

MONTANA PUBLIC DEFENDER COMMISSION
BUDGET COMMITTEE MEETING

The Yogo Inn, Lewistown, Montana

Minutes

October 10, 2008

(Approved at the January 9, 2009 Commission Meeting)

Call to Order

The meeting of the Budget Committee was called to order at 8:25 a.m. by Committee Chair Jennifer Hensley.

Commissioners Present

Jennifer Hensley, William Snell, Majel Russell, Tara Veazey, Steve Nardi, Caroline Fleming, and Vic Miller

Other Interested Parties

Harry Freebourn, OPD Administrative Director; Brent Doig, Office of Budget and Program Planning (by conference call); Scott Spencer, Assistant Public Defender; Scott Crichton, American Civil Liberties Union of Montana (ACLU)

Approval of Minutes

The minutes of the July 17, 2008 meeting were approved as submitted.

Financial Results 7/1/07 through 6/30/08 (FY 2008) (exhibit B-1)

Mr. Freebourn discussed the draft June 30, 2008 financial statements (Exhibit B-1) with the Committee. He began with a discussion of Program 1 (the Public Defender Program) by identifying regional expenditures and stating that payroll was below budget by about 1.4%, however, this savings was more than offset by operational costs (including contract costs and rent) that were about 4 to 5% above budget. Contract costs are mostly comprised of outside attorney costs in the amount of \$5.5 million. Mr. Freebourn discussed the “percentages of population, expenditures, and cases” by region. Once again it appears that Billings has more cases in relation to population and expenditures than other regions of a similar size. However, OPD management is still unsure as to how Billings counts cases and if their methodology of counting is consistent with other regions.

The discussion continued with a review of central office expenditures. Payroll was slightly over budget due to case management implementation activities but this overage was more than offset by a 25% lower expenditure rate in operating costs.

Program 2 (the Appellate Program) was under expended in payroll by about 3% but considerably over expended in operating costs by 32%. The Appellate program was not able to reduce their contract costs as quickly as expected but was allowed to put on a new FTE to handle caseloads.

FY 2009 Budget Discussion (exhibit B-2)

Mr. Freebourn told the Committee that the agency was developing detailed budgets for FY 2009 that should be completed by the end of October. However, the agency is able to report on current expenditures for FY 2009 in exhibit B-2. Payroll for the regions currently stands at \$1.9 million while operating expenditures are at \$1.3 million. Most of these costs are contract attorney costs at about \$900,000. The central office payroll is currently at \$260,000 with operating

expenditures at about \$289,000. The percentage expended in the area shows about 5% above expectations but there were considerable one-time expenditures made in the early months of the fiscal year.

Commissioner Hensley explained to the new commissioners the value of this report once the budget is set and the percentages are in place.

2011 Biennium Budget Update (exhibit B-3)

Mr. Brent Doig, budget analyst for the Office of Budget and Program Planning (OBPP), joined the meeting at this time via conference call. Chair Hensley asked Mr. Doig to explain the budget offered to the agency by OBPP and especially the reductions. Mr. Doig began by speaking to the decision package for "Support Increase in Caseloads." He stated that OBPP is allowing only 8.00 FTE of the 25.00 FTE requested by the agency for the next biennium. This is a \$749,000 increase in general fund. He stated that he realizes that the agency already has about 8.00 FTE on staff as temporary employees directly serving its clients but that OBPP is limiting the growth in FTE statewide. He believes that OBPP is more inclined to pay for contract work than to put permanent positions in place.

Mr. Doig discussed the "Increase in Contract Attorney Pay Rate." The \$150,000 amount in FY 2010 represents an increase in the rate from \$60.00 to \$61.50 or \$1.50 per hour. This is a 2.50% increase in the provider rate which is a similar increase to what other providers are receiving in the state. The next year adds another \$1.50 per hour and the rate goes to \$63.00. Chair Hensley thought that this meager increase would disturb the agency's contract attorneys. Mr. Freebourn offered the thought that although it is a meager increase at least it serves as an item for discussion between the legislature and contract attorneys. A similar discussion ensued regarding the "Career Ladder Adjustment" budget item.

Commissioners Veazey and Hensley expressed the need to meet with Mr. Ewer, State Budget Director, to convey the Commission's concerns regarding OBPP's cuts to the agency budget. Chair Hensley asked Mr. Freebourn his thoughts about the OBPP budget. Mr. Freebourn said that his main concern was the lack of funded FTE positions given the fact that the agency already has many modified FTE positions on staff serving clients and that there is no guarantee that the legislature would approve and fund the 8.00 positions included in the OBPP budget. To put the budget in perspective, the FY 2009 appropriation is about \$20.1 million while the FY 2010 OBPP budget is about \$21 million without the death penalty funds. Much of the increase is to cover increases in payroll and other fixed costs that are outside of the control of the agency. Recent case load information suggests an increase of about 4% per year. Adding only 8.00 FTE represents the agency's ability to serve only one year of the increase in caseloads. If caseloads continue to increase at the same or greater rates, more FTE and funding will be needed.

Public Comment

Scott Spencer, from Region 2 (Missoula), represented the attorney's union. He recommended that the union take the career ladder proposal for attorneys back to the governor and that a proposal be made to pay defense attorneys comparably to prosecutors. Mr. Spencer also stated that union representatives would make themselves available during the legislative session.

Old Business/New Business

There was no additional business.

Adjourn

The meeting adjourned at 9:30 a.m.