

Standard 6 Tracking FAQs

*Note: Much of this language is taken directly from Standard 6 or the Michigan Indigent Defense Commission's Grant Manual, available on the grants page of the MIDC website. Additional information has been added as staff guidance and **will continue to be revised** as questions arise and/or the Commission further clarifies the parameters of the standard.*

Standard 6 mandates that “...defender organizations, county offices, public defenders, assigned counsel, and contract attorneys should not exceed the caseload levels adopted by the American Council of Chief Defenders – **150 felonies or 400 non-traffic misdemeanors per attorney per year**. If an attorney is carrying a mixed caseload which includes cases from felonies and misdemeanors, or non-criminal cases, these standards should be applied proportionally.”

➤ **What does “per year” mean? How is a year defined?**

Standard 6 indicates that, according to a 2007 resolution by the American Council of Chief Defenders Statement on Caseloads and Workloads, “per year” refers to “*any rolling twelve-month period, not a calendar year.*”¹ The MIDC’s Grant manual further clarifies that a “year” is defined as “*any four rolling or consecutive quarters.*”²

➤ **What is a case, for the purposes of Standard 6?**

The MIDC’s Grant Manual defines a case as follows: “*A case is a charge or set of charges filed against a defendant in a court arising from the same transaction and/or that are being handled together, regardless of how the court assigns case numbers.*”³

Please note that this is a departure from how many courts count cases.

➤ **How do we classify traffic and non-traffic misdemeanors?**

Please refer to the SCAO case codes. SM, OM, OD and SD will be counted as non-traffic misdemeanors while OT and ST are traffic misdemeanors. Please note that OD and SD fall under non-traffic misdemeanors because of Endnote 3 in Standard 6: “*Non-traffic misdemeanors include offenses relating to operating a motor vehicle while intoxicated or visibly impaired. MCL 257.625.*” Cases with both non-traffic misdemeanors and traffic misdemeanors count as non-traffic misdemeanor cases.

¹ Standard 6, Endnote 4, <https://michiganidc.gov/standards/#tab-id-6>.

² MIDC Grant Manual, page 30, <https://michiganidc.gov/wp-content/uploads/2024/02/Grant-Manual-revised-text-February-2024-Final-with-appendices.pdf>.

³ *Id.* at 29.

➤ **How do we differentiate between low-severity and high-severity felonies?**

Low-severity and high-severity felonies are defined in the Michigan Legislative Sentencing Guidelines. Any felony that is designated as Class A, B, C, or D is a high severity felony. Any felony that is designated as Class E, F, G, or H is a low severity felony.

➤ **How do we count other types of cases?**

The Grant Manual describes how other types of cases should be weighted:

“Traffic misdemeanor cases count as ½ of a misdemeanor case assignment.”⁴

In other words, an attorney could take 800 traffic misdemeanors per year.

“Probation violations count as ½ of a misdemeanor case assignment.”⁵

In other words, an attorney could take 800 probation violations per year. This includes probation violations in both Circuit and District Courts.

Staff also offers the following guidance on contempt, felony non-support, and bond violation assignments based on questions from local systems. Many of the case types listed below are handled as part of the original assignment; in these instances, they would not count as new assignments. Other times, they are handled by attorneys during docket/shift coverage. In these instances, they would not count as assignments; instead, they would just be counted as part of the shift work. When they are not handled during a shift and they are assigned separate from the original case, please categorize them according to the following:

- **Traffic misdemeanor assignments (PPO violations, show causes/FTA/FTP) count as non-traffic misdemeanors.**
- **Felony non-support assignments (also known as FOC support enforcement) count as felonies.**
- **Bond violations count as non-traffic misdemeanors, when they are handled separately from and by a different attorney than the original case.**

➤ **How do we categorize cases with multiple charges?**

Cases should always be categorized by the highest charge. For example, cases with felony and misdemeanor charges count as felony cases. Cases with both non-traffic misdemeanors and traffic misdemeanors count as non-traffic misdemeanor cases. That

⁴ *Id.*

⁵ *Id. at 30.*

said, please also note that in rare instances where the highest count carries a lower weight than other counts, systems should utilize the higher weighted case type.⁶

The “highest charge” includes any enhancements or habituals.⁷

➤ **Sometimes charging changes throughout the life of a case. Which charge do we use for the purposes of Standard 6 classification?**

Cases should be categorized based on the highest charge at the time of assignment. When charges are reduced through the course of a case, the case should always be categorized by the original charge.⁸ If charges are enhanced as the case goes on, the case should be reclassified based on the highest charge.

➤ **What happens if there is co-counsel on a case?**

The Grant Manual indicates that, “Where multiple attorneys serve as co-counsel in any capacity, the case counts for each attorney assigned.”⁹ The only exception is when second chair work looks more like mentorship, i.e., the “mentor” provides minimal oversight over the case but does not perform significant work. In these instances, the mentor should track their hours and count these the same way they would count shift coverage hours.

➤ **How do we handle reassignments?**

According to the Grant Manual, “Reassignments do not count as a case for an attorney where reassignment is requested before significant work is performed (i.e., early identification of a conflict of interest).”¹⁰

If more than one attorney performs significant work, the case would count as an assignment for both (or all) attorneys.

➤ **How should we count shift coverage or a house counsel model under Standard 6?**

The Grant Manual speaks to this question: “For systems that use house counsel models or shift coverage for any docket including for arraignments or problem-solving courts,

⁶ For instance, take a case with an OWI (or other misdemeanor punishable by less than one year) along with a No Security (a one-year penalty). The No Security charge will technically be the first count because it has the highest penalty, giving the case as a whole a traffic case code. However, due to the charges and potential penalties, the case should be counted as a non-traffic misdemeanor, which has a higher weight than a traffic misdemeanor.

⁷ As indicated in Staff Comment #3 under Standard 7, “a life offense’ for purposes of this Minimum Standard includes any case where the offense charged or enhancement sought subjects the accused defendant in a criminal case to life in prison.”

⁸ *Id.* “In cases where the final charges are reduced through plea negotiations, the case should be categorized according to the original charge.”

⁹ MIDC Grant Manual, *supra* note 2, at 29.

¹⁰ *Id.*

each hour worked on a shift proportionally reduces the number of hours available for case assignments, using an 1856-hour annual limit.”¹¹

Like all time tracking, time for these shifts should be tracked according to local policy, whether that is to the nearest six minutes, ten minutes, fifteen minutes, etc.

In some instances, it is unclear whether a case is an assignment or part of shift coverage. If an attorney will provide representation on whichever cases are scheduled in a courtroom during a specified period of time, it counts as shift coverage, even if that attorney covers the same case over multiple shifts. If you are unsure whether work on a case should count as an assignment or as part of shift coverage, please reach out to your regional manager or the MIDC Research Director for clarification.

➤ **What about when a case is closed and then reopened?**

If a case was closed and then is reopened, it counts as a new assignment, whether it goes to the same attorney or a new attorney (although if it still has the same case number, it does not count as a new case for the purposes of the QPR). If the case has remained open and stays with the original attorney, it is not a new assignment. Local policy should dictate when and how cases are “closed out.”

¹¹ *Id. at 30.*