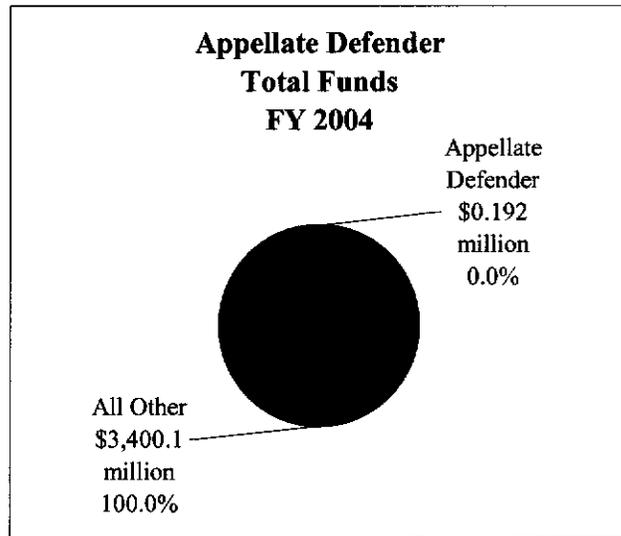
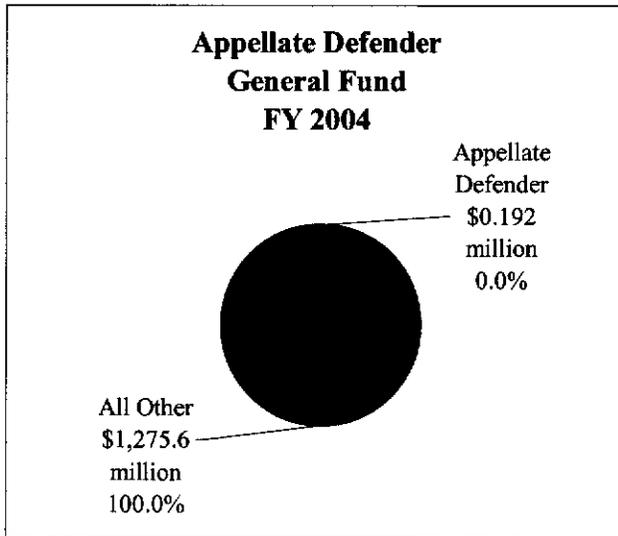


Appellate Defender Agency Profile¹



WHAT DOES THE AGENCY DO?

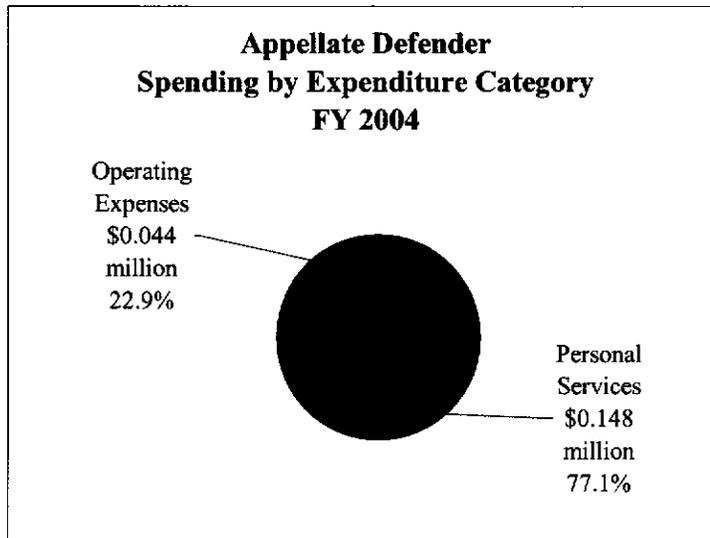
The Appellate Defender is administratively attached to the Department of Administration. The Appellate Defender provides legal counsel for indigent persons who have been convicted and who then appeal district court convictions, or who petition for post-conviction relief from district court proceedings. The Appellate Defender participates in an appeal for an indigent person when the defendant alleges that ineffective assistance of counsel resulted in conviction; a district judge, the chief justice, or an associate justice of the supreme court finds further representation by previously appointed counsel would not serve the interests of justice; or the appellate defender agrees to assist in or assume responsibility for appeal. The Appellate Defender also compiles and maintains a current roster of Montana attorneys who are eligible to serve as trial and appellate defense counsel for the indigent, if appointed by an appropriate court.

Total FTE: 3.00 FTE (fiscal 2004)

How Services Are Provided

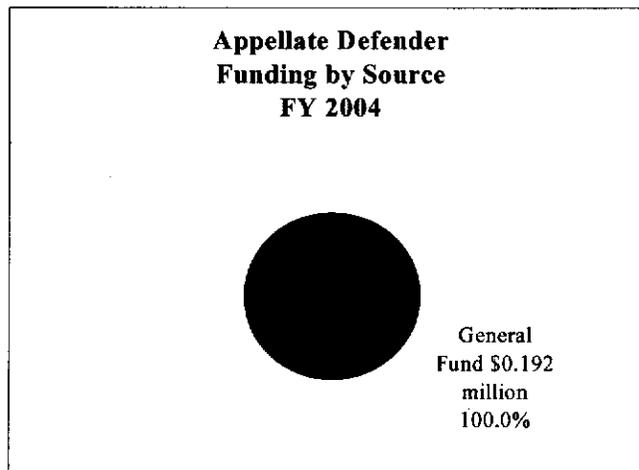
The Appellate Defender consists of one division that provides legal counsel for indigent persons, as appointed by the courts, who have been convicted and who then appeal district court convictions, or who petition for post-conviction relief from district court proceedings. It is attached to the Department of Administration for administrative purposes only and receives accounting, budgeting, and human resources related services from the department for a fee.

¹ For an explanation of terms used in this profile, consult the



How Services are Funded

Services provided by the Appellate Defender are funded entirely from the state general fund.

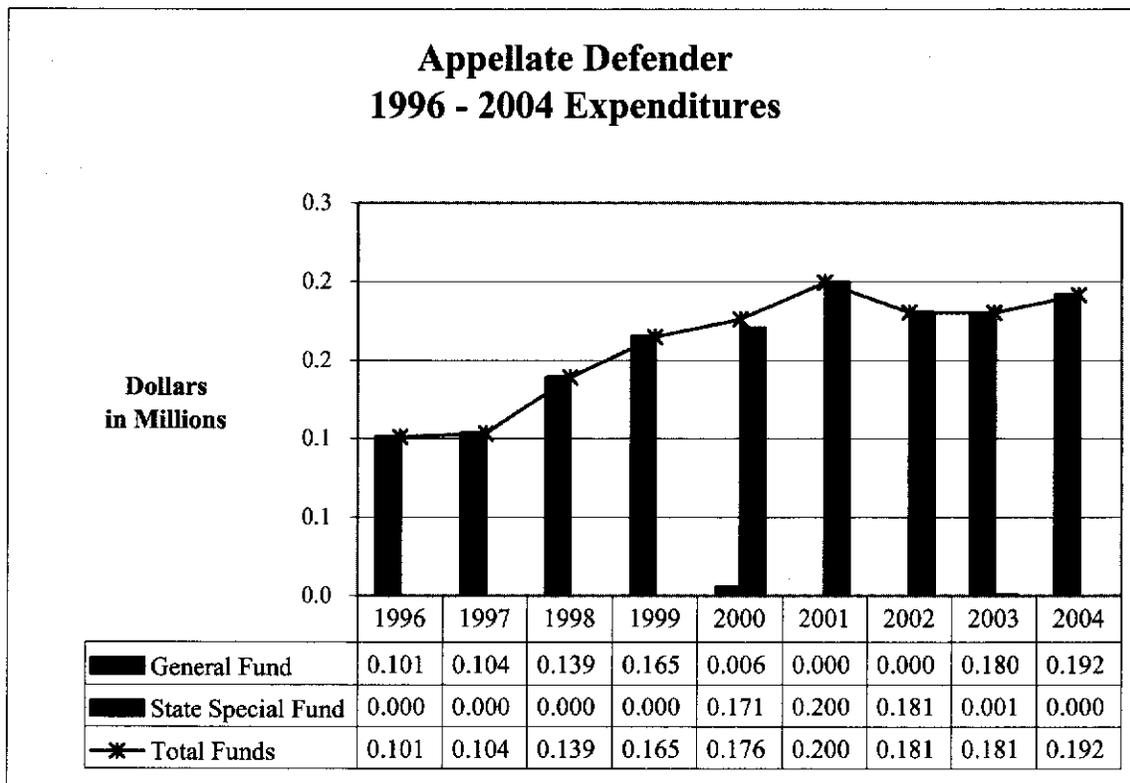


Related Data and Statistics

Element	2001	2004	Significance of Data
Number of new assigned cases	32	40	Workload
Number of initial briefs filed	18	22	Workload
Number of reply briefs filed	20	16	Workload
Number of oral arguments or hearings	2	6	Workload
Number of post conviction relief petitions filed	4	2	Workload
Number of post conviction relief appeals	2	2	Workload

Expenditure History

From fiscal 1996 through fiscal 2003 total fund expenditures for the Appellate Defender grew by 78.6 percent over the 1996 amount. During this same period, funding has shifted from 100 percent general fund to 100 percent state special revenue and back to 100 percent general fund. Nearly 75 percent of office expenditures are for personal services with operating expenses accounting for the remaining 25 percent. Besides personal services, rent of non-state office space comprises the largest single expenditure or roughly 5 percent of annual expenses. Roughly 60 percent of operating expenses could be classified as fixed costs, or do not vary appreciably with caseload or case complexity. These fixed operating expenses combined with personal services constitute nearly 90 percent of the costs to operate the office, while the remaining 10 percent vary more or less directly with caseload.



Appellate Defender		
Fund	Percent of Total (2004)	Average Growth (1996 - 2004)
General Fund	100.0%	8.3%
State Special Fund	0.0%	0.0%
Total Funds	100.0%	8.3%

Reasons for Expenditure Growth/Change

The increased growth between fiscal 1997 and fiscal 2002 is attributed primarily to the following staffing changes:

- o In fiscal 1998, 0.75 FTE were added followed by an additional 0.25 FTE in fiscal 1999, increasing total staffing from 2.00 FTE to 3.00 FTE

- o In fiscal 2001, turnover of the Appellate Defender and the corresponding termination payouts caused expenditures to spike

Agency Functions, State Purposes Served, and Customers

The Appellate Defender is structured to perform certain functions. The functions are in support of overarching policy objectives. The following lists the major functions, overarching policy objectives, and primary customers served. Please note that LFD staff has both identified general state overarching policy objectives and assigned functions. For an explanation of the overarching policy objectives and how they were derived, please refer to the "Background on the Agency Profiles" document.

<i>Policy Objectives</i>	<i>Major Agency Functions</i>	<i>Customers</i>
Provision of Justice and Protection of Life and Property	Appellate defense for indigents	Indigent citizens

HOW CAN THE LEGISLATURE EFFECT CHANGE?

In order to change expenditure levels and/or agency activity, the legislature must address the number of cases appealed, which would be influenced by:

- o Number of cases heard in district courts, thereby the probability for appealed cases
- o The standards for representation of indigent persons
- o The standards for when an appeal is allowed

Statewide Factors with Impact

In addition to the factors above, a number of factors common to many agencies will also impact changes in expenditures over time.

- o Personal services comprise 77 percent of office expenditures. Therefore any decisions that change FTE levels or personal services cost components such as level of pay plan and benefits have a direct impact on the budget for the office.

Statutory References

The primary statutory references defining duties and responsibilities of the department are found at the following locations.

- 2-15-1020, MCA - Appellate Defender Commission -- Duties -- Rules
- 46-8-211, MCA - Office of Appellate Defender -- Appellate Defender -- Hiring -- Dismissal -- Staff
- 46-8-212, MCA - Appellate Defender -- Qualifications -- Duties
- 46-8-213. Appellate Defender -- Classification -- Salary -- Expenses