

October 1, 2003

# *Is This Equal Justice?*

## *2003 Supplement Report*

*By Kristine Constans  
Human Resources Manager  
Metropolitan Public Defender*

### **Reality At MPD**

The last eighteen months have been filled with economic uncertainty, job insecurity, military involvement in foreign countries, and the threat of terrorism. During this time, the employees of the Metropolitan Public Defender (MPD) pulled together to keep the office operational.

During a time when many firms laid off workers, MPD did not. MPD's "survival plan" going into 2003 included a hiring freeze for ten months and a 1% cost of living increase.

However, by Spring 2003 it became clear the "survival plan" was not enough. MPD's "team" philosophy overshadowed individual opinions and everyone took at least two weeks of mandatory unpaid leave. We preserved jobs for the overall good of the office.

Many employees believe the crisis has passed, but the reality may be more ominous. The compensation disparity between MPD and the Multnomah County District Attorney's office, coupled with the continued uncertainty of State Funding

indicates that MPD's biggest struggle may still be ahead.

Public Interest Law requires excellent critical thinking skills and demands a high level of quality work. How much longer will employees say that they stayed with MPD because it offered a challenging and rewarding career. Unfortunately, the level of compensation currently offered by MPD may no longer be adequate to sustain the current level of service.

Historically, people choosing a career in Public Interest Law did so not for the money but for the challenge. How much longer can Public Interest law firms such as MPD, survive when the only across the board cost of living increase since January 2000 was a 1% increase effective the first of January 2003. At some point, reduced pay is so low that having a challenging and rewarding career is wiped out by economics.

Even though some employees receive annual step increases, 82% of management, 49% of support staff, and 18% of attorneys are at

Comparing wages between the largest Oregon Public Defense firm and the largest Oregon District Attorney's office continues to be a valid base of comparison.

(Continued from page 1)

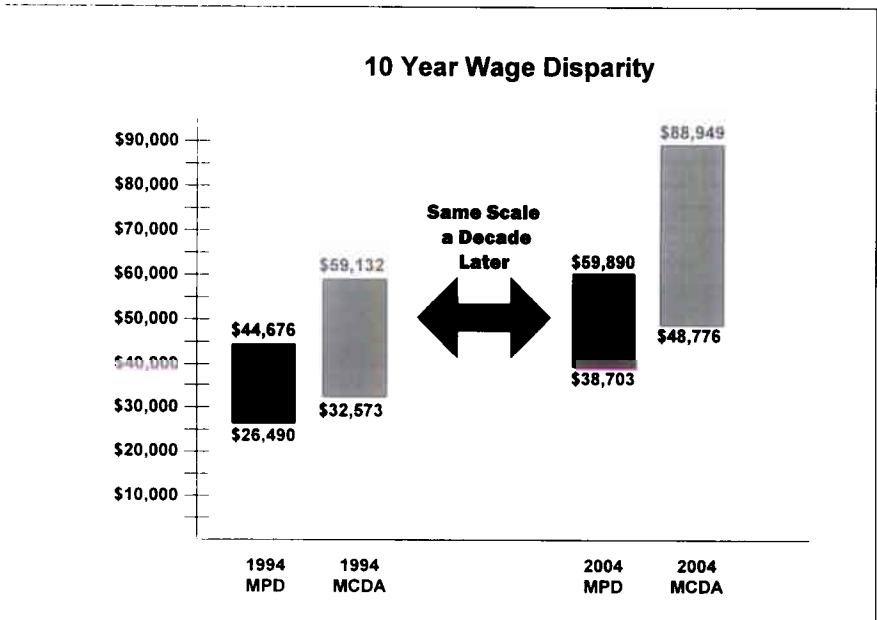
the top of the wage scale and do not receive step increases.

Not only does the economic crisis affect MPD's ability to recruit employees, it also affects how long an employee stays with MPD. Equally important, it adversely affects MPD's ability to recruit a diverse staff.

Over 10 years time, a District Attorney will make at least \$127,594 more than an MPD attorney

### Wage Disparity

Wage disparity between the Metropolitan Public Defender (MPD) and the Multnomah County District Attorney (MCDA) has existed for many years. Using the Attorney wage scales, the following graph shows MPD's 2004 wage scale is virtually the same as the 1994 wage scale at MCDA.



Unfortunately, the disparity has only gotten worse. In 1992, a Deputy District Attorney's starting wage was 19.4% higher than at the Metropolitan Public Defender. In 2000, the differential was

21.3% and as of July 2003, the difference grew to a record 26%.

If you take into consideration that 75% of MCDA's attorneys have been with the firm for more than five years, the actual wage disparity is greater than 26%. The average annual salary for an attorney at MPD is \$47,260. The average annual salary for an attorney at MCDA is \$65,375 a difference of \$18,115 or 38.3%.

Employees of MCDA have a far richer benefit package than a private non-profit like MPD can provide. So without taking into consideration benefit plans or any further cost of living increases, an entry level attorney hired by the Multnomah County District Attorney's office will make \$127,594 more over the next decade than an equally qualified attorney working at the Metropolitan Public Defender's office.

The following outside factors are

### Outside Influences

strong influences on the future of recruiting and retention at MPD: affordable housing, utility costs, insurance premiums, debt and retirement planning. The reality is many employees at MPD must work two jobs or rely on someone else's income to make ends meet.

### Access to affordable housing

The federal standard for affordable housing indicates that rental costs should be no more than 30% of a renter's income.

That being said, the study by the National Low Income Housing

## Heating Costs

Coalition reports that a worker earning the federal minimum wage must work the equivalent of nearly 3 full-time jobs to afford the average two-bedroom apartment.

According to the department of Energy, the price of natural gas is expected to rise 16%. Electric heat will cost more too since some suppliers use natural gas for generating electricity. Rates in Oregon will increase October 1, 2003.

## Home Insurance Premiums

According to the Insurance Information Institute (III), home insurance premiums are expected to rise 8% to an average of \$615 per year. Additionally, many insurance companies are sending non-renewal notices canceling policies for customers who are too risky.

## Car Insurance Premiums

According to the Insurance Information Institute (III), car insurance premiums are expected to rise 6% to an average of \$898 per year, per vehicle. Insurers blame the rising cost of medical care, vehicle repair, and the rise in jury awards in liability cases. Auto theft and insurance fraud also play a part.

## Health Insurance Premiums

Health insurance premiums are increasing by double digits throughout the US and across different types of insurance plans (i.e. HMO, POS, and PPO). The Kaiser Family Foundation recently reported that their health insurance premiums are expected to rise 14%. The current trend is to pass the increased costs to the employee. Premiums have increased as well as deductibles, copayments and prescriptions.

### Basic Cost of Living is Increasing:

- Housing
- Heating
- Car Insurance
- Home Insurance
- Health Insurance
- Personal Income Tax

The news is not much better for Portland, OR. According to the Housing Authority of Portland, the average cost of a two-bedroom apartment in Portland runs \$990 per month.

So, if you use the federal standard for affordable housing, a person making minimum wage in Oregon (\$6.90 per hour) will have to work 111 hours per week to afford a two-bedroom apartment. Or you could say that a person who can only work 40 hours per week, needs to find a job paying \$19.05 per hour (\$39,624 per year).

Only 45% of all MPD staff make more than \$39,624 per year whereas 60% of the Multnomah County District Attorneys office is paid more than \$39,624.

Looking at it in reverse, 55% of MPD's employees must either get a second job or rely on a spouse, domestic partner, live with parents or have a roommate to share basic living expenses.

Potentially, any kind of interruption in an employee's monthly income, could cause them to choose between paying rent and paying for basic necessities such as food, healthcare and utilities.

Medical Costs at MPD are up 42% compared to wages which only increased 21.5%

(Continued from page 3)

High levels of college debt but Public Defenders are denied access to the loan forgiveness program utilized by District Attorneys.

Since January 2000, insurance premium increases have outpaced wage increases at MPD. The medical and dental premiums increased 42% while the average attorney wage at MPD increased only 21.5% (step increases and COLA included). To make matters worse, long term disability premiums are up 38% and basic life insurance is up 11%.

MPD covers employee only medical and dental costs. If an attorney got married and started a family, they would have the added burden of family insurance. In 2004, the cost to insure a family for medical and dental will be \$11,160, an increase of \$3275 per year.

Furthermore, MPD's Providence plan has had some major plan design changes. Covered employees must pay 50% of the cost of name brand drugs instead of a flat \$20 and must pay a 20% co-insurance for specialist care instead of a \$10 copayment.

### Education Costs

At one time, when you graduated from high school, you moved out of your parents home. Today, due to the cost of post-secondary education, adult children are still living at home while they obtain their bachelor and/or master degrees.

The 2002-2003 College Costs study prepared by the College Boards reports that four-year private college costs are up 5.8%

and four-year public college costs are up 9.6%.

Four years of tuition at a private college like Lewis and Clark in Portland, OR will cost at least \$98,744. If you attend Portland State University for four years the cost will be at least \$15,540.

An article in the NY Times dated September 12, 2003 titled "High Tuition Debts and Low Pay Drain Public Interest Law" clearly illustrates the continuing problem.

### Increased debt and bankruptcy

Research by the Federal Reserve indicates that household debt is at a record high relative to disposable income. Thus, high levels of indebtedness can increase the number of bankruptcies, which in turn can threaten the health of lenders if loan losses are greater than anticipated.

The American Bankruptcy Institute (ABI) reports that between 2000 and 2003 the non-business bankruptcy filings in Oregon are up 37%.

Many components of the criminal justice system qualify for loan assistance under the Federal Perkins Loan. Perkins loans cover both undergraduate and graduate educational expenses. The Department of Education guidelines indicate the borrower must meet two conditions: (1) work for a local, state, or federal agency that is publicly funded and its activities pertain to crime prevention, control, or reduction; and (2) the borrower's job must be essential to the agency's primary mission. This criterion is based on Sec.



(Continued from page 4)

465 (a)(2) (F) of the Higher Education Act of 1965, as amended. The rules governing borrower eligibility for cancellation are contained in Sec. 674.57 of the Federal Perkins Loan Program regulations. The definition includes activities of courts and related agencies having criminal jurisdiction; however, only state and local *Prosecutors* are eligible to have up to 100% forgiveness after five years of service. The Department of Education does not view *Public Defenders* as an “essential” component in the enforcement of criminal law.

However, this year a bill was introduced by Senator Richard J. Durbin, a Democrat of Illinois, to forgive loans of law school graduates who worked in prosecutors’ or public defenders’ offices for three years.

This loan forgiveness bill is a start but it doesn’t change the fact that this level of personal debt further aggravates MPD’s recruiting and retention levels and may lead MPD’s future workforce elsewhere unless we can achieve parity with MCDA.

### **Retirement**

Retirement is a three-legged stool consisting of social security, company pensions and personal savings. At least that’s true for the Baby Boomers who are nearing retirement.

The Social Security Administration’s web site reports that the worker-to-benefit ratio has fallen

from 16-to-1 in 1950 to 3.3-to-1 today. They estimate that within 40 years the ratio will be 2-to-1. At this rate, without changes to the program, there will not be enough workers to pay scheduled benefits. Without changes, the social security trust fund will be exhausted in 2042.

Company pension programs are also shifting. Workers once relied upon defined benefit plans but many firms are now changing to defined contribution plans.

Personal savings is the last retirement leg. Unfortunately we pay ourselves last and in many cases there is no money left to save given MPD’s wages and the outside factors discussed above.

It’s inevitable that the younger workforce in their 20s and 30s will be pushed into certain careers because of what it pays, not neces-

### **The Future of MPD**

sarily for its challenge or to make a difference in society.

The future of MPD is directly connected to erasing the wage disparity between District Attorneys and Public Defenders. Without change, Public Defenders will reach a breaking point where they will choose a career with more money over the challenge and reward of public service.

Eighteen months ago, 17% of MPD’s attorneys had at least 10 years of service. Now only 10% of MPD’s attorneys have at least 10 years of service.

The median length of service for

**55% of MPD’s employees must either get a 2nd job or rely on a spouse, domestic partner, live with parents or have a roommate to share basic living expenses.**

an attorney at MPD is three years. If our recruiting and retention rates stay relatively constant, two years from now the median length of service will be down to two years.

**Average salary  
for a  
District Attorney  
is 38.3% more  
than the  
average salary for  
a Public Defender**

It typically takes one year to get the criminal procedures down and a second year to attain the level of trial experience necessary to take on higher levels of cases. Without additional funding, in as little as two years time, MPD may reach a point where we can no longer provide the level of service the State has come to expect from us.

The news is very different at the Multnomah County District Attorney's office (MCDA). The fact that 75% of MCDA attorneys have worked there for more than five years directly correlates to the wages they offer, the number of steps on their wage scale and access to student loan forgiveness plans.

All of the factors discussed limit MPD's recruiting effort because in order for someone to accept a job with us, they are going to have to have access to another income to afford basic living expenses.

## **The Bottom Line**

We have asked employees to stay with us and help us through this economic crisis and in return we made every effort to keep their job in a time when unemployment in Oregon is at 8.5%. However, the boomerang effect will mean we lose more than the normal amount of staff when the economy turns around and Public De-



By Kristine Constans  
Human Resources Manager  
Metropolitan Public Defender

---

Attention: Kristine Constans  
Human Resources Manager  
630 SW 5th Ave Suite 500

Phone: 503-225-9100  
Fax: 503-295-0316  
Email: kconstan@mpdlaw.com

Without [counsel] though he be not  
guilty, [a defendant] faces conviction  
because he does not know how to  
establish his Innocence.  
*Gideon v. Wainwright* 372 US 335 (1963)

*Metropolitan Public Defender (MPD) is a private, not for profit law firm providing criminal defense for indigent clients. Established in 1971, MPD has offices in both Multnomah and Washington counties. MPD represents clients on misdemeanor, felony, civil commitment and juvenile matters. The caseload is high, the pace aggressive. We are committed to the concept of Team Defense as an effective method of providing qualified legal services. The nucleus of the defense team is an attorney, an investigator and a legal assistant. MPD has been recognized nationally for its methods of utilizing support staff to increase the efficiency and adequacy of attorney representation. MPD also has pioneered the effort to locate and utilize alternatives to incarceration. MPD helped establish a drug diversion court as well as several community courts.*

---

WE'RE ON THE WEB!  
[WWW.MPDLAW.COM](http://WWW.MPDLAW.COM)

---

**This report was prepared for**

**Jim Hennings  
Executive Director  
Metropolitan Public Defender**

**And**

**The Office of Public Defense Services, OR**

**October 1, 2003**