



MONTANA STATE
PUBLIC DEFENDER

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September 11, 2024

Chair Mercer

Interim Budget Committee, Sub-D

Via email to Katelyn Flavin, LFD

RE: OPD Responses for September 18th, 2024, IBC Hearing

Chair Mercer and Members of the Committee,

Please find OPD's Responses to the Committee's Requests for the September 18th, 2024, IBC hearing.

Best,

/s/ Brett D. Schandelson

Brett D. Schandelson

Director

OPD FY 2025 Annual Plan

Members may find OPD's FY 2025 Annual Plan at this link: [OPD-FY-2025-Annual-Plan.pdf \(mt.gov\)](#)

Regarding the responses from the department after the June meeting, provide the number of times in FY 2024 in which a court has ordered jail time for these identified misdemeanor types

Unfortunately, OPD does not have quality data on sentencing in the aggregate and is unable to provide specific sentencing data on these misdemeanors. While OPD does have all necessary documentation of a client's sentence, primarily in the form of documents or attorney notes, this information is unable to be aggregated and/or reported on as the information is not currently entered as data in a routine manner. As a client services agency, OPD is able to provide effective representation with this information but has little need for, requirements to collect, nor the ability to ensure accurate data entry on sentencing data. The committee would likely receive more accurate data from the courts on this matter, as it is the courts that are the custodian of record for the court file, including the sentences given.

To provide some additional context, however, OPD can provide the following chart of its top 20 misdemeanors by charge weight volume received in FY24 and whether there is a statutory mandatory minimum jail sentence required. This top 20 list considers only those misdemeanor offenses that are defined in MCA and carry a possible penalty of jail time.

Top 20 Misdemeanor Charges in FY 2024		
Statute Category	Description	Mandatory Minimum Jail Sentence
61-8-1002 - 1st	Driving under influence.	Yes
45-5-206 - 1st	Partner or family member assault -- penalty.	Yes
45-6-203	Criminal trespass to property.	No
61-5-212	Driving while license suspended or revoked -- penalty -- second offense of driving without licensing exemption.	No
45-5-201	Assault.	No
45-6-301 - 3rd	Theft.	Yes
61-8-1002 - 2nd	Driving under influence.	Yes

45-6-101	Criminal mischief.	No
45-10-103	Criminal possession of drug paraphernalia.	No
45-5-626 - 1st	Violation of order of protection.	No
45-6-301 - 2nd	Theft.	No
45-5-209	Violation of Order of Protection: Partner or family member assault -- no contact order -- notice -- violation of order -- penalty.	No
45-8-101 - 1st	Disorderly conduct.	No
61-8-1002 - 3rd	Driving under influence.	Yes
45-7-302	Obstructing peace officer or other public servant.	No
45-5-206 - 2nd	Partner or family member assault -- penalty.	Yes
45-7-301	Resisting arrest.	No
61-8-301 - 1st	Reckless driving -- reckless endangerment of highway worker.	No
45-6-202	Criminal trespass to vehicles.	No
61-6-301 - 3rd	Required motor vehicle insurance -- family member exclusion.	No

Provide FY 2024 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 "Attachment A – FY 2024 OPD Fees Assessed."

Provide utilized employee and contractor time for FY 2024 in cases involving defendants in capital cases

No OPD employee spent time working on a capital case in FY 2024.

Please see the table below for a summary of the hours submitted by contractors for capital cases in FY 2024:

<input type="checkbox"/> Name ↑	<input type="checkbox"/> Timekeeper: Timekeeper Name ↑	<input type="checkbox"/> Expense Account Code ↑	Sum of Hours
<input type="checkbox"/> Patricia Batts ~ DC-20-88B ~ Deliberate Homicide	Craig Campbell	Batts Hours Worked - Investigator	26.30
		Mileage High - Up to 1000 Miles/month (2023 \$0.655)	0.00
	Craig Shannon	Batts Capital Case Travel Time	0.00
		Batts Capital Hours Worked	80.50
	Focus for Living PLLC Brain & Behavior Associates	Expert Witness Services	0.00
	Gregory Jackson	Batts Capital Case Travel Time	0.00
		Batts Capital Hours Worked	28.00
	Kathy Clark KLC Professional Services Inc	Mileage High - Up to 1000 Miles/month (2023 \$0.655)	0.00
		Other	0.00
	Kimberly Gorgens	Expert Witness Services	0.00
	Lenore Walker	Expert Witness Services	0.00
	Richard Adler	Expert Witness Services	0.00
	Texas Defender Service	Batts Hours Worked - Investigator	38.74
Total		173.54	

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.

Provide all FY 2024 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 “Attachment B – FY 2024 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 table below for the number of matters, clients, and total matter weight for matters received in FY 2024 that contained no MCA violations.

Matters without any MCA Violations

	FY 2024		
	Matter Weight Received	# of Matters	# of Clients
Baker City Ordinance	6	2	1
Belgrade City Code	13	2	1
Billings Municipal Code	1,275	406	100
Bozeman Municipal Code	6	2	1
Cascade County Ordinance	27	9	7
Colstrip City Code	12	4	4
Conrad City Ordinance	27	10	10
Custer County Ordinance	15	5	4
Darby Town Code	3	1	1
Deer Lodge County Ordinance	9	3	3
Fergus County	9	3	3
Flathead County Ordinance	61	18	15
Gallatin County	36	12	10
Great Falls Municipal Code	140	43	28
Hamilton City Ordinance	8	2	2
Hardin City Ordinance	57	19	15
Havre City Ordinance	12	5	5
Hill County Ordinance	13	2	2
Kalispell Municipal Code	18	6	6
Lake County	15	5	5
Libby City Ordinance	3	1	1
Lincoln County Ordinance	12	4	4
Miles City Municipal Code	6	2	2
Polson City Municipal Code	15	5	5
Polson Municipal Code	3	1	1
Ravalli County	10	2	2
Red Lodge City Court	3	1	1
Sidney City Ordinance	6	2	1
St. Ignatious City Ordinance	5	1	1
Townsend Municipal Code	6	2	1
Yellowstone County Ordinance	30	13	11
Grand Total	1,776	564	220

Please note that some matters may have charges from more than one 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 total external and FTE costs for these matters in FY 24. Please note that due to the duration of case litigation, it is likely most external costs incurred for matters received in FY 2024 will not be incurred in FY 2024.

County	Total External Costs	Total FTE Costs
Big Horn	\$ 45.00	\$ 348.62
Broadwater	\$ -	\$ 142.11
Cascade	\$ -	\$ 718.80
Custer	\$ 1,188.70	\$ -
Deer Lodge	\$ 28.40	\$ -
Flathead	\$ 373.76	\$ 808.59
Gallatin	\$ -	\$ 67.50
Hill	\$ -	\$ 372.60
Lake	\$ -	\$ 469.64
Lincoln	\$ -	\$ 399.69
Missoula	\$ -	\$ 2,601.24
Park	\$ -	\$ 201.04
Rosebud	\$ -	\$ 299.77
Sanders	\$ 184.60	\$ 17.76
Stillwater	\$ 259.20	\$ -
Yellowstone	\$ 85.20	\$ 420.26
Totals	\$ 2,164.86	\$ 6,867.62