

# Office of State Public Defender

## Agency Overview

June 2011

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### For the Law and Justice Interim Committee

**Department Head:** Public Defender Commission, governor-appointed, Fritz Gillespie, Chair  
 Randi Hood, Chief Public Defender, commission-appointed  
 Joslyn Hunt, Chief Appellate Defender, commission-appointed (new law)

### Description and Responsibilities:

The purpose of the Montana Public Defender Act, enacted in 2005, as stated in sections 47-31-102 and 47-1-201, MCA, is:

- establish a statewide system;
- provide effective assistance of counsel to indigent persons entitled by law to receive counsel at public expense;
- ensure public defender services are delivered by qualified and competent counsel in a fair and consistent manner statewide;
- utilize state employees, contracted services, or other methods to provide services in a manner that is responsive to and respective of regional and community needs and interests; and
- manage funding in a fiscally responsible manner.
- The commission is to:
  - provide a strategic plan for delivery of services in not more than 11 regions and supervise and direct the system;
  - establish statewide standards for qualifications, training, and caseload; and
  - appoint the chief public defender.
- The chief public defender is to:
  - hire or contract for and supervise personnel necessary to perform the function of the office.
- The office must report to the governor, supreme court, and legislature (including the LJIC and LFC specifically).

### Programs, FTE, and Funding for FY 2012-2013:

Programs	FY 2013 FTE	General Fund	State Other	Proprietary	Federal	Total ALL	Percent of total OPD Funds
Office of Public Defender	199.50	\$ 43,828,620	\$ 286,144	\$ -	\$ -	\$ 44,114,764	95.8%
Office of Appellate Defender	10.00	\$ 1,928,781	\$ -	\$ -	\$ -	\$ 1,928,781	4.2%
<b>TOTAL</b>	<b>209.50</b>	<b>\$ 45,757,401</b>	<b>\$ 286,144</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 46,043,545</b>	<b>100.0%</b>
Agency's GF as a percentage of state's total GF budget	1.23%						

Source: Legislative Fiscal Division

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**Regional FTE, Fiscal Info., and Caseload Data:**

See the attached spreadsheets from the Public Defender Commission's Fiscal Year 2010 Report to the Governor, Supreme Court, and Legislature.

**Administratively Attached Entities:**

- None. The Office of State Public Defender is administratively attached to the Department of Administration.

**Legislative Audits:**

- Financial compliance, Sept. 2010
- The Office of State Public Defender, October 2006
- Public Defender Services in Six Counties, March 2006

**Agency Bills Passed During 2011 Session:**

- Allow recovery of public defender costs in certain cases, HB 96 (Menahan)
- Amend supervision of chief appellate defender, HB 97 (Menahan)

**Agency Bills that Failed During 2011 Session:**

- None.

**Non-Agency Bills of Interest During 2011 Session:**

- Generally revising the Montana Public Defender Act, SB 187, (Shockley) - PASSED
- Move legislative oversight of public defender (OPD) to LJIC, SB 32 (Wanzenried) - PASSED
- In broader bill, require OPD to provide unduplicated caseload data, HB 613 (Roberts) - PASSED
- Supplemental appropriation of \$1.45 million, HB 3 (Mehlhoff)
- Revising appointment of counsel in child abuse and neglect cases, SB 153 (Jent) - PASSED
- Finance committee request for interim monitoring of the OPD, SJR 26, (Lewis) - PASSED
- Providing for longer retention of DNA evidence in certain cases, SB 58 (Moss for LJIC) - FAILED
- Allow unhindered public defender access to detainees, SB 147 (Facey) - FAILED

**Law and Justice Interim Committee Areas of Interest:**

- Recovery of costs
- American University report recommendations (Oct. 2009)
- Caseload data

**Hot Topics of 2011:**

- Indigence determination, ability to pay, and recovery of OPD costs from clients
- Death penalty

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