

11/19/2014

**CITY MANAGER'S EXECUTIVE ORDER NO. 14-003  
CITY OF DES MOINES**

**AN EXECUTIVE ORDER OF THE CITY MANAGER OF THE CITY OF DES MOINES** relating to City of Des Moines Public Defense Case Weighting Policy and establishing policies and standards of same.

**RECITALS**

**WHEREAS**, the Washington Supreme Court issued an Order on June 15, 2012 establishing numeric caseload standards for public defenders effective January 1, 2015, and

**WHEREAS**, cities may implement case-weighting provided that written policies and procedures are adopted and published, and

**WHEREAS**, the City recognizes that appropriate case weighting is necessary to allow reasonable workloads for public defense attorneys consistent with applicable rules and standards, and

**WHEREAS**, the City wishes to create an effective weighting policy for public defense attorneys; now therefore,

**IT IS HEREBY ORDERED** as follows:

**CITY OF DES MOINES PUBLIC DEFENSE CASE WEIGHTING POLICY**

1. Purpose

This policy implements a system for weighting public defense cases for purposes of certifying to public defense misdemeanor caseloads pursuant to the Washington Supreme Court's Standards for Indigent Defense. This policy recognizes that appropriate case weighting allows reasonable workloads for public defense attorneys consistent with applicable rules and standards.

2. Applicable Court Rules, Regulations, and Standards

- A. Washington State Rules of Professional Conduct
- B. Criminal Rules for Courts of Limited Jurisdiction

- C. Washington Supreme Court Standards for Indigent Defense (Standards)
- D. Public Defender Standards - Des Moines Municipal Code 2.28.100

### 3. Definitions

A. **Administrator:** the designated supervisor of public defense services: Des Moines City Manager.

B. **Case:** 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.

i. In courts of limited jurisdiction multiple citations from the same incident can be counted as one “case.”

ii. The number of counts in a single cause number does not affect the definition of a “case.”

iii. When there are multiple charges or counts arising from the same set of facts, the weighted credit will be assigned based on the most serious charge.

C. **Case Weighting:** the process of assigning a numerical value, or “weighted credit,” to specific types of cases that recognizes the greater or lesser attorney workload required for those cases compared to an average case.

D. **Caseload:** the complete array of cases in which an attorney represents or provides service to clients.

E. **Docket /Calendar:** a grouping of filings where a public defense attorney is designated to represent indigent defendants without an expectation of further or continuing representation. Examples include, but are not limited to, first appearance calendars and arraignment calendars.

F. **Full Time:** working approximately forty hours per week. It is presumed that a “full-time” public defense attorney spends approximately 1,800 hours annually on case representation. It is expected that other work time is spent on administrative activities, attending CLEs, participating in professional associations or committees, and spending time on vacation, holiday, or sick leave.

G. **Local Factors:** practices, characteristics, or challenges that are unique to the delivery of public defense in a given jurisdiction, and that substantially impact the time required for effective delivery of public defense services.

H. **Non-Charge Representations:** matters where public defense attorneys represent clients who are eligible for public defense representation for matters that do not involve the filing of new criminal charges. Examples include, but are not limited to, sentence violations, extraditions, and representations of material witnesses.

I. **Partial Representations:** situations where clients are charged with crimes, but representation is either cut short at early stages of the case, or begins significantly later. Such situations include, but are not limited to, client failures to appear, preliminary appointments in cases in which no charges are filed, withdrawals or transfers for any reason, or limited appearances for a specific purpose.

J. **Public Defense Attorney:** a licensed attorney who is employed or contracted to represent indigent defendants. "Public Defense Attorney" also refers to a licensed attorney who is list-appointed to represent indigent defendants on a case-by-case basis.

K. **Weighted Credit:** one weighted credit represents a type of case which, on average, requires six hours of attorney time.

#### 4. Misdemeanor Caseload Limits

As provided in the Washington Supreme Court Standards for Indigent Defense, the caseload of a full-time public defense attorney should not exceed 300 misdemeanor weighted credits per year, which is equivalent to the time spent on 400 average misdemeanor cases per year. The caseload of a full-time Rule 9 intern who has not graduated from law school may not exceed 75 misdemeanor weighted credits per year.

#### 5. General Considerations

- A. Caseload limits reflect the maximum caseloads for fully supported full-time defense attorneys for cases
- B. Caseload limits are set to ensure that all public defense attorneys have adequate time to provide quality representation.
- C. Caseload limits assume a reasonably even distribution of cases throughout the year.
- D. If the public defense attorney is carrying a mixed caseload with non-misdemeanor cases, the attorney's caseload should be calculated proportionately by case type, as provided in the Standards.

- E. If the public defense attorney also maintains a private law practice, the public defense caseload should be proportionate to the percentage of work time the attorney devotes to public defense.
- F. If the attorney provides public defense services in multiple courts, the combination of cases from all courts are used for caseload calculations.

## 6. Weighted Credits

### A. Weighted Credits by Criminal Charge Category.<sup>1</sup>

The weighted credits to be assigned by criminal charge category are in the Table of Weighted Credits by Charge Category found on the following table:

Alcohol Related Offenses (excluding DUI)	1/2 credits
Assault (not Domestic Violence)	1 credit
Criminal Trespass 1 or 2	1/3 credits
Disorderly Conduct (excluding Indecent Exposure)	1/3 credits
Domestic Violence - Assault, Reckless Endangerment	1 credit
DUI and Physical Control	1 credit
DWLS 1st and 2nd Degree	2/3 credits
DWLS 3rd Degree	1/3 credits
Harassment	1 credit
Hit and Run-Attended and Unattended	1/2 credits
Malicious Mischief	2/3 credits
Obstructing a Public Servant	1/2 credits
Racing	2/3 credits
Reckless Driving	1 credit
Simple Traffic Offenses (e.g. No Valid Driver's License)	1/3 credits
Theft/Shoplifting	1/2 credits

<sup>1</sup> It is important to remember that in all cases, even those with fewer weighted credits and those that may be resolved by routine non-criminal resolutions such as diversion or reduction to an infraction, an appointed public defense attorney must first meet the basic requirements for providing effective assistance of counsel, such as interviewing and fully communicating with the client, carefully reviewing the evidence, obtaining records, investigating as appropriate, and preparing for court.

Violation of a Protection Order/No Contact Order/Restraining Order	1 credit
Weapons Related Offenses	1 credit
Other Unlisted Misdemeanors	1/2 credits

**B. Guilty Pleas at First Appearance or Arraignment**

As required by Standard 3.5, resolution of cases by **pleas of guilty to criminal charges at a first appearance or arraignment hearing** are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients. Therefore, if the attorney is appointed, these guilty pleas must be valued as one case.

**C. Partial Representation:**

A partial representation is counted based on the amount of time that an attorney has spent on the case. **Each hour** of work is assigned **0.17 weighted credits**, up to the maximum weighted credits normally assigned for the case type.

**D. Sentence Violations and Other Non-Charge Representation:**

As stated in Standard 3.6(B)(ii) sentence violations and other non-charge representations may be counted as **no fewer credits than one-third of a case**.

**E. Dockets / Calendars:**

Cases on a criminal first appearance or arraignment docket where the attorney is designated, appointed, or contracted to represent groups of clients without an expectation of further or continuing representation and which are not resolved at that time (except by dismissal or amendment to an infraction) are not counted individually. Instead, the attorney’s hours needed for appropriate client contact, preparation, and court time are calculated as a percentage of the net annual hours of work time, and then applied to reduce the attorney’s caseload. **Each hour of such docket time is assigned 0.17 weighted credits.**

7. Adjustments

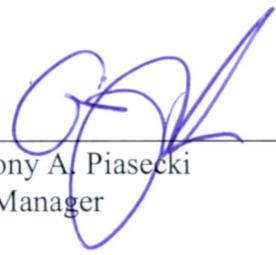
**Case-Specific Adjustments:**

Because credits are assigned to cases based on an average amount of time needed for each charge type, ordinary deviations in how complex a case is or how long it takes do

not justify an adjustment to a case's credit value. It is assumed that attorneys will receive a mix of cases of varying complexity and effort, ending with a combination of cases that closely approximates a full-time caseload. However, an attorney may request that the weighted credit be adjusted upward for any particular case that involves substantially more work. Examples may include cases where a client's competency is litigated, extraordinarily long trials, or cases that go to jury trial more than once. Weighted credits may not be adjusted downward unless pursuant to the process identified in 7.B.

DATED this 22nd day of September , 2014.

CITY OF DES MOINES



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Anthony A. Piasecki  
City Manager

APPROVED AS TO FORM:



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Assistant City Attorney

ATTEST:



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City Clerk