



MONTANA STATE PUBLIC DEFENDER

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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

We provide effective professional legal services with equal access to quality client-centered representation.

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 – DAILYTRACKING

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 sexcrime

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.

MONTANA STATE PUBLIC DEFENDER
 STAFF ATTORNEY CASE WEIGHTS AS ASSIGNED
 FY 2018
 July 2017 - June 2018

Region	Attorney ID	Case Weight	Target	Over (Under)
1 - Kalispell	188649	1,708	1,500	208
1 - Kalispell	238393	1,734	750	984
1 - Kalispell	201259	1,256	500	756
1 - Kalispell	198797	1,522	1,500	22
1 - Kalispell	155279	3,243	1,500	1,743
1 - Kalispell	186221	2,298	1,500	798
1 - Kalispell	227155	766	125	641
1 - Kalispell	148299	1,114	1,000	114
1 - Kalispell	98467	1,915	1,500	415
1 - Kalispell	11746	1,880	1,250	630
1 - Kalispell	232437	1,565	500	1,065
1 - Kalispell	116504	2,457	1,500	957
1 - Kalispell	98497	922	750	547
1 - Kalispell	234053	1,457	375	1,082
1 - Kalispell	160139	1,751	1,500	251
1 - Kalispell	237967	2,053	875	1,178
1 - Kalispell	72035	2,622	1,500	1,122
1 - Kalispell	210470	1,298	625	673
1 - Kalispell	199839	1,627	1,500	127
1 - Kalispell	77344	1,410	1,500	(91)
1 - Kalispell	134006	1,635	1,500	135
1 - Kalispell	240545	1,004	500	504
1 - Kalispell	243895	1,062	250	812
1 - Kalispell	159102	2,090	1,500	590
1 - Kalispell	177931	1,435	1,000	435
1 - Kalispell	199606	427	250	177
1 - Kalispell	241565	1,334	375	959
1 - Kalispell - Conflict	170996	1,094	750	719
2 - Missoula	176810	2,605	1,500	1,105
2 - Missoula	2376	1,366	1,500	(134)
2 - Missoula	10212	1,274	1,500	(226)
2 - Missoula	235205	1,545	1,125	420
2 - Missoula	243894	204	250	(46)
2 - Missoula	239926	1,215	625	590
2 - Missoula	211634	1,763	1,500	263
2 - Missoula	115668	1,735	1,500	235
2 - Missoula	199607	2,121	1,500	621
2 - Missoula	122055	1,320	1,500	(180)
2 - Missoula	240546	495	500	(5)
2 - Missoula	9475	2,058	1,500	558
2 - Missoula	210861	1,174	875	299
2 - Missoula	232437	1,152	875	277
2 - Missoula	98497	1,494	750	1,119
2 - Missoula	12123	1,832	1,500	332
2 - Missoula	133017	593	625	(33)

MONTANA STATE PUBLIC DEFENDER
 STAFF ATTORNEY CASE WEIGHTS AS ASSIGNED
 FY 2018
 July 2017 - June 2018

Region	Attorney ID	Case Weight	Target	Over (Under)
2 - Missoula	197145	668	750	(82)
2 - Missoula	134642	97	125	(28)
2 - Missoula	208273	2,426	1,500	926
2 - Missoula	13533	1,463	1,500	(38)
2 - Missoula	16611	961	1,500	(539)
2 - Missoula	82591	1,699	1,250	449
2 - Missoula	19035	1,169	1,500	(331)
2 - Missoula	19639	1,791	1,500	291
2 - Missoula	125946	1,905	1,500	405
2 - Missoula	199606	1,498	1,125	373
2 - Missoula	24001	1,737	1,500	237
2 - Missoula - Conflict	188060	548	500	48
2 - Missoula - Conflict	241614	605	375	230
2 - Missoula - Conflict	11291	1411	1,000	411
2 - Missoula - Conflict	67203	1217	1,500	(283)
2 - Missoula - Conflict	57620	1363	1,500	(137)
2 - Missoula - Conflict	82681	1736	1,500	236
2 - Missoula - Conflict	136579	1472	1,500	(28)
3 - Great Falls	60544	1,444	750	1,069
3 - Great Falls	232838	7,116	1,250	5,866
3 - Great Falls	161878	3,216	1,250	1,966
3 - Great Falls	5562	4,117	1,500	2,617
3 - Great Falls	168625	1,787	1,000	787
3 - Great Falls	93100	2,962	1,500	1,462
3 - Great Falls	200299	4,499	1,500	2,999
3 - Great Falls	200200	4,796	1,500	3,296
3 - Great Falls	12133	220	250	(30)
3 - Great Falls	217332	1,176	750	801
3 - Great Falls	214047	2,156	375	1,781
3 - Great Falls	145122	272	250	22
3 - Great Falls	220663	3,380	1,500	1,880
3 - Great Falls	235209	2,205	875	1,330
3 - Great Falls	202623	3,956	1,375	2,581
3 - Great Falls	28675	2,604	1,500	1,104
3 - Great Falls - Conflict	65157	311	250	186
3 - Great Falls - Conflict	12133	1,993	1,250	743
4 - Helena	101	729	375	354
4 - Helena	220000	3,528	1,500	2,028
4 - Helena	151121	369	250	119
4 - Helena	195114	277	125	152
4 - Helena	221167	2,362	1,500	862
4 - Helena	24128	1,835	1,000	835
4 - Helena	10737	20	125	(105)
4 - Helena	215470	1,732	1,125	607

MONTANA STATE PUBLIC DEFENDER
 STAFF ATTORNEY CASE WEIGHTS AS ASSIGNED
 FY 2018
 July 2017 - June 2018

Region	Attorney ID	Case Weight	Target	Over (Under)
4 - Helena	137867	1,198	750	448
4 - Helena	13756	614	375	239
4 - Helena	235204	857	750	107
4 - Helena	237590	1,749	875	874
4 - Helena	173014	2,130	1,500	630
4 - Helena	187672	2,341	1,500	841
4 - Helena	235202	531	250	281
4 - Helena	110253	2,361	1,125	1,236
4 - Helena	163957	814	375	439
4 - Helena	152162	2,715	1,500	1,215
4 - Helena	219041	1,639	1,000	639
4 - Helena	238446	1,644	750	894
4 - Helena - Conflict	4466	220	250	95
4 - Helena - Conflict	195114	1,353	750	603
5 - Butte	3651	3,207	1,500	1,707
5 - Butte	242702	842	375	467
5 - Butte	231346	3,298	1,500	1,798
5 - Butte	212094	1,194	875	319
5 - Butte	24135	3,430	1,500	1,930
5 - Butte	240757	1,397	500	897
5 - Butte	14804	3,349	1,250	2,099
5 - Butte	63316	226	125	101
5 - Butte	204555	2,548	1,000	1,548
5 - Butte	199827	1,474	1,250	224
5 - Butte	19633	1,505	875	630
5 - Butte	217161	2,599	1,500	1,099
5 - Butte	241563	890	375	515
5 - Butte	194869	440	250	190
5 - Butte - Conflict	14040	982	750	232
6 - Havre	215866	1,720	1,500	220
6 - Havre	214047	936	1,125	(189)
6 - Havre	215094	1,848	1,250	598
6 - Havre	225498	505	250	255
6 - Havre	101111	2,376	1,500	876
7 - Lewistown	214648	1,637	1,500	137
7 - Lewistown	85743	310	375	(66)
8 - Bozeman	39619	1,549	1,500	49
8 - Bozeman	141464	1,483	1,500	(17)
8 - Bozeman	38962	1,565	1,500	65
8 - Bozeman	193704	135	250	(115)
8 - Bozeman	137596	2,024	1,500	524
8 - Bozeman	57485	2,030	1,500	530
8 - Bozeman	14857	2,042	1,500	542

MONTANA STATE PUBLIC DEFENDER
 STAFF ATTORNEY CASE WEIGHTS AS ASSIGNED
 FY 2018
 July 2017 - June 2018

Region	Attorney ID	Case Weight	Target	Over (Under)
8 - Bozeman	212529	1,013	1,000	13
8 - Bozeman	217281	1,983	1,500	483
8 - Bozeman	220670	1,704	1,500	204
8 - Bozeman	172123	2,100	1,500	600
8 - Bozeman	186767	2,077	1,500	577
8 - Bozeman - Conflict	7922	1,401	1,000	401
9 - Billings	100099	2,491	1,500	991
9 - Billings	237013	2,293	1,000	1,293
9 - Billings	240094	899	500	399
9 - Billings	3022	2,407	1,500	907
9 - Billings	170282	5,522	1,500	4,022
9 - Billings	212426	4,315	500	3,815
9 - Billings	224466	2,913	1,500	1,413
9 - Billings	164949	2,735	1,500	1,235
9 - Billings	188060	1,775	1,000	775
9 - Billings	238868	1,083	500	583
9 - Billings	237012	860	500	360
9 - Billings	177409	1,026	375	651
9 - Billings	121706	2,645	1,250	1,395
9 - Billings	224464	3,133	1,500	1,633
9 - Billings	39086	3,519	1,500	2,019
9 - Billings	212529	639	375	264
9 - Billings	232039	3,154	1,375	1,779
9 - Billings	107913	2,654	1,500	1,154
9 - Billings	210764	696	375	321
9 - Billings	204555	1,502	500	1,002
9 - Billings	155309	2,462	1,500	962
9 - Billings	204399	822	750	447
9 - Billings	178365	264	250	14
9 - Billings	49551	3,006	1,500	1,506
9 - Billings	43104	3,247	1,500	1,747
9 - Billings	130917	1,887	1,500	387
9 - Billings	21587	2,439	500	1,939
9 - Billings	81272	3,105	1,500	1,605
9 - Billings	202916	1,362	1,500	(138)
9 - Billings	50288	1,988	1,500	488
9 - Billings	96880	1,217	500	717
9 - Billings	227584	1,978	1,500	478
9 - Billings - Conflict	39077	2,081	1,500	581
9 - Billings - Conflict	51608	1,800	750	1,425
9 - Billings - Conflict	164073	2,225	1,500	725
9 - Billings - Conflict	17987	2,040	1,125	915
9 - Billings - Conflict	96880	1,073	875	198

MONTANA STATE PUBLIC DEFENDER
 STAFF ATTORNEY CASE WEIGHTS AS ASSIGNED
 FY 2018
 July 2017 - June 2018

Region	Attorney ID	Case Weight	Target	Over (Under)
10 - Glendive	238397	957	750	207
10 - Glendive	242611	97	250	(153)
10 - Glendive	12897	718	625	93
11 - Miles City	177409	1,451	1,125	326
11 - Miles City	58167	459	250	209
11 - Miles City	173226	1,388	750	638

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 the Montana Public Defender Commission in 2012 as follows:

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.

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.