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PUBLIC DEFENDER**

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January 25, 2023

Joint Appropriations Sub-Committee Part D

Sent via email

Chair Mercer and Members of the Committee:

Thank you for the opportunity to appear before this committee and present the Office of State Public Defender's budget request. Please accept this document and three attachments as OPD's response to this Committee's requests during our budget hearing. Altogether, OPD's response consists of the following documents:

- This narrative response document;
- Raw Data Requests spreadsheet;
- Copy of the signed contract regarding the Billings Municipal Court; and
- OPD Agency Org Chart with Managing Attorneys and Program Managers

While we have done our best to include any contextual information or caveats to any of the data provided below, please consider the following global disclaimers:

- Most of the data provided is pulled from OPD's operational database and may vary from previously reported metrics, for the following reasons:
 - OPD's case management database is a living, breathing entity, and the underlying data may have changed since it was formally reported; and/or
 - OPD has been actively seeking to increase the accuracy of its data in a myriad of ways, including updating previously incorrect data or business processes mistakes.
- Please note that any data regarding the current, FY 2023 Biennium should be treated as operational and draft in nature until OPD provides its formal reporting for this Biennium later this calendar year.

I hope you find this response helpful as you consider our budget request, and I look forward to future discussions.

Best,

Brett Schandelson

Brett D. Schandelson

Director

Office of State Public Defender

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Agency Line Attorney Pay Plan

Attorney Experience (Years)	Old Negotiated Pay Ladder	May 2022 Negotiated Pay Ladder
0-1	\$65,104	\$76,856
1-2	\$71,563	\$81,163
2-3	\$78,563	\$85,441
3+	\$84,481	\$89,718

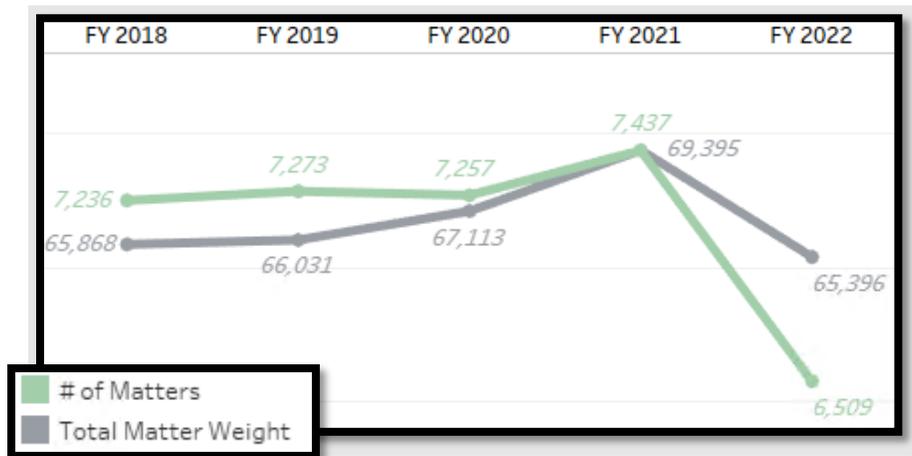
The table above shows the changes by years of experience between the prior negotiated attorney career ladder and the attorney career ladder negotiated in May 2022. In May 2022, in response to the worsening vacancy crisis OPD experienced in attorney positions, OPD entered negotiations with the attorney union to adjust attorney wages.¹ These adjustments have had a tremendous positive impact on OPD's FTE Attorney vacancies since they were implemented.

Percent of OPD-Appointed Misdemeanors where Jail Imposed

Unfortunately, OPD is not able to provide this data with any degree of confidence, for a variety of reasons. For dispositional reporting, OPD is severely limited by data entry time, resources, and accuracy, especially from contract attorneys. OPD is not the custodian of record of **any** dispositional information, is not required to track or report on dispositional information, and only tracks these data for operational purposes. All official reporting of dispositional information should come from the sentencing court directly. Other complicating factors include global dispositions resolving multiple matters together, credit for time served, and differences in local court practices.

¹ Pursuant to MCA § 2-18-303(3), all state employees received a separate 55 cent adjustment in November 2022.

Billings Area Courts New Filings

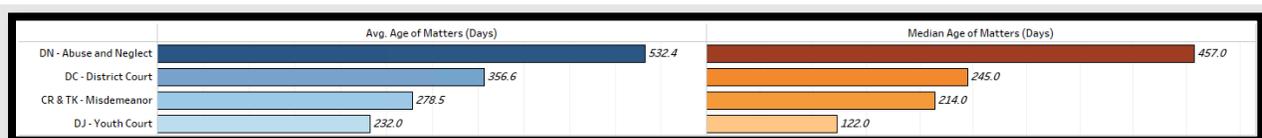


The chart above shows the overall new matter filings and associated matter weight in the Billings area courts by fiscal year received. Table #2 in the *Raw Data Requests* attachment shows all new filings in Billings Area Courts by Fiscal Year Received and Matter Type. To be included in these counts, a matter must meet all the following requirements:

- Matter must have been opened from FY 2018 to FY 2022
- Matter must be in the Thirteenth Judicial District Court, the Yellowstone County Justice Court, or the Billings Municipal Court

From these matters, a unique count of clients and matters is reported, as well as the total matter weight associated with these matters.

Age of Active Matters in Billings Area Courts



The chart above shows the average and median ages of active OPD assigned matters in Billings area courts by Active Month by OPD's highest volume matter types. Table #3 in the *Raw Data Requests* attachment shows the average and median age of matters in Billings Area Courts by Active Month for all matter types, and also includes a count of active matters. To be included in these counts, a matter must meet all the following requirements:

- Matter must have been an Open & Active Matter as of January 1, 2023
- Matter must be in the Thirteenth Judicial District Court, the Yellowstone County Justice Court, or the Billings Municipal Court

From these matters, the difference between the received date and January 1, 2023, is calculated, then the average and median days active by matter type has been reported.

Individuals Held in the Yellowstone County Jail on Only Misdemeanor Charges or Sentences

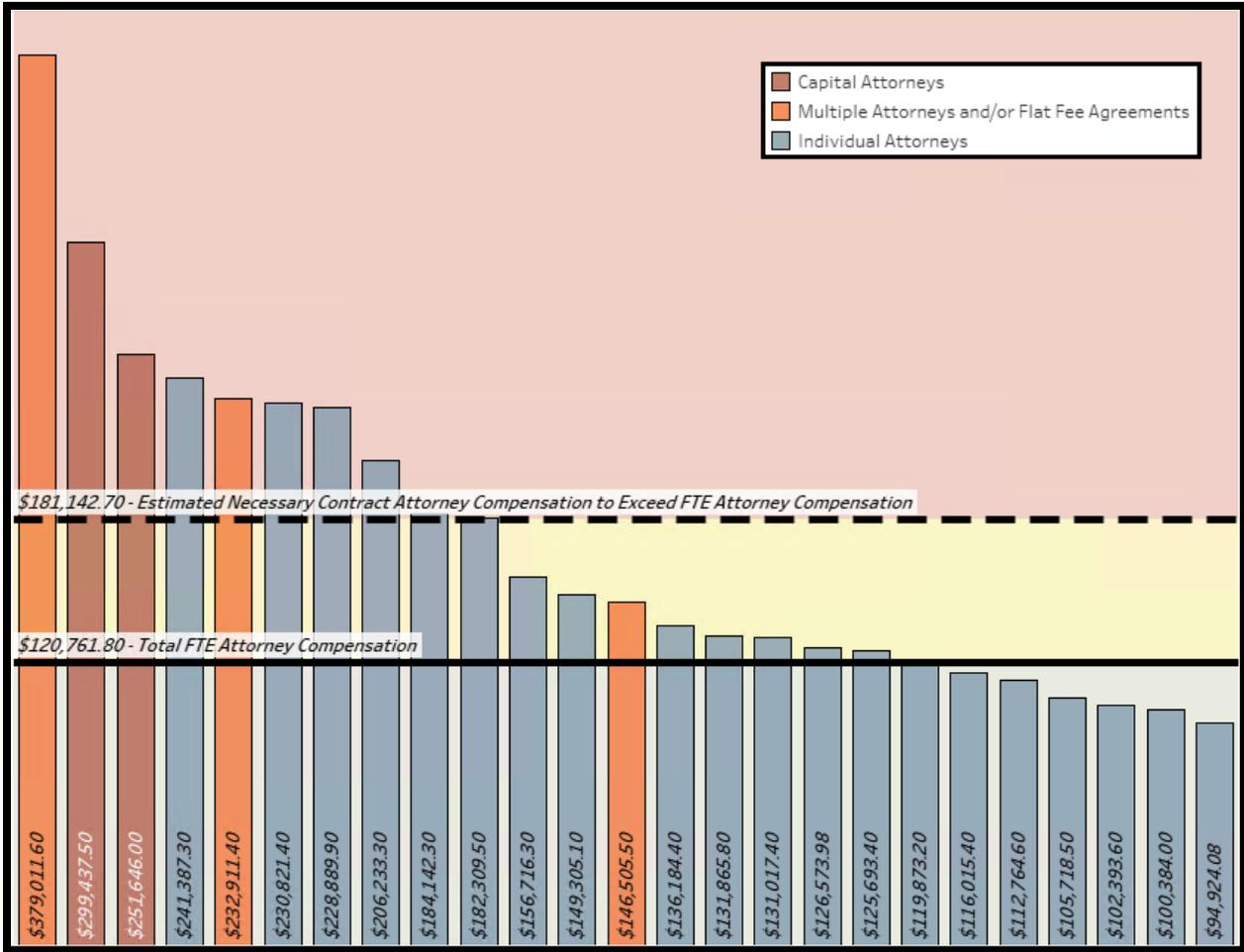
Unfortunately, OPD is not able to track incarcerated clients with any precision outside of Department of Corrections facilities, nor was the Yellowstone County Detention Center able to provide this information when requested. It would require an individual analysis of every inmate at the Detention Center to produce this data. The jail roster is publicly available by visiting the [Yellowstone County Detention Center](#) website and clicking “Inmate Search” on the left.

FTE and Contractor Compensation Discussion

Highest Career Ladder Line FTE Attorney Yearly Compensation			
Yearly Base Salary	\$90,854.40	Base Hourly Wage	\$43.68/hour
Worker’s Comp	\$402.57		
Retirement	\$8,789.56		
Social Security	\$5,943.00		
Medicare	\$1,389.85		
Health Insurance	\$12,648.00		
Unemployment	\$239.63		
Bar Fees	\$495.00		
Gross Yearly Compensation	\$120,761.8	Gross Hourly Wage	\$58.06/hour

The table above shows the total gross compensation breakdown for an OPD FTE Attorney at the highest career ladder base pay. Benefits *not* included in the wages above include:

- 10-11 paid holidays
- 12 days of paid sick leave
- 15 days of paid vacation
- Paid training days
- Longevity pay based on state employment, providing adjustments to base salary
- Leave accelerator based on state employment, providing additional paid time off



The chart above shows the total payments to the highest 25 contract attorney vendors for attorney work in FY 2022, together with an indication of whether the vendor handles capital cases, is a firm with multiple attorneys accepting assignments for OPD work or the vendor has a flat fee agreement (or both), or if the vendor is an individual attorney. Also indicated on this chart is the total gross compensation for an FTE attorney as well as the estimated total contract attorney compensation necessary for a vendor to *exceed* the total gross compensation for an FTE attorney after considering the tax and other effects of contract attorneys being independent contractors receiving a 1099 for their work performed for OPD. Further, as independent contractors, OPD does not pay for any overhead, training time, or licensing costs for independent contractors.

Table #4 in the *Raw Data Requests* attachment shows a variety of metrics for the highest earning contract attorney vendors. To be included in these metrics, expenditures must meet all the following requirements:

- Expenditures must be for vendors that are an OPD Contract Attorney with an assigned SABHRS Vendor ID
- Expenditures must have been submitted through OPD’s AdvOPD Contractor Portal
- Expenditures must have been incurred in or for FY 2022

From these expenditures, the total amount paid is summed by Vendor ID and reported with the breakdown of fee or cost type, the hours associated with the expenditures, the number of matters related to these expenditures, and various metrics related to these expenditures.

Of the 189 contract attorney vendors that were paid by OPD in FY 2022, 18 contract attorney vendors had total payment for attorney work that exceeded the total gross compensation of the highest paid FTE line attorney. Of these vendors, 3 had multiple attorneys performing OPD work or had a flat fee agreement, or both, and 2 of these vendors were working solely on capital matters. Of the remaining 13 individual contract attorney vendors, only 6 appear to have had payments for attorney work that would have earned them more total estimated net compensation than the highest paid FTE line attorney. Such earnings were achieved by these vendors carrying large caseloads and averaging 40 or more billable hours per week each week of the year.

OPD does not believe there is currently a material incentive, based solely on pay, for FTE attorneys to become contract attorneys.

OPD Misdemeanors Received by Fiscal Year

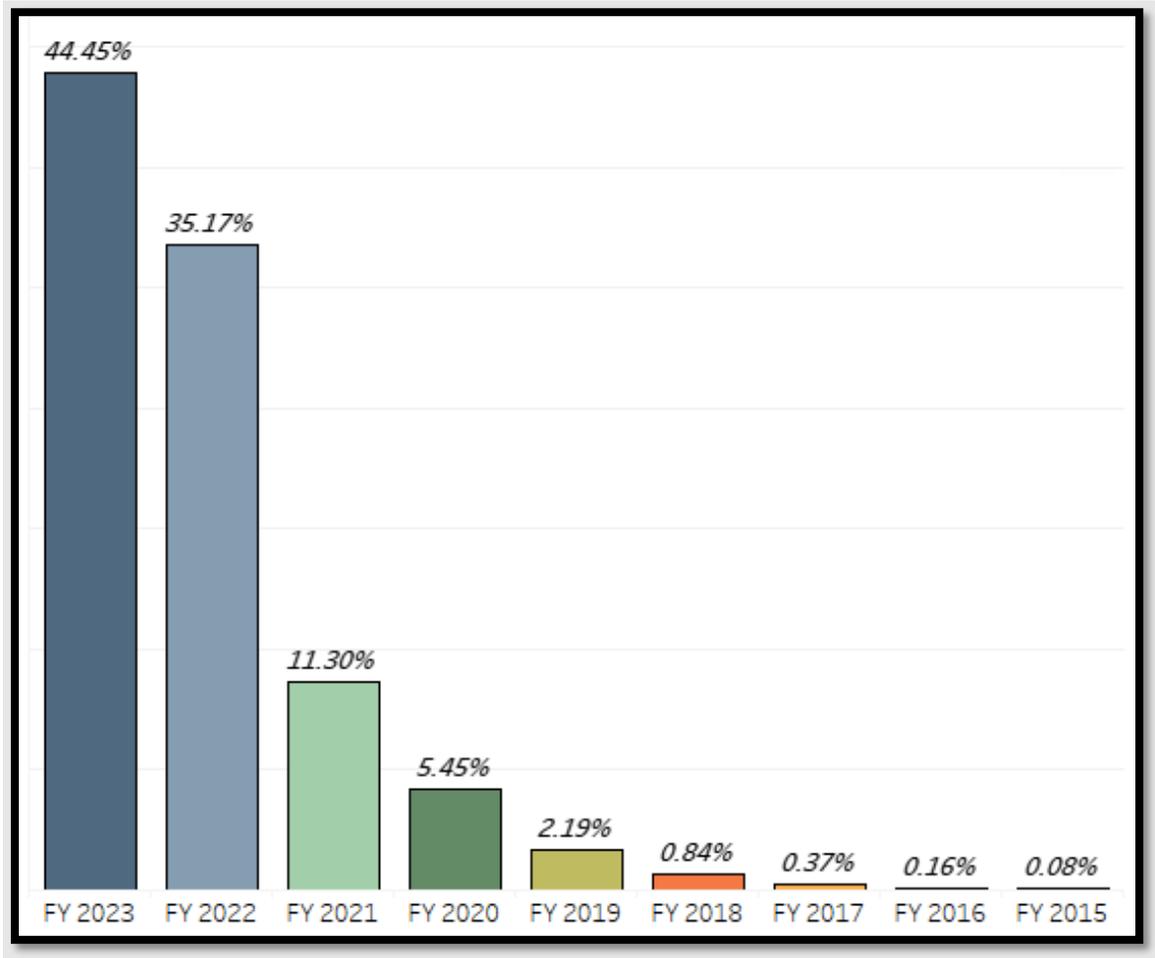
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
# of Matters	18,701	18,515	17,721	17,934	18,104
# of Charges	33,740	32,879	31,527	31,901	32,642
Total Matter Weight	114,302	110,520	108,758	111,863	117,496

The chart above shows the overall number of misdemeanors filed by fiscal year with the associated number of charges and total matter weight. Table #5 in the *Raw Data Requests* attachment shows the number of misdemeanor matters received by court and fiscal year, together with the number of charges and total matter weight. To be included in these counts, a matter must meet all the following requirements:

- Matter must have been received in FY 2018 to FY 2022
- Matter must be a “TK” or “CR” matter type (misdemeanor criminal or ticket cause number)
- Matter must be in a lower court

From these matters, a unique count of matters and charges related to these matters as well as the total matter weight is reported by fiscal year opened.

Active Matters by Fiscal Year Received

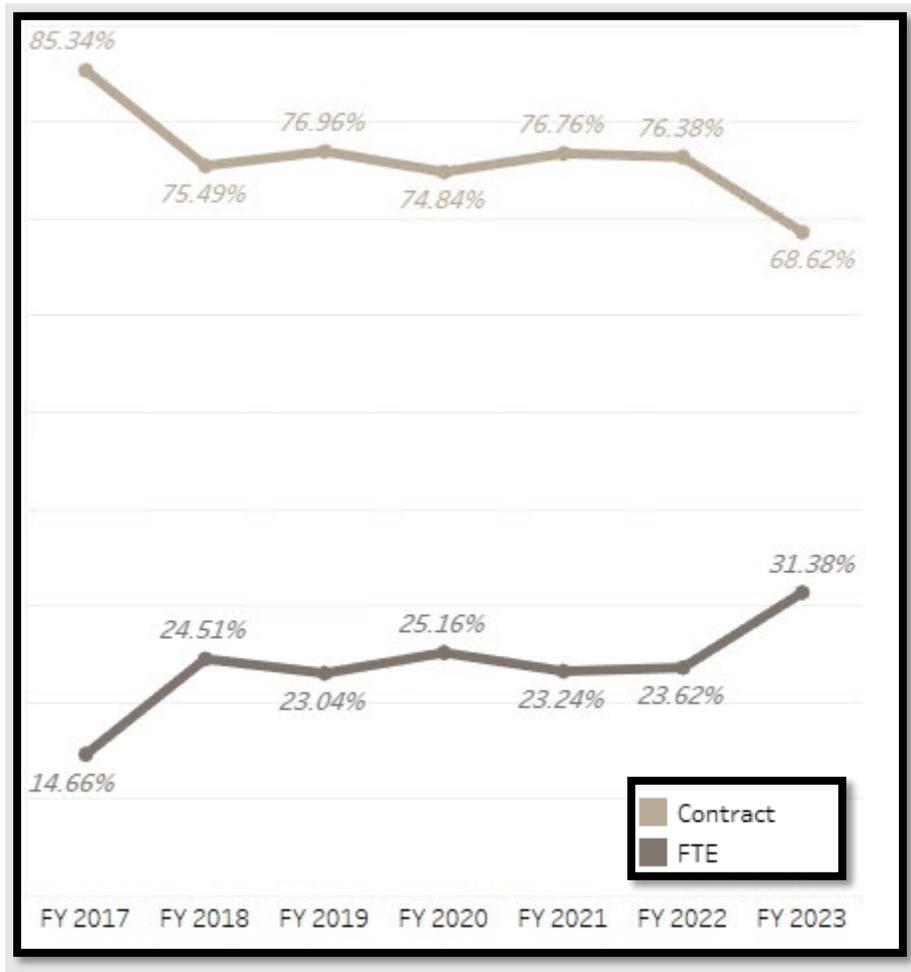


The chart above shows the percent of overall active matters by Fiscal Year Received. Table #6 in the *Raw Data Requests* attachment shows the number of matters, charges, and matter weight for matters currently active by court, matter type, and fiscal year received. To be included in these counts, a matter must meet all the following requirements:

- Matter must have been received in FY 2015 or later
- Matter must be in an “Active” status as of January 18, 2023

From these matters, a unique count of matters and charges related to these matters as well as the total matter weight is reported by court, matter type, and fiscal year opened.

Conflict Assignment Rate

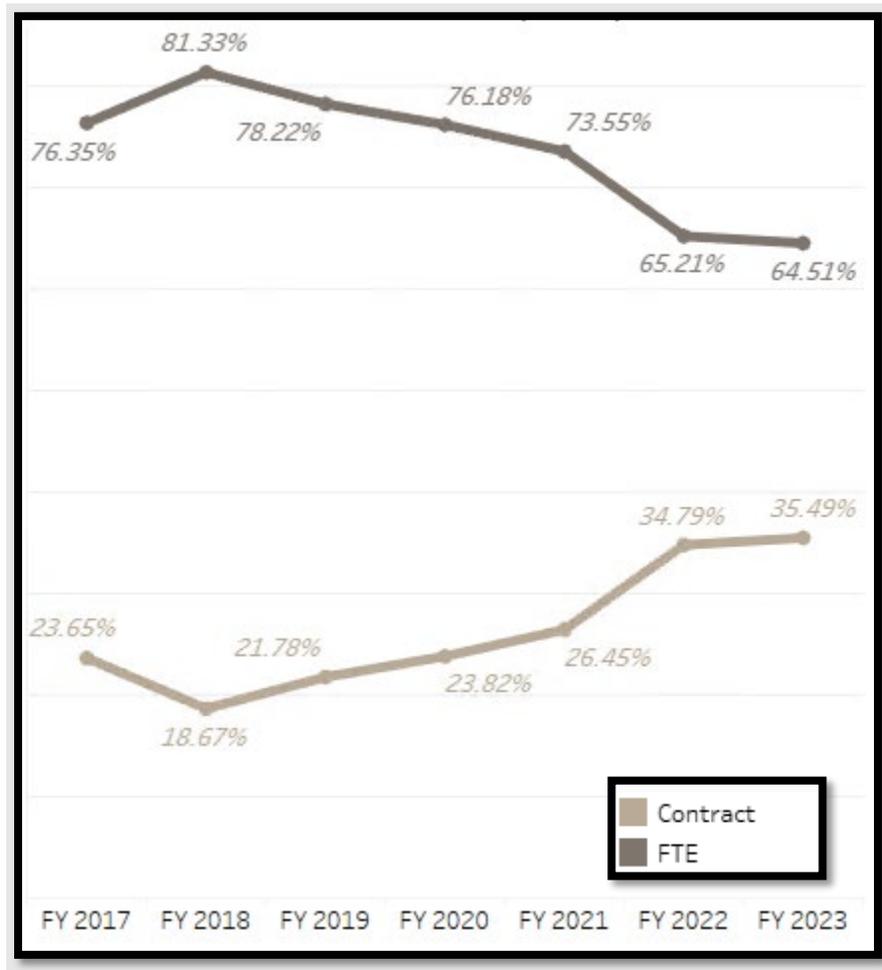


The chart above shows the rate of assignments to contracted counsel for conflict matters by fiscal year received. To be included in these counts, a matter must meet all the following requirements:

- Matter must have been received in FY 2017 or later
- Matter must be explicitly indicated as a "Conflict"

From these matters, a unique count of matters by fiscal year received is created, and then the percent of these matters assigned to FTE or contract counsel is calculated and reported. The initial increase in the FTE-assigned percentage in FY 2018 reflects the establishment of FTE staffing in the Conflict Division. The percentage has increase again in FY 2023 as the Conflict Division has approached full staffing post-Covid and OPD addressed assignment issues identified by the Legislative Audit.

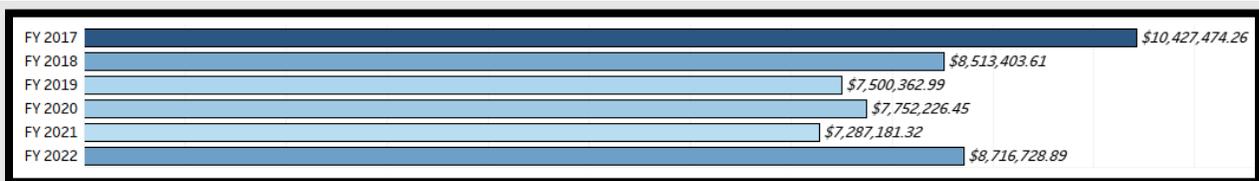
Contract Attorney Assignment Rates and Total Expenditures



The chart above shows the total rate of all assignments to FTE or contracted counsel by fiscal year. To be included in these counts, a matter must meet all the following requirements:

- Matter must have been received in FY 2017 or later
- Matter must have been assigned an FTE or Contract attorney

From these matters, a unique count of matters by fiscal year received is created, and then the percent of these matters assigned to FTE or contract counsel is calculated and reported.



The chart above shows the total expenditures incurred by OPD for Contract Attorney costs by fiscal year paid. To be included in this summation, expenditures must meet the following requirements:

- Expenditures must be in the SABHRS DataMine export
- Expenditures must be for Account Code 62109A, which is the account code used by OPD for contract attorney services

From these expenditures, all expenditures are summed and reported by fiscal year incurred.

Table #7 in the *Raw Data Requests* attachment shows the total expenditures incurred by OPD for Contract Attorney costs by fiscal year paid and vendor, and also includes an indication of whether the vendor handles capital cases, has multiple attorneys working for OPD under a single vendor, and/or have a flat fee agreement. To be included in this summation, expenditures must meet the following requirements:

- Expenditures must be reflected in the SABHRS Vouchers export
- Expenditures must be for Account Code 62109A, which is the account code used by OPD for contract attorney services

From these expenditures, all expenditures are summed and reported by vendor and fiscal year incurred.

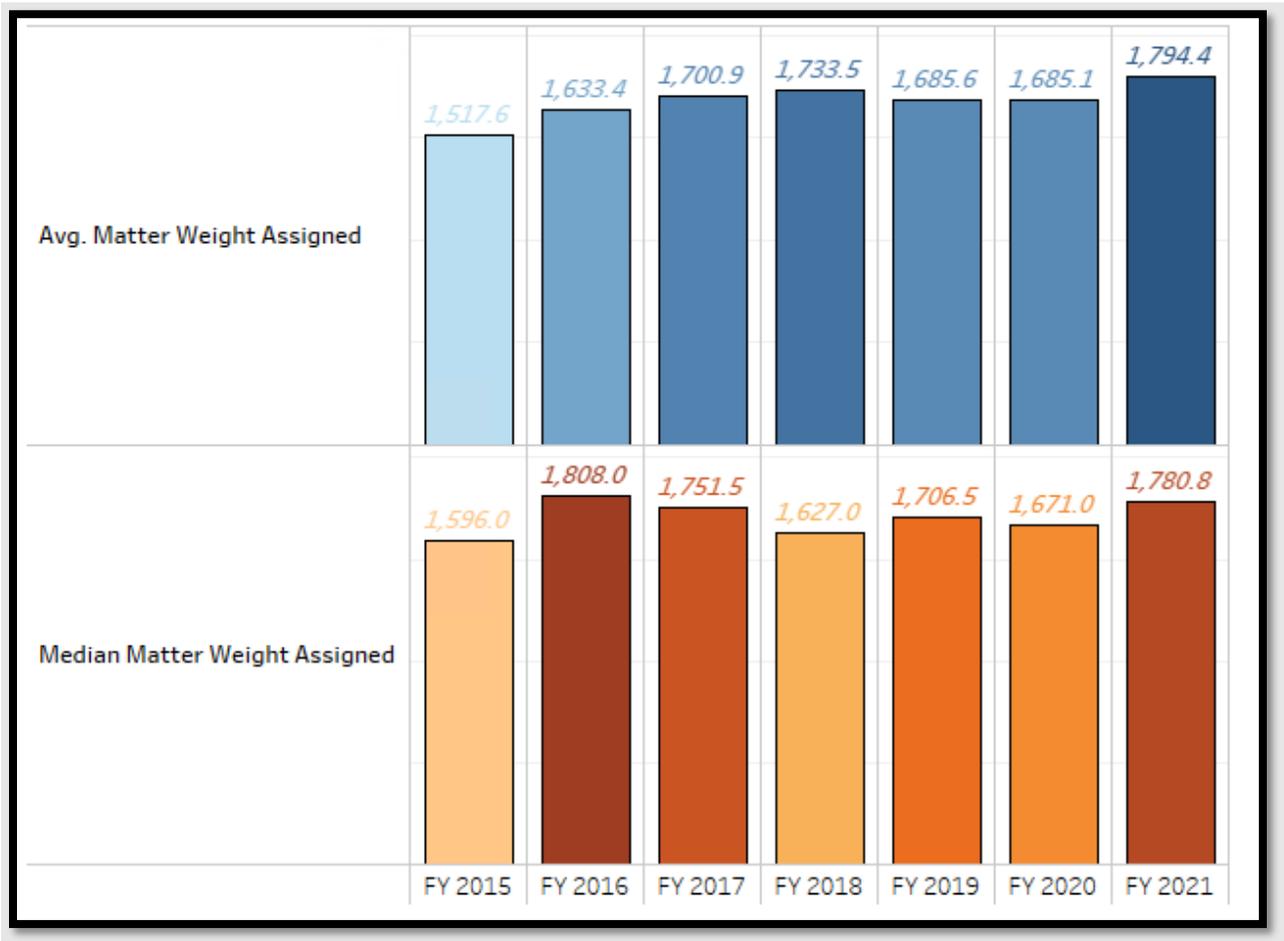
OPD assigns contract attorneys in a number of circumstances, including when a conflict of interest is identified, if there are no FTE attorneys available to accept the matter, if the client’s best interests are served by assigning a contract attorney, if the client has current pending matters assigned to a contract attorney, if the matter requires a specific kind of expertise that no available FTE attorney possess, among other reasons.

When comparing assignment rates or expenditures, it is important to note the following:

- The assignment rates to contract counsel will primarily be a direct reflection of the number of FTE attorneys OPD has available and the demonstrated gap between this number and the number of full-time attorneys necessary to handle the work.
- Expenditures for contract attorney matters will not rise and fall as rapidly as the assignment rate, as previously assigned matters must be worked by contracted counsel to completion.
- Also, a single vendor ID may be used by multiple attorneys associated together in a firm, so the expenditure totals may reflect the work of more than one attorney.
- Please note that vouchers may be paid in one fiscal year for work done in another, and therefore, the expenditures from the DataMine export may not reconcile by fiscal year to expenditures from the Vouchers export.

- Further, and in response to the Legislative Performance Audit Recommendations, OPD began allowing contract attorneys to obtain reimbursement for privately employed administrative staff under their attorney MOU at a rate of \$25/hour, which are also included in these totals.
- Additionally, it is important to consider the actual, objective contract attorney hourly rate in effect at various times. For the time periods reported here, the relevant rates are as follows:
 - FY 17: \$61/hour for professional hours and travel hours
 - FY 18: \$61/hour for professional hours and travel hours until April 1, 2018, then \$56/hour for professional hours and \$45/hour for travel hours
 - FY 19: \$56/hour for professional hours and \$45/hour for travel hours
 - FY 20: \$56/hour for professional hours and \$45/hour for travel hours
 - FY 21: \$56/hour for professional hours and \$45/hour for travel hours
 - FY 22: \$56/hour for professional hours and \$45/hour for travel hours until May 1, 2022, then \$71/hour for professional hours and \$45/hour for travel hours
 - Matters in Yellowstone, Carbon, Big Horn, and Stillwater received the \$71/hour professional and \$45/hour for travel adjustment in December 2021
- Also, overall expenditures will be heavily influenced by capital matters which command a much higher hourly rate. For example, the current rate for existing capital matters is \$195/hour. While still below the prevailing private market rate, the higher rate and volume of hours must be considered in this analysis.
- Finally, as OPD has navigated the last several years, it has been forced to turn to the private market for novel solutions to provide representation in areas where OPD doesn't have the FTE attorney resources to effectively staff all appointed matters in a timely fashion. While these solutions have been very effective in providing much needed representation where existing FTE and contracting resources can't and are less expensive than OPD would spend on a purely hourly basis, these solutions are significant line items within OPD's overall contract attorney expenditures.

FTE Attorney Assignments by Fiscal Year



The chart above shows the overall average and median new matter assignments to FTE attorneys by fiscal year of matters received from FY 2015 to FY 2021. Over these seven years, the average assignment increased by 276.8 weight hours or 18.2%.

FY 2022 has not been formally reported, but the *draft* numbers are as follows:

Measure	FY 2022
Avg. Matter Weight Assigned	1629
Median Matter Weight Assigned	1645

Table #8 in the *Raw Data Requests* attachment shows the assigned weights to FTE attorneys by fiscal year and indicates which FTE attorneys are or were managers. To be included in these, assignments must meet the following requirements:

- Assignments must be made to an FTE attorney
- Assignments must have been recorded pursuant to OPD's case weight system at the time

From these assignments, all weights are summed per attorney per fiscal year and reported with an indication if the individual is or was a manager.

Please note the following caveats when considering this data:

- From calendar year 2010 to 2021, OPD had a case weight system that while tracked, was never enforced. In May 2021, OPD began enforcing this system with additional improvements and now calls this system Ethical Case Management (ECM).
- It is also important to consider the high amount of turnover or other factors that limit an attorney to partial assignments in a month or year, which will affect the overall average and median.
- Unfortunately, OPD’s case management system only tracks an individual’s current status as a manager, so individuals that are or were managers are indicated as such. While it would be theoretically possible to create a dataset that could indicate which month or year an individual was a manager, no such dataset currently exists nor does OPD currently have the resources to build one out.

		FY 2022				FY 2023			
		June 2022				December 2022			
		# of Active Matters	Sum of Active Weight	Expected Caseload %	Actual Caseload %	# of Active Matters	Sum of Active Weight	Expected Caseload %	Actual Caseload %
Regional Attorney	1	65	881	0.0%	58.7%	62	1,086	0.0%	72.4%
	2	0		0.0%		1	20	0.0%	1.3%
	3	51	312	0.0%	20.8%	30	193	0.0%	12.9%
Managing Attorney	1	145	1,290	55.0%	86.0%	125	1,134	55.0%	75.6%
	2	127	2,198	55.0%	146.5%	126	2,294	55.0%	152.9%
	3	111	1,292	75.0%	86.1%	118	1,584	75.0%	105.6%
	4	69	983	60.0%	65.5%	49	899	60.0%	59.9%
	5	62	1,228	60.0%	81.9%	50	1,235	60.0%	82.3%
	6	35	719	60.0%	47.9%	31	668	60.0%	44.5%
	7	93	1,773	70.0%	118.2%	52	1,201	70.0%	80.1%
	8	22	273	45.0%	18.2%	89	1,080	45.0%	72.0%
	9	44	707	60.0%	47.1%	74	841	60.0%	56.1%
	10	77	1,311	55.0%	87.4%	77	1,218	55.0%	81.2%
	11	138	1,793	60.0%	119.5%	157	2,233	60.0%	148.8%
	12	67	937	70.0%	62.5%				
	13	129	2,587	70.0%	172.5%	81	1,873	70.0%	124.9%
	14	21	220	20.0%	14.7%	14	202	20.0%	13.5%
	15	25	363	35.0%	24.2%	22	211	35.0%	14.0%
	16	84	956	70.0%	63.7%	57	363	70.0%	24.2%
	17	7	247	50.0%	16.5%	29	588	50.0%	39.2%
	18	29	582	35.0%	38.8%	23	502	35.0%	33.5%
	19	34	522	70.0%	34.8%	27	432	70.0%	28.8%
	20	43	597	60.0%	39.8%	59	658	60.0%	43.9%
	21	7	108	50.0%	7.2%	8	155	50.0%	10.3%

The chart above provides additional context for OPD current managers’ caseloads in FY22 and FY 23 (to date). The chart shows the total number of active matters, sum of active weight, the manager’s

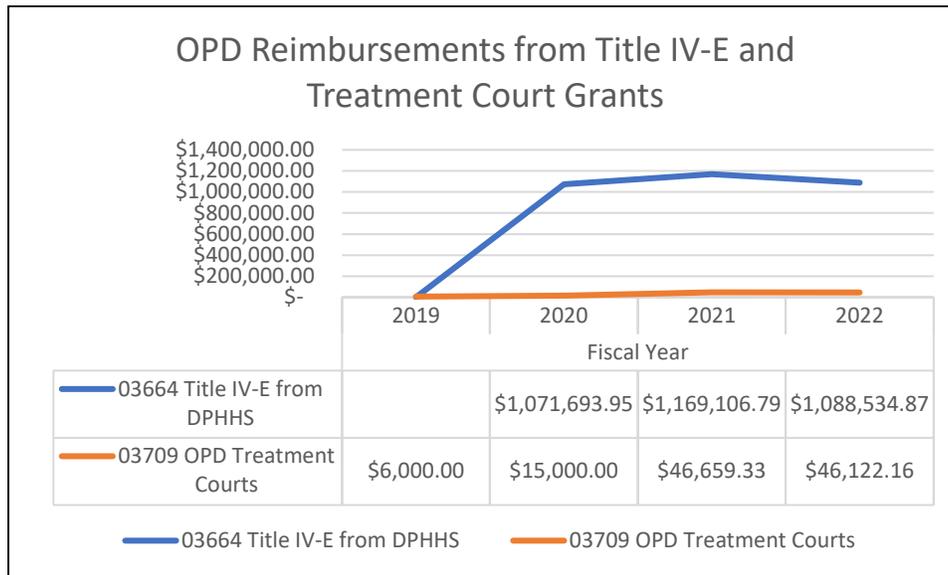
expected caseload percentage (reduced in proportion to the number of attorneys they supervise), and their actual caseload percentage, as of June 2022 and December 2022.

Yellowstone County Trial—Expert Witness Explanation

In response to committee’s question regarding an expert witness present for a trial in Yellowstone County District Court, OPD investigated and found the probable matter related to this question. The matter in question was a homicide that had a multi-day trial in 2022. The expert in question was a nationally recognized blood spatter expert who provided crime scene investigation, matter consultation, and expert testimony during the duration of the trial. While the expert was originally scheduled to do their investigation prior the start of trial, logistics forced the expert to complete that portion of the work while the trial was proceeding. During this time the expert visited the crime scene, tested various hypotheses, consulted with OPD attorneys and investigators, and assisted in the defense of the matter during trial.

While this expert was present for more of the trial than a typical OPD expert, the work performed was not excessive for either the kind of expert nor the kind of matter. Further, this kind of expert support is extremely common for prosecutors to leverage, and while often prosecutors will utilize the crime lab for this kind of work (conflict the crime lab from assisting OPD in the process), they also turn to the private market for experts when necessary.

Title IV-E and Treatment Court Reimbursements by Fiscal Year



	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023 (to Jan-23)	Grand Total
Title IV-E from DPHHS		\$1,071,693.95	\$1,169,106.79	\$1,088,534.87		\$3,329,335.61
Treatment Courts Funding	\$6,000.00	\$15,000.00	\$46,659.33	\$4,220.72	\$41,901.44	\$113,781.49
Grand Total	\$6,000.00	\$1,086,693.95	\$1,215,766.12	\$1,092,755.59	\$41,901.44	\$3,443,117.10

The table and chart above show OPD's total reimbursements from Title IV-E and Treatment Court Grants since FY 2019.

In FY 2018, OPD entered into an MOU with the Office of Court Administrator that provided OPD representation for all District Court treatment courts, whether or not the court had obtained funding for OPD, which very few have. OPD believes this representation is an important part of the treatment court process and has continued to provide counsel to these courts regardless of potential reimbursements.

In FY 2020, OPD identified Title IV-E reimbursements as a potential funding source and since that time have worked with DPHHS to obtain reimbursement for time spent on the defense of Abuse and Neglect proceedings (DN matter types).

FTE Request Breakdown

OPD is asking for twenty (20) additional FTE positions as part of its FY 24-25 biennium budget request. OPD has requested the following FTE by classifications and expected location for these FTE as follows:

<u>Classification</u>	<u>Total #</u>	<u>Division 1</u>	<u>Division 2</u>	<u>Division 3</u>	<u>Division 4</u>
Lawyer 2	14	6	2	5	1
Criminal Investigator	4	4			
Administrative Assistant 2	1	1			
Project Management Supervisor	1				1

Please note that OPD currently has 6 modified positions as follows:

<u>Modified FTE Classifications</u>	<u>Total #</u>
Lawyer 2	4
Administrative Assistant 2	1
Case Manager	1

While OPD has indicated the Division it expects these FTE to go, actual circumstances present at the time these FTE are appropriated will dictate where they are placed. For context, as of January 2023, OPD's current need for additional FTE attorneys is in the Billings, Bozeman, and Great Falls areas.

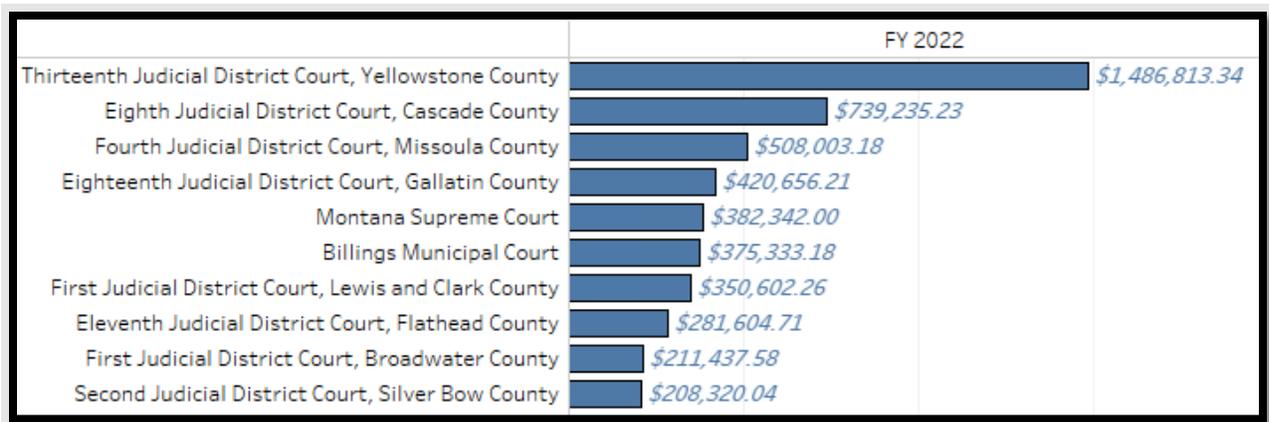
Central Services Job Classifications and Pay

Job Title	Job Code	Base Pay Low	Base Pay High	# of employees
Budget Analyst 2	B23012	20.550000	30.546154	2
Administrative Specialist 2	B1JO52	32.450000	32.450000	1
Other/Prof-Admin	000141	63.050000	63.050000	1
IT Systems Admin 2	C1E012	33.745193	39.011539	4
IT Systems Admin 1	C1E011	27.368269	27.368269	1
IT Systems Analyst 2	C1C012	40.750775	40.750775	1
Business Executive	A3101E	53.434615	53.434615	1
Eligibility Interviewer 2	F12092	22.232528	23.215865	2
Accountant 1	B21011	22.618750	22.618750	1
Accounting Tech 2	Q33022	19.195769	19.195769	2
Accounting Supervisor	B2101M	22.618750	22.618750	1
Lawyer 2	G11012	43.683822	46.221106	3

Trainer 2	V1F012	23.828846	23.828846	1
Program Officer 2	B1J092	26.690000	26.690000	1
Human Resources Generalist 2	B17012	28.970000	28.970000	1
Human Resources Supervisor	B1701M	41.415385	41.415385	1

The table above shows the classification and job data for OPD central service employees.

FY 2022 Contract Attorney Expenditures by Person and Court



The chart above shows the total contract attorney payments by court for the top ten most costly courts in FY 2022. Table #9 in the *Raw Data Requests* attachment shows the total expenditures incurred in FY 2022 by OPD for Contract Attorney costs by vendor and all courts, with an indication if the vendor has provided representation to capital matters, has an exclusive flat fee assignment agreement, or is a firm with multiple attorneys providing representation to OPD clients. To be included in this summation, expenditures must meet the following requirements:

- Expenditures must be reflected in the SABHRS Vouchers export
- Expenditures must be for FY 2022
- Expenditures must be for Account Code 62109A, which is the account code used by OPD for contract attorney services

From these expenditures, all expenditures are summed and reported by vendor and court incurred. Please note that not all contract attorney costs are associated directly with an individual case or court, such as mileage, per diem, lodging, etc. These costs are listed as “non-client” costs in this Table #14.

Matters with More Than One Active Defense Attorney



The chart above shows the number of matters by matter type in which OPD has assigned and attributed case weight to more than one attorney to represent a client since August 23, 2021. The total number of matters with more than one attorney assigned is 362, or 0.8% of all matters assigned. There are many reasons OPD may choose to assign more than one defense attorney, including mentoring, training, client related issues, expertise, and complexity of the matter, among others.

To be included in these counts, a matter must meet all the following requirements:

- Matters must have been received on or after August 23, 2021, the date OPD went live with its new case management system
- Matters must have been assigned at least one attorney with a co-counsel role

From these matters, a unique count matter by matter type is reported.

Conceptual List of Criteria for Rapid Response Funding Unlock

OPD has requested funding to establish a Rapid Response Fund to allow it to adapt to ever changing circumstances in the justice system and labor market. OPD has proposed this funding be contingent on demonstrating certain criteria, either to the Office of Budget and Program Planning or the Interim Budget Committee, or both. Below is a non-exclusive list of concepts that OPD anticipates may be present in the future and would justify unlocking of additional resources.

<u>Proposed Topics</u>	<u>Proposed Measures</u>
New or Increased Delay in Assignment of Counsel	Days to Assign
New or Increased Vacancies at the FTE Attorney position	Vacancy rate; prevailing private market attorney rates
New or Increased Unwillingness from Contract Attorneys to accept OPD Assignments	Contract Attorney Acceptance Rates; prevailing private market attorney rates
New or Increased Filings Over Available Resources	ECM%; Overflow #s or %; prevailing private market attorney rates

Training Costs by Fiscal Year

<u>Fiscal Year</u>	<u>Total Expenditures</u>
FY 2019	\$178,948.77
FY 2020	\$174,415.44
FY 2021	\$47,885.33
FY 2022	\$196,089.63

The table above shows the total expenditures incurred by OPD for the Training Program but **does not include any personal services (salaries, wages, benefits)**. As can be seen, the Covid-19 Pandemic dramatically affected the Training Program’s offerings due to limitations on in-person events.

OPD’s current request of \$200,000 per year will establish a base funding for the Training Program and will allow a continuity of training offerings at the current level.

Training Plan for Next Biennium

OPD has been in the process of overhauling the Agency Training Program and are attempting to bring consistent and predictable training structure to ensure all OPD employees and contractors are provided effective training. The current draft program plan, which is still being developed, calls for the Training Department to provide the following trainings and services in **each year** of the FY 24-25 Biennium:

<u>Title</u>	<u>Scope</u>	<u>Overview</u>
Attorney Conference	FTE and Contract Attorneys	<ul style="list-style-type: none"> • 2 full days of Continue Legal Education courses • Primarily in-person but with remote support
Investigator Conference	FTE and Contract Investigators	<ul style="list-style-type: none"> • 1 full day of policy, skill, and support training • Co-occurring with Attorney Conference
Legal Support Staff Conference	FTE Legal Support Staff	<ul style="list-style-type: none"> • 1 full day of policy, skill, and support training • Stand-alone conference in FY 24 and co-occurring with Attorney Conference in FY 25

New Attorney Boot Camp	FTE Attorneys with 0-1 years' experience	<ul style="list-style-type: none"> • 3 full days of intensive trail advocacy training • Up to 15 attorneys per Boot Camp • Three Boot Camps a year, with one in each OPD Region of the state
Intermediate Attorney Advocacy	FTE Attorneys with 1-3 years' experience	<ul style="list-style-type: none"> • 3 full days of intensive trail advocacy training • Up to 15 attorneys • One centrally located session per year
Advanced Attorney Advocacy	FTE Attorneys with more than 3 years' experience	<ul style="list-style-type: none"> • 3 full days of intensive trail advocacy training • Up to 15 attorneys • One centrally located session per year
Abuse & Neglect (DN) Conference	FTE and Contract Attorneys	<ul style="list-style-type: none"> • 2 full days of DN-specific trainings and courses • One centrally located session per year
Involuntary Commitment/Guardian Ship Conference	FTE and Contract Attorneys	<ul style="list-style-type: none"> • 1 Day of DI/DG specific trainings and courses • One session at the Montana State Hospital per year
Juvenile Defense Conference	FTE and Contract Attorneys	<ul style="list-style-type: none"> • 1 full day of DJ-specific trainings and courses • One centrally located session per year
Agency Management Training	All Agency Supervisors/Managers	<ul style="list-style-type: none"> • 1 full day of policy, skill, and support training focused on management • Two centrally located sessions per year, with the Fall Session co-occurring with the Attorney Conference

Monthly Remote Trainings	FTE Employees and Contractors	<ul style="list-style-type: none"> • 1-hour remote courses • Two sessions a month, 24 sessions a year • 12 CLE approved sessions a year • 12 non-CLE sessions focused on policy, skills, and support
Monthly Remote Practice Area Meetups	FTE and Contract Attorneys	<ul style="list-style-type: none"> • 1-hour remote meetings to discuss practice area related issues, answer questions, and provide support • One session per month per practice area of Criminal, DN, DI/DG, and DJ
Learning Management System (LMS) Buildout and Management	FTE Employees and Contractors	<ul style="list-style-type: none"> • Buildout and manage the agency's use of an online LMS • LMS is/will be utilized for on-board training, job skills training, platform training, and CLEs • Sessions will be on-demand or as assigned
Manage External Training Efforts	FTE Employees	<ul style="list-style-type: none"> • Manage a variety of trainings for employees conducted by external national experts

OPD FTE Attorney Role & Caseload Breakdown

Division 1

Title/Role	#	Caseload
Division Administrator	1	None
Regional Deputy Public Defender	3	None
Managing Attorney	18	Currently, OPD is piloting a caseload reduction that reduces managing attorney caseload by 5% for each FTE attorney supervised
Line Attorney	130	Ethical Case Management (ECM) – 125 new matter weight hours a month

Division 2

Title/Role	#	Caseload
Division Administrator	2	Roughly a 1/4 Briefing workload
Lead Attorney	1	Workload reduced due to mentoring of 5-6 attorneys and taking on complex appeals
Line Attorney	12	National standard for appellate work; 22 units of work a year

Division 3

Title/Role	#	Caseload
Division Administrator	1	None
Managing Attorney	3	Currently, OPD is piloting a caseload reduction that reduces managing attorney caseload by 5% for each FTE attorney supervised
Line Attorney	20	Ethical Case Management (ECM) – 125 new matter weight hours a month

The table above shows the types, numbers, and workloads of OPD’s FTE attorneys by Division. Please note that while Regional Deputy Public Defenders are to have no caseloads, and Managing Attorneys are to have limited caseloads based on the number of direct reports, both of these roles have continued to carry workloads about these expectations due to limitations with FTE and contract attorneys. In addition, please also note the 5% reduction per supervised employee for Managing Attorneys is the initial pilot formula attempting to account for the additional supervision and support we expect Managing Attorneys to provide beyond their own individual caseload. This formula will be updated based on data from the pilot, feedback from the agency, needs of the agency, and refined expectations how managers should be utilizing the time they spend representing clients.

List of Bills OPD Is Tracking with Costs

Table #10 in the *Raw Data Requests* attachment summarizes all fiscal notes submitted as of January 25, 2023, regarding current legislative proposals that would affect OPD’s expenditures.