

MONTANA PUBLIC DEFENDER COMMISSION
PERSONNEL COMMITTEE MEETING

Goodkind Building
139 North Last Chance Gulch, Helena, MT 59601

September 26, 2013

MINUTES

(Approved at the October 21, 2014 Meeting)

Committee Members Present

Chuck Petaja, Helena; Fritz Gillespie, Helena

Agency Team Members Present

Wade Zolynski, Chief Appellate Defender; Bill Hooks, Chief Public Defender; Kristina Neal, Conflict Coordinator; Harry Freebourn, Administrative Director; Barb Kain, Human Resource Officer; Bonnie Shoemaker, State Human Resource Division Compensation Specialist

Call to Order

Committee Chair Chuck Petaja called the meeting of the Personnel Committee to order at 9:15 a.m.

Approval of Minutes of December 20, 2010 Meeting (*Action Item)

Commissioner Petaja moved to approve the minutes as drafted. Commissioner Gillespie seconded and the motion carried.

Review Evaluation Process for Commission's Direct Reports (Chief Public Defender, Chief Appellate Defender, and Conflict Coordinator)

Commissioner Petaja reviewed the evaluation process. He noted that the Commission's duties have expanded significantly since they now have three direct reports and will be responsible for setting salaries for the first time. The process to date has included written peer/subordinate evaluations, a self-evaluation, and a Commission evaluation of statutory duties. The committee will meet privately with each individual today and prepare recommendations for the full Commission to consider at the October 18 meeting. Although the evaluation meetings are not public, the salary decisions will be made public.

Barb Kain and Bonnie Shoemaker are present to answer questions regarding the evaluation process and compensation, respectively. Ms. Shoemaker helped develop the document Mr. Freebourn will present to assist with the salary discussions.

Mr. Freebourn reviewed the compensation memo and attachments, including the negotiated pay plans for union attorneys, support staff and investigators, and the pay plan for non-union appellate attorneys. (The pay plan for managers is not yet complete, but will be available before the October 18 meeting.) The new pay plans will create significant compression

between management and staff attorneys. There will be approximately a dozen Program 1 attorneys at the highest level, only \$2,000 below Chief Hooks' current salary. Commissioner Gillespie asked if the state has set salary limits over which the Commission cannot go. Ms. Shoemaker said that the primary consideration is budget. There is no statute or regulation limiting how much they can pay as long as there is money in the budget, the pay is non-discriminatory, and the salary can be justified. Experience, level of performance, skills needed for the position and managerial responsibilities can all be considered when setting the salary. Commissioner Petaja reminded the committee that the strategic plan calls for parity in pay with the prosecution, and Commissioner Gillespie said based on the duties of the chief public defender compared to the county attorneys, it would be easy to justify paying him \$100,000. The Office of Budget and Program Planning supports the Commission's decision to increase the managers' salaries as long as it fits within the agency's appropriation.

The classified workforce will receive a 5% increase in November 2014. Mr. Freebourn recommended taking this increase into consideration when setting salaries now. The Commission could choose to give the same 5% increase to their direct reports, and can decide whether to calculate the 5% on either the old or new salaries.

Ms. Neal plans to bring in her subordinate attorney at a five year level. Using Program 1 parameters, that would pay more than the current conflict coordinator salary. Chief Zolynski also has direct reports with higher salaries than his own.

Ms. Shoemaker explained the advantage of using the "blending comparable salaries" methodology for setting new salaries—when you use a blended number it tosses the outliers. She explained that the problem with using the stipend (percentage increase) method is that the supervisor has a stake in the subordinate's pay increase. And, if you use a percentage of the highest paid salary as a stipend, what happens to the supervisor's salary when that highly paid person leaves? It is better to use a dollar figure instead of a percentage if using the stipend method.

Commissioner Petaja wants to keep the evaluations the committee received from others confidential. The committee's notes during the closed session will also remain confidential. He will seal them to be stored in the Central Services storage vault, not in the personnel files.

Public Comment

There was no public comment.

Executive Session

Commissioner Petaja closed the meeting to conduct individual performance evaluations at 9:55 a.m. He stated, "I have determined that the demands of individual privacy clearly exceed the merits of public disclosure, and therefore this portion of the meeting will be closed." The committee will forward recommendations to the full Commission at the October 18 meeting.

Adjourn

The committee adjourned following the closed session.