develop two new programs during the same budget cycle. The Committee may wish to push one or the other to another budget year so that each can make that transition without interference from the other.

FTE/Financial Issues

1. The function currently has X.XX FTE (the agency will need to poll its regions and programs to determine this number).
2. FTE or parts thereof will need to be transferred from Program 1 and 2 and maybe 3 to Program 4.
3. The program may need to be issued a program manager to provide oversight.
4. Contract funds:
 - a. Program 1 funds, in the amount of \$XX will need to be transferred to Program 4.
 - b. Program 2 funds, in the amount of \$XX will need to be transferred to Program 4.
 - c. Program 3?
5. Other funds?

Process

1. Approve plan by Strategic Planning Committee
2. Approve plan by full commission
3. Approve transfer by Governor’s office

If approved, the program will be effective July 1, 2014 for all of fiscal 2015. It will be a separate budget in the 2017 legislative submission.