

## ILS Caseload Standards Implementation Quick Reference

Pursuant to the *Hurrell-Harring v. The State of New York* Settlement, the New York State Office of Indigent Legal Services (ILS) issued caseload standards in December, 2016.<sup>1</sup> ILS Caseload Standards are currently broken out into seven (7) case types and measured based on the number of new case assignments in a year.

Based on the ILS Caseload Standards, each individual attorney should be assigned no more than 300 misdemeanor/violation new cases per year or the equivalent. For mixed caseloads (i.e., a combination of case types), we weight cases based on the misdemeanor equivalent value (ME). The misdemeanor equivalent value represents what the other case type equivalent is to 300 misdemeanor/violation case type. The case types, maximum annual assignments, and MEs are listed in the below chart:

Case Type	Maximum Annual Assignments	Misdemeanor Equivalent Value
Violent Felonies <sup>2</sup>	50	6
Non-Violent Felonies	100	3
Misdemeanors and Violations	300	1
Post-Disposition	200	1.5
Parole Revocation	200	1.5
Appeals of Trial Verdict	12	25
Appeals of Guilty Pleas	35	8.57

A mixed caseload for an individual attorney might look like this:

Example of Individual Attorney's Mixed Caseload Calculation for Year X		
Case Type	Number of New Assignments in Year X	ME Points (multiply # new assignments by ME value)
Violent Felonies	6	36
Other Felonies	10	30
Post-Disposition	40	60
Misdemeanors/Violations	174	174
<b>Total Weighted Caseload (Year X)</b>		<b>300</b>

<sup>1</sup> The caseload standards are set forth in the report, "A Determination of Caseload Standards pursuant to § IV of the *Hurrell-Harring v. The State of New York* Settlement," which is available here: [Caseload Standards Report Final 120816.pdf \(ny.gov\)](#)

<sup>2</sup> "Violent felonies" are defined as: any violent felony as defined in Penal Law § 70.02 and any class A felony except those defined in Article 220 of the Penal Law (Class A "drug" felonies).

## *ILS Caseload Standards Compliance*

To determine criminal caseload standards compliance for institutional defenders (i.e., Public Defender's Office, Conflict Defender's Office, Legal Aid Society, etc.), ILS uses the ILS-195 to collect information from each mandated criminal defense provider about their total number and type of new case assignments each year. We use this information to determine each provider's office-wide weighted caseload for the year. In addition, we use the ILS-195 to collect information about the provider's criminal representation attorney staffing capacity as of December 31 of the reporting year. We then compare:

- The office-wide weighted caseload for new assignments for that year with
- The provider's criminal representation attorney staffing capacity for that year.

ILS is intentional about performing this calculation at the office-wide level rather than the individual attorney level.<sup>3</sup> While the caseload standards are intended to ensure individual attorneys do not have excessive caseloads, ILS recognizes that to promote the most effective representation of clients, office leadership must have the flexibility to assign individual attorneys to a greater or fewer number of cases based on their skills and experience.

### *Calculating Staff Capacity for Criminal Representation*

To determine each provider's criminal representation capacity, providers are asked to report on the ILS-195 the number of full-time equivalent (FTE) attorneys available for criminal representation as of December 31 of the reporting year.

To assist with this calculation, we created the Employee Statistics Worksheet, available at <https://www.ils.ny.gov/files/Employee%20Statistics%20Worksheet.xlsx> and accompanying instructions, available at: [Employee Statistics Worksheet Instructions.pdf \(ny.gov\)](#).

In determining criminal caseload representation capacity, providers should look at:

- The attorney's overall employment status, e.g., FT or PT; then,
- The attorney's time spent on criminal representation vs. other representation (e.g., family court) (reduce capacity for criminal representation accordingly); then,
- Whether the attorney performs supervisory or other administrative duties (reduce capacity for criminal representation accordingly).

Supervision:

- We do not currently have a set standard for reduced supervisory caseloads. However, attorneys who perform supervisory and/or other administrative functions should not carry full caseloads and, depending on the level and expectation of the supervisory role, should often carry lower (and in some cases no) caseloads.

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<sup>3</sup> As noted in ILS' December 8, 2016 report, A Determination of Caseload Standards pursuant to § IV of the Hurrell-Harring v. The State of New York Settlement cited previously, "these standards shall apply as an average per staff attorney within the office, so that the leader of the office may assign individual attorneys to greater or fewer numbers of cases in order to promote the most effective representation of clients."

### *Assessing Individual Attorney Caseloads*

Though ILS does not assess individual attorney caseloads for the purposes of caseload standards compliance, providers should be reviewing attorney caseloads. This section explains how to assess individual attorney criminal caseload capacity for both caseload monitoring and understanding impact on criminal attorney staffing patterns.

- Each attorney's criminal caseload capacity can be determined by multiplying their FTE status by 300 ME points.
- Here are three examples calculating individual attorney criminal capacity.

<b>Example 1: Full-Time Attorney with criminal and family court cases, no supervision</b>	
FTE Status – full-time	1.0
Avg. Time Spent on Criminal Cases (%)	60%
Avg. Time Spent on Family Court Cases (%)	40%
Avg. Time Spent on Supervision (%)	0%
Max Misd. Equiv. New Case Assignments $300 \times \text{FTE} \times \% \text{ Criminal} =$	180

<b>Example 2: Full-time Attorney with only criminal cases who also supervises</b>	
FTE Status – full-time	1.0
Avg. Time Spent on Criminal Cases (%)	25%
Avg. Time Spent on Family Court Cases (%)	0%
Avg. Time Spent on Supervision (%)	75%
Max Misd. Equiv. New Case Assignments $300 \times \text{FTE} \times \% \text{ Criminal} =$	75

<b>Example 3: Part-Time Attorney with only criminal cases, no supervision</b>	
FTE Status – part-time; hours worked is 0.86 of full-time	.86
Avg. Time Spent on Criminal Cases (%)	100%
Avg. Time Spent on Family Court Cases (%)	0%
Avg. Time Spent on Supervision (%)	0
Max Misd. Equiv. New Case Assignments $300 \times \text{FTE} \times \% \text{ Criminal} =$	258