

Chief Appellate Defender Report
October 8, 2010
Exhibit 2

Case Weighting

The following case weighting system has been developed in order to facilitate discussions amongst the Office of the Appellate Defender and the Public Defender Commission, as well as the Montana Legislature. It continues to be refined given the ever-evolving nature of appellate work and the demands of the Montana Supreme Court.

An appellate defender office shall annually complete up to 22 work units (WU) for each full-time attorney within each fiscal year. A fiscal year runs from July 1 to June 30.

The number of work units shall be determined as follows:

- a. An opening brief or *Anders* brief filed in a case in which the court transcripts are 500 pages or less shall be 1 WU.
- b. In the event the opening brief or *Anders* brief filed in a case involves review of over 100 pages of district court documents, the case weighting shall be an additional 0.5 WU.
- c. Cases where the defendant has not been sentenced to death, add 1 WU (or the appropriate fraction thereof) for each additional 500 pages of court transcripts.
- d. Cases in which the defendant has been sentenced to death, preparation of the brief shall be 10 WUs. The procedures specified in subparagraphs (f), (g), (h), and (i) shall constitute 10 times the WUs in those subparagraphs.
- e. Cases involving only the validity of a guilty plea or the propriety of a sentence shall be 0.5 WU.
- f. Cases that are closed without filing an opening brief shall be between 0.25 and 0.5 WU, depending on the length of the record and the work accomplished on the case.
- g. Original proceedings shall be between 0.5 and 1 WU, depending on the length of the record reviewed, the nature of the proceedings, and whether supplemental briefing or oral argument is requested.
- h. Oral argument on any case shall be 1 WU, in addition the WUs already provided for the briefing of that case.
- i. A reply brief filed in a case shall be 0.25 WU.
- j. A petition for rehearing filed in a case shall be 0.25 WU.
- k. A writ of certiorari to the United States Supreme Court filed in a case shall be 0.5 WU.
- l. Up to 20 hours spent within one week either on training, consultation, policy work, etc., shall be 0.5 WU.

*The Chief Appellate Defender reserves the right to adjust any of the above-delineated WUs under extraordinary circumstances.