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DRAFT

**MONTANA PUBLIC DEFENDER COMMISSION
2017 BIENNIUM
EXECUTIVE PLANNING PROCESS (EPP)**

1

March 27, 2014 (2nd Draft)

2017 BIENNIUM EXECUTIVE PLANNING PROCESS

Commission Duties: Title 47-1-105 (3)

- Review and approve the strategic plan and budget proposals submitted by the Chief Public Defender, the Chief Appellate Defender, and the Administrative Director.
- Review and approve any proposal to create permanent staff positions.

2017 BIENNIUM

EXECUTIVE PLANNING PROCESS

There are six deliverables to the Office of Budget and Program Planning as part of the EPP process:

1. A budget request
2. Agency goals and objectives
3. Draft legislation
4. Identification of program managers
5. An information technology strategic plan
6. Request for reorganizations

2017 BIENNIUM

EXECUTIVE PLANNING PROCESS

Key Dates:

- February 24, 2014 - The Agency submits draft budget proposals, legislation, and any reorganization plans to the Montana Public Defender Commission that are received from internal processes and any committees.
- March 10 and 27, 2014 – Commission’s Budget, Legislative and Strategic Planning Committees meet to develop and review detailed budget items, legislation, and reorganization plans.
- April 3, 2014 – the Commission hears budget recommendations from the Budget Committee, recommendations for legislation from the Legislative Committee, and reorganization plans from the Strategic Planning Committee. The Commission decides on what to send the Office of Budget and Program Planning (OBPP).
- April 11, 2014 – Agency meets with OBPP to discuss the EPP preview.
- April 18, 2014 – Agency forwards draft legislation to OBPP.
- June 2014 – Agency discusses draft legislation with the Interim Law and Justice Committee.
- Before August 31, 2014 – The Commission approves final budget proposals and priority ranking. This product is submitted to OBPP.
- Between April and September, 2014: The Agency and Commission have discussions with OBPP and the Governor’s policy staff about budget proposals, legislation, and reorganizations.
- November/December, 2014: Governor submits a budget to the 2015 Legislature.
- January – April 2015: The Legislature conducts hearings and approves appropriations and legislation.

2017 BIENNIUM – EXECUTIVE PLANNING PROCESS “THE BUDGET PROPOSALS”

STEP 1: THE BASE BUDGET

- The agency will request that its base budget be funded. It is expected to be about \$28 million and is the amount that we expend during fiscal 2014 (between July 1, 2013 and June 30, 2014)
- The agency requests that this and all new funding be marked as biennial.
- The Commission is tasked to approve this amount for submission to the Executive.

2017 BIENNIUM – EXECUTIVE PLANNING PROCESS “THE BUDGET PROPOSALS”

STEP 2: OTHER EPP ITEMS

- Will there be increases/decreases requested by other agencies that provide services to the agency and will the agency be funded for these increases?
- Will there be general pay increases for our employees?
- Will the agency receive inflation/deflation adjustments for certain purchases?
- These amounts are added by the Executive during the budget process.

2017 BIENNIUM – EXECUTIVE PLANNING PROCESS “THE BUDGET PROPOSALS”

STEP 3: DECISION PACKAGES

- These are separate budget requests that are developed by the agency under the direction of the Commission and submitted to the Executive.
- The Executive can approve them as is, adjust them, or disapprove them.
- Traditionally, we need to have them in final form by the end of August before the legislative session.

2017 BIENNIUM – EXECUTIVE PLANNING PROCESS “THE BUDGET PROPOSALS”

STEP 4: FUNDING

- The agency determines what kind of funding is needed to support the entire budget submission.
- The agency has traditionally used:
 - General Fund (mostly personal and property taxes)
 - State Special Revenue (fees from clients)
 - Federal Funds (usually special projects/training)

2017 BIENNIUM – EXECUTIVE PLANNING PROCESS “THE BUDGET PROPOSALS”

STEP 5: EXECUTIVE SETS TARGETS

- The Executive estimates the amount of revenue available during the biennium for its use and sets allocations or targets for each agency.
- The Budget Office meets with agency representatives to communicate the target and speak about any operational challenges.
- The Budget Office welcomes members of the Commission to offer feedback regarding the target (in person or in writing).

2017 BIENNIUM – EXECUTIVE PLANNING PROCESS “THE BUDGET PROPOSALS”

**STEP 6: EXECUTIVE SENDS A BUDGET FOR
THE BIENNIUM TO THE LEGISLATURE**

2017 BIENNIUM – EXECUTIVE PLANNING PROCESS “THE BUDGET PROPOSALS”

STEP 7: THE LEGISLATURE MEETS TO REVIEW AND APPROVE OR ADJUST THE EXECUTIVE’S BUDGET

- The Legislature forms Appropriation and Budget Subcommittees to hear testimony.
- Testimony is heard from many sources including: the Executive, Commissioners, boards, elected officials, agency directors and other employees, vendors, contractors, interested parties, and the general public.

2017 BIENNIUM – EXECUTIVE PLANNING PROCESS “THE BUDGET PROPOSALS”

**STEP 8: THE LEGISLATURE ALSO APPROVES
SUPPLEMENTAL FUNDING FOR THE PRIOR
BIENNIUM**

AGENCY FUNDING HISTORY

FUNDING HISTORY – 2007 BIENNIUM

- Agency began operations on July 1, 2006 (FY 2007)
- During FY 2006 the Commission & Agency formed
- 2005 Legislature provided the agency's first funding:
 - FY 2006 \$0.6 million
 - FY 2007 \$13.8 million and 90.25 FTE
- This funding was based on: current costs that entities paid for public defense prior to the establishment of the system plus the establishment of a central office for system administration.

ACTUAL EXPENDITURES – 2007 BIENNIUM

- FY 2006 - the agency expended about \$800,000 or \$200,000 more than funded.
- FY 2007 – the agency expended about \$19.4 million or about \$5.6 million more than funded.
- During FY 2007 the agency was approved to bring on 192.5 FTE or 102.25 more than the original 90.25 to support its strategic plan.
- The agency reported 25,549 new cases entering the system – there was no accurate information for the number of cases worked by the prior entities.

THE 2009 BIENNIUM

- The agency received its entire funding request from the executive and legislative branches of:
 - \$19.8 million for FY 2008 with 192.50 FTE, and
 - \$20.1 million for FY 2009
- This funding was based on the information in the Agency Strategic Plan as approved by the Commission.

ACTUAL EXPENDITURES – 2009 BIENNIUM

FY 2008 - the agency expended all of its \$19.8 appropriation.

The agency reported 26,556 new cases entering the system which is a 4% increase from FY 2007

FY 2009 – the agency expended about \$20.5 million or about \$400,000 more than funded.

The agency reported 27,898 new cases entering the system which is a 5% increase from FY 2008

During the biennium the agency was approved to have 192.50 FTE. Near the end of the biennium the agency was approved to use 8.00 “modified” or temporary FTEs to handle the case load growth and system stress.

THE 2011 BIENNIUM

- The Commission submitted to the Executive:
 - \$24.4 million for FY 2010 and 217.50 FTE, and
 - \$24.5 million for FY 2011 and 217.50 FTE.
- This was an increase of about \$4.7 million and 25.00 new FTE over the FY 2008 base budget.
- The agency experienced a 4% increase in new cases between FY 2007 and FY 2008 and *expected* a similar increase in FY 2009. The actual increase was 5%.

THE 2011 BIENNIUM

- The Executive approved:
 - \$20.4 million for FY 2010 and 200.50 FTE, and
 - \$20.4 million for FY 2011 and 200.50 FTE.
- This was an increase of about \$600,000 and 8.00 new FTE over the FY 2008 base budget. It also included an additional 3% vacancy savings that cost the agency about \$400,000 per fiscal year.
- However, it was \$4 million less than requested.

THE 2011 BIENNIUM

- The Legislature cut the Executive approved budget to:
 - \$20.0 million for FY 2010 and 200.50 FTE, and
 - \$20.0 million for FY 2011 and 200.50 FTE.
- This was an increase of about \$200,000 and 8.00 new FTE over the FY 2008 base budget BUT about \$500,000 less that was expended in the most current fiscal year (FY 2009).
- It was also \$4.4 million less than the agency proposed budget.

THE 2011 BIENNIUM

- During FY 2010 and FY 2011 the agency needed to fund past promised pay increases to its employees, pay increased amounts to other state agencies for services, make the modified employees permanent, and pay for the Executive-approved Attorney Union pay ladder.
- The agency came in about \$1.8 million short for FY 2011 which was covered by supplemental funding and other reserves.

THE 2013 BIENNIUM

- The Commission submitted to the Executive:
 - \$24.3 million for FY 2012 and 217.50 FTE, and
 - \$24.7 million for FY 2013 and 217.50 FTE.
- This was an increase of about \$3.7 to \$4.1 million and 17.00 new FTE over the FY 2010 base budget.

THE 2013 BIENNIUM

- OPBB approved the following for inclusion in the Governor's budget:
 - \$21.8 million for FY 2012 and 216.50 FTE, and
 - \$21.7 million for FY 2013 and 216.50 FTE.
- This was an increase of about \$1.2 million and 16.00 new FTE over the FY 2010 base budget.

THE 2013 BIENNIUM

- The 2011 Legislature approved the following:
 - \$23.0 million for FY 2012 and 208.50 FTE, and
 - \$23.0 million for FY 2013 and 209.50 FTE.
- This was an increase of about \$2.4 million and 8.00 to 9.00 new FTE over the FY 2010 base budget.
- This budget increase included \$800,000 one time money for FY 2012 and \$700,000 for FY 2013. Of this \$500,000 and \$400,000 were to pay for capital defense (death penalty cases) and \$300,000 per year was to pay for technology purchases and support increased contractor costs.

THE 2015 BIENNIUM

- The Commission submitted to the Executive:
 - \$34.8 million for FY 2014 and 286.50 FTE, and
 - \$34.1 million for FY 2015 and 286.50 FTE.
- This was an increase of about \$12.6 million and 77.00 new FTE over the FY 2012 base budget.
- During a five year period, the agency experienced a 3.7% average increase in new cases. Caseloads of the majority of FTE attorneys were above target levels.

THE 2015 BIENNIUM

- OPBB approved the following for inclusion in the Governor's budget:
 - \$27.0 million for FY 2014 and 246.50 FTE, and
 - \$27.2 million for FY 2015 and 246.50 FTE.
- This was an increase of about \$ 5.0 million and 37.00 new FTE over the FY 2012 base budget.

THE 2015 BIENNIUM

- The 2013 Legislature approved the following:
 - \$26.4 million for FY 2014 and 217.50 FTE, and
 - \$26.5 million for FY 2015 and 217.50 FTE.
- This was an increase of about \$5.0 million and 8.00 new FTE over the FY 2012 base budget.
- This budget increase included:
 - \$500,000 one time money for capital defense (death penalty cases).
 - \$1.3 million per year to fund the attorney career ladder.
 - \$1.8 million per year for additional contract expense.

2017 BIENNIUM – DECISION PACKAGES

THE DECISION PACKAGES

2017 BIENNIUM – DECISION PACKAGES

Public Defender Program

2017 BIENNIUM – DECISION PACKAGES

DP A: Challenge-Staffing Needs

- A substantial increase in new cases assigned to Program 1 has not been matched by a commensurate increase in staff and resources. As a result, attorneys are burdened with excessive workloads, which may result in representation lacking in quality or in a breach of professional obligations.
- Program 1 lacks sufficient administrative staff to adequately support attorneys (which would allow attorneys to focus on providing representation), or to perform other vital administrative tasks and enhance the agency's productivity.
- Program 1 lacks the resources to provide appropriate investigative services in felony or misdemeanor cases, or in the various types of civil cases to which OPD is assigned. The state's investigative resources typically far outmatch the resources OPD can provide in a case.

2017 BIENNIUM – DECISION PACKAGES

DP A: Staffing needs

ADDRESS INCREASED CASELOADS IN PROGRAM 1

<u>New Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Attorney	19.00 FTE	\$1,900,000 and \$1,835,000
Admin	6.00 FTE	\$300,000 and \$271,000
Investigator	4.00 FTE	\$281,000 and \$265,000
<u>Modified Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Attorney	10.00 FTE	\$950,000 and \$950,000
Admin	11.00 FTE	\$475,000 and \$475,000

- Amounts include salaries and office costs. FY 2016 includes 1st year set up costs for the new positions.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP B: Challenge-Salaries

- Program 1 must keep attorney salaries in line with those who do similar work to avoid suffering excessive turnover. This turnover disrupts client services and the flow of the justice system.
- Most non-attorney employees are being paid using 2006 markets. Turnover continues to be excessive in this workforce, running in the double digits.

2017 BIENNIUM – DECISION PACKAGES

DP B: Salaries

ADJUST MARKET AND CAREER LADDER FOR ATTORNEY POSITIONS

ADJUST MARKET FOR NON-ATTORNEY POSITIONS

- Program 1 requests \$350,000 for FY 2016 and \$700,000 for FY 2017 to cover attorney movement within the career ladder. The estimates noted above only include restarting the ladder that was frozen during FY 2015 within the current market. This does not include a market adjustment.

Estimates for the market adjustment have traditionally been based on a study prepared by a team comprised of agency management and representatives from the attorneys' union. The results of this study should be available in early August, 2014. The study looks at salaries for similar positions held by attorneys employed by various county attorney offices throughout the state. This action will keep OPD's attorney salaries in line with those that provide similar services. The estimate may also include adjustments for attorneys that are managers as any increase in the staff attorney ladder creates pay compression.

- Program 1 requests \$750,000 for FY 2016 and \$750,000 for FY 2017 for a market adjustment to the 2012 markets for its non-attorney positions. Currently, most non-attorney positions are currently being paid using 2006 market. The estimate also includes funding for ladder adjustments as they were frozen in FY 2015.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP C: Challenge-Death Penalty Defense

- Program 1 continues to represent those facing the death penalty if convicted. These cases tend to be both lengthy and costly as they go through both trial and appeal phases.
- The death penalty may be imposed upon conviction of certain offenses. Death penalty cases are highly specialized, and require extraordinary efforts on behalf of the accused. Compensation necessary to adequately fund death penalty cases would decimate the agency's base funding.

2017 BIENNIUM – DECISION PACKAGES

DP C: Death Penalty Defense

DEATH PENALTY DEFENSE

- This fund would be used for those cases in which the state may be entitled to seek the death penalty, and in which costs are incurred. The state may seek imposition of the death penalty if it is available under the statute which sets out the offense of conviction, and if additional aggravating factors are present.
- The request is for \$1,000,000 for each fiscal year. This is one-time only funds. This is the average of the expenditures made during the 2015 biennium.
 - May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP D: Challenge-Contract Services

- Program 1 relies on the active participation of private attorneys as a resource when staff attorney caseloads are sufficiently high, and when an attorney's duty of loyalty to a client precludes that attorney from representing another person in the case. Program 1 relies heavily on private attorneys in dependent/neglect cases, which pose an internal conflict of interest between parents and children. These cases typically remain open for more than a year. Past Legislatures have provided increased funding for using contracted services, as opposed to adding staff attorneys. Thus, contract costs continue to grow, and the base level of contract expenditures needs to grow as well.
- Program 1 endeavors to ensure that public defender services are delivered by qualified and competent counsel in a manner that is fair and consistent throughout the state. The hourly rate for contract attorney services is below the market rate. This low hourly rate impacts Program 1's ability to recruit and retain contract attorneys.

2017 BIENNIUM – DECISION PACKAGES

DP D: Contract Services

INCREASE FUNDS FOR ADDITIONAL CONTRACT WORK, INCLUDING EXPERTS.

The agency requests that the contract budget be increased by the average expenditure increase over the past two years of 18% or by \$1.6 million per fiscal year.

INCREASE CONTRACT ATTORNEY HOURLY RATE

- The Commission's Contracts Committee conducted an analysis based on rates charged by others (including other states, federal defenders, private attorneys and other state agencies) and developed a blended rate.
- The blended rate was discounted to reflect public service and guaranteed timely payments by the state.
- The Committee's recommended rate is \$87.64 per hour or \$88 rounded.
- The current rate is \$62/hour.
- To raise the rate by \$26/hour the agency would need \$3,400,000 in both FY 16 and FY 17. The average cost per dollar increase is about \$131,000 for Program 1.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP E1: Challenge-Eligibility Determination

- Currently, Program 1 has eleven staff members whose duties include evaluating the financial eligibility of thousands of persons who apply for representation. These staff serve as gatekeepers for our services, and help the agency use taxpayers' funds efficiently and productively. Additional staff to perform this function would enhance the thoroughness of eligibility determinations, might help curb caseloads by controlling the inflow of new cases, and enable Program 1 to focus attention on those who truly qualify for public defender services.
- Program 1 issued a Request for Proposal (RFP) to have this function performed by a contractor. No bids were received in response to the RFP.

2017 BIENNIUM – DECISION PACKAGES

DP E1: Eligibility Determination

ELIGIBILITY DETERMINATION SPECIALISTS

<u>New Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Eligibility Specialists	7.00 FTE	\$410,000 and \$ 380,000

- Amounts include salaries and office costs. FY 16 includes 1st year set up costs for the new positions.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP E2: Challenge-Lack of Resource Advocates

2017 BIENNIUM – DECISION PACKAGES

DP E2: Resource Advocates

ADD RESOUC E ADVOCATES TO THE SYSTEM

<u>New Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Resource Advocates	6.00 FTE	\$370,000 and \$ 345,000

- Amounts include salaries and office costs. FY 16 includes 1st year set up costs for the new positions.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP F: Challenge-Managers' Caseloads

- Attorneys that are also managers need time to manage effectively, to provide adequate supervision and mentoring, and tend to administrative functions. Managers with high caseloads of their own cannot do so.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP F: Managers' Caseloads

ELIMINATE OR REDUCE CASELOADS FOR AGENCY MANAGERS

- If Program 1 were to reduce managers' caseloads to comply with its internal policy, it would need to hire 9.00 FTE positions and provide office space, furniture, computer, and communication equipment, training, travel, etc.

<u>New Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Attorney	6.00 FTE	\$605,000 and \$580,000
Admin	2.00 FTE	\$100,000 and \$90,000
Investigator	1.00 FTE	\$ 70,000 and \$ 66,000

Amounts include salaries and office costs. FY 16 includes 1st year set up costs for the new positions.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP G1: Growth in Eastern Montana

Caseloads have increased in eastern Montana as gas and oilfield activity increased. In response, Program 1 opened an office in Glasgow during FY 2014.

<u>New Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Attorney	1.00 FTE	\$110,000 and \$105,000
Admin	1.00 FTE	\$ 50,000 and \$45,000
Office costs including rent, etc.		\$80,000 and \$80,000

Amounts include salaries and office costs.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP G2: Growth in Eastern Montana

Caseloads have increased in eastern Montana as gas and oilfield activity increased. In response, Program 1 plans to expand its operations in Glendive and Miles City and open a new office in Sidney.

<u>New Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Attorney	5.00 FTE	\$560,000 and \$540,000
Admin	4.00 FTE	\$225,000 and \$215,000
Investigator	2.00 FTE	\$160,000 and \$150,000
Office costs including rent, etc.		\$100,000 and \$100,000

Amounts include salaries and office costs.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

Conflict Coordinator

2017 BIENNIUM – DECISION PACKAGES

DP H: Challenge-High Conflict Caseloads

- New case growth continues to burden the Conflict Coordinator's Office which causes public defenders to suffer from extremely high caseloads that far exceed ethical limits. The Conflict Coordinator's Office also lacks adequate administrative support for attorneys so they can focus energy on higher level legal tasks.
- The Conflict Coordinator is not able to find an adequate source of contract attorneys to provide conflict services.

2017 BIENNIUM – DECISION PACKAGES

DP H: High Conflict Caseloads

ADDRESS INCREASED CASELOADS IN THE CONFLICT AREA

<u>New Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Attorney	1.00 FTE	\$100,000 and \$96,000
Admin	0.50 FTE	\$30,000 and \$25,000

<u>Modified Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Attorney	1.00 FTE	\$100,000 and \$100,000
Admin	0.50 FTE	\$25,000 and \$25,000

- Amounts include salaries and office costs. FY 16 includes 1st year set up costs for the new positions.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP I: Challenge-Salaries

- The Conflict Coordinator must keep attorney salaries in line with those who do similar work to avoid excessive turnover. Turnover disrupts client services and the flow of the justice system.
- Non-attorney employees are being paid using 2006 markets.

2017 BIENNIUM – DECISION PACKAGES

DP I: Salaries

ADJUST MARKET AND CAREER LADDER FOR ATTORNEY POSITIONS

ADJUST MARKET FOR NON-ATTORNEY POSITIONS

- The Conflict Coordinator requests \$10,000 for FY 2016 and \$10,000 for FY 2017 to cover attorney movement within the career ladder. The estimates noted above only include restarting the ladder that was frozen during FY 2015 within the current market.

Estimates for the market adjustment have traditionally been based on a study prepared by a team comprised of agency management and representatives from the attorneys' union. The results of this study should be available in early August, 2014. The study looks at salaries for similar positions held by attorneys employed by various county attorney offices throughout the state. This action will keep OPD's attorney salaries in line with those that provide similar services. The estimate may also include adjustments for attorneys that are managers as any increase in the staff attorney ladder creates pay compression.

- The Conflict Coordinator requests \$5,000 for FY 2016 and \$5,000 for FY 2017 for a market adjustment to the 2012 markets for its non-attorney positions. Currently, most non-attorney positions are currently being paid using 2006 markets. This estimate also includes funding for ladder movements as they were frozen in FY 2015.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

Commission

2017 BIENNIUM – DECISION PACKAGES

DP J: Commission Support

COMMISSION SUPPORT

<u>Position</u>	<u>No.</u>	<u>Cost</u>
Attorney	_____ FTE	\$ _____
Admin	_____ FTE	\$ _____

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

Other

2017 BIENNIUM – DECISION PACKAGES

The next items are necessary for the efficient operation of the agency. They include replacement computers and printers and items outside of agency control, such as vacancy savings requirements.

If they are not funded the agency will lack the tools necessary to serve clients.

2017 BIENNIUM – DECISION PACKAGES

DP K: Rent Adjustments

RENT ADJUSTMENTS

- The agency requests \$100,000 in each fiscal year for office rent increases.

- May be subject to change

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP L: Vacancy Savings

VACANCY SAVINGS

- The agency is requesting that it be excluded from vacancy savings.
- The agency requests \$_____ in FY 2016 and \$_____ in FY 2017.

- May be subject to change

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP M: Equipment

REPLACEMENT COMPUTERS AND COPIERS

- The agency estimates it needs 29 desktop scanners and \$12,000 in FY 16 for the purchase.
- The agency estimates it needs 31 computers and \$33,000 for FY 16 and 41 computers and \$47,000 for FY 17.
- The agency estimates it needs 3 copiers and \$ 21,000 for FY 16 and 3 copiers and \$21,000 for FY 17.

- May be subject to change

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP N: Improve Contractor Claim Processing- DELETED

SOFTWARE TO SUPPORT CONTRACTOR CLAIM PROCESSING

This will be accomplished in the 2015 biennium

- May be subject to change

Priority:

2017 BIENNIUM – DECISION PACKAGES

Appellate Defender Program

2017 BIENNIUM – DECISION PACKAGES

DP O: Challenge-Staffing Needs

- **Administrative Support Staff.**
Program 2 requires additional support staff in order to function competently. FY 2013's 150% administrative turnover rate caused an already excessive workload to become unmanageable and overwhelming. Lack of administrative staff has caused the Chief Appellate Defender, as well as Assistant Appellate Defenders, to perform secretarial tasks thereby reducing time available for legal analysis.
- **Attorney Staff.**
High caseloads continue to burden Program 2 causing appellate defenders to suffer workloads that exceed its case weighting system as well as ethical limitations. Additionally, the previous years' excessive turnover continues to pressure attorneys who remained working in Program 2.

2017 BIENNIUM – DECISION PACKAGES

DP O: High Caseloads

ADDRESS INCREASED CASELOADS

<u>New Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Attorney	2.00 FTE	\$200,000 and \$182,000
Admin	1.00 FTE	\$50,000 and \$45,000
<u>Modified Positions</u>	<u>No.</u>	<u>Cost for FY 16 and 17</u>
Admin	1.00 FTE	\$45,000 and \$45,000

- Amounts include salaries and office costs. FY 16 includes 1st year set up costs for the new positions.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP P: Challenge-Salaries

- Program 2 must pay its attorney staff competitively in order to decrease the excessive turnover experienced in past fiscal years. The program cannot function competently without the ability to recruit and retain effective staff.

2017 BIENNIUM – DECISION PACKAGES

DP P: Salaries

ADJUST MARKET AND CAREER LADDER FOR ATTORNEY POSITIONS

- Program 2 requests \$35,000 for FY 2016 and \$35,000 for FY 2017 to cover attorney movement within the career ladder. The estimates noted above only include restarting the ladder that was frozen during FY 2015 within the current market.

Estimates for the market adjustment have traditionally been based on a study prepared by a team comprised of agency management and representatives from the attorneys' union. The results of this study should be available in early August, 2014. The study looks at salaries for similar positions held by attorneys employed by various county attorney offices throughout the state. This action will keep OPD's attorney salaries in line with those that provide similar services. The estimate may also include adjustments for attorneys that are managers as any increase in the staff attorney ladder creates pay compression.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP Q: Challenge-Contract Services

- Contract costs continue to grow as past Legislatures provided that Program 2 use this resource rather than state-hired attorneys with support staff. Contract attorneys are traditionally used in dependent and neglect cases as they involve internal conflicts of interest. These cases tend to span years and the base level of contract expenditures needs to grow to reflect this fact.
- The hourly rate for this services is below market. This limits Program 2's ability to find contractors to do this work.

2017 BIENNIUM – DECISION PACKAGES

DP Q: Contract Services

INCREASE FUNDS FOR ADDITIONAL CONTRACT WORK, INCLUDING EXPERTS.

The agency requests that the contract budget be increased by the average expenditure increase over the past year of 4% or by \$17,000 per fiscal year.

INCREASE CONTRACT ATTORNEY HOURLY RATE

- The Commission's Contracts Committee conducted an analysis based on rates charged by others (including other states, federal defenders, private attorneys and other state agencies) and developed a blended rate.
- The blended rate was discounted to reflect public service and guaranteed timely payments by the state.
- The Committee's recommended rate is \$87.64 per hour or \$88 rounded.
- The current rate is \$62/hour.
- To raise the rate by \$26/hour the agency would need \$182,000 in both FY 16 and FY 17. The average cost per dollar increase is about \$7,000 for Program 2 only.

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DP R: Challenge-Manager's Caseload

- Program 2 must reduce the Chief Appellate Defender's workload. Currently, the Chief Appellate Defender maintains an individual caseload while simultaneously mentoring Assistant Appellate Defenders on each of their cases and performing administrative functions. The Chief Appellate Defender requires additional time to effectively manage the office.

2017 BIENNIUM – DECISION PACKAGES

DP R: Manager's Caseload

ADD STAFFING TO ADDRESS CHIEF APPELLATE DEFENDER WORKLOAD/CASELOAD

<u>Position</u>	<u>No.</u>	<u>Cost</u>
Attorney	1.00 FTE	\$100,000 and \$85,000

- May be subject to change.

Priority:

2017 BIENNIUM – DECISION PACKAGES

DECISIONS AND PRIORITIES

2017 BIENNIUM – DECISION PACKAGES

- Any other decision packages?
- Any changes to those listed?
- Office space/training/auto use for any new FTE?
- Other direction from the Commission?
- Please remember that if you recommend that something be funded now (FY 14 or 15) it is not a decision package but a potential part of a supplemental request for the 2015 biennium.
- Your budget items must be prioritized.

2017 BIENNIUM – PRIORITY OF DPs

- Please set your priorities by decision package.

REORGANIZATIONS

CHANGES TO THE AGENCY'S STRUCTURE

REORGANIZATIONS

- Plan for a full separation of the Conflict Coordinator function from all other programs.
 - Develop a program or budget to provide separate resources.
- Plan for the establishment of a civil unit. This strategy would seek to separate the civil and criminal practices so that each may focus on specific type of cases.
 - Develop an organizational structure that supports this separation.
 - Develop a program or budget to provide separate resources.