

Executive Summary

Rule 6.1 of the Montana Rules of Professional conduct states that Montana attorneys authorized to practice law in the state should provide 50 hours of *pro bono publico* service with the substantial majority of those hours devoted to provision of legal services to people of limited means. This summary report outlines results from the data collected from attorney 2013 reporting forms. The highlights of the data are as follows:

Pro bono reporting information was received for a **total 3,497** attorneys. **2,819** (81 percent) reported primary practice **in-state** and **678** (19 percent) indicating primarily **out-of-state** practice. The State Bar of Montana 2013 Attorney Membership Report is included as Attachment 1.

2,025 (70 percent) attorneys providing services in Montana **reported pro bono hours in at least one pro bono category** in 2013.

- **1,873** (92 percent) attorneys reporting pro bono hours provided **86,485** hours of pro bono services **without expectation of fee** for individuals/families of limited means or organizations designed to assist people of limited means.
- **672** (33 percent) attorneys reporting pro bono hours provided **36,546** hours of pro bono service **at a substantially reduced fee** to people/families of limited means or organizations designed to assist people of limited means.
- **567** (28 percent) attorneys reporting pro bono hours provided **20,407** hours of free pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **133** (7 percent) attorneys reporting pro bono hours provided **14,025** hours of reduced fee services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- There was an increase of **14,876** (10.4 percent) 2013 total reported pro bono hours from 2012.
- In addition to reported pro bono hours, **753** (26 percent) of all in-state attorneys reported **24,408** hours participating in volunteer activities for improving the law, legal system or legal profession.
- 93 percent of reporting attorneys described their pro bono experience as very positive or positive.

Pro Bono Hours Recapitulation

CATEGORY	Hours	Category	Total
Without expectation of fees to/for persons of limited means or charitable, religious, etc. serving people of limited means	86,485		
Free to charitable, religious, etc. in furtherance of their purposes	20,407		
Total Free		106,892	
Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means	36,546		
Reduced to charitable, religious, etc. for furtherance of their purposes	14,025		
Total Reduced Fee		50,571	
TOTAL PRO BONO HOURS			157,463

Analysis of Reported Pro Bono Publico Service Value

(Does not include Volunteer Activities for improving the law, legal system, legal profession)

Free Services	106,892 hours x \$150/hr ¹	\$16,033,800.00
Reduced fee services	50,571 hours x \$75/hr ²	<u>\$ 3,792,825.00</u>
TOTAL		\$19,826,625.00

¹ Hourly rate based on approximate average hourly rate of responders to the 2011 Montana State Bar Membership Survey

² Reduced rate services calculated at one-half the average hourly rate

I. INTRODUCTION

The Pro Bono Reporting process is managed jointly by the State Bar of Montana and the Montana Supreme Court Office of the Court Administrator through its Statewide Pro Bono Coordinator. The Statewide Pro Bono Coordinator was responsible for compiling and analyzing the data. This report summarizes the results of the 2013 pro bono reporting year (fiscal year ending November 30, 2013). Pro Bono Reporting is conducted in conjunction with the annual Interest On Lawyers Trust Account (IOLTA) certification. IOLTA reporting is mandatory pursuant to Rule 1.18 of the Rules of Professional Conduct. Pro Bono reporting is voluntary.

An initial postcard mailing was sent on October 31, 2013 to all licensed Montana attorneys with instructions on reporting protocols and included a link to the electronic reporting portal on the State Bar of Montana website. Pro Bono and IOLTA reporting were linked one to the other. Reporting attorneys were guided through the Pro Bono Reporting Form and upon completion, redirected automatically to the IOLTA Compliance Certificate. Paper copies of the Pro Bono Reporting Form were made available on the State Bar of Montana website together with overviews and Q & A about pro bono *publico* and reporting generally. The Statewide Pro Bono Coordinator is not responsible for compiling and analyzing data for IOLTA reporting. Reporting protocols were also printed in November's issue of *The Montana Lawyer* and a reporting reminder was sent by email to State Bar sections and through local bar associations in late November.

This report covers 3,395 pro bono reports for 3,494 lawyers received by January 30, 2014 and includes all reporting attorneys. This report does not exclude data received from attorneys with a status other than active. The overall percentage of online filing was 96 percent and remaining five percent filed the Pro Bono Report through mail. The quality of the data compiled has increased substantially over the electronic reporting years greatly improving data integrity and analyzing capabilities.

The purposes of reporting are:

1. to identify and evaluate the status of pro bono service in the Montana by Montana attorneys;
2. to assess the time attorneys spend providing pro bono *publico* and volunteer services, in what categories and to whom those services are provided;
3. to assess the financial impact of pro bono contributions by Montana attorneys;
4. to identify ways to improve pro bono participation and experiences among Montana attorneys;
5. to identify areas of improvement for promoting pro bono services and programs.

II. General Characteristics of Montana Attorneys

This section presents a general overview of practice types of Montana lawyers, using the pro bono reporting data. Because reporting volume of in-state attorneys is substantial, reporting data provides a general descriptive measure for the overall Montana attorney population.

II.1 Attorney Years of Practice - Generally

The average years-of-practice among responders practicing primarily in Montana is 23.12. Percentages for correlation of years in practice and pro bono hours reported are in Section VI, Table T.5.

II.2 Firm Size/Employment - Generally

The most common firm type/employment status and correlating percentages for reporting attorneys are³:

1. Solo Firm: Generally - 30.7%, Pro Bono Hours - 34.6%
2. Government/Public Service⁴: Generally - 26.1%, Pro Bono Hours – 18.4%
3. 3-5 Attorney Firm: Generally: 11.3%, Pro Bono Hours - 12.8%
4. Two-Attorney Firm: Generally: 9.9%, Pro Bono Hours - 11.2%
5. 6-10 Attorneys: Generally: 8.8%, Pro Bono Hours – 2.3%
6. 20+ Attorney: Generally: 4.1%, Pro Bono Hours – 3.9%

All other category selections (9 percent collectively) were individually 3 percent or less of the total reporting. Firm size/employment correlations to reported pro bono hours are found at Table T.5 in Section VI of this Report.

III. PRO BONO SERVICE STATEWIDE

This section presents the analyses result for the 2013 Pro Bono Report data for pro bono services provided and hours spent improving the law and the legal system (also found in the Executive Summary).

2,025 (70 percent) attorneys providing services in Montana **reported pro bono hours in at least one pro bono category** in 2013 and 93 percent reported their pro bono experience was very positive or positive.

- **1,873** (92 percent) attorneys reporting pro bono hours provided **86,485** hours of pro bono services ***without expectation of fee*** for individuals/families of limited means or organizations designed to assist people of limited means.
- **672** (33 percent) attorneys reporting pro bono hours provided **36,546** hours of pro bono service ***at a substantially reduced fee*** to people/families of limited means or organizations designed to assist people of limited means
- **567** (28 percent) attorneys reporting pro bono hours provided **20,407** hours of free pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **133** (7 percent) attorneys reporting pro bono hours provided **14,025** hours of reduced fee services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.

³ This was not a required question and not all attorneys reporting responded to this question.

⁴ Combined categories of State, Federal, City, County and other government/public service attorneys

- There was an **increase** in 2013 of **14,876** (10.4 percent) all-category totals reported **pro bono hours** from 2012, not including hours reported for improving the law and legal profession.

In addition to reported pro bono hours, **753** (26 percent) of all in-state reporting attorneys reported **24,408** hours participating in volunteer activities for improving the law, legal system or legal profession which represents an increase of 5,104 hours.

IV. BENEFICIARIES OF PRO BONO SERVICE

The Pro Bono Reporting Form contains of a series of questions regarding to whom pro bono service was provided and distinguishes between services without the expectation of fee and substantially reduced fees. Responses were not mutually exclusive.

IV.1 Among the 2,205 lawyers who reported any category pro bono services, 1,873 (92 percent) provided services **without the expectation of fee** to people of limited means or organizations designed to assist people of limited means. Table T.1 below represents how those free pro bono hours were distributed across the question base using this category response total. Responses were not mutually exclusive.

Table T.1 – Pro Bono Hours - Without Expectation of Fee – Limited Means

CATEGORY	#	Cat. %*	Total Hrs.	Cat. %
Referred by MLSA or one of its programs	248	13.2%	5,501	6.5%
Referred by organized local or state pro bono program	310	16.6%	8,534	9.9%
A court based program	173	9.2%	3,629	4.2%
Individuals/families self-referred/outside organized pro bono program	1,105	59.1%	41,012	47.4%
Charitable organizations that assist people of limited means	314	16.8%	7,000	8.1%
Religious organizations that assist people of limited means	177	9.5%	2,895	3.3%
Community organizations that assist people with limited means	215	11.5%	4,750	5.5%
Civic organizations that assist people of limited means	98	5.2%	1,959	2.3%
Governmental organizations that assist people of limited means	79	4.2%	2,036	2.4%
Educational Organizations that assist people of limited means	102	5.4%	2,566	3.0%
Organizations seeking to secure/protect civil or public rights and/or liberties	127	6.8%	6,603	7.6%
TOTAL			86,485	

*Percent attorneys and percent of hours in each respective “Without Expectation of Fee” category.

IV.2 Among the 2,205 lawyers who provided pro bono services in any category, 672 (30.5 percent) provided **35,546 hours** of services **at a substantially reduced fee** to people of limited means or organizations designed to assist people of limited means. Table T.2 below represents how those substantially reduced fee hours were distributed across the question base using this category response total. Responses were not mutually exclusive.

Table T.2 – Substantially Reduced Fee – Limited Means

CATEGORY	#	Hours	% Hrs ⁵	Att. % ⁶
Referred by MLSA or one of its programs	36	1,206	5.4%	3.3%
Referred by organized local or state pro bono program	39	1,810	5.8%	5.0%
A court based program	31	3,669	4.1%	10.0%
Individuals/families of limited means outside organized pro bono	484	22,170	72.0%	60.6%
Charitable organizations that assist people of limited means	48	922	7.1%	2.5%
Religious organizations that assist people of limited means	22	255	3.3%	.7%
Community organizations that assist people with limited means	29	741	4.3%	2.0%
Civic organizations designed to assist people of limited means	15	189	2.2%	.5%
Governmental organizations that assist people of limited means	44	3,402 ⁷	6.5%	9.3%
Educational Organizations that assist people of limited means	18	691	2.7%	1.9%
Organizations to secure/protect civil/public rights/ Liberties	32	1,491	4.8%	4.1%

IV.3 Among the 2,205 lawyers who provided pro bono services in any category, 567 (25.7 percent) provided **20,407 hours of free legal services** and **133** (6.0 percent) provided **14,025** hours of **substantially reduced fee** service to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes, where payment of fees would greatly deplete their economic resources. Responses to this question were not mutually exclusive.

IV.4 Hours Improving the Law or Legal System

In 2013, 753 (26 percent of total in-state reports) reporting lawyers provided **24,408** hours participating in **volunteer activities for improving the law, legal system or legal profession**. The hour distribution is outlined in Table T.3 below.

Table T.3 – Improving the Law and Legal System

CATEGORY	# Attorneys	Hours	% Hrs.	Att. %
CLE Preparation/Presentation	378	5,958	24.4%	13.0%
Committee/Task Force/Commission/Board	299	7,141	29.2%	10.3%
Presentations to organizations or institutions	250	2,396	9.8%	8.6%
Law School Activities	208	3,519	14.4%	7.2%
Publications or articles	131	1,782	7.3%	4.5%
Educational Materials	105	1,413	5.8%	3.6%
Pro bono program leadership/development	87	327	1.3%	3.0%
access to justice based committee/commission	86	535	2.2%	3.0%
Elder Legal Document Clinic	79	218	1.0%	2.7%
Other	106	1,119	4.6%	3.7%

V. PRO BONO SERVICE BY LEGAL TYPE

Family law continues to lead legal type category of individual pro bono service at 44.2 percent. Non-profit legal work has remained the second most common category for six successive years and Landlord-Tenant remains the third largest category in 2013. Table T.4 below provides percentages in all categories.

⁵ Represents how hours are allocated across answer options in respective categories

⁶ Represents the percentage of all in-state attorneys reporting hours in any one answer option in respective categories

⁷ Large hour entries were adjusted to align with pro bono definition

Table T.4 – Pro Bono Service by Category

CATEGORY	Percentage
Family Law	44.2%
Non-Profit	22.7%
Landlord-Tenant	21.2%
Criminal Law	20.9%
Business	17.8%
Estate Planning	17.0%
Real Estate/Foreclosure	13.0%
Employment/Labor	12.9%
Consumer Law	11.8%
Elder Law	11.5%
Guardianship	10.6%
Probate	10.6%
End of Life Planning	9.8%
Civil Rights	8.5%
Insurance	8.3%
Education	8.2%
Other	8.2% ⁸
Domestic Violence	7.9%
Adoption	6.8%
Youth In Need of Care	5.5%
Bankruptcy	5.5%
Conservatorship	5.5%
Self-Help Support	5.2%
ADR – All types	5.1%
Tax	5.1%
Military/Veterans	4.3%
Disability Rights	4.9%
Health Law	4.0%
Social Security	3.4%
Indian Law	3.4%
Immigration	1.7%
Pro Bono Program Admin./Coordination	1.6%

VI. PRO BONO SERVICE BY FIRM SIZE

The Pro Bono Reporting Form queries lawyers for firm size or employment type. The numbers provided in this report reflect in-state attorney responses only. The table below illustrates provision of pro bono services based on the size of a firm or employment status and the percentage

⁸ Most occurrences of attorneys choosing an alternative response as “other” indicated a category available as an option in the available menu.

denominator is the number of attorneys providing any pro bono service hours in the respective firm size category.⁹⁹

Table T.5 – Pro Bono Service by Firm Size

Firm Size	Without Fee to people/organizations of limited means	Substantially Reduced Fee to people/organizations of limited means	Free to charitable, religious, etc. for organizational purposes	Substantially Reduced Fee to charitable, religious, etc. for organizational purposes
Solo Firm	93%	54%	39%	19%
Two-Attorney	97%	55%	39%	18%
3-5 Attorney	93%	51%	38%	14%
6-10 Attorney	87%	42%	38%	15%
11-15 Attorney	98%	35%	35%	22%
16-20 Attorney	91%	48%	48%	29%
20+	84%	19%	21%	18%
Government/Public Service	61%	37%	35%	8%
In-House/Corp.	89%	33%	62%	24%
Non-Profit	91%	39%	41%	18%
Retired	84%	46%	51%	30%

VII. Pro Bono and Years in Practice

Responses were filtered by number of years in practice generally and by pro bono service hours in any category. Applied cross-filters are found in Table T.6 below. Approximately 85 percent of in-state attorneys responded to this question.

In analyzing the years of practice and correlating with the age of an attorney, certain norms are used. Data suggests the median age of law school graduation is 27 years of age. This figure is used to calculate a presumed age.

⁹⁹ This was not a required question and responses were not received from all responders.

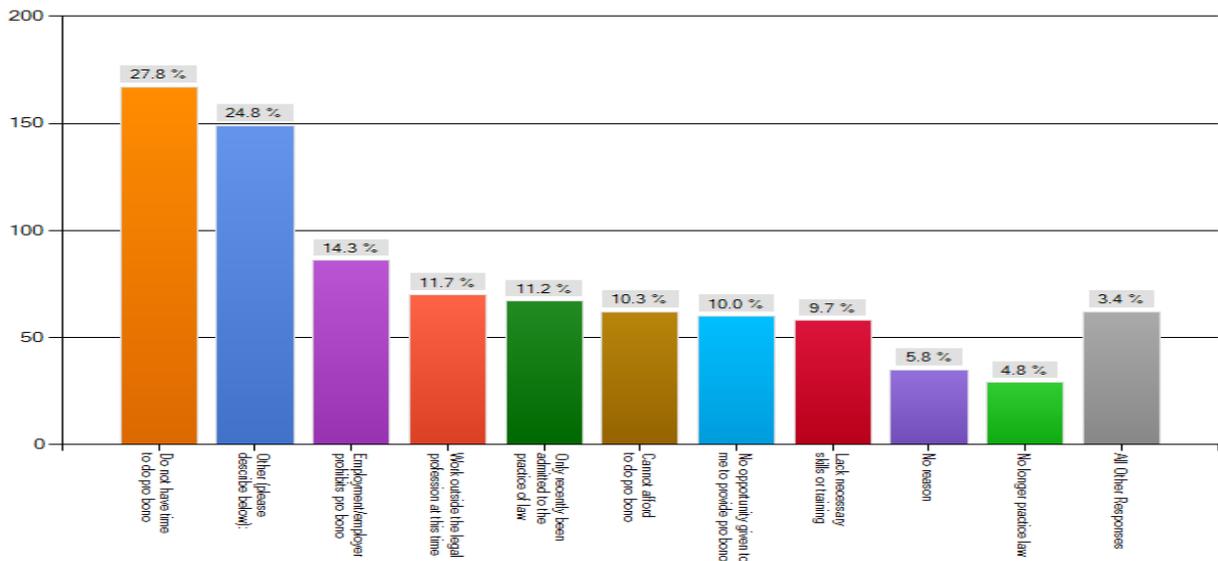
Table T.6 – Years of Practice

Years in Practice	Avg. Yrs	Presumed Age	% of Responders Generally	% of Age Category With Pro Bono Hours
0-5	1.74	27-31	24.7%	76.7%
6-10	7.88	33-37	16.4%	83.7%
11-15	12.98	38-42	13.9%	82.5%
16-20	18.00	43-47	13.3%	82.1%
21-25	22.99	48-52	11.2%	86.2%
26-30	28.04	53-57	14.2%	82.1%
31-35	32.97	58-62	11.6%	85.4%
36-40	37.94	63-67	9.4%	88.7%
41-45	42.76	68-72	4.5%	90.7%
46-50	48.8	73-77	1.4%	79.1%
50+	54.50	78+	0.9%	81.8%

VIII. No Pro Bono

The Pro Bono Reporting Form allowed attorneys to indicate no pro bono hours to report and were offered options to indicate reasons for no hours. Approximately 47 percent of no-pro bono hours responses came from government/public service attorneys. Of note is that approximately 45 percent of those indicating a reason for not providing pro bono hours had hour entries in at least one pro bono category. This suggests attorneys with few hours, or hours in categories to people/organizations of limited means provided a reason response. The greatest percentage of reason categories included 31.3 percent indicating they do not have time to do pro bono and 29.3 percent indicating employment/employer prohibits pro bono. This should be considered when reviewing Chart T.6. Approximately 28 percent of attorneys in practice for 10 years or less are government or public service attorneys compared with an average of 16.7 percent in all other years-of-practice categories combined. The allocation of percentages across reasons for no pro bono are illustrated in Chart C.1 below.

Chart C.1 – No Pro Bono Hours Reasons



Also of note are demographics of attorneys who did not submit a 2012 Pro Bono Report and whether this raises the presumption that those non-reporting attorneys did not have pro bono service hours to report.

IX. PRO BONO SATISFACTION AND IMPROVEMENT

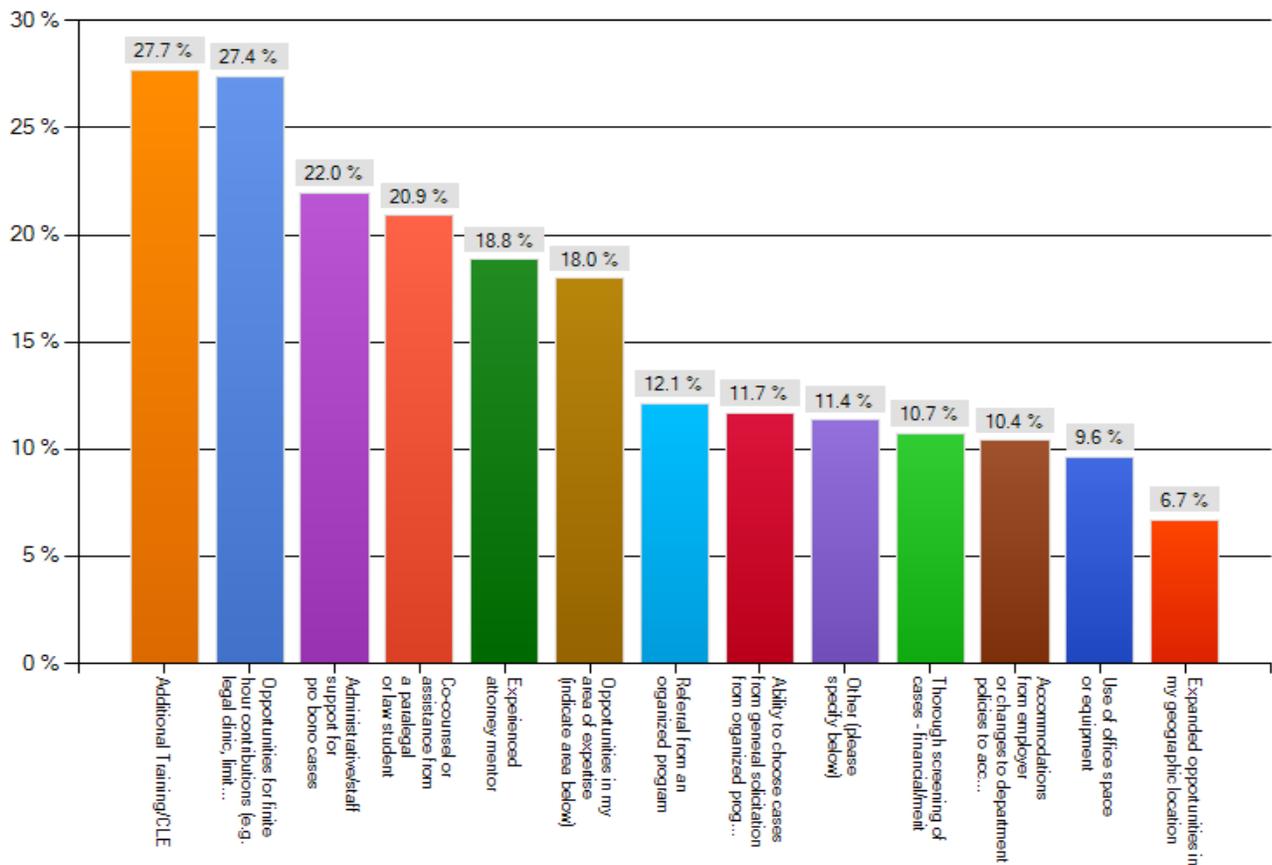
IX.1 Pro Bono Experience

Approximately 86 percent of attorneys providing pro bono service rated their pro bono service and 93 percent of responses indicated the pro bono experience positive or very positive. The vast majority of attorneys provided comment for negative or very negative experience indicate clients unwilling to compromise, take advantage of attorneys' time or fail to recognize the value of the service provided.

IX.2 Improving Pro Bono

Attorneys were asked what could be done to improve the attorney's ability to do pro bono work. The Reporting Form was revised in 2013 to provide a menu of options rather than previous years' open-ended response. The 2013 response rate to this questions improved from 10 percent in 2012 to 32 percent in 2013. Chart C.2 below illustrates response percentages.

Chart C.2 – How to Improve Pro Bono Participation



Generally, responses not offering a viable opportunity for us to improve ability to do pro bono work (winning the lottery or more hours in a day) were included in the “other” category.

Readable Legend for Chart C.2 above (highest % to lowest %)

- Additional CLE
- Opportunities for limited hour contributions (e.g. legal clinic, limited scope representation)
- Administrative/staff support for pro bono cases
- Co-counsel or assistance from a paralegal or law student
- Experienced attorney mentor
- Opportunities in my area of expertise
- Referral from an organized pro bono program
- Ability to choose cases from a general solicitation from an organized program
- Other
- Thorough screening of cases
- Accommodations from employer or change in department policies to facilitate pro bono
- Use of office space or equipment
- Expanded opportunities in my geographic area

X. Comparisons, Significant Findings, Pro Bono Service Trending and Recommendations

X.1 Three-Year-Comparison (with adjustments)

CATEGORY	2013	2012	2011 ¹⁰
Total attorneys reporting pro bono hours in any category	2,025	1,618	1,518
Total Free Hours	106,892	93,384	89,873
Total Substantially Reduced Hours	50,571	48,603	28,570
Total Pro Bono Hours	157,463	142,587	128,443

X.II Trending and Findings

Reports Generally: The number of Pro Bono Reports submitted has increased steadily, nearly doubling since 2009. Reporting mechanisms were adjusted in 2012 to extract information and data from out-of-state practice reporters. The number of out-of-state reports increased 68 percent since the last reporting year. Because out-of-state attorneys generally do not provide pro bono hours within the state of Montana, the increase in number of reports is not analogous to total reported pro bono hours.

Hour Allocation: The allocation of pro bono hours remains relatively consistent across categories excepting a notable shift of hours provided to people of limited means or organizations that provide services to people of limited means. An increase in total hours reported aligns approximately with the increase in submitted reports. Hours to MLSA or an organized pro bono program increased by 6 percent, with a decrease to self-referred hours indicating more attorneys choose to or are given the opportunity to provide hours through organizationally-based programs.

Attorney Years of Practice and Pro Bono: Attorneys reporting practice years of 0-5 is the single highest reporting category of the total 5-year incremental series. This category, while still an

¹⁰ After adjustments for reporting changes and errors to

impressive 75%, had the lowest percentage of attorneys providing pro bono services, suggesting the need to focus on opportunities and support in the attorney demographic of attorneys in practice for five years or less.

There is a substantial attorney response pool concerning what would improve the ability to do pro bono work and therefore provides focus areas to increase pro bono participation. The number of years in practice had a significant statistical impact on how attorneys responded to this query. Of attorneys in practice for five years or less, almost half said an attorney mentor would be of assistance compared to the overall response rate of 19 percent. This was followed by discrete tasks/finite hour contributions of approximately 37 percent, 10 percent more than the general response rate.

X.III Recommendations

Support Systems: Based on the 2013 reporting data, it is recommended that those working in the access to justice arena in Montana consider concentrating development efforts or support allocation for attorneys as follows:

1. Increase available training or Continuing Legal Education (CLE) opportunities in legal areas of the greatest need;
2. Develop pro bono opportunities for limited scope representation or discrete tasks such as limited scope representation panels, LSR components to existing program/organization formal referral protocols and additional permanent or event-based advice clinics across the state;
3. Development of supportive non-attorney legal professional and law student modules for existing pro bono programs to offer assistance to attorneys taking pro bono cases;
4. Creation or expansion of mentor-mentee protocols and opportunities in pro bono programs to provide support to new lawyers and as well as lawyers who wish to provide services in an unfamiliar legal area.

Of note, recommendations above are based on overall response statistics. However, when filtered by those attorneys indicating they did not provide pro bono hours, opportunities for discrete tasks or finite hour contributions tripled any other category, and included a majority response from government/public service attorneys.

Because the new attorney age demographic (5 years or less) demonstrates the least incidence of pro bono service, special attention should be focused on engaging this age demographic and developing opportunities and services outlined in item four above.

Outreach: A record number of attorneys indicated they were interested in pro bono and would like more information about opportunities. Concentrated outreach to attorneys to provide information about existing opportunities or creation of additional opportunities to pair resources with need is essential to engaging those attorneys not presently providing pro bono or who are providing fewer hours than they are willing to offer.

MEMBERSHIP INFORMATION REPORT

November 27, 2013

By: *Jill Diveley*

MEMBERSHIP TYPE	"A"	"I"	"ID"	"E"	"J"	"AM"	"SU"	"R"	"S"	"P"	TOTAL
Montana	3080	278	11	4	100	3	155	168	92	144	4024
Out-of-State	677	594	0	1	16	28	337	258	67	0	1978
TOTAL	3757	872	11	5	116	31	492	426	159	144	6002

Membership Types: Active, Inactive, IDisability, Emeritus, Judicial, ActiveMilitary, SUsuspended, Resigned/Retired, Senior, Paralegal

(GENDER & DISTRICT includes Active, ActiveMilitary, Inactive & Senior members)

GENDER	"M"	"F"	TOTAL
Montana	2308	1145	3453
Out-of-State	913	453	1366
TOTAL	3221	1598	4819

(DISTRICT includes Active/ActiveMilitary, Inactive/Senior members)

DISTRICT	"A"	"I"	TOTAL
1	544	65	609
2	86	6	92
3	28	7	35
4	622	69	691
5	48	8	56
6	42	6	48
7	30	5	35
8	227	26	253
9	39	3	42
10	21	2	23
11	248	32	280
12	34	4	38
13	531	64	595
14	4	4	8
15	16	0	16
16	31	2	33
17	18	2	20
18	316	40	356
19	19	1	20
20	84	7	91
21	52	11	63
22	43	6	49

SECTION COUNTS			
		INDIAN LAW	80
BANKRUPTCY	108	NAT. RSRCE/ENVIRON.	131
BETTR LAW	207	NEW LAWYERS'	289
CONSTRUCTION LAW	53	NONPROFIT LAW	43
CRIMINAL LAW	89	PARALEGAL	144
FAMILY LAW	169	PUBLIC LAW	160
FEDERAL PRACTICE	76	SCHOOL LAW	21
HEALTH CARE LAW	49	WOMEN'S LAW	112