



Montana Legislative Services Division
Legal Services Office

TO: Task Force on State Public Defender Operations

FROM: Julie Johnson, Legal Services Office

RE: Statutory Separation of Public Defender Offices (46, A)

DATE: May 11, 2016

At the February 2016 meeting, I was asked how to statutorily separate the following entities:

- Public Defender Commission (PDC)
- Office of State Public Defender (OPD)
- Office of Appellate Defender (OAD)
- Conflicts Coordinator Office (CCO)

Currently, these entities each have separate budgets and are independent from each other, except that the Public Defender Commission is charged with supervising and directing the public defender system under § 47-1-105, MCA. However, the OPD, OAD and CCO are all independent from each other.

There is only one statute that requires some interdependence between the offices. This statute requires the chief appellate defender to confer with the chief public defender on budgetary requests. Section 47-1-205(3)(i), MCA, provides:

Office of appellate defender -- chief appellate defender.

(3) The chief appellate defender shall:

- (i) confer with the chief public defender on budgetary issues and submit budgetary requests and the reports required by law or by the governor through the chief public defender.

Legislation could be enacted to remove this subsection from the list of the chief appellate defender's duties in order to completely statutorily separate the three offices.