

MONTANA PUBLIC DEFENDER COMMISSION
LEGISLATIVE COMMITTEE MEETING

Park Plaza Hotel, Helena, Montana

Minutes

January 9, 2009

(Approved at the July 23, 2009 Commission Meeting)

Call to Order

The meeting of the Legislative Committee was called to order at 8:50 a.m.

Commissioners Present

Steve Nardi, Mike Sherwood, Bill Snell, Fritz Gillespie, and Ken Olson

Other Interested Parties

Randi Hood, Chief Public Defender; Harry Freebourn, Administrative Director; and Scott Crichton, American Civil Liberties Union of Montana (ACLU)

Steve Eschenbacher, Assistant Public Defender, Hamilton; Nick Aemisegger, Managing Attorney, Kalispell; and Jennifer Bordy, Contract Attorney, Bozeman joined the meeting by conference call.

Approval of Minutes

The minutes of the December 4, 2008 meeting were approved as submitted.

Session Update

Chief Hood reported that SB 45 was heard in the Senate Judiciary Committee earlier this week. This is the bill the Commission requested to clarify prosecutorial disclosure requirements.

The committee discussed Senator Shockley's bill (LC 556) to revise public defender laws to increase fee collection. There will be a significant fiscal note attached to the bill as it is currently drafted, and Chief Hood will discuss those costs with Senator Shockley. Commissioner Nardi said there are both cost and ethical arguments against this bill and he has concerns about the independence of the public defender system under the proposed changes.

Mr. Crichton said that an electronic recording bill is going forward, and that he expects the bill to abolish the death penalty to be introduced in February. Senator Wanzenried is sponsoring the abolition bill, and the ACLU will be concentrating their resources on passage. Other bills of interest are a proposal to decriminalize marijuana, and two medical marijuana bills.

Mr. Freebourn reviewed the session activity spreadsheet (exhibit L-1). Commissioners Sherwood, Miller and Nardi will appear before the joint appropriation subcommittee on January 23 to present the OPD budget. The state pay bill (HB 13) currently includes a one time payment for state employees making less than \$45,000 annually and increased contributions toward the health insurance premium. Mr. Freebourn doesn't anticipate being part of the supplemental bill, although the agency is running somewhat short as of today. Chief Hood is extremely dedicated to coming in within the appropriation without a supplemental. The session

activity spreadsheet will be provided to the Commission on a weekly basis throughout the session. Commissioner Sherwood requested that hearing dates be included.

Chief Hood said that OPD has filed fiscal notes on four bills so far, with more in process, including Senator Shockley's bill related to payment of fees by defendants. Chief Hood will keep the group advised of the final shape of Senator Shockley's bill when it is introduced.

Mr. Freebourn expects a contract attorney to testify at the budget hearing on January 23 (public comment is scheduled for 11 a.m.). He noted that contract attorneys can present a case for any item whether it is in governor's budget or not. Mr. Freebourn believes that the union will also be there on behalf of the FTE career ladder that was deleted from the governor's budget.

Mr. Freebourn reviewed the LFD Budget Analysis (exhibit L-2). The report is intended to make legislators aware of issues identified by the Legislative Fiscal Division. The financial information is based on the governor's original budget, not the revised budget. The Agency Highlights on the first page of the report are issues that LFD thinks legislators should discuss with OPD at the budget hearing. Major issues identified include problems with the goals and objectives and reporting of estimated caseloads. Mr. Freebourn said that it is currently hard to give a meaningful number of net cases, and the caseload management tool is meant to monitor the workload. The concept of ongoing cases and a fluid system is difficult for the LFD to understand. Overall, Mr. Freebourn said it was a good report—it doesn't say that OPD is wasting money or that clients aren't being served.

Public Comment

Mr. Crichton asked who is chairing the appropriations subcommittee. Mr. Freebourn identified the subcommittee members, including the chair, Representative Hawk.

Old Business/New Business

There was no additional business

Adjourn

The meeting adjourned at 10:15 a.m.