V. CASELOADS

Goal: **Caseloads must not be oppressive, and should match counsel's experience, training, and expertise.**

A. Governing Principle:

Counsel caseloads should be governed by the following:

1. Individual Public Defender. Caseload levels are the single biggest predictor of the quality of public defense representation. Not even the most able and industrious lawyers can provide effective representation when their work loads are unmanageable. Whenever a salaried or contracting counsel determines, in the exercise of counsel's best professional judgment, that the acceptance of additional cases or continued representation in previously accepted cases, will lead to furnishing representation lacking in quality or the breach of professional obligations, the attorney is required to inform the Regional Public Defender's Office, who shall inform the Chief Public Defender. The Chief Defender will then inform the Montana Public Defender Commission.

2. Chief Public Defender. The caseload of public defense attorneys should allow each lawyer to give each client the time and effort necessary to ensure effective representation. Whenever the Chief Public Defender determines, in the exercise of his or her best professional judgment, that the acceptance of additional cases or continued representation in previously accepted cases will, by reason of their excessive size and complexity, interfere with the rendering of quality representation, or the breach of professional obligations, the Chief Public Defender is required to inform the Montana Public Defender Commission, which in turn will inform the Law and Justice Interim Committee, the Legislative Finance Committee, and the Office of Budget and Program Planning and shall take all reasonable steps to alleviate the situation.

B. Caseload Evaluation:

1. In attempting to establish caseload standards for public defender offices, the Commission encountered a number of difficulties. In considering maximum caseload standards, it is inherently difficult to compare the work required for different types of cases. Each case is so individually different, that it is nearly impossible to set rigid numerical objectives. Also, physical and geographical factors can influence an office's caseload capacity as well. An office which from a single location in a geographically large jurisdictional area is required to serve numerous distant scattered courts has a lower caseload capacity per attorney than an office in a geographically small jurisdiction or one in which all of the courts, the jail, and the public defender's office are housed in a single building.

2. The caseload of counsel should allow him or her to give each client the time and effort necessary to ensure effective representation. Regional public defender offices, contract counsel, and assigned counsel should not accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. Caseload limits should be determined by the number and type of cases being accepted, and on the local prosecutors charging and plea-bargaining practices. It is the Commission's intention in considering caseloads, that the caseload of each counsel shall be considered by the criteria of reasonableness. One measure of the reasonableness of an attorney's caseload is to assess the amount of time an attorney would spend on a case under these standards. An accepted national standard for public defender attorneys is to work approximately 2,000 hours per year. One serious case requiring 50-100 hours to bring to trial, limits the time an attorney can devote to his or her remaining cases. In setting these maximum caseload levels, it is the Commission's intent that the maximum caseload levels of each attorney be judged by considering the complexity of the case, trial preparation, and travel. In other words, if a public defender works diligently and efficiently as required by the employment agreements, then the number of cases he or she is able to handle would be considered reasonable. Conversely, to require a public defender attorney to work diligently and efficiently more than the time required by the employment agreements would be considered an unreasonable caseload.

3. A "case" consists of all charges against a single defendant arising out of a single event, transaction, or occurrence, or all charges arising out of a series of related incidents charged in a single information or complaint (including collateral matters such as probation violations which do not require a separate dispositional hearing) and should be counted and reported as one case. If a separate probation revocation hearing is required, the probation hearing shall be counted as a separate misdemeanor case. If two or more defendants are charged in a single information or complaint, the charges against each defendant should be counted and reported as separate cases.

4. The Montana Public Defender Commission intends to review numerical caseload standards from time to time. These suggested caseload numbers shall be posted on the Public Defender Web site and may be modified from time to time.

5. The standard applicable to each category of cases is intended to be a suggestion only and is not intended to be a maximum limitation on the average current caseloads of each attorney employed as a public defender. Based on the standard of reasonableness, the numerical limits found on the Website may have to be adjusted in rural areas where attorneys may travel great distances between courts or upon the complexity of each case.

The following are suggested caseloads as referred to in the Standards under part V., Caseloads:

a. 50 felony cases (excluding those in which the death penalty is being sought) per attorney at any one point in time;
b. 100 misdemeanor cases per attorney at one point in time;
c. 80 juvenile offender cases per attorney at any one point in time;
d. 20 dependent and neglect cases per attorney at any one time;
e. 30 civil commitment cases per attorney at any one time;
f. 7 appeals to the Montana Supreme Court per attorney per year at any one time;
g. 7 post-conviction matters per attorney at one time; or
h. 4 petitions for *certiorari* or to the United States Supreme Court per attorney at any one point in time.