

MONTANA PUBLIC DEFENDER COMMISSION
CONTRACTS PROCESS COMMITTEE MEETING
Butte Central Office and Conference Call

October 11, 2013

DRAFT MINUTES

Committee Members Present: Chuck Petaja, Helena; Ken Olson, Great Falls

Agency Team Members Present: Wade Zolynski, Chief Appellate Defender; Bill Hooks, Chief Public Defender; Harry Freebourn, Administrative Director; Larry Murphy, Contract Manager; Carleen Green, Accountant

Interested Parties

Fritz Gillespie, Commission Chair

Call to Order

Committee Chair Chuck Petaja called the meeting of the Contracts Process Committee to order at 1:35 p.m.

Approval of Minutes of July 11, 2013 meeting (*Action Item)

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

New Contract Attorney Rate and Implementation Plan

The goal today is to make a recommendation for a new contract attorney rate for consideration by the full Commission on October 18.

The legislature approved a \$1.20 per hour rate increase for each fiscal year of the 2015 biennium. If OPD delays implementation of the increase until January 2014, it would allow for a \$2 per hour increase for about the same cost.

In previous meetings, Mr. Freebourn presented a rate analysis and financing options template to be refined by the committee. The sample provided today weights all other rates equally, and discounts the blended rate by 15%, resulting in a new rate of about \$88. The committee wants to ensure that if funding a new rate begins with the \$2 per hour increase, that an escalator is built in to continue increasing the rate over time. The hope is that over two or three legislative sessions the target rate will be funded.

There was some confusion regarding the appropriation for \$1.8 million for contract services. Mr. Freebourn clarified. There are two separate appropriations—one to fund the increase in the contractor rate, and another to purchase additional contractor services. The \$1.8 million was

given in lieu of some of the 37 FTE that were requested, and though it could possibly be used to further increase the contractor rate, it may ultimately be used to fund additional contractor work and/or FTE.

There was discussion about turnover in contract services, the high number of contract dollars spent on travel versus attorney services, and the influx of inexperienced attorneys. Retention of qualified contractors will be a subject for discussion in the next legislative session.

Commissioner Olson moved to recommend to the full Commission that they adopt a \$2 per hour increase (to \$62 per hour) effective January 1, 2014 and continuing through June 30, 2015. Commissioner Gillespie seconded. Commissioner Petaja asked for further discussion at the October 18 meeting of increasing the rate to \$65 per hour in July 2015 to bring the rate to the average of other states' rates for felonies. The motion carried unanimously.

Mr. Freebourn asked how the committee would like to address the second component, which is determining what the target rate should be and how to implement the rate over the long term. The committee felt that the sample document was a good starting point, and saw no need to adjust the weights for the rate or the discount at this point. They can be refined through the course of the next year as the decision packages are prepared.

Public Comment

Mr. Murphy spoke on behalf of Frank McGee, a contract attorney in Butte. Mr. McGee would like to see the stipend increased, because the current \$25 doesn't come close to covering his costs. Mr. Murphy said that this is a constant complaint from contract attorneys.

Commissioner Petaja said the current stipend costs the agency about \$60,000 annually and he asked if there are funds available to cover an increase. Mr. Freebourn said that there is no separate appropriation for an increase. Since the operating plans are not yet complete, he cannot comment on whether there would be any funding available. The committee agreed that the contractors have a valid complaint regarding the stipend, and that it should be addressed in the future.

Old Business/New Business

There was no additional business to discuss.

Adjourn

The meeting adjourned at 2:15 p.m.