

YAKIMA COUNTY DEPARTMENT OF ASSIGNED COUNSEL
POLICY AND PROCEDURE

Number:	
Short Title:	Case Counting and Case Weighting
Effective Date:	June 1, 2015

1.0 APPLICABLE COURT RULES, STANDARDS, AND LAWS:

- 1.1 Washington State Rules of Professional Conduct for attorneys.
- 1.2 Washington State Supreme Court standards for attorneys appointed to represent persons at public expense under court rules CrR 3.1, CrRLJ 3.1, JuCR 9.2.
- 1.3 Washington State Bar Association “Standards for Indigent Defense Services”.
- 1.4 Washington State Bar Association “Performance Guidelines for Criminal Defense Representation”.
- 1.5 RCW Chapter 10.101.
- 1.6 Yakima County Code 2.124 unless superseded by court rule or statute.

2.0 PURPOSE:

The purpose of this policy is to adopt and publish a uniform system for weighting cases when applying mandatory and advisory numerical caseload standards for attorneys appointed at public expense in the Superior, Juvenile, and District courts of Yakima County.

This policy will assist the courts, DAC, and appointed counsel in managing case appointments and caseloads in accordance with applicable caseload standards.

This policy recognizes that the appropriate use of case weighting and case counting is to allow reasonable workloads for public defense attorneys consistent with current workload conditions and consistent with applicable rules, standards, and performance guidelines.

3.0 DEFINITIONS:

- 3.1 A “case” is defined as the filing of a document with the court-naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation.
 - 3.1.1 The number of counts in a single cause number does not affect the definition of a “case”.
 - 3.1.2 In courts of limited jurisdiction (District Court) multiple citations from the same incident are counted as one “case”.

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- 3.1.3 When there are multiple charges or counts in a case, the credit for the case will be assigned based on the most serious charge.
- 3.1.4 Special Rule for Sentence Violations:
 - 3.1.4.1 A newly charged case and one or more sentence violations for the same client assigned to the same attorney are one “case” if the sentence violations are primarily based on the new charge(s).
 - 3.1.4.2 Multiple sentence violations for the same client assigned to the same attorney are one “case” if the violations are based on substantially the same allegation(s).
 - 3.1.4.3 Sentence violations for the same client assigned to the same attorney within two weeks of each other or a new case are presumptively the same “case” unless counsel notifies the Administrator through the DAC assignment clerk that they are not based on the same or substantially the same allegation(s).
 - 3.1.4.4 In situations where the matters constituting one case under this rule diverge in a manner that significantly affects workload, then the attorney should seek additional credit for them.
- 3.2 **“Case weight”** is the numerical multiplier assigned by this policy to apply to specific types of cases to generally recognize the greater or lesser attorney workload required for those cases compared to an average case under a numerical caseload standard.
- 3.3 **“Case credit”** is the weighted value of a particular case type in the general case weighting system adopted by this policy or in a particular case as actually assigned to a particular attorney.
- 3.4 **“DAC”** or **“Department”** means the Yakima County Department of Assigned Counsel.
- 3.5 The **“Administrator”** means the Director of the Yakima County Department of Assigned Counsel or his/her designee.

4.0 SCOPE OF REPRESENTATION IN A CASE:

- 4.1 The scope of representation in an appointed “case” is from the date of assignment or appointment through all subsequent stages of the legal proceedings in the trial court until entry of final judgment together with the necessary preparation, filing and/or entry of notice of appeal and motions/orders for finding of indigency and appointment of counsel on appeal.

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- 4.2 In criminal or juvenile offender cases, the scope of representation in the case also includes (1) restitution hearings requested or noted within 90 days after entry of judgment or disposition and (2) motions, not otherwise frivolous, for relief from judgment that are requested within 90 days of the entry of judgment.
- 4.3 Except as noted above, the scope of representation does not extend to other post judgment motions for relief from judgment and/or 'collateral attack' under court rule or as defined in RCW Chapter 10.73.
- 4.4 The scope of representation in a case includes any failures to appear by the client and interim inactivity of the case for that reason, which will neither reduce nor add to the credit assigned to the case if the previously appointed attorney is later appointed or assigned to complete the case on re-appearance of the client. Provided, if the interval between the failure to appear and re-appearance is greater than two years then the re-assignment is presumptively a new case unless adjusted by the Administrator.
- 4.5 The scope of representation in a case includes future review hearings in the case scheduled at the time of entry of diversion, deferred disposition, deferred prosecution, or sentencing, plus any subsequent proceedings thereon if ordered.
- 4.6 The scope of representation in a case includes proceedings on the original case after termination from a therapeutic court without successful completion.
- 4.7 The scope of representation includes any limited proceedings on remand from appeal if the same attorney is appointed for that purpose, but does not include remands for new trial.
- 4.8 The scope of representation does not include alleged violations of a prior sentence or disposition, which are treated as a separate case.
- 4.9 The scope of representation in a truancy contempt petition includes all subsequent review hearings or warrants for that petition.

5.0 NUMERICAL CASELOAD STANDARDS:

- 5.1 The following mandatory State caseload standards apply:
 - 5.1.1 Superior Court: 150 cases/attorney per year.
 - 5.1.2 Juvenile Court: 250 cases/attorney per year.
 - 5.1.3 District Court: 400 cases/attorney per year effective January 1, 2015.
- 5.2 The following advisory local caseload standards apply:
 - 5.2.1 Juvenile BECCA: 250 cases/attorney per year.
 - 5.2.2 Involuntary Treatment Courts: 480 cases/attorney/year.

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6.0 GENERAL CONSIDERATIONS IN APPLYING NUMERICAL CASELOAD STANDARDS:

In applying numerical caseload standards, the following apply:

- 6.1 Caseload limits reflect the maximum caseloads for fully supported, full-time defense attorneys for cases of average complexity and effort in each case type specified.
- 6.2 Caseload limits assume a reasonably even distribution of cases throughout the year.
- 6.3 If a defender or assigned counsel is carrying a mixed caseload including cases from more than one category of cases, these standards should be applied proportionately to determine a full caseload.
- 6.4 Where assigned counsel or contract attorneys also maintain private law practices, the caseload should be based on the percentage of time the lawyer devotes to public defense.
- 6.5 The experience of a particular attorney is a factor used in the composition of cases assigned to the attorney.
- 6.6 The experience of an attorney is not a factor in adjusting the applicable numerical caseload standard or case weight, except as follows:
 - 6.6.1 In courts of limited jurisdiction (District Court) attorneys with less than one year of experience should only be assigned only two-thirds (2/3) of the applicable numerical caseload standard. Such attorneys should not be assigned cases of greater than average seriousness or complexity.
- 6.7 A small upward variation of not more than three percent (3%) in annual caseload is consistent with the workload limits inherent in the numerical standards while allowing for the inherent variability of caseload and the inherent difficulty of precise administration. Such variations may be expected to occur without violating this policy or the numerical caseload standards.

7.0 CASE WEIGHTING AND CREDITS TABLE:

The attached "Case Weight and Credit" Table specifies the "weights" and "credits" assigned to cases within the court and case types listed.

8.0 PARTIAL REPRESENTATIONS AND SPECIAL CIRCUMSTANCES:

The following rules apply in counting cases or credits:

- 8.1 ***Partial Representations, No contact with client:*** Cases where the assigned attorney has not had personal contact with the client before transfer or dismissal

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will not receive any credit.

8.2 ***Partial Representations, Transfer or Dismissal:*** Cases where only a partial representation occurs because the attorney withdraws for a conflict, is relieved by retained counsel, the case is transferred or re-assigned by the court or Administrator, or the case is dismissed on motion of the prosecution will be assigned 1/8 of the normally assigned weighted case credit for each two (2) weeks that the attorney is responsible for the case but only up to the maximum weighted credit otherwise allowed.

8.3 ***New Attorney in Partial Representations:*** If a different attorney is appointed or assigned after a partial representation by different attorney the new attorney will normally be assigned full credit if appointed or assigned prior to trial or plea of guilty in the case.

8.4 ***Temporary coverage of limited hearings:*** The temporary coverage of a limited hearing or appearance in a case by another attorney due to short term unavailability of appointed attorney will not be counted as a case and no case credit will be added or subtracted to the number of cases or credits for either attorney.

8.5 ***Therapeutic Court Cases:*** Cases in therapeutic courts will count as a separate "case" for the defender assigned to that court during each calendar year, or part of the year, that the represented person is in the therapeutic court.

8.6 ***Representation at First Appearance and Arraignment Dockets:*** Regardless of the case counting and weighting system adopted by this policy, the following special limitations apply:

8.6.1 Resolutions of cases by pleas of guilty to criminal charges on a first appearance or arraignment docket are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients, and must be counted as one case.

8.6.2 Cases on a criminal or offender first appearance or arraignment docket where the attorney is designated, appointed, or contracted to represent groups of clients on that docket without an expectation of further or continuing representation and which are not resolved at that time (except by dismissal) will not be counted directly. Instead, the attorney's hours needed for appropriate client contact and preparation as well as the appearance time spent on such dockets will be calculated by the

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Administrator as a percentage of the net annual hours¹ of work time available and then applied to reduce the attorney's caseload standard for the time for the work devoted to such representation. As an alternative, the Administrator may assign a special 'docket credit' to the attorney for such work.

8.6.3 When an attorney is assigned to represent groups of clients in routine sentence review hearing calendars in which there is no potential for the imposition of sanctions, the attorneys' maximum caseloads should be reduced proportionally by the amount of time they spend preparing for and appearing at such calendars.

9.0 EXTRAORDINARY CASES AND OTHER CIRCUMSTANCES:

9.1 This policy does not apply to Aggravated First Degree Murder cases in which imposition of the death penalty remains an option. Such cases will be assigned special counsel and credit under SPRC rules for the appointment of counsel.

9.2 This policy does not apply to civil commitment proceedings under RCW 71.09.

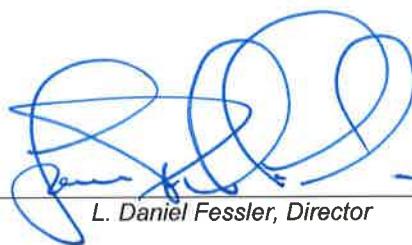
9.3 The attorney responsible for a case may request that the Administrator adjust the credit assigned upwards for substantial work or extraordinary cases in which the credit assigned does not adequately reflect the complexity or time and effort involved in the representation. The decision of the Administrator will be final.

9.4 If a case is not otherwise covered by this policy the presumptive weight or credit for a case is one (1) case, unless otherwise adjusted up or down by the Administrator for a particular case or circumstance.

Adopted:

May 15, 2015

Date



L. Daniel Fessler, Director

¹ The maximum available hours are 40 hrs/wk x52 wks= 2,080. However, the comments to the Standards note that holidays, leave, mandatory training, office meetings, and other obligations must be taken into account and that the true number of hours available is 1,650 hours. See *WDA Standards for Indigent Defense*, 2007, Standard, Comments.

Yakima County Department of Assigned Counsel

CASE WEIGHT AND CREDIT

Effective January 1, 2015

SUPERIOR COURT

Case	Case Weight
Class A Felony (except Robbery 1 & Burglary 1)	4.00 credits
Class A Felony-Robbery 1 & Burglary 1)	2.00 credits
Felony - all other	1.00 credit
Therapeutic Court	1.00 credit per calendar year
Misdemeanor	0.50 credit
Material Witness	0.50 credit
Extradition	0.50 credit
SSOSA /DOSA Revocation	0.50 credit
RCW 10.77 Conditional Release or Discharge	1.00 credit
Sentencing Condition Violations	0.34 credit

JUVENILE COURT OFFENDER

Case	Case Weight
Class A Felony and/or Discretionary Declination	1.00 credit
Felony	1.00 credit
Therapeutic Court	1.00 credit per calendar year
Misdemeanor/Gross Misdemeanor	1.00 credit
Material Witness	0.50 credit
Extradition	0.50 credit
SSODA / Deferred Disposition Revocation	0.50 credit
Conditional Sentence Review	0.50 credit
Diversion Consultation	0.34 credit

DISTRICT COURT OFFENDER

Matter	Case Weight
Aggravated Misdemeanor	1.00 credit
Gross Misdemeanor/Misdemeanor	1.00 credit
DWLS 3	1.00 credit
Therapeutic Court	1.00 credit per calendar year
Deferred Prosecution Violations	1.00 credit
Sentence Violations	1.00 credit
Other Miscellaneous	1.00 credit

CIVIL

Matter	Case Weight
Juvenile Dependency (parent)	1.00 credit
Juvenile Dependency (child)	1.00 credit
Juvenile Truancy (Contempt)	1.00 credit
Juvenile ARY or CHIN	1.00 credit
Civil Contempt	1.00 credit
Mental/Alcohol Commitment	1.00 credit