



Brian Schweitzer  
Governor

# OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

Chief Public Defender  
Randi Hood

## MEMORANDUM

TO: Brent Doig, Office of Budget and Program Planning

FROM: Harry Freebourn, OPD Administrative Director

CC: Randi Hood, Chief Public Defender  
Montana Public Defender Commission

DATE: June 9, 2010

RE: 2011 Biennium Estimated Shortfall - Agency Mitigation Plan – 5<sup>th</sup> Update

This memorandum provides an update on our budget mitigation efforts for the 2011 biennium. As you are aware, as we prepared for the 2009 legislative session we believed that our part of the Governor's target would not fully cover all of the expenditures necessary to cover caseload growth. Shortly thereafter we began to look for ways to reorganize and reduce expenditures. Following the 2009 legislative session our agency reviewed, at a high level, our planned expenditures for FY 2010 and FY 2011 and compared our results to our approved appropriation. After this review, we became concerned that estimated expenditures for our current payroll and planned hires to cover increased caseloads, plus our planned operating costs, would not allow us to live within the additional 3% vacancy savings plus the across the board 2% general fund reductions.

During our original meeting with your office in May, 2009 we indicated that we believed that we were at least \$1.2 to \$1.5 million short for both FY 2010 and FY 2011. At least \$800,000 of this shortfall came from the additional vacancy requirement plus the 2% reduction. At the end of December, 2009 we believed that our shortfall had been reduced to about \$1 million. Then in March we reduced our shortfall to \$800,000. As of today we believe that our shortfall has been reduced to about \$600,000.

We have recently factored into our estimates some of the costs to administer SB 263 activities and believe that the administration will add about \$32,000 to our shortfall. As you are aware, we submitted a fiscal note for this legislation that requested, among other things, funding for 1.00 FTE. We believe that SB 263 will generate about \$8,000 more funding this fiscal year when compared to the prior fiscal year.

Finally, once we closed our FY 2009 books and records we learned that the agency experienced a 7% increase in new cases coming into our system which is on top of the 4% increase that we experienced during FY 2008.

In May we committed to put together a plan that would try to reduce or mitigate our funding shortfall. To date the agency has taken the following actions:

- a. We met with OBPP in May 2009 and January 2010 to discuss our shortfall.
- b. We met with the Judiciary in June 2009 to discuss certain mitigation items that if implemented may affect the Judiciary's operations.
- c. We met twice with union leaders in June and July of 2009 to ask them to provide us with ideas to mitigate our estimated shortfall. They submitted about a dozen ideas. They did not advance as an idea a "temporary furlough" as an avenue to create savings. If furloughs were implemented the general belief was that our clients' legal needs would not be met in a timely manner given the current and projected caseloads. Any furlough of union members must be approved by that membership.
- d. We met with regional managers in June and July of 2009 to discuss the estimated shortfall and solicit ideas for mitigation. They and their staff submitted many ideas, some of which were duplicated among regions. We have implemented some of them and continue to assess other to see which ones we can implement that will create current or future cost savings.
- e. We met with the Montana Public Defender Commission at the end of July 2009 to brief them on this issue and again in October and December of 2009 and February and April of 2010.
- f. We gave all regional and central office managers targeted amounts to cut from operating budgets. The operating budget is set at \$20.9 million which is \$900,000 over our general fund appropriation of \$20 million. Please be aware that this budget has aggressive targets.
- g. We met with ITSD regarding our services and discussed ways to reduce our costs.
- h. We met with the Department of Transportation regarding new DUI courts that were not part of our funding request and asked them to consider funding our activities related to these courts. They subsequently declined to provide funding, however, we may ask them to reconsider.

The agency has identified four major ways to mitigate our estimated shortfall:

- a. Increase funding sources:

Some examples are:

1. We received a \$62,360 grant from MBCC to fund our records management efforts. However, this amount may span two state fiscal years. Also this funding will only offset a decision package that was not approved by OBPP during that last budget process.
2. We are exploring ways to bill for legal services provided in guardianship cases.
3. We are monitoring collections related to SB 263 to see if they are increasing from pre SB 263 amounts. To date the amount of increase is not significant but the cost to administer the legislation is a reality. In fact we needed to hire a person to account for, track, and report on receivable transactions which will deplete most inflows from this source of funding.

b. Reduce expenditures:

Some examples are:

1. We developed a "Major Crimes Unit" which will focus internal staff on cases that require the most resources.
2. We reorganized certain central office functions to do more with less and redirected FTE to work current caseloads.
3. We delayed the replacement of some computers, servers, copiers, etc. This action will require some significant decision packages for the next biennium to replace this equipment.
4. We have explored reducing our training efforts (our Commission may disagree).

c. Increase productivity:

Some examples are:

1. We have asked all FTE do more, moving cases from contractors to staff attorneys (our Commission and other system stakeholders may disagree with this action). This action also reduces the ability to implement a temporary furlough.

d. Reduce services:

1. Our Chief has become a member of the Courts of Limited Jurisdiction Commission and has asked this body to look at certain lesser crimes and consider not levying jail time. (The agency provides legal services to those that face jail time.) This action may help to reduce our future growth in caseload.
2. We continue to explore ways to develop parameters that limit our involvement in certain cases.

We believe that our plan is working and has reduced our shortfall for this fiscal year by approximately \$900,000. We will continue to enact this plan during this biennium to try to operate within our approved appropriation.