

Maximum Caseload Standards For Defense Counsel

Background

The Indigent Defense Task Force recognizes that there have been, and will continue to be, a variety of providers of indigent defense in the State of Oregon. Because of that variety, it is not possible to determine an appropriate weighted caseload for all providers. The Task Force determined that the Metropolitan Public Defender (MPD) offers the model that is most efficient in terms of scale. The MPD is the largest office by volume of cases in the state, and is the most experienced in managing caseloads. The MPD has a high level of staff support and clerical support. These levels of staff and clerical support are not available in other settings and substantially increase the ability of counsel to handle cases. As a result, adjustments to factor in the lack of available resources are necessary in determining maximum caseloads in other settings.

In 1993, the MPD established a unit valuation system to determine the number of cases each attorney in the office could handle each year. The MPD system gave cases a unit value based on the anticipated time demands. Unit values range from 100 to 1. The MPD assumed in the valuation that a 'mythical competent attorney' could effectively handle 600 units per year. The MPD, in its contract proposal of October, 1993, proposed these unit values and has worked with them under the contract that was awarded.

Established Unit Values

The first step in the process of determining a weighted caseload is to determine the *average* time demand expected of a particular type of case. This analysis assumes that some cases will take more time and other cases will take less and seeks to determine what the average time is only in relation to other cases. In other words, a minimum unit value is determined and unit values are attributed to each type of case. In essence, unit values are a comparison of the expected time commitment for handling certain types of cases in relation to other types of cases. Obviously substantial felonies are expected to take more time than misdemeanors. The unit value analysis put forth by the MPD proposal seeks to compare time anticipated for relative types of cases.

Maximum Caseload Per Attorney Per Year

The second step in the analysis is to determine the maximum number of units that a criminal defense attorney working a full load, i.e. a full time equivalent (FTE) attorney, could handle over the course of a year. The MPD proposal assumed that the 'mythical competent defense attorney' could handle 600 units per year. This meant that in applying the unit valuation tables, a full caseload for an attorney would be 6 felony level 11 cases in one year or at the other end of the spectrum, 600 drug diversion cases in one year.

Assumptions

As stated in the introductory paragraph of this Chapter, the MPD has a high level of staff support. This reaches the level of one investigator and one trial assistant per attorney for felony and juvenile cases and .5 investigator and .5 trial assistant per attorney for misdemeanor cases. Where office support staff is less, corresponding adjustments would have to be made in determining the maximum caseload of a public defender office. Because the private bar does not handle the volume that would create the efficiencies derived through the MPD system, the maximum caseload values have little relevancy to private bar providers.

Additional Reasons for Adjustments

The MPD has unique circumstances that do not exist outside Multnomah County. The physical proximity of jail, courthouse, District Attorney and defender office, combined with the physical proximity of crime scenes and witnesses, virtually eliminate travel.

The concentration of volume allows for specialization within the office. This reduces the need for legal research. It also reduces time committed to plea bargaining, as the volume of similar cases that have gone before establish the likely results and penalties.

All counties other than Multnomah County have less case volume and greater travel time. Inefficiencies increase as either volume decreases or travel increases. As a result, the maximum caseload standards in this report would be impossible to approach outside of Multnomah County.

Conclusion

The Committee believes that the MPD proposal is a reasonable one to adopt as a *maximum* caseload standard in that the MPD office proposal was developed in Oregon by the largest and best staffed public defender office, which is believed to have maximum caseload-handling capability. It is anticipated that adjustments would be appropriate for defender offices that do not have the same amount of support staff per lawyer or the same volume of cases. Further adjustments would have to be made for less than full-time attorneys and private attorneys who are taking conflict cases as a part of their practice. The adoption of a unit valuation system and a maximum caseload per FTE defense attorney is meant to be a guide, subject to review.

Table Of Unit Values And Corresponding Maximum Caseload Per Attorney Per Year For Large Volume Defense Practice (MPD) In Multnomah County

TYPE OF CASE	UNIT VALUATION	@600 ATTY/YR
Felonies		
Felony Level 11	100	6
Felony Level 10	15	40

Felony Level 9	15	40
Felony Level 8	4	150
Felony Level 7	2.5	240
.	2.5	240
Felony Level 6	2	300
Felony Levels 1-5 (inc. contempt)	1	600
.	1	600
Fugitive 1		
Felony PV		
	1.5	400
	1	600
Misdemeanors		
Msd (inc. misdemeanor traffic cases)		
.	6	100
Msd PV 1	7.5	80
	1.25	480
Juvenile	0.75	800
Delinquency Level 11-100	60	10
.	0.5	1,200
Delinquency Level 8-10	60	10
.	30	20
Delinquency Level 1-7	7.5	80
.	5	120
Misdemeanor	0.75	800
Remand	0.75	800
PV		
Adult Termination of Parental Rights		
..	65	9
Child Termination of Parental Rights	32	19
.	8	75
Adult Dependency	5.5	109
Child Dependency	1	600
Review Hearings		
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Citizen's Review Board Hearings	1	600
.	1	600
<i>Indian Child Welfare Act Cases</i>		
Adult Termination of Parental Rights		
..		
Child Termination of Parental Rights		
.		
Adult Dependency		
Child Dependency		
Review Hearings		
.		
<i>Citizen's Review Board Hearings</i>		
Civil Commitment		
.		
Drug Diversion (STOF)		

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