

**Heffelfinger, Sheri**

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**From:** Blattie, Harold  
**Sent:** Monday, July 17, 2006 1:59 PM  
**To:** Heffelfinger, Sheri  
**Subject:** FW: Public Defender meeting

Sheri,

Below is an e-mail I sent to the counties yesterday. Thank you for your follow up e-mail this morning. It looks like we will have our conference call tomorrow at 1:00 to discuss their options and what information they will present to the committee. I plan to take less than 5 minutes at the beginning of the sub-committee meeting in order to allow as much time as possible for the counties to make their case.

Harold

-----Original Message-----

**From:** Blattie, Harold  
**Sent:** Sunday, July 16, 2006 2:15 PM  
**To:** Blattie, Harold; 'John Ostlund'; Beltrone, Peggy; Cascade, Briggs; Cascade, Hand; Cascade, Olson; Flathead, Brenneman; Flathead, Hall; Flathead, Pence; Gallatin Finance, Blackman; Gallatin, Harris; Gallatin, Murdock; Gallatin, Skinner; Gallatin, Vincent; Lewis & Clark, Alles; Lewis & Clark, Everson; Lewis & Clark, Murray; Lewis & Clark, Tinsley; Lewis & Clark, Varone; Missoula, Bickell; Missoula, Carey; Missoula, Curtiss; Missoula, Dussault; Missoula, Evans; Missoula, Stoll; Yellowstone, Brooks; Bill Kennedy; Jim Reno; Scott Turner  
**Cc:** phanopepla@aol.com; Wood, Sheryl  
**Subject:** Public Defender meeting

It appears that neither date for an in-person meeting is going to work for everyone. The response was about half and half, so we'll try another approach.

Sheryl and I were invited to attend a meeting that involved the Court Administrator's Office, Legislative Services and the Budget Office late last week. As a result of that meeting, I do not feel that an in-person meeting would accomplish anything and that we can take care of everything via a conference call. I would like to get it done this week and looking at our calendar will offer the following as possible times that we could make work.

Tuesday - anytime  
 Wednesday - 10:00 to 11:30 or anytime after 1:30  
 Thursday - anytime

Please let me know ASAP if any of these times just cannot be made to work to allow at least one representative from each county to participate. We are not going to find a perfect time so it is a case of selecting the lesser of the evils.

A bit more.... the reason I wanted to bring everyone to Helena was to show you the documents going back to 2001 that led us to where we are today, but have decided that doing so will not accomplish anything that cannot be conveyed via conference call. As a result of the meeting Sheryl and I attended, it appears that there are basically five proposals on the table, with two being new.

1. Use the **average amount** from the audits for justice and district court PD costs. This is one of the

options presented to the Interim Committee in Butte by staff.

2. Use the **2004 amounts** from the audits for justice and district court PD costs . This is the other option previously presented by staff.
3. (New) Use the **2001 amounts** only. The reasoning behind this is that SB 176 (original district court assumption) used FY 2001 data.
4. (New) Use the **2001 amounts for the "district court" component and the 2004 amounts for justice court PD costs**. The reasoning behind this is that the 2001 costs for district court were used for all counties under the original district court assumption, and that the 2004 costs for justice court were used for all counties in the Public Defender Bill, SB 146.
5. Using **2004 Justice Court Public Defender Costs only**, adjusted for inflation and the added per-capita amount, which is the same as was used for the other 50 counties and was agreed to support by all of you earlier.

The amounts that were in the original version of the Public Defender bill contained two componenets. The first was for the costs of PD services in justice court and was based upon the data that counties provided to me. The second was an amount that was added by LFA based upon a survey conducted by them of counties that provided PD services with staffed offices. They did not feel that the original amounts used as the offset for the Entitlement Share for district court assumption gathered all of the PD costs. This is the componenet of the total amount that has been in dispute for about two years and as a result of that dispute, the legislature decided that conducting audits of the costs would be warranted. The table below shows the **original amounts that were used as the basis** for the amounts in SB 146 and is an extraction from data compiled by the Legislative Fiscal Analysts office. These original justice court PD costs were subsequently grown for inflation and there was also a per-capita factor added. This applied to all counties.

<b>PUBLIC DEFENDER MONTANA JP AND DISTRICT COUNTY COSTS</b>				
<b>County</b>	<b>JP Courts:</b>	<b>District Courts:</b>	<b>Total</b>	
	<b>MACo Survey</b>	<b>Public Defender Offices</b>		
			<b>Costs</b>	
7.Cascade County	85,752	58,000	143,752	
15.Flathead County	26,406		26,406	
16.Gallatin County	50,683	155,162	205,845	
25.Lewis and Clark County	101,549	129,995	231,544	
32.Missoula County	137,844	150,000	287,844	Note 1
56.Yellowstone County	94,035	150,000	244,035	Note 2

Note 1: Estimated costs - no actual data from the county for District Court cost..

Note 2: Estimated cost by Yellowstone County.

Back to the "Options". The tables below show the impact for each option described above. **Please note the difference in what is shown in the table above for the SB 146 amounts and the tables below.** The table above does not reflect the inflation amounts, nor the per-capita amounts, that were added to the 2004 Justice Court PD costs to determine the amount hard-coded into SB 146, nor does it show the reduction that Missoula County was able to successfully argue to the Committee during the 2005 Legislative Session. The table below shows what the changes would be using the amounts in the audit findings and various options as I outlined earlier.

<b>CHANGE IN ENTITLEMENT SHARE REDUCTION USING FY-2004 (JC and DC PD Costs)</b>			
<b>Option # 1</b>			
COUNTY	SB 146 REDUCTION	AUDIT FINDINGS FY-2004	ADJUSTMENT
CASCADE	\$157,151	\$77,198	(\$79,953)
FLATHEAD	\$33,655	\$39,080	\$5,425
GALLATIN	\$222,029	\$258,096	\$36,067
LEWIS AND CLARK	\$247,886	\$160,812	(\$87,074)
MISSOULA	\$172,600	\$210,511	\$37,911
YELLOWSTONE	\$266,644	\$367,326	\$100,682
<b>TOTAL</b>	<b>\$1,099,965</b>	<b>\$1,113,023</b>	<b>\$13,058</b>

<b>CHANGE IN ENTITLEMENT SHARE REDUCTION USING FY-1998 through 2004 (JC and DC PD Costs)</b>			
<b>Option # 2</b>			
COUNTY	SB 146 REDUCTION	AUDIT FINDINGS 1998 - 2004 AVG.	ADJUSTMENT
CASCADE	\$157,151	\$182,771	\$25,620
FLATHEAD	\$33,655	\$41,565	\$7,910
GALLATIN	\$222,029	\$140,001	(\$82,028)
LEWIS AND CLARK	\$247,886	\$90,481	(\$157,405)
MISSOULA	\$172,600	\$284,118	\$111,518
YELLOWSTONE	\$266,644	\$357,916	\$91,272
<b>TOTAL</b>	<b>\$1,099,965</b>	<b>\$1,096,852</b>	<b>(\$3,113)</b>

<b>CHANGE IN ENTITLEMENT SHARE REDUCTION USING FY-2001 (DC PD COSTS)</b>			
<b>Option # 3</b>			
COUNTY	SB 146 REDUCTION	AUDIT FINDINGS FY-2004	ADJUSTMENT
CASCADE	\$157,151	\$135,782	(\$21,369)
FLATHEAD	\$33,655	\$28,487	(\$5,168)
GALLATIN	\$222,029	\$99,127	(\$122,902)
LEWIS AND CLARK	\$247,886	\$84,939	(\$162,947)
MISSOULA	\$172,600	\$340,261	\$167,661
YELLOWSTONE	\$266,644	\$267,609	\$965
<b>TOTAL</b>	<b>\$1,099,965</b>	<b>\$956,205</b>	<b>(\$143,760)</b>

CHANGE IN ENTITLEMENT SHARE REDUCTION USING FY-2001 (DC PD COSTS) AND FY-2004 (JC PD COSTS)			
Option # 4			
COUNTY	SB 146 REDUCTION	AUDIT FINDINGS FY-2004	ADJUSTMENT
CASCADE	\$157,151	\$127,987	(\$29,164)
FLATHEAD	\$33,655	\$39,754	\$6,099
GALLATIN	\$222,029	\$68,122	(\$153,907)
LEWIS AND CLARK	\$247,886	\$80,698	(\$167,188)
MISSOULA	\$172,600	\$364,217	\$191,617
YELLOWSTONE	\$266,644	\$290,140	\$23,496
<b>TOTAL</b>	<b>\$1,099,965</b>	<b>\$970,918</b>	<b>(\$129,047)</b>

SUMMARY OPTIONS 1 THROUGH 4				
	Option # 1	Option # 2	Option # 3	Option # 4
CASCADE	(\$79,953)	\$25,620	(\$21,369)	(\$29,164)
FLATHEAD	\$5,425	\$7,910	(\$5,168)	\$6,099
GALLATIN	\$36,067	(\$82,028)	(\$122,902)	(\$153,907)
LEWIS AND CLARK	(\$87,074)	(\$157,405)	(\$162,947)	(\$167,188)
MISSOULA	\$37,911	\$111,518	\$167,661	\$191,617
YELLOWSTONE	\$100,682	\$91,272	\$965	\$23,496
<b>TOTAL</b>	<b>\$13,058</b>	<b>(\$3,113)</b>	<b>(\$143,760)</b>	<b>(\$129,047)</b>

\* (Negative numbers) indicate a REDUCTION in the amount offset - GOOD

Positive numbers indicate and INCREASE in the amount offset - BAD

This is not intended to imply that these are the only options, just those that have been presented for consideration, other than Option #5 which is what was agreed to support by all of you and presented to the Interim Committee in Butte using **only Justice Court PD costs**.

The table below shows the Justice Court PD Actual 2004 costs, with the adjustments for inflation and the per-capita amount that was added to determine the Justice Court component of the offset in SB 146. **The amounts in this table shows what was used in SB 146, not the amounts from the audits.** I apologize for the columns not lining up correctly. It is because the I used an existing table which lost some formatting in the cut and paste process but I think you can still see the amounts.

SB 146 PUBLIC DEFENDER COST ALLOCATION							
County	Population	ACTUAL UNALLOCATED		TOTAL JUSTICE CT COST	FY-05 Growth at 2.68%	FY-06 Growth at 2.49%	SB 146 FY-06 DEDUCTION
		FY-04 COST PER AUDIT	FY-04 COST (Pop X \$0.070128)				
Cascade	79,561	\$6,175	\$5,579	\$11,754	\$315	\$301	\$12,370
Flathead	79,485	\$31,572	\$5,574	\$37,146	\$996	\$950	\$39,091
Gallatin	73,243	\$21,711	\$5,136	\$26,847	\$720	\$686	\$28,253
Lewis And Clark	57,137	\$94,333	\$4,007	\$98,340	\$2,636	\$2,514	\$103,490
Missoula	98,616	\$147,647	\$6,916	\$154,563	\$4,142	\$3,952	\$162,657
Yellowstone	133,191	\$94,046	\$9,340	\$103,386	\$2,771	\$2,643	\$108,800

TOTAL								
Population & Costs	521,233	\$395,484	\$36,553	\$432,037	\$11,579	\$11,046	\$454,662	

**The table below shows Justice Court PD costs from the audits.** Note they are significantly different from what each county reported to me in 2004 that became the amounts used in SB 146. I have no explanation for this significant difference. Perhaps each of you may know what the auditors picked up and what methods they may have used, which is information I do not have. I draw your attention to this difference because you may be asked to explain the difference.

The table below shows what the adjustment would be if **only justice court PD costs from the audit findings** are used. Using ONLY 2004 Justice Court costs would represent the position that you agreed to take, and what was presented to the Interim Committee in Butte. This would be the best option for all counties. However, based upon the meeting that Sheryl and I attended last week, you need to know that convincing the committee to use this amount will be an uphill battle of the first magnitude because I think there is a general belief that the audits demonstrated that the **amount for district court PD costs were under reported in 2001.**

CHANGE IN ENTITLEMENT SHARE REDUCTION USING FY-2004 JC PD COSTS FROM AUDIT			
Option # 5			
COUNTY	SB 146 REDUCTION	AUDIT FINDINGS FY-2004	ADJUSTMENT
CASCADE	\$157,151	\$6,175	(\$150,976)
FLATHEAD	\$33,655	\$31,572	(\$2,083)
GALLATIN	\$222,029	\$21,711	(\$200,318)
LEWIS AND CLARK	\$247,886	\$94,333	(\$153,553)
MISSOULA	\$172,600	\$147,647	(\$24,953)
YELLOWSTONE	\$266,644	\$94,046	(\$172,598)
<b>TOTAL</b>	<b>\$1,099,965</b>	<b>\$395,484</b>	<b>(\$704,481)</b>

Because each option affects each county differently, MACo cannot take a position on any of the options, other than #5, using 2004 justice court PD costs only, because it was a position that all counties involved agreed to support. I believe all of you understood that this would be the best outcome possible but that it may not be realistic and that you may have to consider "Plan B" whatever that may be and that MACo will not take any position that will be a conflict between counties.

I know this is quite lengthy but I wanted to try to explain the various options and some of the rationale of each so that you can be better prepared to discuss when we have the conference call. If you have any questions, or want to make comments, use the "reply to all" function or if it is something that concerns only your county, please give me a call and I will attempt to answer.

I will send you the agenda tomorrow for the sub-committee meeting on August 7th. It will be held at the MACo Conference room. The agenda has from 8:30 until noon for each county to present your case with a brief amount of time for me to lead off. This will allow

each of you approximately 30 minutes to present your arguments and to respond to any questions the committee members may have of you. Following lunch they will have questions from the committee for invited state agencies and will then move to their decisions in mid-afternoon. Whatever decisions they make will then be presented to the full committee during thier August 31st meeting. These decisions on the offset amounts for each county will be very difficult to change, so it is critical that provide clear and accurate information , along with supporting documentation during your 30 minute time-slot.

Harold Blattie, MACo Executive Director