



MONTANA STATE PUBLIC DEFENDER

17 West Galena, Butte, MT 59701

T: 406.496.6080

F: 406.496.6098

publicdefender.mt.gov

March 6, 2024

Chair Mercer

Interim Budget Committee, Sub-D

Via email to Walker Hopkins, LFD

RE: OPD Responses for March 13, 2024, IBC Hearing

Chair Mercer and Members of the Committee,

Please find OPD's Responses to the Committee's Requests from the December IBC hearing, as well as conveyed through Mr. Hopkins.

Best,

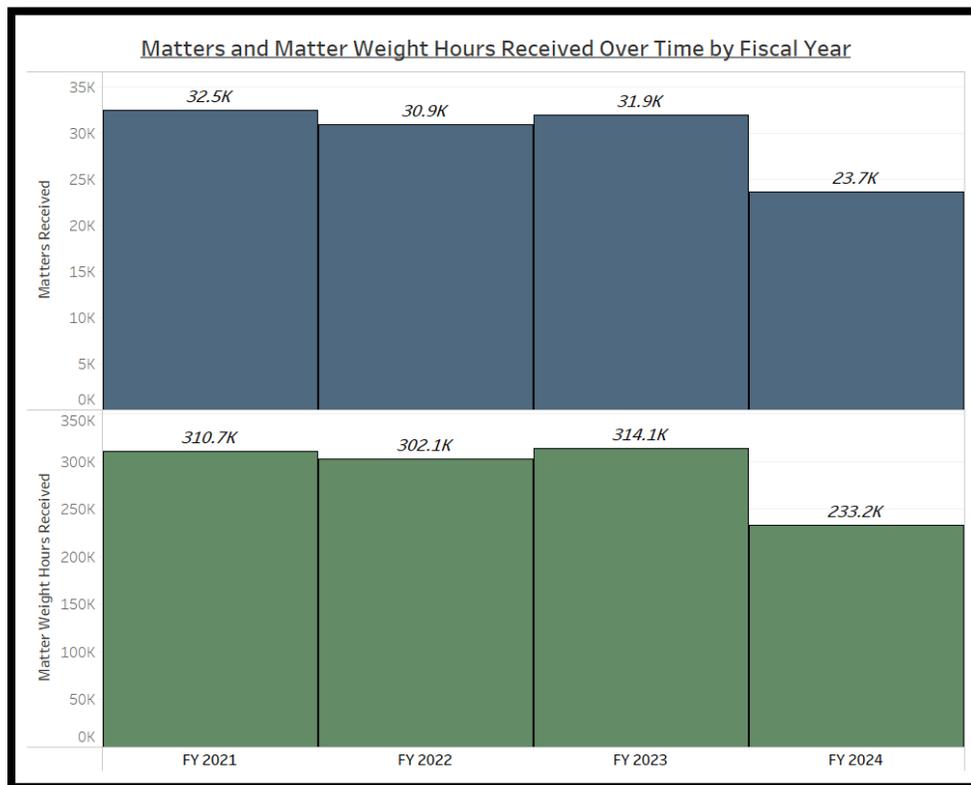
Brett Schandelson

Brett D. Schandelson

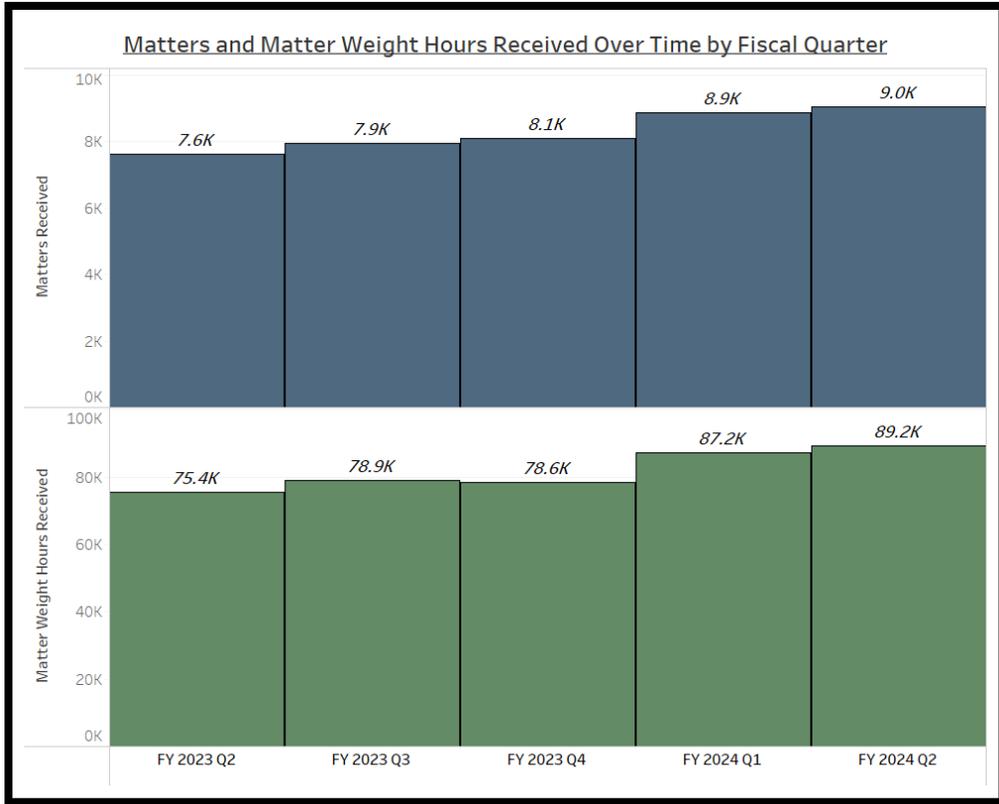
Director

Legislators would like additional follow-up done regarding discrepancies between OPD and court case data. Data from the OCA shows more relatively flat trends, but OPD data shows increases. The goal of this follow up is to determine what all is included within both sources of data to see where differences can be explained.

There are no discrepancies nor material differences between the Office of Court Administrator’s data and OPD’s data regarding **newly** filed cases. Though there are differences in the way OCA and OPD count cases, as well as the types of cases included in those counts, OPD’s data on newly filed cases shows a very similar trend to OCA’s. The graph below shows OPD’s overall newly received matters by fiscal year and includes FY 24 through February 2024. This generally reconciles with the trend of relatively flat new filings discussed by both OCA and OPD.



There has, however, been a recent rise in new filings, as shown by looking at newly filed matters and matter weights over the last five complete fiscal quarters.



In addition to newly filed matters, there are a myriad of other complex factors, such as FTE resources, contracting resources, case durations, and court timelines, that affect OPD’s active and current workload at any given time. It is this discussion that likely caused confusion with committee members regarding OCA and OPD’s data. OPD apologizes for the confusion caused through its communication regarding these metrics.

Provide “updated [FY 2024] caseload numbers which shows the breakout of cases by those including felony and misdemeanor charges.”

Please see the attached sheets titled “Number of Matters Received FY 24 through February by Matter Type” and “Active Matters by County as of March 4 2024” for data and information regarding OPD’s active and newly received matters.

FY 2024 Q2 cases in which the office of state public defender moved for waiver of the cost of counsel pursuant to 46-8-113(1) and the basis for the motion.

Please see the attached sheet titled “Q2 FY 24 OPD Fees Assessed”.

Current employee and contractor time for FY 2024 in cases involving defendants in capital cases.

There were zero (0) FTE hours tracked to capital matters in FY 2024. For contract hours, please see the attached sheet titled "FY 24 Capital Case Hours".

Please note, not all external costs are associated with an hourly rate, and those providers will show zero (0) hours submitted, although there were costs associated with their work in each matter listed.

FY 2024 Q2 cases in which the state has elected to seek the death penalty.

There were no new matters in which a notice of intent to seek death was filed in Q2 of FY 2024.

FY 2024 Q2 cases in which the office of state public defender was appointed to represent defendants in each county, including a separate disclosure of the number of appointments to employees of the office of public defender compared to contract attorneys.

Please see the attached sheet titled "Q2 FY 24 Number of Matters by FTE – Contactor" which contains the number of matters received by whether the case is assigned to an FTE public defender, is assigned to a contract public defender, or is pending assignment.

Regarding the number of appointments reported above, the number of appointments made in each county for cases in which the offense or offenses charged allege violations of local ordinances and not state statutes

Please see the attached sheet titled "Q2 FY 24 Number of Matters without any MCA Violations". Please note that some matters may have charges from more than once source and the row totals may not reconcile to the grand total, as such a matter would be counted once for each source row but only once in the grand total.

Regarding the number of appointments reported above, the costs incurred in each county to compensate contractors.

Please see the table below for the external costs received to date for matters received in Q2 FY 2024 in which there were no alleged violations of an MCA statute:

<u>County</u>	<u>Amount</u>
Gallatin	\$360.00
Flathead	\$191.70
Cascade	\$898.20
Custer	\$85.20
Glacier	\$21.30

Please note that due to the duration of case litigation, it is likely most external costs incurred for matters received in Q2 FY 2024 will not be incurred until at least Q3 FY 2024.

Regarding the “Matters Closed and OPD Fees Ordered” document provided to the September Section D IBC, of the 855 OPD fees were ordered in FY 2023, how many of these cases saw actual collections.

As of March 1, 2024, 88 of the 855 OPD Fees ordered in FY 23 have seen at least one payment, which includes any payments made via DOR offset. Please note that incarcerated individuals are not obligated to make payments towards their OPD Fees during the time of incarceration.