

**OPD.MT.GOV**



# **OPD Materials**

**December 16, 2025, Sub-D IBC**

**Mission**

Providing the most compassionate and expert defense of clients and the Constitution.

**Vision**

Creating expert teams of advocates for justice, bringing respect and dignity to our clients to achieve holistic and equitable outcomes.

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# December 16, 2025, IBC Agenda Items

## FY 2025 annual performance report

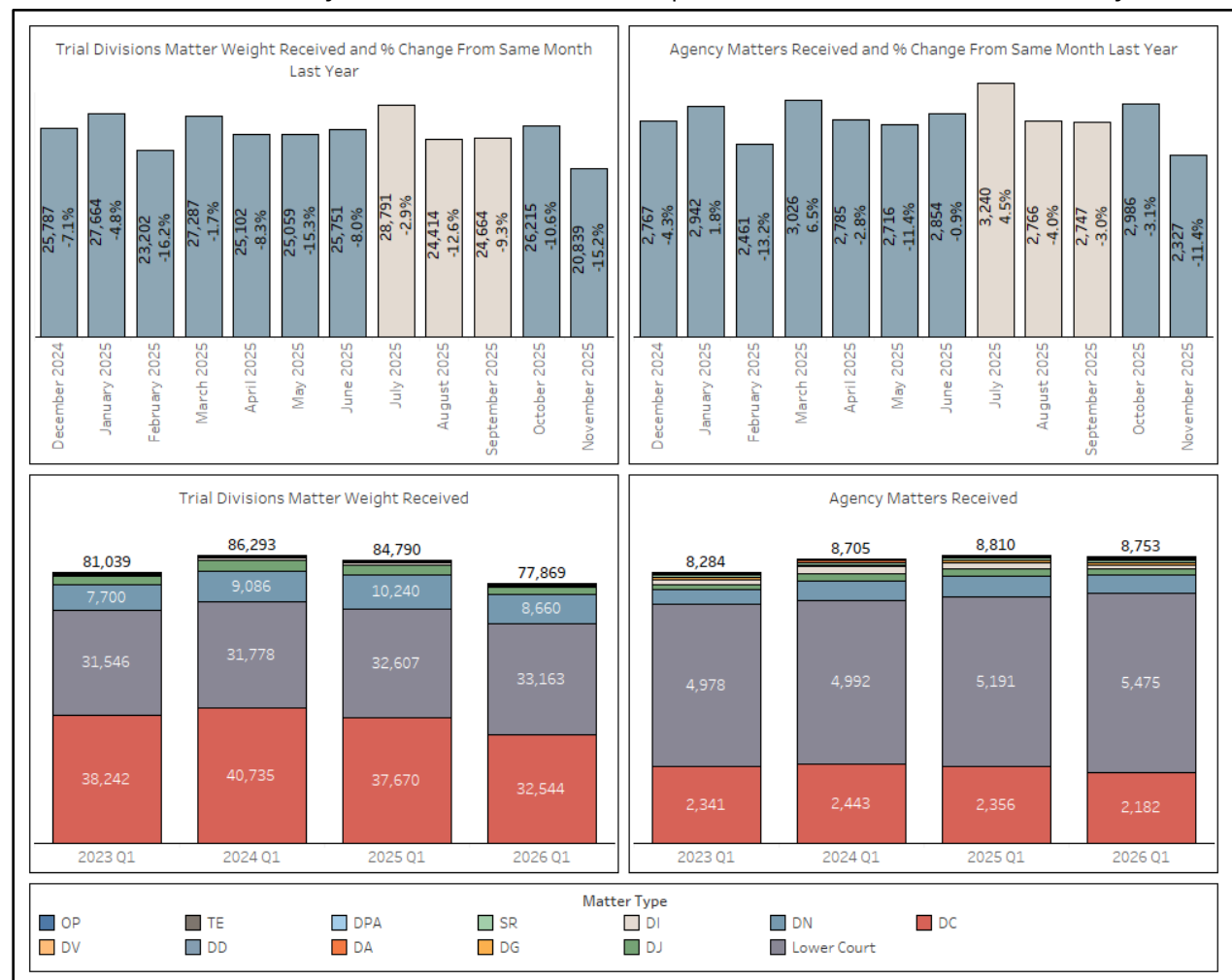
OPD has prepared and filed its annual performance report, which is included as attachment A, and may also be found on OPD's website here: [OPD FY 2025 Annual Performance Report](#). Broadly OPD continues to struggle with the public defender shortfall and with the supply of contract public defenders but met goals for PB public defender vacancy and turnover rates, managing employee workload, and training.

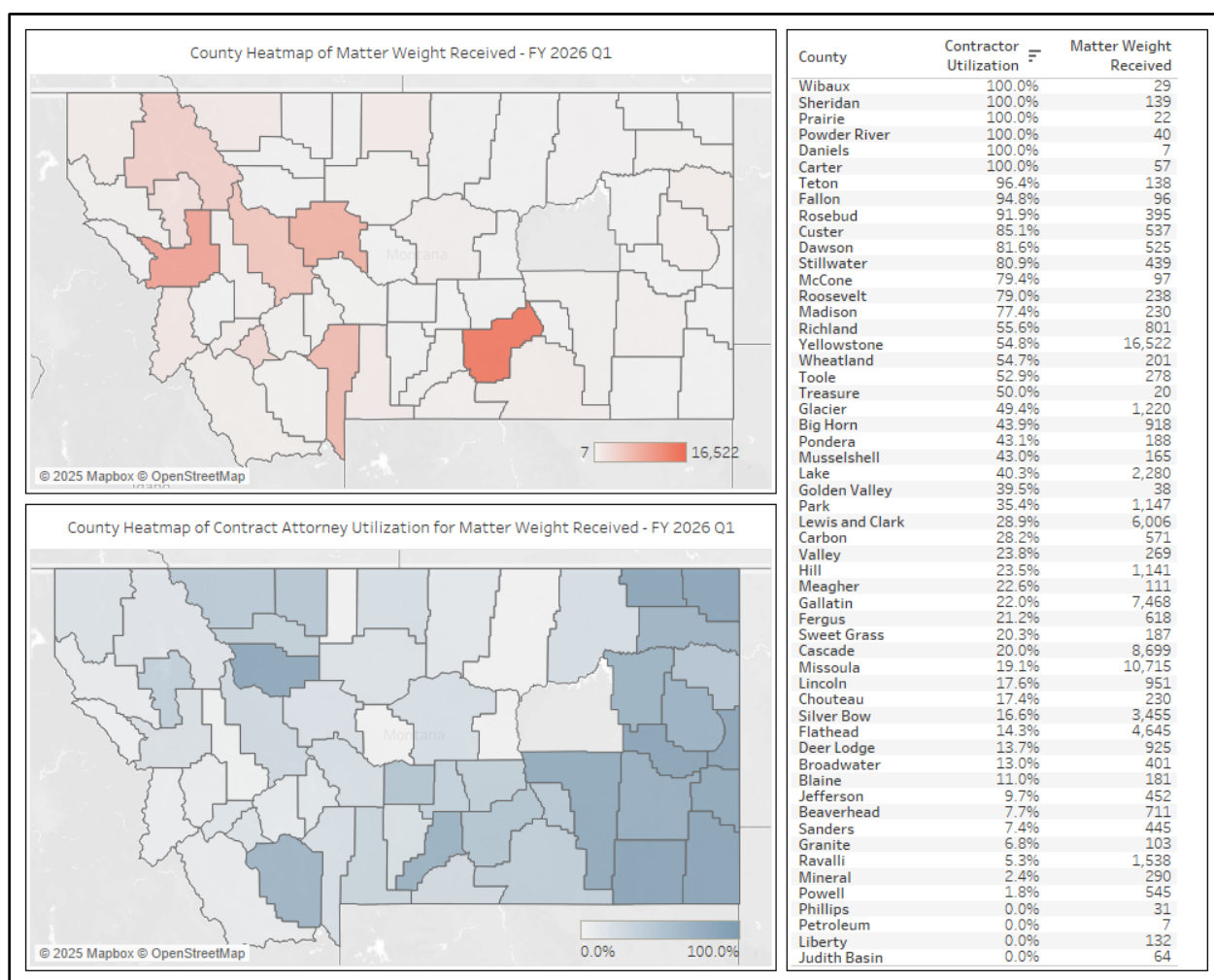
## 2027 biennium potential supplemental status update

It is very early in the biennium, so any projections are subject to substantial change as factors such as the weight of cases to which courts appoint OPD fluctuate, but at present OPD is projecting to need supplemental funding of between \$2.5 and \$5.0 million by the end of FY 2027.

## FY 2026 Q1 caseload statistics

Below are images showing the number and weight of matters received by case type, received caseload by area, and contract public defender utilization by area.





## Attorney pay survey

The HB 913 Pay Analysis for Legal Occupations (available at [HB913-Pay-Analysis-for-Lawyers-DOA-Sept2025.pdf](#)) reported that “the private sector’s salary average for lawyers as listed by our salary survey source is \$137,100” and that “the average salary for public sector lawyers as listed in our salary survey source is \$127,100.” The Survey also reported that the average annual pay for Lawyer 2 positions within OPD is \$98,096. The disparity in just those numbers speaks for itself and significantly adds to the challenges of recruiting and retaining qualified attorneys within OPD. For a concrete example, at this moment, OPD’s Appellate Division and the Attorney General’s Appellate Services Bureau are both seeking applicants for appellate attorney positions. The Attorney General is recruiting with an advertised salary of \$103,584 to \$113,609; OPD’s posting offers \$86,473 to \$100,733.

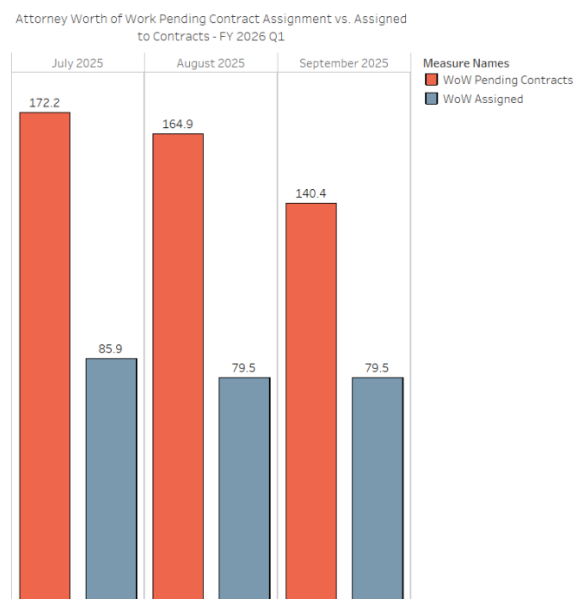
Additionally, the Survey did not specifically examine attorney pay at local governments, which are among OPD’s most significant competition in recruiting. Both at starting levels and even more prominently at senior, experienced levels, local governments are substantially outcompeting OPD for attorney pay. The most recent Montana Bar jobs

announcements had equivalent, prosecutor postings for \$110,000 to \$120,000 (Musselshell County), \$88,395 to \$123,543 (Gallatin County), and \$97,036 to \$129,984 (City of Billings). Again, OPD's range is \$86,473 (starting) to \$100,733 (three years or more attorney experience) (available at [091-CBA-OPD-AFSCME-Attorneys-2025-2027-FINAL-SIGNED.pdf](#)). The lack of career progression in OPD beyond three-years of experience impacts OPD's ability to recruit and retain mid-career and senior attorneys. For example, Yellowstone County's currently pay schedule for prosecutors ([Deputy/Senior Deputy County Attorney | Job Details tab | Career Pages](#)) is roughly equivalent to OPD's starting and three-year pay levels, but where OPD's attorney pay ladder stops after three years, Yellowstone County's continues, resulting in attorneys making roughly \$9,000 more there than they would at OPD at ten years and roughly \$27,000 more at ladder maximum.

## Contracted versus in-house attorneys

Due to constant churn and fluctuation of employee and contractor availability, there is no single number or ratio of necessary employees to contract public defenders, but unless the current market supply of contractors increases, additional employee public defenders are the only available option for closing the public defender shortfall.

Except in a few locations, it is not OPD that is limiting the number of cases contracted; it is the supply of private attorneys willing to take contract public defender work. The supply of contractors is well below the amount required to close the public defender shortfall and provide timely and effective representation to all OPD clients. As visualized below for Quarter 1, statewide, OPD offers the contract market far more cases than the contract market accepts.



In the present context the number of cases offered to contractors does not affect how many cases are contracted because the number offered is so much greater than the supply of contractors willing to take cases. Unless the supply of contractors increases, OPD cannot increase the number of cases contracted and must rely upon employee public defenders to close the shortfall.

Thus, the criterion OPD presently uses to decide who needs to be an employee public defender versus a contractor is simply whether OPD is able to hire or contract in the local market. If OPD can contract for additional cases in that jurisdiction, then it does so, but if there is no additional supply of contractors, then OPD can only close the shortfall by hiring additional employees.

### **Line-item appropriations update**

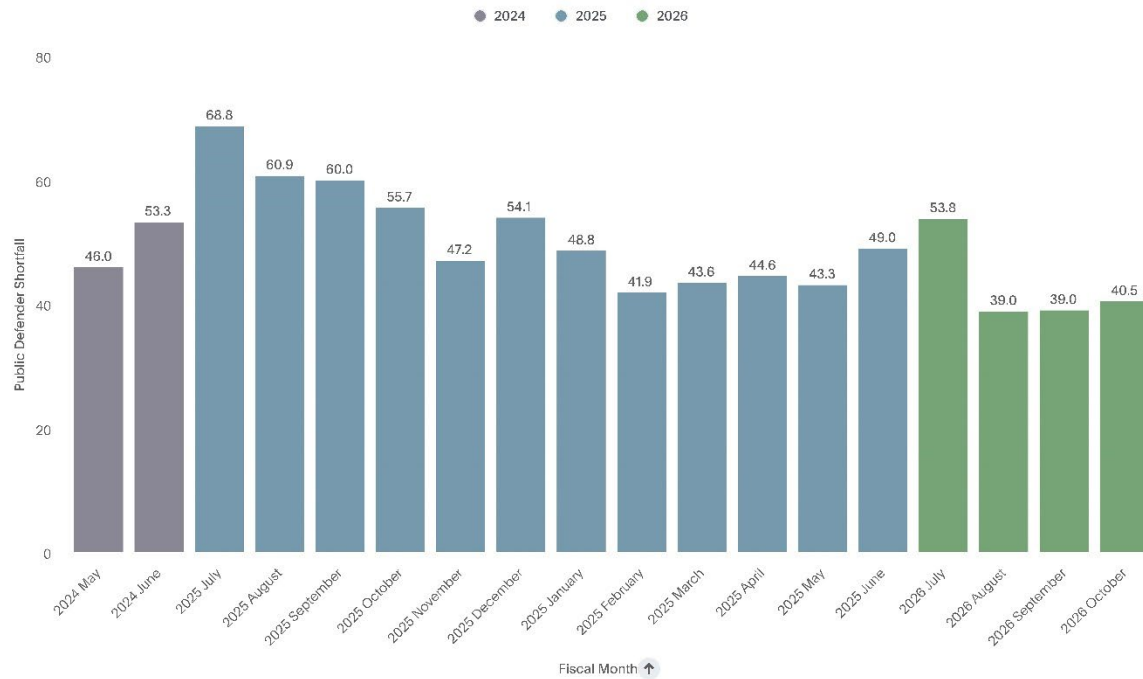
As of December 5, 2025, OPD has expensed the following significant amounts against its line-item appropriations:

- Contract attorney rate increase: \$787,618 of \$3,177,586
- Licensing and ongoing costs for technology improvements: \$234,591 of \$500,000
- Computer replacements: \$71,551 of \$171,600
- Attorney shortfall (4.0 PB attorneys): \$120,452 of \$508,319
- Training Events: \$142,769 of \$150,000

# Standing IBC metrics update

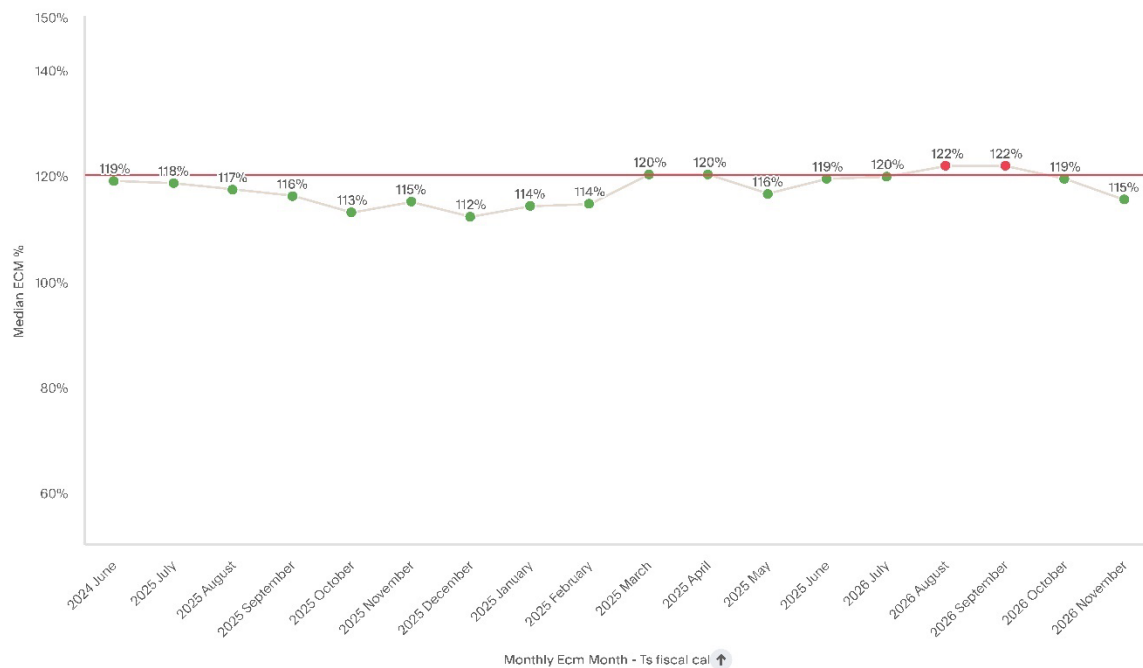
## Public Defender Shortfall by Month

volume of OPD work first assigned > 14 days



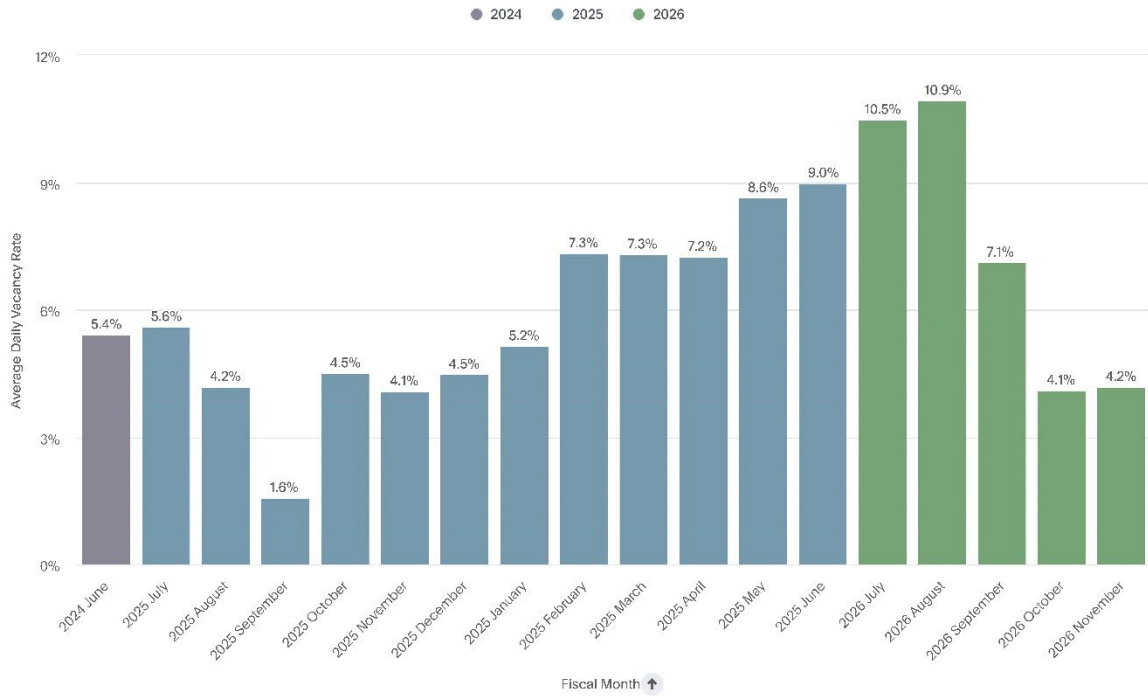
## Median Trial ECM % by Month

OPD's per attorney workload standard



### Avg. Daily Vacancy Rate for Pub. Def. Positions by Month

average number of vacant public defender positions as a percentage by month



### WoW Assigned to Contract Public Defenders

Total WoW and avg./median WoW assigned

