



## OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

### MEMORANDUM

TO: Personnel Committee of the Montana Public Defender Commission

FROM: Harry Freebourn, Administrative Director

DATE: September 25, 2013

RE: Pay Information for the Commission's Direct Reports

As per your request I have gathered salary information for your direct reports that includes the Chief Public Defender, the Chief Appellate Defender, and the Conflict Coordinator. I have also provided you with a list of agency pay plans as noted below.

#### **Agency Pay Plans**

1. The Public Defender Program and AFSCME have recently entered into a labor contract for the Attorney Bargaining Unit. A copy of the addendum containing the pay plan is attached.
2. The Public Defender Program and AFSCME have recently entered into a labor contract for the Administrative and Investigator Bargaining Unit. This unit received a 3% pay adjustment on July 1, 2013. The members will also go up their pay ladder on their anniversary date. A copy of the addendum containing the pay plan is attached.
3. The Appellate Program is developing a new pay plan for the 2015 biennium. A draft copy is attached.
4. The non-union workforce received a 3% pay adjustment on July 1, 2013. This group does not have a formal pay plan but the agency plans to design one during the 2015 biennium.
5. The Chief Public Defender is developing a pay plan for attorney managers that include Regional Deputy Public Defenders, Managing Attorneys, the Contract Manager, and the Training Coordinator. This plan is scheduled to be available for the October 18, 2013 Commission meeting.
6. The Commission via its Personnel Committee is using this and other information to develop a pay plan for its direct reports.

### **Chief Public Defender – Current Salary and Comparables**

1. The Chief Public Defender's current pay including a recent 3% pay adjustment is \$89,610. This is an exempt position and does not receive longevity adjustments.
2. Head of prosecution for the state of Montana is at \$99,743.
3. County attorney pay for the six counties assumed by the state for public defender services averages \$104,930.
4. A county attorney survey from MACO for 2013 base salaries – \$93,142 (please note that 36 of the 56 counties responded).
5. Several of the program's top paid non-managerial staff attorneys are currently being paid \$84,717 with longevity.
6. Average salary of the attorney direct reports: these amounts are currently being worked on by the Chief Public Defender.

### **Chief Appellate Defender – Current Salary and Comparables**

1. The Chief Appellate Defender's current pay including a recent 3% pay adjustment is \$77,250. This is an exempt position and does not receive longevity adjustments.
2. Counterpart at the Attorney General is paid a base salary of \$88,910. In addition, this individual receives three longevity increases which is an additional 5.5% above the base rate since the position is not exempt and is classified as a Lawyer, pay band 8.
3. Highest paid direct report with longevity (3.5%): \$86,386.

### **Conflict Coordinator – Current Salary and Comparables**

1. The Conflict Coordinator currently is paid a base salary of \$63,931. Since this is not an exempt position the position is eligible for a 3.5% longevity adjustment which takes the salary to \$66,169. This position is currently classified as a level 7.
2. The Conflict Coordinator is in the process of hiring a staff attorney that would become a direct report. This area has adopted program one's negotiated pay plans. If an attorney with at least five years of experience is hired they would make \$69,555.
3. The Contract Manager position may be used as a comparable since the job descriptions are similar. The Contract Manager position was originally valued at \$75,000, however, with pay adjustments, the current Contract Manager is paid \$81,954. This is an exempt position and does not receive longevity.
4. The average attorney managerial pay may be considered a potential comparable. This would include the Regional Deputy Public Defenders, the Managing Attorneys, the Contract Manager, and the Training Coordinator.
5. If the current Conflict Coordinator was valued as a staff attorney, given her relevant experience, she would make \$73,033 with longevity.

### **Methodologies**

The Personnel Committee and the Public Defender Commission could consider several methods to develop a salary for their direct reports. These include:

1. A blending a comparable salaries.
2. A stipend (percentage increase) over those supervised.
3. A combination of both methods noted above.

### **Funding**

The agency received a 3% adjustment for all employees including the attorney managers. However, this adjustment alone may not be enough to move a manager's salary above staff attorneys or direct reports. The agency has the ability to access its total budget to cover any amount not covered by the 3%.

**STATE OF MONTANA**  
**OFFICE OF THE STATE PUBLIC DEFENDER**  
**AND**  
**THE AMERICAN FEDERATION OF STATE,**  
**COUNTY,**  
**AND MUNICIPAL EMPLOYEES, COUNCIL 9**

**2013-2015**

**ADDENDUM A**  
**July 1, 2013 – June 30, 2015 Pay Plan**  
**Office of the State Public Defender and**  
**AFSCME Council 9**

This addendum represents the parties' complete agreement concerning the placement, adjustment and progression of bargaining unit employees' pay under the broadband pay plan prescribed under Section 2-18-303, MCA.

**Section 1 – Statement of broadband pay plan goal.** The goal of the Office of State Public Defender (OPD) is to provide competitive pay ranges based on experience, job responsibilities, and the office's ability to pay. The following pay plan provisions represent an initial step toward that goal by providing for statutory across-the-board pay raises (Section 2). The parties recognize that the pay plan in this agreement does not accomplish these goals due to current funding.

**Section 2 –** To be eligible for a 3% pay plan adjustment, an employee must have been employed on July 1, 2013. Pay adjustments for eligible employees will be retroactive back to the first full pay period that includes July 1, 2013.

**Section 3. – Pay Plan Adjustments.** An employee will receive a 3% wage adjustment based on the base pay prior to July 1, 2013. This will be paid retroactively from July 1, 2013. Effective November 15, 2014, an employee will receive an additional 5% wage adjustment based on the base pay prior to July 1, 2013 plus the 3% adjustment received on July 1, 2013. These amounts are outlined in the schedule below. The 3% wage adjustment or 5% wage adjustment will not be paid on any market or ladder adjustment made on or after July 1, 2013.

Market adjustments will be paid to employees who are employed as of the date of ratification, retroactively to July 1, 2013.

Employees shall advance in the matrix based on years of experience on July 1, 2013 and thereafter based on the schedule in Section 4, if funding is available.

**Section 4 – Pay Rates.** The pay rates for public defenders are outlined below.

Rank	Experience	New Pay Schedule	July 1, 2013 3%	November 15, 2014 5%
1	No License	40,315	41,515	43,575
1	0	50,060	51,362	53,596
1	1	52,147	53,449	55,683
2	2	54,243	55,644	58,065
2	3	58,752	60,280	62,903
2	4	63,270	64,915	67,740
2	5	67,792	69,555	72,581
2	6	69,351	71,154	74,250
2	7	70,266	72,094	75,230
2	8 and above	71,182	73,033	76,201
3	5	69,351	71,154	74,250
3	6	70,912	72,756	75,921
3	7	72,311	74,191	77,419
3	8	75,325	77,284	80,646
3	9	78,337	80,374	83,871
3	10 and above	81,350	83,465	87,097

**Subsection – 1 Attorney 1: 0-2 years.** The entry level position requires supervision and training. These attorneys typically would be involved in courts of limited jurisdiction (city, municipal, justice, treatment); youth court cases; civil cases; and cases in rural regions. Upon successful completion of the two year period of service, attorneys in this tier would automatically move to the Attorney 2 level on the following July 1.

**Subsection - 2 Attorney 2: 2-8 years.** These are more experienced attorneys with demonstrated skill levels in various kinds of cases, able to work with less supervision, and handle more responsibility. These attorneys typically would be involved with lower level felony cases; youth court cases; civil cases, including representing parents in abuse/neglect/dependency cases, and cases involving involuntary commitments and/or guardianships. Movement within Attorney 2 from 2 through 8 years is based on experience. Pay will be adjusted July 1. Movement from this tier to Attorney 3 would not be automatic. Attorneys in this level may request movement to the next level.

**Subsection – 3 Attorney 3: at least 5 years.** Promotion to Attorney 3 would be at the discretion of OPD management, dependent on OPD’s ability to fund the salary and benefits, attorney performance, and the need for attorney services at this level. These attorneys typically would be involved in high-level felony cases, high-level civil cases, and or be experienced rural attorneys. Considerations for promotion would include:

- The commitment and ability to perform at the highest ethical and professional levels;
- A demonstrated willingness and ability to serve effectively as a leader or mentor to other attorneys and staff in OPD;
- A demonstrated willingness and ability to advocate for the interests of OPD and its employees
- A demonstrated commitment to accept assignment to complex cases, and a demonstrated ability to effectively represent clients in such cases. It is contemplated that such cases will be the predominant or primary assignments for an attorney seeking to move to Attorney 3. However, the mere numbers of such cases assigned to an attorney will not be the determinative factor, so attorneys who practice in regions in which there is a relative lack of such cases will not be slighted.

**Subsection 4 – Transition.** All current B and BH employees will transition to Attorney 2. The agency will undertake the process to fill Attorney 3 slots. No current employee will suffer a reduction in base salary by adopting the new pay plan.

The base pay for current B and BH attorneys will be grandfathered by taking into consideration their placement under the former B and BH pay plan.

B AND BH	Rank	Experience	New Pay Schedule	July 1, 2013 3%	November 15, 2014 5%
B	2	6	69,351	71,154	74,250
B	2	7	70,912	72,756	75,921
B	2	8	72,472	74,356	77,591
B	2	9	74,030	75,955	79,259
B	2	10 and above	75,584	77,549	80,923
BH	2	7	72,311	74,191	77,419
BH	2	8	75,325	77,284	80,646
BH	2	9	78,337	80,374	83,871
BH	2	10 and above	81,350	83,465	87,097

**Subsection 5 - Attorney 3.** Attorneys wanting to become Attorney 3 will make the request in writing to their Regional Director and copied to the Chief Public Defender.

When a need for an Attorney 3 position becomes available as determined by management all requests will be considered. Management will make the final decision.

Attorneys who are moved into Attorney 3 will initially be placed using their number of years of experience.

Thereafter no movement is automatic but rather Attorney 3 salaries will be reviewed on July 1 every year to determine any further adjustments in pay plan.

Attorneys who elect to return to Attorney 2 from Attorney 3 will be placed at the appropriate pay rate as specified in the contract.

**Subsection 6 – New hires who are not licensed to practice law in the State of Montana.** Any employee who is not licensed to practice law in the State of Montana will be paid at the lowest pay rate contained in the schedule regardless of their previous relevant experience. Once they obtain licensure, they will be paid at the pay rate that corresponds to their relevant experience, up to five years.

**Subsection 7– New hires who are licensed to practice law in the State of Montana.** Employees who are licensed to practice law in the State of Montana and hired after the ratification of this pay addendum may be credited with up to five years previous relevant legal experience under the schedule.

**Subsection 8 – Relevant experience.**

- (a) All experience employed by the OPD will be credited on a year-for-year basis.
- (b) All experience employed as a full-time public defender in a public defender office will be credited on a year-for-year basis.
- (c) Previous experience employed as a full-time prosecutor will be credited a half-year for each year of experience.
- (d) Previous experience as a court-appointed attorney will be credited on a half-year for each year of experience.
- (e) All previous civil or law clerk experience will be credited on a quarter-year for each year of experience.
- (f) The maximum credit an employee may receive for previous experience under these subsections (b) through (e) will be five years. Credit will not be given for any other work experience. In calculating credit under this subsection, only time as a licensed attorney will be counted, and only one subsection can apply for any one year (the highest number).

**Subsection 9 – Review Process.** The parties agree to develop a review process for employees who disagree with their initial placement on the schedule. Employees will be required to submit a written document to AFSCME.

**Subsection 10 – Review Panel.** The Review Panel will be made up of two representatives of management and two members appointed by the Union.

**Section 4 – Location pay.** OPD, at its discretion, may set base pay rates above those shown in the schedule for employees working in high-cost or difficult-to-recruit locations. If OPD elects to set base pay rates above those shown in the schedule under these conditions, it will apply those pay adjustments uniformly and consistently to all bargaining unit employees within the specific location. OPD will notify the union in writing of the amount and rationale for any increase granted pursuant to this section within 10 days of implementation.

**Section 5 – Rovers Stipend.** Subsequent to ratification of this agreement, employees designated as major crimes unit rovers, those assigned to regularly travel to different regions as a condition of their employment will receive a \$3,500 Rover stipend in addition to the rates contained in Schedule A. Employees shall not receive any Rover stipend or other Rover related compensation once they are no longer regularly assigned and working as a Rover. The OPD will notify the union in writing of the amount and rationale for any increase granted pursuant to this section within 10 days of implementation.

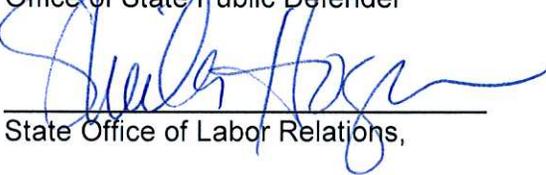
**Section 6 – Employees under formal corrective action plans or training assignments.** Employees who are under a written, formal corrective action plan or under training assignments will not receive pay increases until they successfully complete those plans.

**Section 7– Employees with probationary-status licenses.** Employees with probationary-status law licenses pursuant to action taken by the Commission on Practice will not receive the discretionary pay increases or any time credit during the probationary time period.

DATED this 25 day of October, 2013

FOR THE STATE:

  
\_\_\_\_\_  
William Hooks, Chief Public Defender  
Office of State Public Defender

  
\_\_\_\_\_  
State Office of Labor Relations,

FOR THE UNION:

  
\_\_\_\_\_  
Timm Twardoski, Executive Director  
AFSCME Council 9

  
\_\_\_\_\_  
Country Nelson  
Bargaining Team Member

  
\_\_\_\_\_  
Bargaining Team Member

  
\_\_\_\_\_  
Bargaining Team Member

**STATE OF MONTANA**  
**OFFICE OF THE STATE PUBLIC DEFENDER**  
**ADMINISTRATIVE SUPPORT STAFF and INVESTIGATORS**  
**AND**  
**THE AMERICAN FEDERATION OF STATE, COUNTY,**  
**AND MUNICIPAL EMPLOYEES, COUNCIL 9**

**2013-2015**

**ADDENDUM A**  
**Administrative Support Staff**  
**Broadband pay plan**

**Section 1 – Statement of broadband pay plan goal.** The goal of the Office of the State Public Defender (OSPD) is to provide competitive pay ranges based on market factors and to progress employees through the Target Pay Range based on their experience, their job responsibilities, and the office’s ability to pay.

**Section 2.** All employees covered by this collective bargaining agreement under the Broadband Pay Plan shall receive a 3% across-the-board increase on the base pay rate effective in the pay period that includes July 1, 2013 and a 5% across-the-board increase on the base pay rate effective in the pay period that includes November 15, 2014.

**Section 3. – Pay ranges.** The following pay ranges are for bargaining unit positions represented by the AFSCME:

July 1 2013 - November 14, 2014 - 3%				Entry	1 year	2 years	3 years	4 years	5 years
Position	Band	Entry	Target	80.00%	82.50%	85.00%	90.00%	95.00%	100.00%
Secretary	2	\$18,336	\$ 22,920	\$ 18,336	\$ 18,909	\$ 19,482	\$ 20,628	\$ 21,774	\$ 22,920
Legal Secretary	3	\$21,189	\$ 26,486	\$ 21,189	\$ 21,851	\$ 22,513	\$ 23,838	\$ 25,162	\$ 26,486
Administrative Assistant	3	\$20,654	\$ 25,818	\$ 20,654	\$ 21,300	\$ 21,945	\$ 23,236	\$ 24,527	\$ 25,818
Administrative Assistant	4	\$24,785	\$ 30,981	\$ 24,785	\$ 25,560	\$ 26,334	\$ 27,883	\$ 29,432	\$ 30,981
Eligibility Technician	4	\$27,780	\$ 34,725	\$ 27,780	\$ 28,648	\$ 29,517	\$ 31,253	\$ 32,989	\$ 34,725
Paralegal/Legal Assistant	4	\$27,751	\$ 34,688	\$ 27,751	\$ 28,618	\$ 29,485	\$ 31,220	\$ 32,954	\$ 34,688

November 15, 2014 - June 30, 2014 - 5%				Entry	1 year	2 years	3 years	4 years	5 years
Position	Band	Entry	Target	80.00%	82.50%	85.00%	90.00%	95.00%	100.00%
Secretary	2	\$19,252	\$ 24,066	19,252	\$ 19,854	\$ 20,456	\$ 21,659	\$ 22,862	\$ 24,066
Legal Secretary	3	\$22,249	\$ 27,811	22,249	\$ 22,944	\$ 23,639	\$ 25,030	\$ 26,420	\$ 27,811
Administrative Assistant	3	\$21,687	\$ 27,109	21,687	\$ 22,365	\$ 23,043	\$ 24,398	\$ 25,753	\$ 27,109
Administrative Assistant	4	\$26,024	\$ 32,530	26,024	\$ 26,838	\$ 27,651	\$ 29,277	\$ 30,904	\$ 32,530
Eligibility Technician	4	\$29,169	\$ 36,462	29,169	\$ 30,081	\$ 30,992	\$ 32,816	\$ 34,639	\$ 36,462
Paralegal/Legal Assistant	4	\$29,138	\$ 36,423	29,138	\$ 30,049	\$ 30,959	\$ 32,780	\$ 34,602	\$ 36,423

**Section 4. Occupational progression.** Employees will progress through the occupational range pay based on their years of service or experience, in their positions according to the occupational pay band contained under Section 3 provided they are not under corrective action or on a training assignment. These adjustments will be effective on the employee anniversary date which is established by the date of hire by the Office of the State Public Defender in Administrative Support positions.

**Section 5.** Employees whose salary is above target ratio based upon date of hire will not receive a target ratio adjustment

Employee will receive a 3% increase effective July 1, 2013 and be moved to current target ratio based on hire date if below target ratio.

Employee will receive a 5% increase effective November 15, 2014.

Employees who are below their target ratio on their anniversary date will receive a pay adjustment based upon their years of service.

**Section 6. Hiring rates.** Employees new to state government with sufficient qualifications may be hired at 90 percent of the Occupational Pay Range for the occupation.

**Section 7** For employees under a corrective action plan shall not be eligible for a salary adjustment until they have successfully completed the corrective action plan.

**ADDENDUM B**  
**Criminal Investigators**  
**Broadband pay plan**

**Section 1 – Statement of broadband pay plan goal.** The goal of the Office of the State Public Defender (OSPD) is to provide competitive pay ranges based on market factors and to progress employees through the Target Pay Range based on their experience, their job responsibilities, and the office’s ability to pay.

**Section 2.** All employees covered by this collective bargaining agreement under the Broadband Pay Plan shall receive a 3% across-the-board increase on the base pay rate effective in the pay period that includes July 1, 2013 and a 5% across-the-board increase on the base pay rate effective in the pay period that includes November 15, 2014.

To be eligible for a pay plan adjustment, an employee must have been employed on July 1, 2013. Pay adjustments for eligible employees will be retroactive back to the first full pay period that includes July 1, 2013.

**Section 3. Pay ranges.** The following pay ranges are for bargaining unit positions represented by the AFSCME:

July 1 2013 - November 14, 2014 - 3%				Entry	1 year	2 years	3 years	4 years	5 years
Position	Band	Entry	Target	80.00%	82.50%	85.00%	90.00%	95.00%	100.00%
Criminal Defense Investigators	5	\$33,248	\$ 41,559	\$ 33,248	\$ 34,287	\$ 35,326	\$ 37,404	\$ 39,481	\$ 41,559
Criminal Defense Investigators	6	\$39,897	\$ 49,872	\$ 39,897	\$ 41,144	\$ 42,391	\$ 44,884	\$ 47,378	\$ 49,872

November 15, 2014 - June 30, 2014 - 5%				Entry	1 year	2 years	3 years	4 years	5 years
Position	Band	Entry	Target	80.00%	82.50%	85.00%	90.00%	95.00%	100.00%
Criminal Defense Investigators	5	\$34,910	\$ 43,637	\$ 34,910	\$ 36,001	\$ 37,092	\$ 39,274	\$ 41,456	\$ 43,637
Criminal Defense Investigators	6	\$41,892	\$ 52,365	\$ 41,892	\$ 43,201	\$ 44,510	\$ 47,129	\$ 49,747	\$ 52,365

**Section 4. Occupational progression.** Employees will progress through the occupational range pay based on their years of service or experience, in their positions according to the occupational pay band contained under Section 3 provided they are not under corrective action or on a training assignment. These adjustments will be effective on the employee anniversary date which is established by the date of hire by the Office of the State Public Defender in the Criminal Defense investigator position.

**Section 5.** Employees whose salary is above target ratio based upon date of hire will not receive a target ratio adjustment.

Employee will receive a 3% increase effective July 1, 2013 and be moved to current target ratio based on hire date if below target ratio.

Employee will receive a 5% increase effective November 15, 2014.

Employees who are below their target ratio on their anniversary date will receive a pay adjustment based upon their years of service.

**Section 6. Hiring rates.** Employees new to state government with sufficient qualifications may be hired at 90 percent of the target for the occupation.

**Section 7.** For employees under a corrective action plan shall not be eligible for a salary adjustment until they have successfully completed the corrective action plan.



Steve Bullock  
Governor

## OFFICE OF THE APPELLATE DEFENDER STATE OF MONTANA

Wade Zolynski  
Chief Appellate Defender

### Attorney Pay Plan - FY 2014 and 2015

**Goal.** It shall be the Office of the Appellate Defender's<sup>1</sup> goal to provide compensation that is competitive in the market based on experience, job responsibilities, and OAD's ability to pay. Specifically, OAD shall seek to compensate attorneys at a level that is comparable with attorneys employed by other state agencies, especially the Appellate Bureau of the Montana Attorney General's Office. OAD shall accurately calculate each attorney's actual relevant experience when placing attorneys into the career ladder. The OAD recognize that the pay plan does not accomplish these goals due to current funding.

**Purpose.** While the pay plan below serves many purposes, the most pressing is the need to reduce attorney turnover. OAD has historically experienced significant turnover in attorney staff – 44% in FY 2012 and 33% in FY 2013. The most frequent reasons given for resignation are low pay and excessive workload. Therefore, OAD presented decision packages to the 2013 Legislature aimed at increasing pay in order to reduce turnover. The plan outlined below represents an initial step in reducing attorney turnover within OAD.

**Calculating Relevant Experience.** Relevant experience shall be calculated based on the following:

1. All experience obtained while employed as an attorney at OAD shall be credited on a day for day basis.
2. All experience obtained while employed as an attorney at any public defender agency in the United States or its territories shall be credited on a day for day basis.
3. All experience obtained while employed as a law clerk (post-graduation) in a federal or state appellate or trial court within the United States or its territories shall be credited on a day for day basis.
4. Previous experience obtained while employed as an attorney at any prosecutorial entity's appellate bureau in the United States or its territories shall be credited on a day for day basis.
5. All previous experience obtained as an attorney in private practice with a firm or as a solo practitioner doing civil or criminal work in the United States or its territories shall be credited at 25%.
6. The maximum credit an Attorney I or Attorney II shall receive under sections 1 through 5 above shall be five years. An Attorney III shall receive a maximum credit of 10 years.
7. Relevant experience shall be calculated accurately using the above formula. OAD shall no longer calculate relevant experience on one set date (previously July 1 or October 1). Instead, relevant experience dates specific to each attorney shall be determined at hire

---

<sup>1</sup> Hereafter, OAD

and shall indicate the precise date an attorney moves within the pay ladder. Those promoted to Attorney III shall receive a new relevant experience calculation at the time of their promotion.

**Attorney Levels.** Attorneys at OAD shall be categorized into three different levels – Attorney I Attorney II, and Attorney III.

**Attorney I.** This is an entry level position. An attorney with 0-1.99 years of experience shall be categorized as an Attorney I. Attorney I's will typically handle appeals with mostly defined issues, smaller records, and less serious sentences. OAD shall endeavor to avoid assigning complex matters with significant sentences to Attorney I's. Attorney I's shall work closely with the Chief Appellate Defender and those categorized as Attorney III's. Upon reaching two years of relevant experience (as determined by the above parameters), an Attorney I shall automatically become an Attorney II.

**Attorney II.** An attorney with two or more years of experience shall be categorized as an Attorney II. The maximum credit a newly hired attorney shall be given for previous experience is 5 years. An Attorney II is a more experienced attorney. Attorney II's shall typically handle more complex issues that are less concretely defined by the law. The cases typically will include more serious sentences. The cases may involve matters of first impression or areas in which OAD may be seeking to change or influence the law on behalf of a client. Attorney II's will be expected to practice with less supervision and handle more responsibility than Attorney I's. Attorney II's shall move up the relevant experience ladder until they reach 8 years of relevant experience. Attorney II's shall not automatically become Attorney III's. Attorney II's interested in advancing must request that the Chief Appellate Defender promote them to Attorney III status. Attorney II's requesting advancement must have 5 years of relevant experience. Advancement from Attorney II to Attorney III shall occur at the discretion of the Chief Appellate Defender and is subject to performance review and OAD's need for additional Attorney III employees.

**Attorney III.** Attorney III's are those who regularly produce exemplary work and who are committed to meeting the highest ethical standards. Attorney III's shall regularly handle OAD's most complex cases. Attorney III's must demonstrate a willingness and ability to serve as a leader or mentor to other attorneys and staff, and to advocate for OAD's interests and the interests of its employees as determined by the Chief Appellate Defender. Attorney III's shall perform administrative and policy oriented duties. When requested by the Chief Appellate Defender, an Attorney III may include but is not limited to performing the following administrative and policy oriented tasks: discussing and shaping office policy, discussing confidential personnel matters within OAD with the Chief Appellate Defender, acting as interim Chief when the Chief Appellate Defender is out of the office, appearing before legislative bodies, assigning appellate cases to assistant appellate defenders, sitting on OAD's writ committee, mentoring less experienced assistant appellate defenders, and performing other similar tasks as determined by the Chief Appellate Defender. Attorney III's shall not possess authority to make executive decisions on behalf of OAD. Executive decision making remains a duty statutorily assigned to the Chief Appellate Defender with the oversight of the Public Defender Commission. Attorney II's receiving a promotion to Attorney III shall receive a recalculation of relevant experience on the date of promotion. Attorney III's shall receive credit for relevant experience

up to 10 years. Once placed into Attorney III status, no additional movement within the ladder is automatic. Any additional movement is subject to a positive performance evaluation by the Chief Appellate Defender. Whenever possible, OAD shall take an Attorney III's administrative duties into account when determining the Attorney III's appropriate case weight.

**Transition to New Career Ladder.** On October 1, 2013, current A and B level attorneys shall transition either into Attorney I or Attorney II positions, depending upon their relevant experience. Current BH attorneys may request placement into the Attorney III position, and shall be so placed upon the Chief Appellate Defender's approval.

Attorneys hired after October 1, 2013 who are not licensed to practice law in Montana shall be paid the lowest pay rate contained in the pay ladder, regardless of their relevant experience. Once they obtain licensure, they will be paid according to their relevant experience.

Licensed attorneys hired after October 1, 2013 as Attorney I or Attorney II shall be placed in the pay ladder according to their relevant experience, but shall not receive more than 5 years credit for past experience.

**Attorneys with Letters of Discipline.** All attorneys within OAD shall be placed into the new career ladder, regardless of pending letters of discipline. Once placed into the new career ladder, however, an attorney under an active disciplinary letter shall not move within the career ladder unless he or she is compliant with the disciplinary letter as determined by the Chief Appellate Defender. Movement within the career ladder can be denied by the Chief Appellate Defender during the period that a disciplinary letter is active.

**Non-Career Ladder Pay Increases.** The 2013 legislature approved pay increases for all state employees. These increases will be above OAD's career ladder increases. All employees shall receive a 3% pay increase on July 1, 2013. The 3% increase shall be calculated based on the salary the attorney received or would have received in the prior career ladder. All employees shall receive another 5% increase on November 15, 2014. The 5% increase shall be based on the salary the attorney received or would have received in the prior career ladder.

**New Career Ladder.** OAD attorneys shall be placed into the new career ladder starting October 1, 2013. In doing so, relevant experience shall be calculated as of October 1, 2013. Each existing attorney and each new hire thereafter shall be assigned a "relevant experience date." Future pay increases as attorneys move within OAD's career ladder shall be instituted on the attorney's "relevant experience date." Attorneys with relevant experience dates between October 1, 2013 and June 30, 2014 shall be permitted to move up the career ladder in FY 2014. Absent additional funding given to OAD, no ladder movement shall be permitted in FY 2015. OAD pledges to continue advocating for additional funding to permit attorneys to move within the career ladder in FY 2015. The new career ladder is below.

Rank	Experience	New Pay Schedule	July 1, 2013 3%	November 15, 2014 5%
1	No License	40,315	41,515	43,575
1	0	50,060	51,362	53,596
1	1	52,147	53,449	55,683
2	2	54,234	55,644	58,065
2	3	58,752	60,280	62,903
2	4	63,270	64,915	67,740
2	5	67,792	69,555	72,581
2	6	69,351	71,154	74,250
2	7	70,266	72,094	75,230
2	8 and above	71,182	73,033	76,210
3	5	69,351	71,154	74,250
3	6	70,912	72,756	75,921
3	7	72,311	74,191	77,419
3	8	75,325	77,284	80,646
3	9	78,337	80,374	83,871
3	10 and above	81,350	83,465	87,097