



OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

CASE WEIGHT SYSTEM - RULES

Revised by the Labor Management Committee May 2, 2014

Effective June 1, 2014

BEST PRACTICES: how to administer and use this system

Step 1- VALUE THE CASE

Assign case hours to each case when assigned – this means DAILY, as the cases come in, then write the hours on the appointment sheet. Likewise, the hours assigned should be entered into JustWare.

Step 2- DAILY TRACKING

This system is designed to help evenly distribute cases among attorneys and to monitor how many cases each attorney receives each month. We are currently using JustWare to generate monthly reports.

Step 3- GENERATE MONTHLY JUSTWARE REPORT

Print a JustWare Report for each attorney at the end of each month.

Step 4- ATTORNEY REVIEWS MONTHLY JUSTWARE REPORT

At the close of the month distribute the reports to the attorneys. If there are questions, concerns, or changes, the attorney can write in the comment section on the form and talk to the manager about changes.

Step 5- AFTER ADJUSTMENTS, ATTORNEY AND MANAGER SIGN AND DATE MONTHLY REPORT, REPORT IS SENT TO CENTRAL OFFICE

STEP 1 – VALUE THE CASE

1. The Regional Deputy Public Defender and/or Managing Attorney will assign and track cases by attorney for the office or region. If the Regional Deputy Public Defender or Managing Attorney is absent they will appoint a backup person who will be an attorney to assign and track cases. Every region will provide the Central Office with a list of those individuals that are approved to assign and track cases including all backup personnel. **(See pages 4-7 for specifics on values.)**

STEP 2 – DAILY TRACKING

2. Cases will be assigned DAILY and entered into JustWare DAILY. This information will be reported to the Central Office within 10 calendar days after the end of each month.
3. There will be a separate JustWare Form for each attorney.
4. This case weighting system is designed to monitor case assignments rather than open cases. Therefore, there is no incentive for a staff attorney to keep cases open.
5. One case is any number of tickets or charges an individual received in a specific incident and assigned to one jurisdiction for adjudication (i.e. traffic stop results in a speeding ticket, criminal distribution of dangerous drugs and possession – if litigated in the same court – all one case).
6. **When an attorney's monthly hours reach 125, the Regional Manager or Managing Attorney must meet with the staff attorney to discuss the attorney's caseload.**
7. This tool is not a performance measure but is simply used to assess whether resources are being properly distributed and help assure that the agency is not exceeding ethical caseload limits.

STEP 3 – STEP 5 GENERATE, ATTACH, REVIEW, SIGN AND DATE

8. At the close of each month, print off the JustWare Report and distribute to every attorney. The attorney then has a chance to review the JustWare Report for errors, questions, concerns, and can write their comments on the form. Once the review is completed and adjustments are made, if any, both the attorney and manager sign the JustWare Report.
9. The JustWare Report must be sent to the Central Office within 10 calendar days after the end of each month.

Summary Report (generated by Central Office)

10. The JustWare Report will be used by Central Office to generate a summary form for each attorney. The summary form will have 12 months for each attorney and a sum of the activity for the 12 month period at the bottom of each column.
11. On the summary form for a new attorney, any month that does not have “actual information” for case assignments will have 125 hours in place of the non-existent actual information. Therefore each attorney will begin with 1500 hours (12 months times 125 hours = 1500).
12. Actual monthly hours will replace the 125 hour place holder and become part of the calculation of total annual hours.
13. This is a “rolling month” process so the most recent actual information replaces the old information and the total is recalculated.
14. New hires: Central Office will backfill the summary report with the total number of hours transferred to the attorney at 125 hours per month beginning with the current month until all cases that have been transferred are accounted for. Backfill to fill out the year with 125.

Special Circumstances

15. Warrants: If a case goes to warrant status, make no adjustments.
 16. Similarly, if a case comes back from warrant status to active, make no adjustments unless the case has been re-assigned to another attorney. (Generally, these cases will most likely return to the attorney’s caseload within the year.)
 17. Conflicts: If a case is conflicted out of the office after it has been assigned, subtract the appropriate hours from the attorney to whom it was assigned. (Management retains discretion to leave the hours on the original attorney’s count if the case goes to conflict at a late stage after the attorney has worked the case for some time or if the attorney has expended significant hours.)
- Adjustments should be made in the month in which the transfer takes place, regardless of when the appointment was made.
18. Co-counsel: If an attorney is full co-counsel, give that attorney full hours. If the attorney is a trial-only co-counsel, give the attorney one-half of the allotted hours.
 19. When a case is transferred from one attorney to another the case hours move with the case (subtract from the original attorney, add to the new attorney). Adjustments should be made in the month in which the transfer takes place.

CASE WEIGHT HOURS

Misdemeanor (Including Juvenile Cases):

2.5 hours

-Fugitive / Out of County warrants

3 hours

-ALL Traffic Offenses (Title 61) (chapters 3, 5, 6, 7, 8, 9, 11, 13)
Except (DUI / Per Se – 61-8-401 and 61-8-406)

-Crimes (ONLY these three): Disorderly Conduct 45-8-101
Obstructing 45-7-302
Minor in Possession 45-5-624

-All City Ordinance Violations

7 hours

-DUI / Per Se (Title 61) (DUI 61-8-401 and Per Se 61-8-406)

-Crimes (ALL Title 45) (chapters 2, 5, 6, 7, 8, 9, 10)
Except Disorderly Conduct 45-8-101
Obstructing 45-7-302
Minor in Possession 45-5-624

10 hours

-misdemeanor sex crime

Add hours spent in a BENCH TRIAL (round down) to the month the bench trial occurs
(if it's less than one hour, add nothing, Example: 30 minutes = add no hours,
2.75 hours, add 2 hours, 8.1 hours, add 8 hours)

Add 5 hours to the total for appeals from Justice/Municipal/City court upon appeal

Add 5 hours to the hours assigned if the case is outside of the assigned region.

(Example: DUI (misdemeanor) charged in Kalispell, but the attorney comes from
Missoula = DUI (7) + 5 for travel, assign 12 hours)

Add 7 hours if there are **5 or more charges in one case.**

Add 8 hours a day - per day(s) spent in trial to the month when a **JURY TRIAL** occurs.

Add 20 hours to the **month for those who practice in courts located outside**
of the city where their office is located.

Assign the hours based on the highest crime charged, then no hours for the other charges

EXAMPLES

1- Disorderly, DUI, and open container = 7 hours

(because DUI is worth the most, don't count the others)

2- No insurance, obstructing, and driving while suspended = 3 hours

(that's the highest unit for any one of them)

3- No insurance, obstructing, no DL, speeding, minor in possession,
which goes to jury trial for two days= 26 hours

(start with 3 hours since all are in the 3 hour category, then add 7 hours for five or
more charges, then add 16 hours for two days jury trial)

Felony (Including Juvenile Cases):

- 2.5 hours** -Fugitive / Out of County warrants
- 7 hours** -Petition To Revoke
- 10 hours** -Property Crimes (45-6-101 – 45-6-341)
-Offenses Against Public Administration (45-7-101 – 45-7-501)
-Offenses Against Public Order (45-8-103 – 45-8-408)
- 15 hours** -Dangerous Drugs (45-9-101 – 45-9-132)
-Felony DUI (61-8-401, 61-8-406)
- 20 hours** -Felony theft
-Offenses Against the Person (45-5-201 – 45-5-401 and 45-5-601 - 637)
Except Felony Sex and Homicide charges
- 50 hours** -Felony Sex Offense (45-5-501 – 45-5-512)
- 100 hours** -Homicide (45-5-101 – 45-5-106)

Add 5 hours to the hours assigned if there are 3 or 4 charges in the case

Add 5 hours to the hours assigned if the case is outside of the assigned region.

(Example: Kidnapping charged in Kalispell, but the attorney comes from Missoula – person crime + 5 hours for travel, assign 25 hours.)

Add 8 hours a day - per day(s) spent in trial to the month when a TRIAL (bench OR jury trial) occurs.

Add 10 hours to the hours assigned if there are 5 or more charges in the case

Add 20 hours to the **month** for those who practice in courts located outside of the city where their office is located.

Inchoate Offenses (**Solicitation, Conspiracy, and Attempt**), assign hours according to the underlying crime.

Example: attempted robbery, assign hours for robbery, 45-5-401 = 20 hours

Assign the hours based on the highest crime charged, then look at the number of charges for extra points:

EXAMPLES

- 1- Possession of Dangerous Drugs, Stalking = 20 hours
(since stalking is worth the most, don't assign hours for PODD)
- 2- Criminal Mischief, Arson, Burglary = 15 hours
(even though all are in the 10 hour category, add 5 hours since there are THREE charges)
- 3- Attempted negligent homicide that goes to bench trial for four days= 132 hours
(even though its attempted homicide, look at underlying charge of homicide so 100 hours, then add 8 hours a day for four days, or 32 hours)

Civil:

2.5 hours

-DI (Involuntary Commitment)

Add 5 hours if goes to contested judge hearing (total possible 7.5 hours)

Add 10 hours if goes to contested jury trial (total possible 12.5 hours)

4 hours

-DD (Developmentally Disabled)

5 hours

-DG (Guardianship)

Add 5 hours if the case goes to final contested hearing
(total possible 10 hours)

-DJ (Juveniles - misdemeanor / status offense)

Add 5 hours to the month when a jury trial occurs

Add 7 hours -If there are 5 or more charges in one case

20 hours

-DN (Dependent Neglect)

Add 10 hours if goes to contested termination (total possible 30 hours)

Note: DN case weighting is based upon the cause number of the parent(s), not the number of children, and includes termination proceedings, so trial level preparation is necessary. The value for a DN case is only placed in one of the DN cases that are all related to the same filings against the one client. The value should be placed in the first case the office receives or in the lowest cause number associated with the one client. The case weight value should only be counted once regardless of the number of children.

Add 5 hours to the hours assigned if the case is outside of the assigned region.

Add 20 hours to the **month** for those who practice in courts located outside
of the city where their office is located.

DUI / Treatment Court:

Add 20 hours every month for each treatment court the attorney is assigned to.

Each treatment court is separate and distinct, unless they are consolidated for the purpose of staffing, hearing and case work. For example, some courts have separate official names, but don't require separate attorney time because all court and case work is done at the same time.

Jail Run / Initial Appearances:

Add 70 hours every month for the attorney who is the "designated daily jail attorney" for their office (applies to Regions 1, 2, 3, 4, 5, 8 and 9) This value applies when there is only ONE person doing the jail run and initial appearances for the entire office. This does not apply in offices that use a rotation to cover the jail run and initial appearances.



OFFICE OF THE STATE PUBLIC DEFENDER
 STAFF ATTORNEY CASE WEIGHTS AS ASSIGNED
 FY 2014
 JULY 2013 - JUNE 2014

Region	Attorney ID	Case Weight	Target	Over (Short) Target
1 - Kalispell	7238	1,337.00	1125	212.00
1 - Kalispell	7747	1,511.50	1500	11.50
1 - Kalispell	173865	297.00	500	(203.00)
1 - Kalispell	98467	1,803.00	1500	303.00
1 - Kalispell	11746	2,031.00	1500	531.00
1 - Kalispell	116504	1,924.00	1500	424.00
1 - Kalispell	98497	1,161.50	750	786.50
1 - Kalispell	12345	1,734.50	1500	234.50
1 - Kalispell	160139	762.00	375	387.00
1 - Kalispell	72035	1,577.50	1500	77.50
1 - Kalispell	10530	1,746.00	1500	246.00
1 - Kalispell	108480	1,961.70	1500	461.70
1 - Kalispell	148299	1,802.00	1500	302.00
1 - Kalispell	77344	1,416.50	1500	(83.50)
1 - Kalispell	134006	2,079.00	1500	579.00
1 - Kalispell	159102	1,563.50	1500	63.50
1 - Kalispell	136579	1,576.00	1500	76.00
2 - Missoula	2376	2,281.00	1500	781.00
2 - Missoula	10212	2,692.00	1500	1192.00
2 - Missoula	5006	2,107.50	1500	607.50
2 - Missoula	115668	1,930.00	1500	430.00
2 - Missoula	38907	2,297.00	1500	797.00
2 - Missoula	122055	1,464.00	1500	(36.00)
2 - Missoula	134390	1,702.00	1500	202.00
2 - Missoula	9475	2,153.00	1500	653.00
2 - Missoula	10795	1,792.00	1500	292.00
2 - Missoula	98497	1,200.00	750	825.00
2 - Missoula	12123	2,085.00	1500	585.00
2 - Missoula	133017	1,744.00	1500	244.00
2 - Missoula	134642	2,136.00	1500	636.00
2 - Missoula	13533	2,249.50	1500	749.50
2 - Missoula	16611	1,091.50	1500	(408.50)
2 - Missoula	19035	1,661.50	1500	161.50
2 - Missoula	19639	1,904.00	1500	404.00
2 - Missoula	20418	2,277.50	1500	777.50
2 - Missoula	125946	1,694.50	1500	194.50
2 - Missoula	24001	2,243.00	1500	743.00
2 - Missoula	147134	2,191.70	1500	691.70
3 - Great Falls	168625	1,528.00	1000	528.00
3 - Great Falls	6163	2,059.50	1500	559.50
3 - Great Falls	93100	2,298.00	1500	798.00
3 - Great Falls	155279	2,114.00	1500	614.00
3 - Great Falls	85065	1,500.00	1250	250.00
3 - Great Falls	12133	1,586.50	1375	211.50



OFFICE OF THE STATE PUBLIC DEFENDER
 STAFF ATTORNEY CASE WEIGHTS AS ASSIGNED
 FY 2014
 JULY 2013 - JUNE 2014

Region	Attorney ID	Case Weight	Target	Over (Short) Target
3 - Great Falls	145122	2,189.00	1500	689.00
3 - Great Falls	19893	612.00	500	112.00
3 - Great Falls	151155	2,060.00	1500	560.00
3 - Great Falls	28675	1,732.00	1250	482.00
4 - Helena	101	2,293.50	1500	793.50
4 - Helena	151759	2,339.50	1500	839.50
4 - Helena	63245	2,162.00	1500	662.00
4 - Helena	106250	2,554.00	1500	1054.00
4 - Helena	146393	2,520.50	1500	1020.50
4 - Helena	171248	836.00	750	86.00
4 - Helena	152741	2,319.50	1500	819.50
4 - Helena	172123	709.00	500	209.00
4 - Helena	173014	853.50	500	353.50
4 - Helena	163957	761.50	750	386.50
4 - Helena	148633	2,511.50	1500	1011.50
4 - Helena	131270	2,736.00	1500	1236.00
5 - Butte	3651	1,905.25	1500	405.25
5 - Butte	24135	2,040.75	1500	540.75
5 - Butte	96968	2,055.00	1500	555.00
5 - Butte	144636	1,544.25	1500	44.25
5 - Butte	144797	1,832.00	1500	332.00
5 - Butte	146630	1,336.00	1500	(164.00)
5 - Butte	168635	1,765.75	1500	265.75
5 - Butte	155467	2,029.00	1500	529.00
6 - Havre	133455	1,481.00	750	731.00
6 - Havre	166769	1,791.00	1125	666.00
7 - Lewistown	158201	1,215.50	1500	(284.50)
8 - Bozeman	2566	1,619.50	1500	119.50
8 - Bozeman	39619	1,433.50	1500	(66.50)
8 - Bozeman	141464	1,625.00	1500	125.00
8 - Bozeman	38962	1,414.00	1500	(86.00)
8 - Bozeman	7922	709.00	625	84.00
8 - Bozeman	137596	1,515.00	1500	15.00
8 - Bozeman	57485	1,785.00	1500	285.00
8 - Bozeman	14857	1,605.00	1500	105.00
8 - Bozeman	121707	1,569.00	1500	69.00
9 - Billings	74687	1,814.00	1500	314.00
9 - Billings	39077	1,965.50	1500	465.50
9 - Billings	39078	1,593.50	1500	93.50
9 - Billings	51592	1,783.50	1500	283.50
9 - Billings	164949	2,344.00	1375	969.00
9 - Billings	147133	2,198.00	1500	698.00
9 - Billings	164073	2,513.00	1500	1013.00
9 - Billings	58167	1,475.00	1500	(25.00)



OFFICE OF THE STATE PUBLIC DEFENDER
 STAFF ATTORNEY CASE WEIGHTS AS ASSIGNED
 FY 2014
 JULY 2013 - JUNE 2014

Region	Attorney ID	Case Weight	Target	Over (Short) Target
9 - Billings	121706	2,033.00	1500	533.00
9 - Billings	101111	1,869.50	1500	369.50
9 - Billings	39087	1,856.00	1500	356.00
9 - Billings	107913	2,089.50	1500	589.50
9 - Billings	155309	2,674.00	1500	1174.00
9 - Billings	43104	1,612.50	1500	112.50
9 - Billings	68482	1,827.00	1500	327.00
9 - Billings	96880	1,956.50	1500	456.50
9 - Billings	151966	2,003.00	1500	503.00
10 - Glendive	151967	2,105.00	1375	730.00
11 - Miles City	165141	1,496.50	1125	371.50

Column 1 is the Region number.

Column 2 is the attorney ID number from the Agency's case management system.

Column 3 is the sum of the actual case weightings.

Column 4 is the target of 125 hours/month x the number of months worked.

Column 5 is the amount over or under the target.

The target of 1500 hours was determined by Chairman Gillespie in his 2012 Response to the ACLU and American University evaluations of the public defender system.

(see page 11, <http://publicdefender.mt.gov/ChairDocs/AU-ACLUResponse/PF-Response.pdf>).

¶22 221 FTE Staff Lawyer Workdays per Year. A 2080 work-hour year comes from 260 work days, *i.e.*, 52 weeks times 5 eight hour days. Although paid on the basis of 2,080 hours, expecting that many productive-hours per year from the most efficient lawyer is not realistic when at least 10 holidays, not less than 15 but not more than 24 vacation days, up to 12 sick leave days, and 15 hours of continuing education reduce the work year. Thus, 260 work days shrink to not more than 221 FTE staff lawyer workdays per year.

¶23 147,750 FTE Staff Lawyer-hours. 8.0 productive-hours per day, *i.e.*, representing clients or managing, over 221 days provides 1,768 hours. **1,547 hours comes out of 7.0 productive-hours per day.** Seven productive-hours over 221 work days is more realistic, although probably optimistic after OPD training, office meetings, breaks, and other requirements are taken into consideration. Thus, the productive-hours per annum is rounded down to 1,500 to account for lawyers entitled entitled to more than 15 vacation days and the meetings and other requirements. 1500 hours equates to 6.79 productive-hours on each of the 221 working days. Even that may be hopeful when travel time and waiting in court are considered. 98.5 FTE lawyers producing 1,500 hours of production gives OPD management 147,750 FTE staff lawyer-hours annually.