



# MONTANA LEGISLATIVE BRANCH

## Legislative Fiscal Division

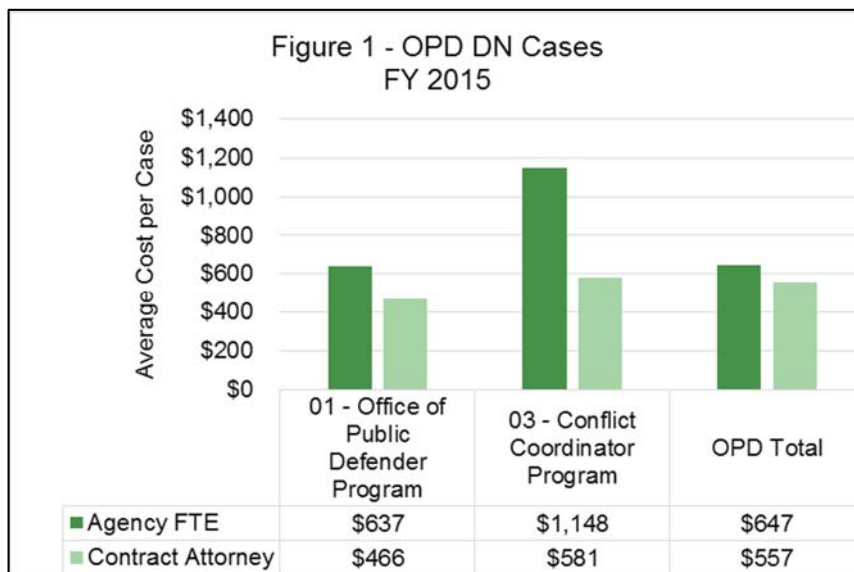
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**Director**  
AMY CARLSON

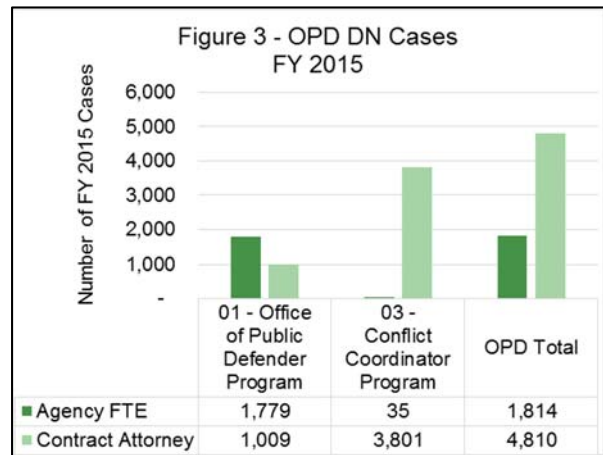
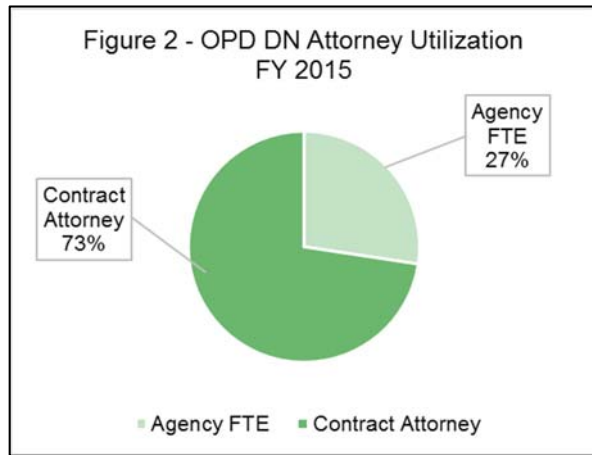
DATE: June 10, 2016  
 TO: Legislative Finance Committee  
 FROM: Greg DeWitt, Senior Fiscal Analyst  
 RE: Public Defender: Dependent Neglect and Conflict Case Analysis Report

At the March 2016 Legislative Finance Committee (LFC) meeting, information was requested for a comparison of the cost of representing clients in dependent and neglect (DN) cases by staff FTE and contracted attorneys.

Data found in this memorandum is from FY 2015 and was mostly provided by the Office of State Public Defender (OPD) and summarized by LFD staff. The costs shown for contract attorneys and agency FTE are not the total costs, and lack a portion of overhead costs that would support work on DN cases. The agency does not track costs and allocate overhead costs at the case level. LFD staff attempted to determine an overhead cost that would represent those costs associated with the state employing FTE attorneys to represent clients in DN cases. Other overhead costs that were considered to be common in the management and oversight of both agency FTE and contracted attorneys were excluded in the costs for DN cases for both agency FTE and contracted attorneys. The following is an attempt of an apples to apples comparison between the two types of workforce.

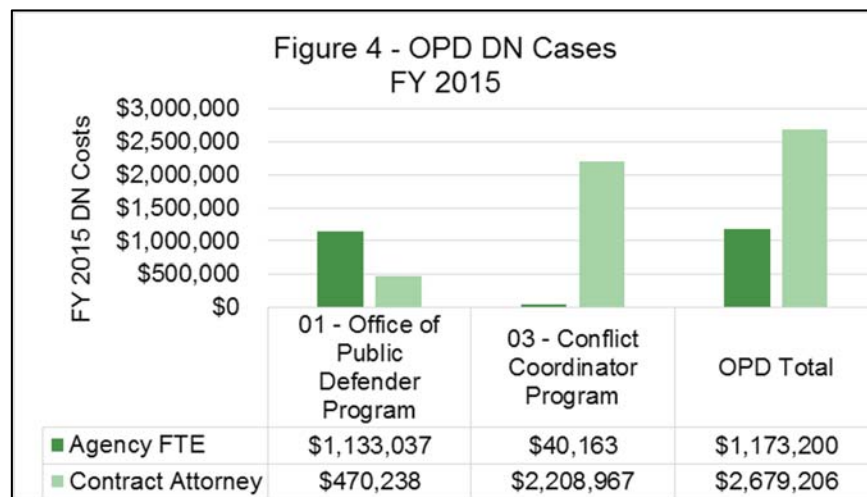


When comparing the total FY 2015 average costs per case between agency FTE (note that the cost don't include a portion of agency overhead costs) and contracted attorneys, Figure 1 on the previous page shows that contract attorneys appear to cost the state \$90 per case less than agency FTE. For the most part the agency leveraged this advantage in assigning cases to contract attorneys. As shown in Figure 2, the office allocated 73% of FY 2015 cases to contract attorneys.



In FY 2015, the Conflict Coordinator program FTE represented clients in 35, or 0.9%, out of 3,836 DN cases that were determined to present a conflict between parties in a DN situation.

The primary reason the Conflict Coordinator program represented individuals in 35 cases is because of the lack of contract attorneys in the Havre area. Contracted representation was augmented by agency FTE who traveled out of Great Falls. During FY 2016, the Office of Public Defender program represented 64% of the DN cases with agency FTE and the remaining 36% with contract attorneys (see Figures 3 and 4 for details on numbers of cases and expenditures). Generally the Office of Public Defender program represents the custodial parent in the DN dispute and refers the remaining parties to the Conflict Coordinator program for representation.



Another issue to note is that there are 55 duplicated cases showing in both the Office of Public Defender program and the Conflict Coordinator program. These cases were originally worked in the Office of Public Defender program but later transferred due to the identification of a conflict. Expenditures associated with these duplicated cases are only for the program activity on the cases associated with that program when the case was being worked in the program.

Figure 5 provides a breakdown of the FY 2015 contract attorney expenditures by the year the DN cases were opened. Expenditures made on cases open in 2014 made up nearly half of the expenditures.

In summary, the relative cost to represent parties in a dependent and neglect case are at least \$90 lower for an average case when a contract attorney is used than when a staff attorney is used. Several factors, such as availability of contract attorneys available or willing to work in the area where the case resides, require that the office utilize staff attorneys. OPD does not track data sufficient to fully allocate overhead costs to specific cases or types of cases, therefore a full cost could not be developed for either contract attorney or staff for DN specific cases.

