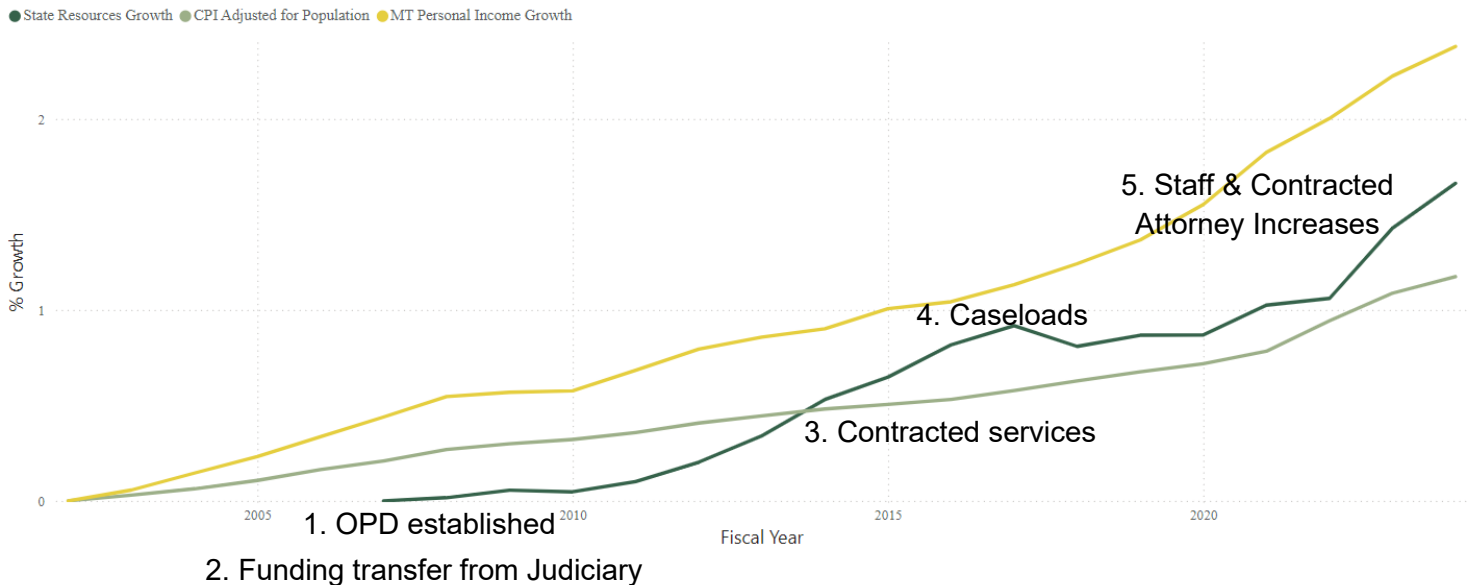


Office of Public Defender

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



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 Office of State Public Defender (OPD) is almost entirely funded through the general fund. The primary reason for changes in the expending of state resources by the OPD is a result of changes to caseload. Both additional authority to hire contracted attorneys and additional budgeted FTE have been provided on occasions in the last 20 years. Regardless, the OPD is usually in a position requesting supplemental funding by the end of each biennium. The following list discusses the inflection points on the charts in more detail:

1. The OPD was established in 2006 through SB 146. A total of 5.50 FTE in 2006 and 20.00 FTE in FY 2007 were added to manage and administer the system. An additional 3.00 FTE and \$205,261 general fund were added to the Appellate Defender Division 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 attorney positions 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. Expenditures from state resources in the Office of Public Defender were higher in the 2015 biennium due to increased 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 additional 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 Division. In 2017, the Legislature passed HB 77 eliminating the Public Defender Commission and creating a director position in OPD.

5. Increases in FY 2023 and FY 2024 both follow a similar pattern. In FY 2023, supplemental funding totaling \$7.0 million was needed to over shortfalls related to paying contracted attorneys. In FY 2024, the OPD received an additional 8.00 FTE for attorney positions and an additional \$300,000 for paying contracted attorneys. Even with these additional resources, the OPD over expended its FY 2024 appropriation and needed \$5.3 million from FY 2025 authority to cover this shortfall.

General Fund

As stated above, the OPD is currently funded entirely with general fund. As shown in the above chart, the OPD's general fund growth exceeds inflation adjusted for population beginning in 2013. Between FY 2006 and FY 2023 OPD received supplemental appropriations 12 times in these 17 years. 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 attorney costs, and the cost of hiring 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 no longer has this authority in its budget.

