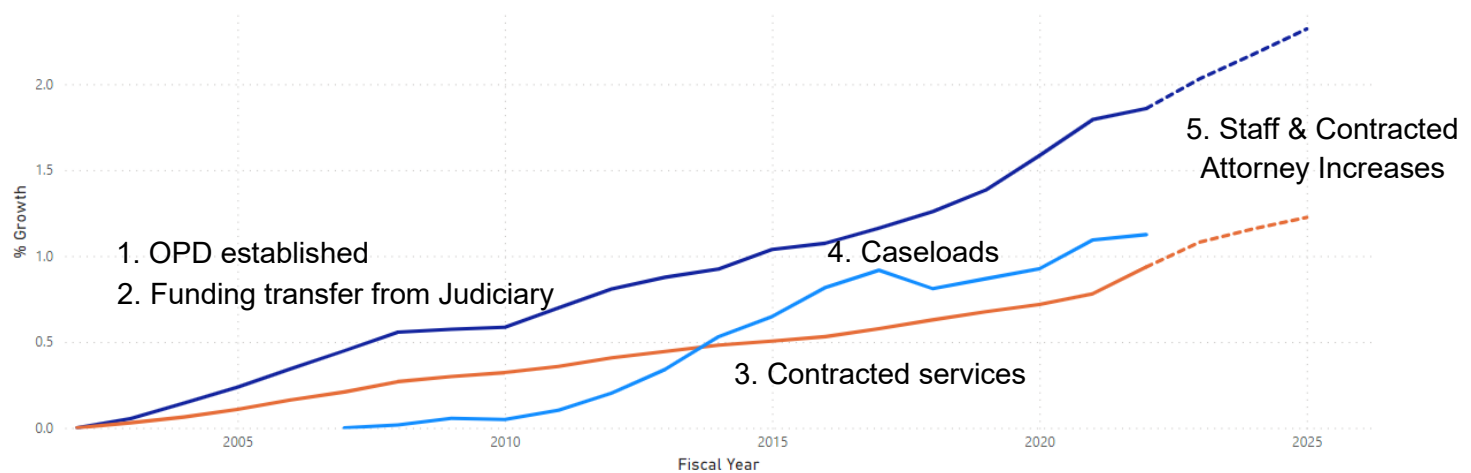


Office of Public Defender

The chart shows the growth in state resource expenditures compared to the growth in personal income and growth in inflation.

● MT Personal Income Growth ● CPI Adjusted for Population ● State Resources Growth



This report includes a series of charts that compare state resource expenditure growth to the growth in personal income and growth in inflation adjusted for population. Montana statute, 17-8-106, MCA, recommends using growth in personal income for comparison purposes. Personal income is a measure for growth in the economy. Comparing growth allows financial planners to consider past and future demands in services or changes in revenues.

The following list discusses in more detail the inflection points on the charts:

1. The Office of Public Defender (OPD) was established in 2006 through SB 146. 5.50 FTE in 2006 and 20.00 FTE in FY 2007 were added to manage and administer the system. 3.00 FTE and \$205,261 general fund were added to the Appellate Defender agency beginning in FY 2007.
2. In FY 2007 1.50 FTE and \$8.1 million general fund were transferred from the Judiciary, and 42.00 FTE attorneys and 23.75 FTE support staff were transferred from local governments. In the 2009 biennium, funding was \$5.6 million greater than in FY 2007, including an additional 102.25 FTE as outlined in the strategic plan adopted by the Public Defender Commission for anticipated caseload increases.
3. The Office of Public Defender was \$8.4 million higher in the 2015 biennium due to contracted services, attorney career ladder adjustments to address attorney turnover, and funding for 8.00 FTE to address caseload impacts.
4. In FY 2016 and FY 2017, there was an increase of \$11.2 million due to the approval of 26.40 FTE to address caseloads, a market adjustment for staff, increase in funds for contract attorneys, and 1.00 FTE to address caseload issues in the Appellate Defender. In 2017, the Legislature passed HB 77, eliminating the Public Defender Commission and creating a director position in OPD.

5. In FY 2022, OPD reached an agreement with the Public Defenders Union to increase the salaries for public defender attorneys. The highest increases were directed to new hires, but existing staff attorneys were also given raises. OPD also increased the rates for contracted attorneys. To finance the increases, OPD expended \$238,361 of general fund appropriation from SB 191 and expended \$649,386 of a fiscal transfer from the FY 2023 budget. The additional FY 2022 funding was directed to personal services costs, while operating costs for contracted attorneys were increased through budget modifications.

General fund

The Office of Public Defender is currently funded with general fund. As shown in the above chart, the Office of the Public Defender's general fund growth exceeds inflation adjusted for population beginning in 2013. Between FY 2006 and FY 2022, OPD received supplemental appropriations 11 times in the 16 years, with the last request occurring in FY 2019. Supplemental appropriations were used to cover shortages in the following areas of the budget: costs of the new system exceeded the level anticipated, anticipated budget shortfalls, contract costs, and the cost of modified FTE attorney positions during the biennium.

State special revenue

In the past, the Office of Public Defender received state special revenue from defendant fees as a reimbursement for services. The amount of state special revenue the agency received accounted for a small percentage of the overall budget. As of 2019 biennium, the Department of Revenue is collecting these fees, and the Office of Public Defender is entirely funded by general fund.