



**Montana Legislative Services Division**  
**Office of Research and Policy Analysis**  
**David D. Bohyer, Director**

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May 13, 2016

TO: Members of the Task Force on State Public Defender Operations  
FROM: Dave Bohyer, LSD Research Director  
RE: Eligibility determinations of "hardship" in public defender appointment

The Task Force on State Public Defender Operations has asked staff to provide (1) the number and percentage of applicants for a public defender who are determined to be eligible on the basis of "hardship" and (2) the number of prosecutions of applicants for a public defender who have allegedly sworn falsely or committed perjury by providing inaccurate financial information for determining eligibility for a public defender. Please accept this memorandum as my response.

The second question is the easier of the two to answer, so I'll address it first. The Office of Public Defender does not maintain statistics regarding the number of actual or potential defendants assigned a public defender who are later prosecuted for false swearing or perjury for providing inaccurate financial information for the purpose of having the court appoint a public defender. Learning that fact only today, I have asked the Montana County Attorneys' Association if they keep the numbers. Understandably, they have not yet responded.

With respect to "hardship" determinations, the Office of Public Defender (OPD) provided information on eligibility determinations from July 1, 2015 through April 30, 2016. (See attachment.) Of the 15,350 case determinations the OPD accounted for during that time, 758 were determined eligible on the basis of "hardship". The 758 hardship cases are less than 5% of the total number of case determinations, 4.94% to be more precise. The data comprise approximately 58% of the time that had passed in FY 2016.

Region 7 had the fewest number of hardship determinations, only 2, which represented 1.3% of all public defender case determinations in Region 7. The 2 hardship determinations in Region 7 also represented 0.26% of all hardship case determinations statewide, and 0.01% of all case determinations of all types statewide.

At the other end of the spectrum, Region 8 had the greatest number of hardship determinations, 280, which represented 17.5% of all public defender case determinations in Region 8. The 280 determinations in Region 8 represented 36.9% of all hardship case determinations statewide, and 1.8% of all case determinations of all types statewide.

The information provided by OPD and on which the above calculations are based is attached.

Respectfully submitted.