

The Legislative Fiscal Division Presents an Agency Profile of: The Office of State Public Defender

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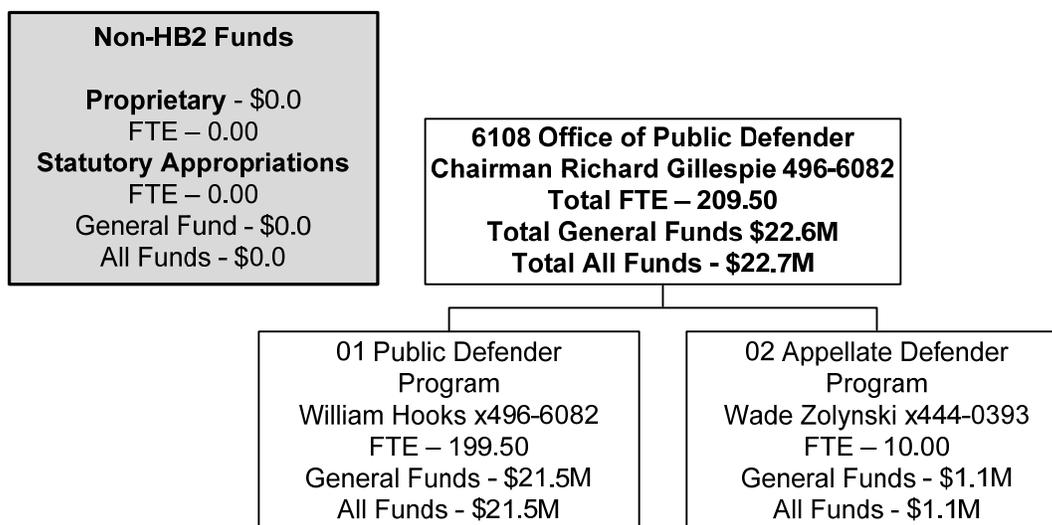
Updated December 2012

Definition of Terms

Agency Description

The Office of State Public Defender (OPD) administers the statewide public defender system and delivers public defender services in all courts in Montana for criminal and certain civil cases for an individual who is determined to be indigent per statutory provisions and is accused of an offense that could result in the person's loss of life or liberty if convicted. The statewide public defender system is supervised by the Public Defender Commission, an eleven member commission appointed by the Governor. The office is administratively attached to the Department of Administration with the exception of some functions as provided in statute (2-15-1028, MCA). The statewide public defender system also includes appellate defender functions.

Below is an organizational chart of the agency including full time-equivalent (FTE) numbers, general fund appropriations, statutory appropriations, proprietary funds, and total funds.

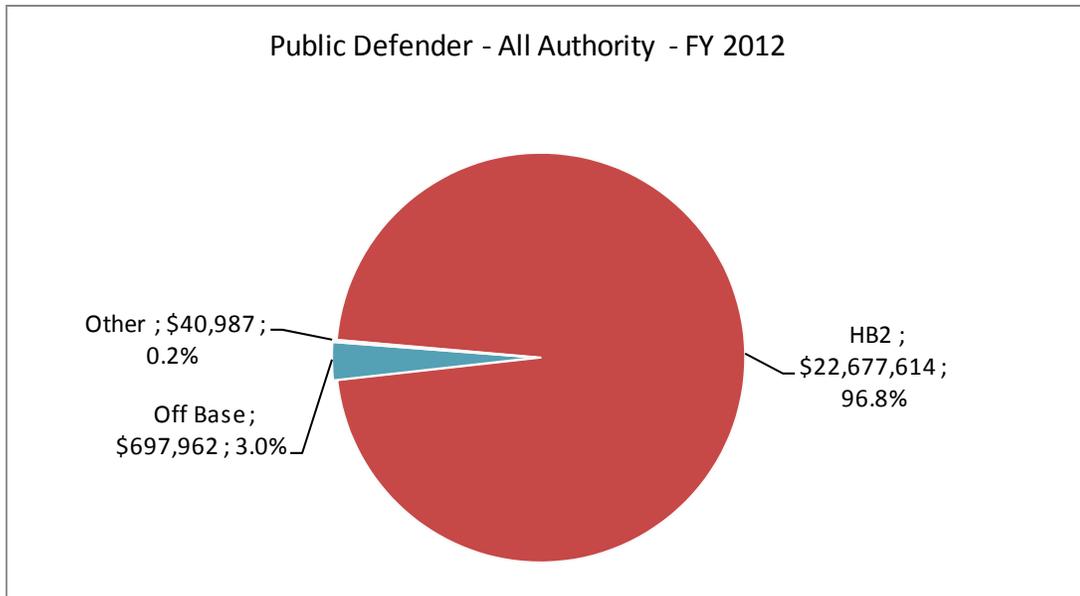


How Services are Provided

Services are provided by a combination of state employees and attorneys contracting with the state. In general, state employees provide services in populated geographic areas where the majority of the cases occur and contracted attorneys are used in less populated geographic areas. Contract attorneys may also be utilized in situations that create a conflict of interest for attorneys on staff. State employees include attorneys, criminal investigators, and legal secretaries. Services are broken among 11 regions along with an office for major cases and an appellate office.

Sources of Spending Authority

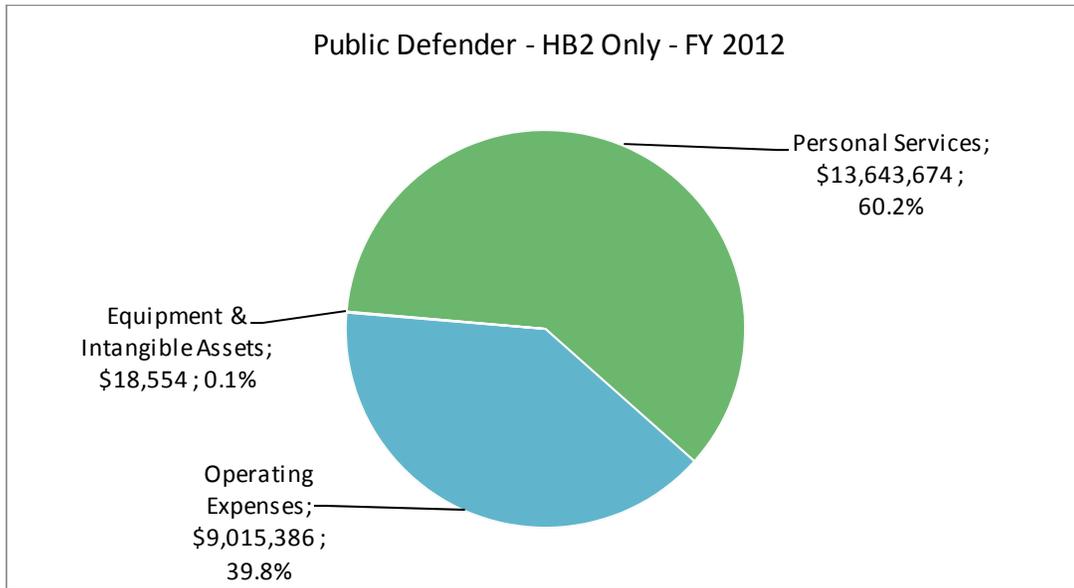
The following chart shows the sources of authority that funded the office during FY 2012. “Other” includes carry-forward funds and a grant from Missoula County. Off base includes one-time-only funding for death penalty cases, computer equipment, and contracted services.



The accounting term “off base” refers to one-time-only spending and non-budgeted items like inventory adjustments. Other legislative appropriations (sometimes called cat and dog bills) are included in the above categories as appropriate. For a more detailed description of accounting terminology, please refer to the definition of terms.

Expenditures

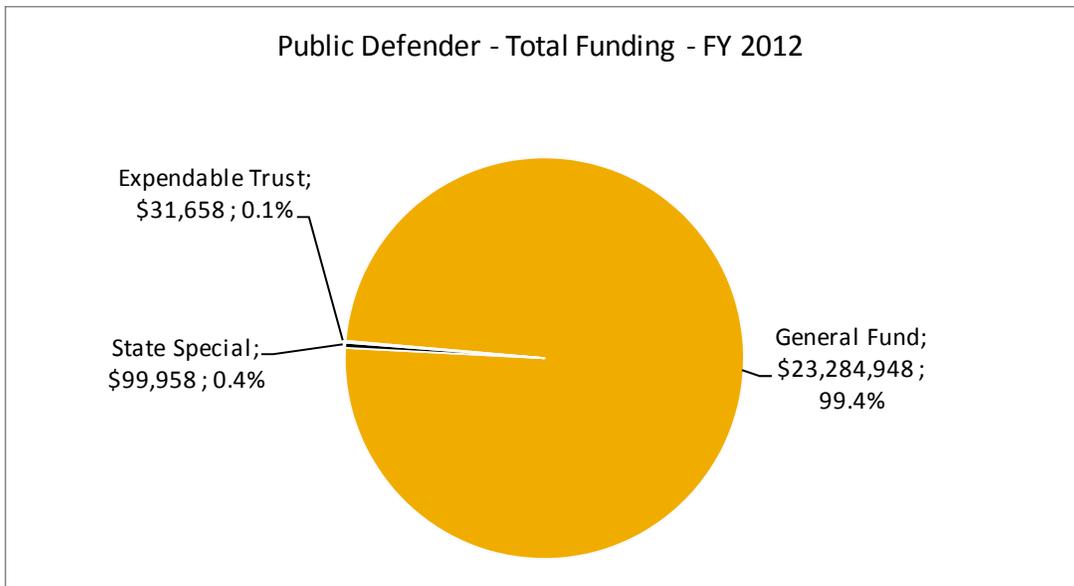
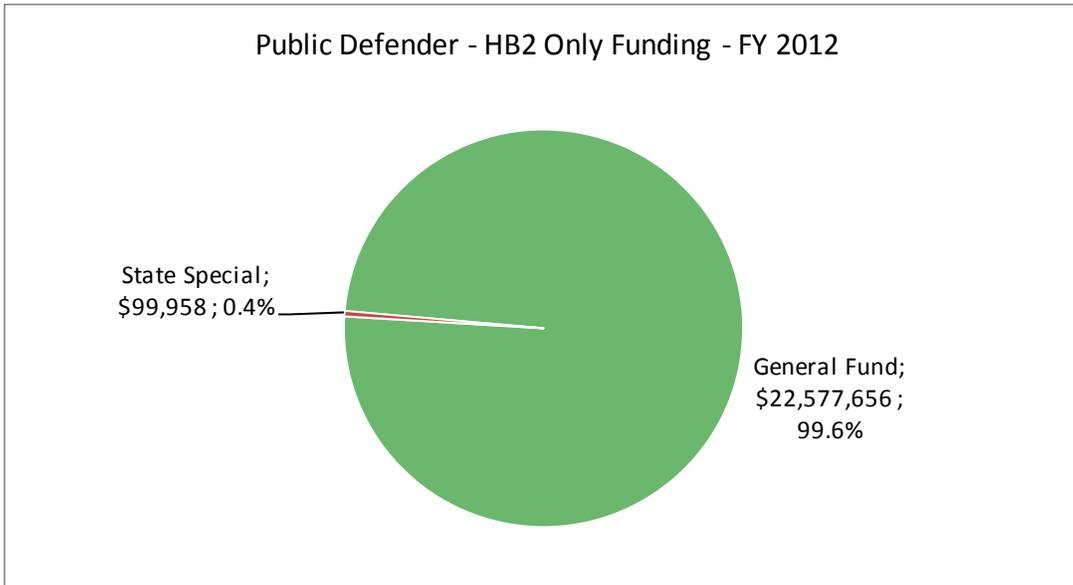
The next chart explains how the HB 2 authority is spent. Personal services to fund primarily attorneys, investigators, and legal secretaries is the largest expenditure of the office. Operating expenses provides funding for case costs and for contracted attorneys, who augment state staff in providing public defender services.



This chart matches the agency chart found in the 2015 Budget Analysis. Some minor discrepancies may occur as a result of rounding.

Funding

The following charts show the agency's HB 2 funding authority by fund type and all sources of its total funding authority. State special funds are derived from fees charged to clients for to cover a portion of the costs of representation.



How the 2013 Legislature Can Effect Change

In order to change expenditure levels and/or agency activity, the legislature must address one or more of the following basic elements that drive costs.

The legislature may impact the function of the statewide public defender system by:

- Assigning responsibility for funding and provision of services
- Changing the statutory framework that defines the public defender system
- Changing statutory provisions of criminal law
- Changing statutory provisions related to certain civil proceedings

The largest categories of costs for the agency are personal services and contracted attorney services, actions that impact these items are likely to impact the system.

Major Cost Drivers

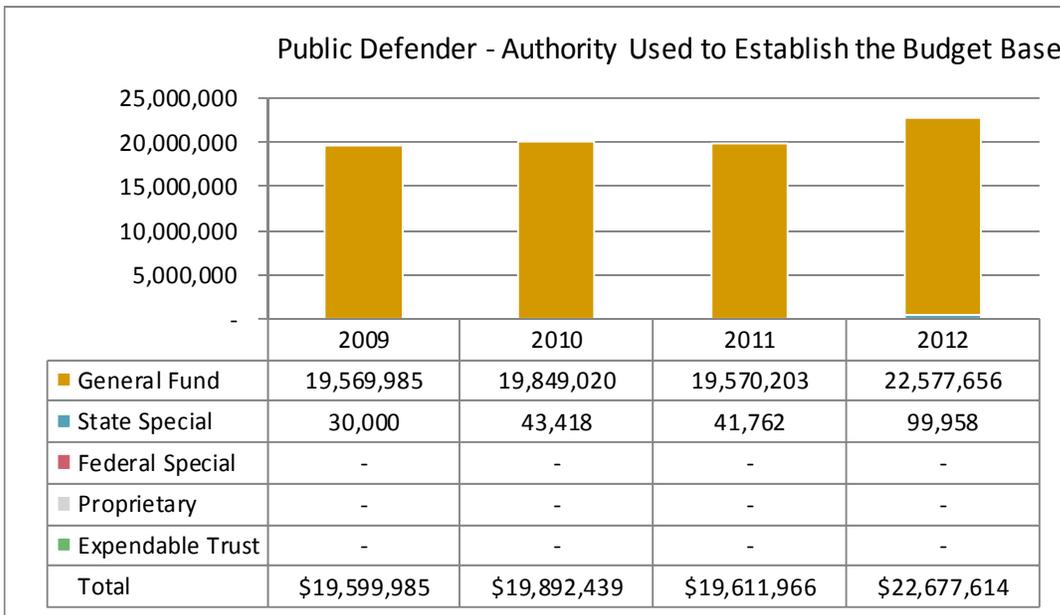
Driver	FY 2007	FY 2012	Significance of Data
Fee assessments	\$49,229	\$521,937	Shows amount of collections for services of the office
Collections of assessments	\$8,018	\$123,994	Shows success in collecting fees
Year end assessments outstanding	\$41,211	\$1,274,121	Shows accumulated receivables of assessments
Number of clients with assessments	81	1,922	Shows workload of collections staff
New public defender cases	25,621	30,912	Shows growth in workload of public defenders
New appeals cases	213	225	Shows growth in workload of appellate defenders

The table above provides some cost drivers that can indirectly impact the operating costs of the Office of State Public Defender.

Funding/Expenditure History

The following figure shows how expenditures in HB 2 have been funded for the period from FY 2009 through FY 2012. Over the period, general fund support for the agency has grown steadily. Factors contributing to this growth include:

- Growth in state staff from 192.50 FTE in FY 2009 to 208.50 FTE in FY 2012
- Growth in legislative audit costs from \$1,500 in FY 2009 to \$31,100 in FY 2012
- Funding for defending aggravated driving under the influence (DUI) cases added \$85,500 in FY 2012
- Growth in caseloads have driven increases in costs for contract attorney and growth in state FTE



Major Legislative Changes in the Last Ten Years

The agency came into existence after SB 146 was passed and approved in the 2005 Legislative session. The only significant legislative changes occurred in the 2011 Legislative Session when:

- The Appellate Defender's Office was move into a separate program and the chief appellate defender began reporting directly to the Public Defender Commission
- The crime of aggravated DUI was enacted and qualified for services of the office
- The requirement was eliminated for the chief public defender to carry a caseload
- Law prohibited the contract manager from carrying a caseload

For further information, you may wish to contact the agency at:

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