

The Texas Weighted Caseload Study

Metrics and Workloads: *Guidelines for Indigent Defense Caseloads*

Pursuant to HB 1318
83rd Texas Legislature



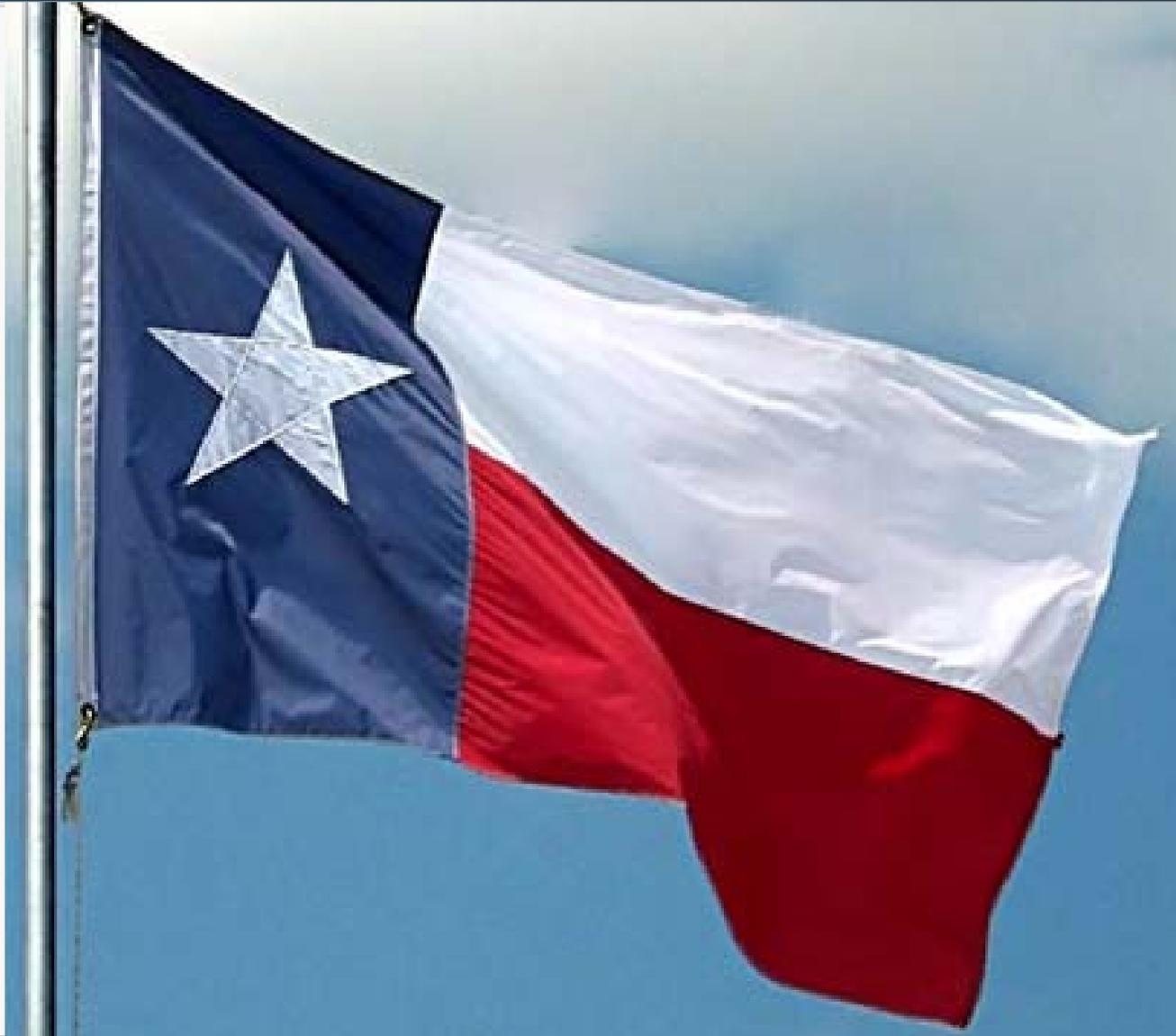
STATE BAR *of* TEXAS



TEXAS INDIGENT DEFENSE

254 COUNTIES

- **6,000+** Attorneys take appointments
- **14** Adult Trial-Level PDOs
- **3** Adult Trial-Level MACs



Data-Driven Indigent Defense

County Expenditure & Case Data

- ✓ by Court
- ✓ by Type of Counsel
- ✓ By Expenditure Type

County Indigent Defense Plans



Attorney Caseload Data

- ✓ % of practice that is appointed
- ✓ Total # appointments
- ✓ Total \$ payments

Grant Awards

- ✓ Formula
- ✓ Discretionary



House Bill 1318

Not later than January 1, 2015, the Texas Indigent Defense Commission shall conduct and publish a study for the purpose of determining guidelines for establishing a maximum allowable caseload for a criminal defense attorney that... allows the attorney to give each indigent defendant the time and effort necessary to ensure effective representation.



Rep. Sylvester Turner
District 139



Rep. Armando Walle
District 140



Sen. John Whitmire
District 15



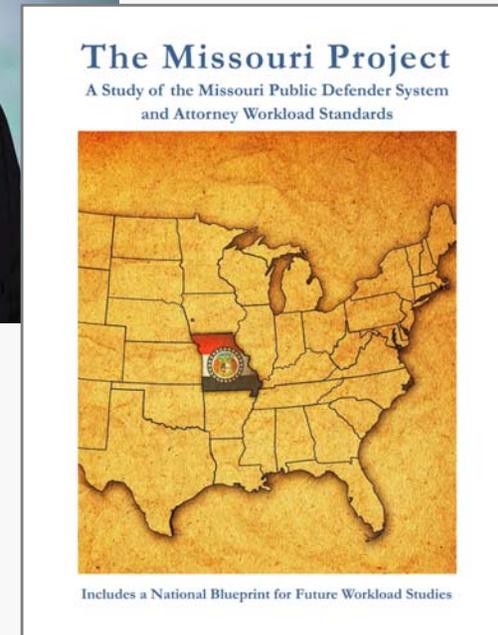
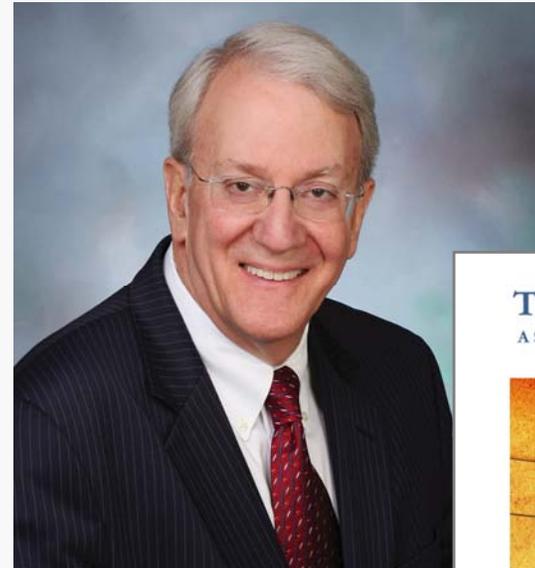
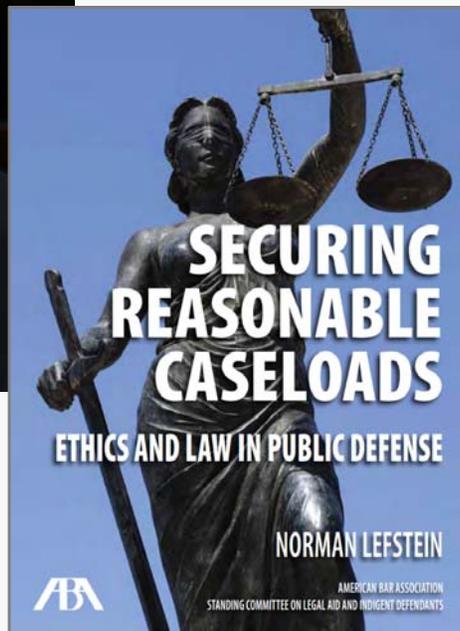
Sen. Rodney Ellis
District 13



Sen. Sylvia Garcia
District 6

National Caseload Experts

Prof. Norman Lefstein
Indiana State University



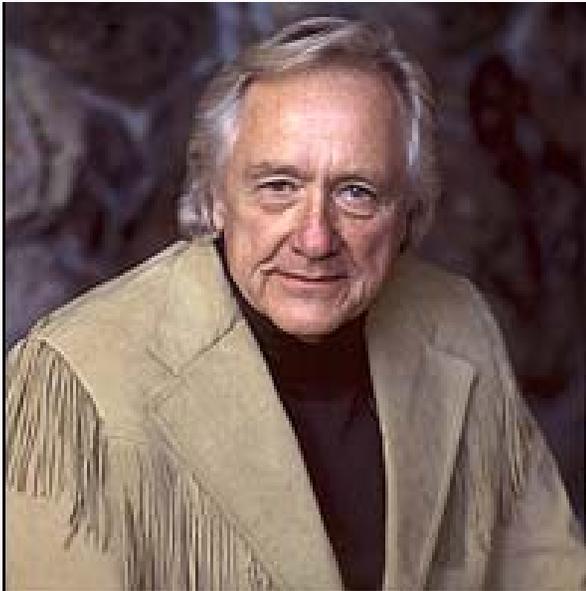
Adjunct Prof. Steve Hanlon
St. Louis University School of Law

WCL Advisory Panel



Gerry Spence

“If I had 100 cases I couldn’t see my client until I walked into the courtroom...”



“... a system that is defrauding America out of its Constitutional rights.”

Texas Path to Indigent Defense Caseloads



STATE BAR *of* **TEXAS**



Texas Criminal Defense Lawyers Association



LIBERAL ARTS
TEXAS A&M UNIVERSITY
PUBLIC POLICY RESEARCH INSTITUTE



Public Policy Research Institute

Texas Indigent Defense Commission

January 2015

Office of Court Administration

Guidelines for Indigent Defense Caseloads

A Report to the
Texas Indigent Defense Commission

Pursuant to House Bill 1318
83rd Texas Legislature



1. Attorney Timekeeping



- 196 attorneys
- Average 15 years' experience
- Telephone recruitment from 39 largest counties
- 25,000 time entries; 8,151 cases

How much time “is” currently being spent on the defense of court-appointed criminal cases?

2. Time Sufficiency Survey



- 319 attorneys
- Average 18 years' experience
- Large county appointment lists and TCDLA member roster

Recommend adjustments to Timekeeping results if needed to ensure effective assistance of counsel.

Time Sufficiency Survey Data Collection Form

Trial Level MISDEMEANORS

Please recommend adjustments (if needed) to ensure Effective Assistance of Counsel.

Effective Assistance of Counsel: Competent legal representation without errors that would result in the denial of a fair trial.

Hours when Performed

Percent of Cases

Time Categories <i>(Hover for definitions)</i>	Hours per Case When Task is Performed			Percent of Cases Where Task Should Be Performed		
	Attorney Responses	Your Opinion	No Adjustment Needed	Attorney Responses	Your Opinion	No Adjustment Needed
Client Communication	1.7		<input type="checkbox"/>	46 %		<input type="checkbox"/>
Negotiation/Meetings	1.0		<input type="checkbox"/>	20 %		<input type="checkbox"/>
Discovery/Investigation	1.3		<input type="checkbox"/>	22 %		<input type="checkbox"/>
Legal Research/Trial Preparation	3.5		<input type="checkbox"/>	11 %		<input type="checkbox"/>
Court Time	3.9		<input type="checkbox"/>	68 %		<input type="checkbox"/>
Case Management	2.7		<input type="checkbox"/>	11 %		<input type="checkbox"/>
Investigator's Time	2.5		<input type="checkbox"/>	0.3 %		<input type="checkbox"/>
Case-Specific Office Support	1.7		<input type="checkbox"/>	17 %		<input type="checkbox"/>

3. Delphi Panel of Experts



- 18 attorneys
- Average 25 years' experience
- Iterative process of anonymous surveys and group discussion to reach consensus

How much time “should be” spent to achieve reasonably effective representation?

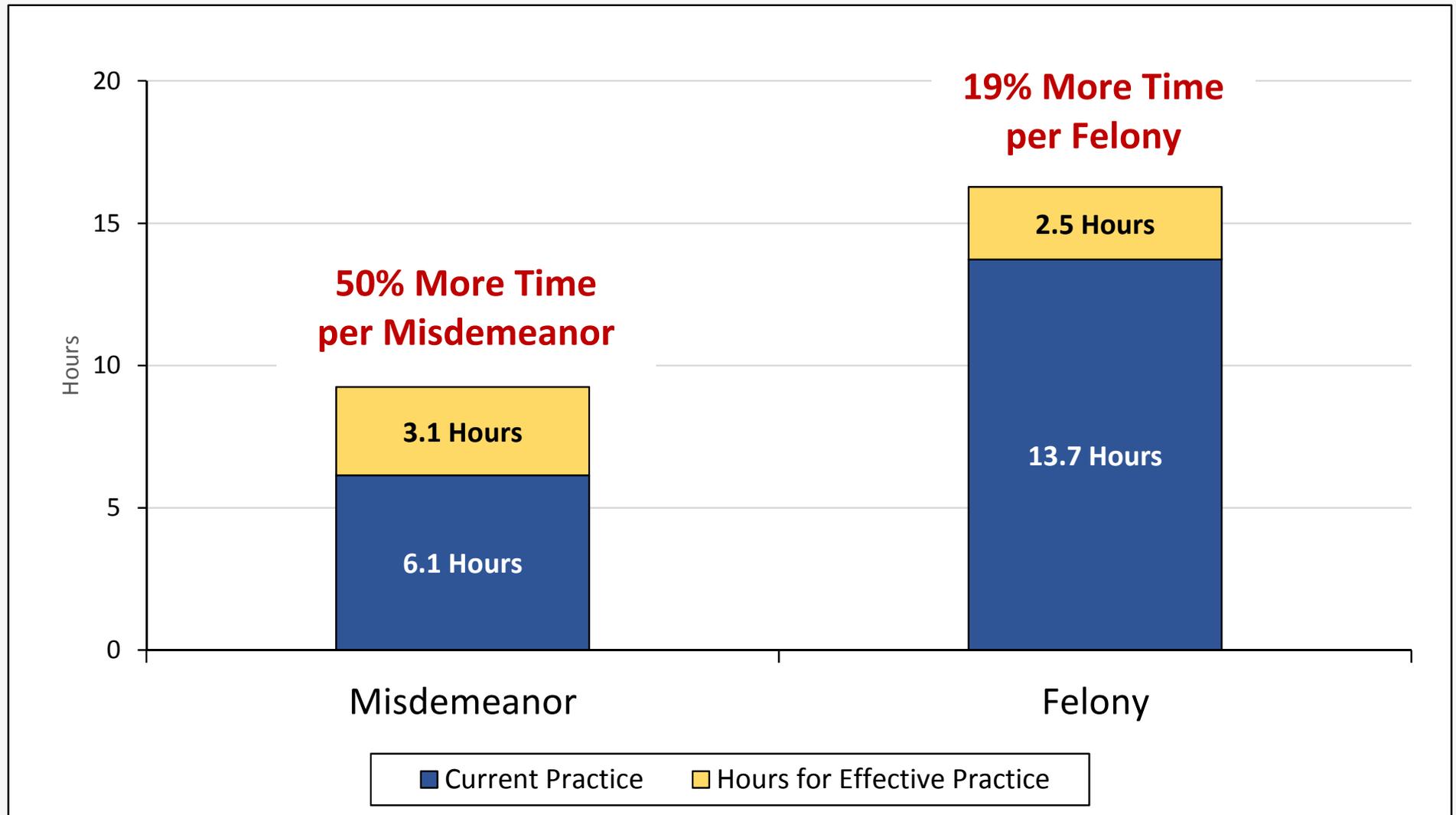
Guidance for Delphi Deliberations

- US Supreme Court and Texas Court Decisions
- Texas Rules of Professional Conduct
- Texas Performance Guidelines
- ABA Standards for Criminal Justice and Defense Function

Weighted Caseload Study

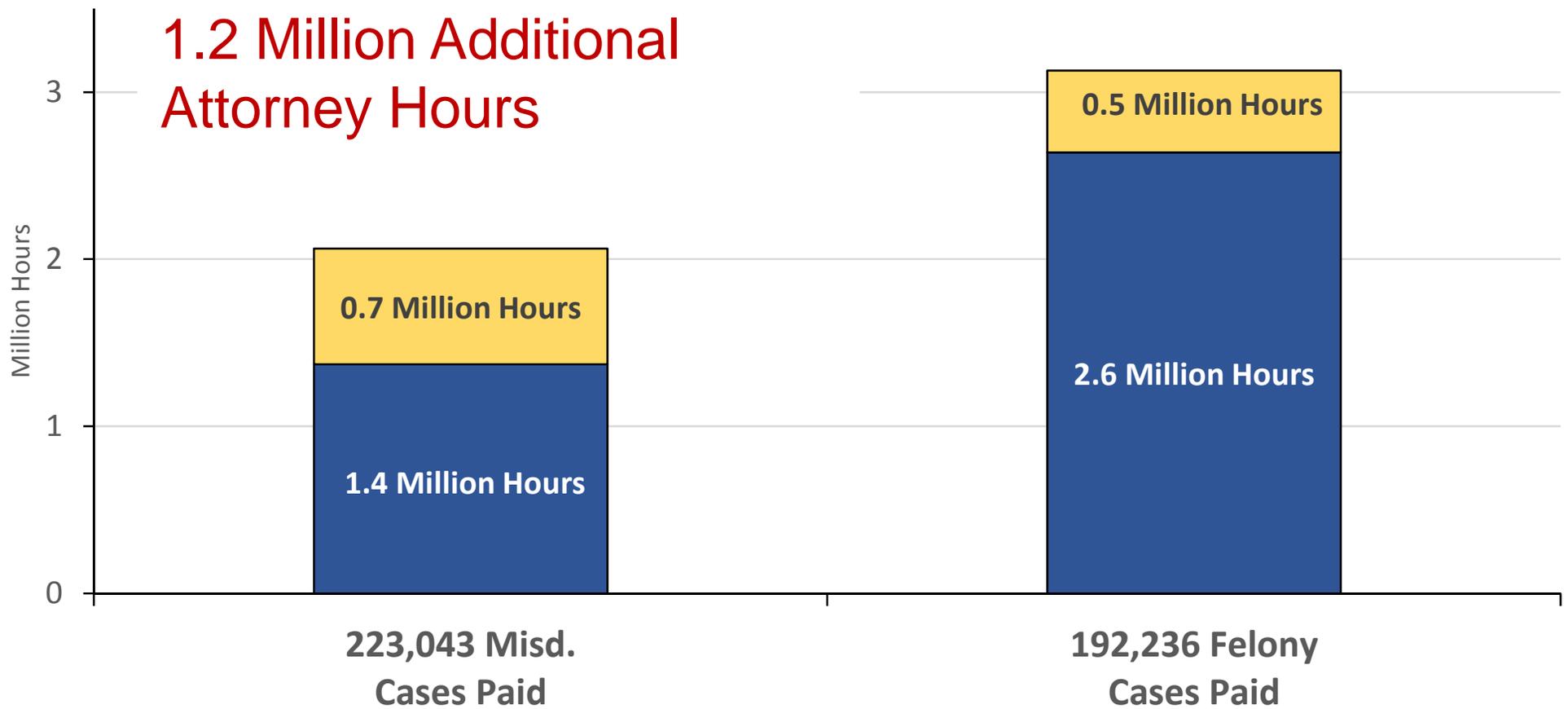
RESULTS

Additional Time Required

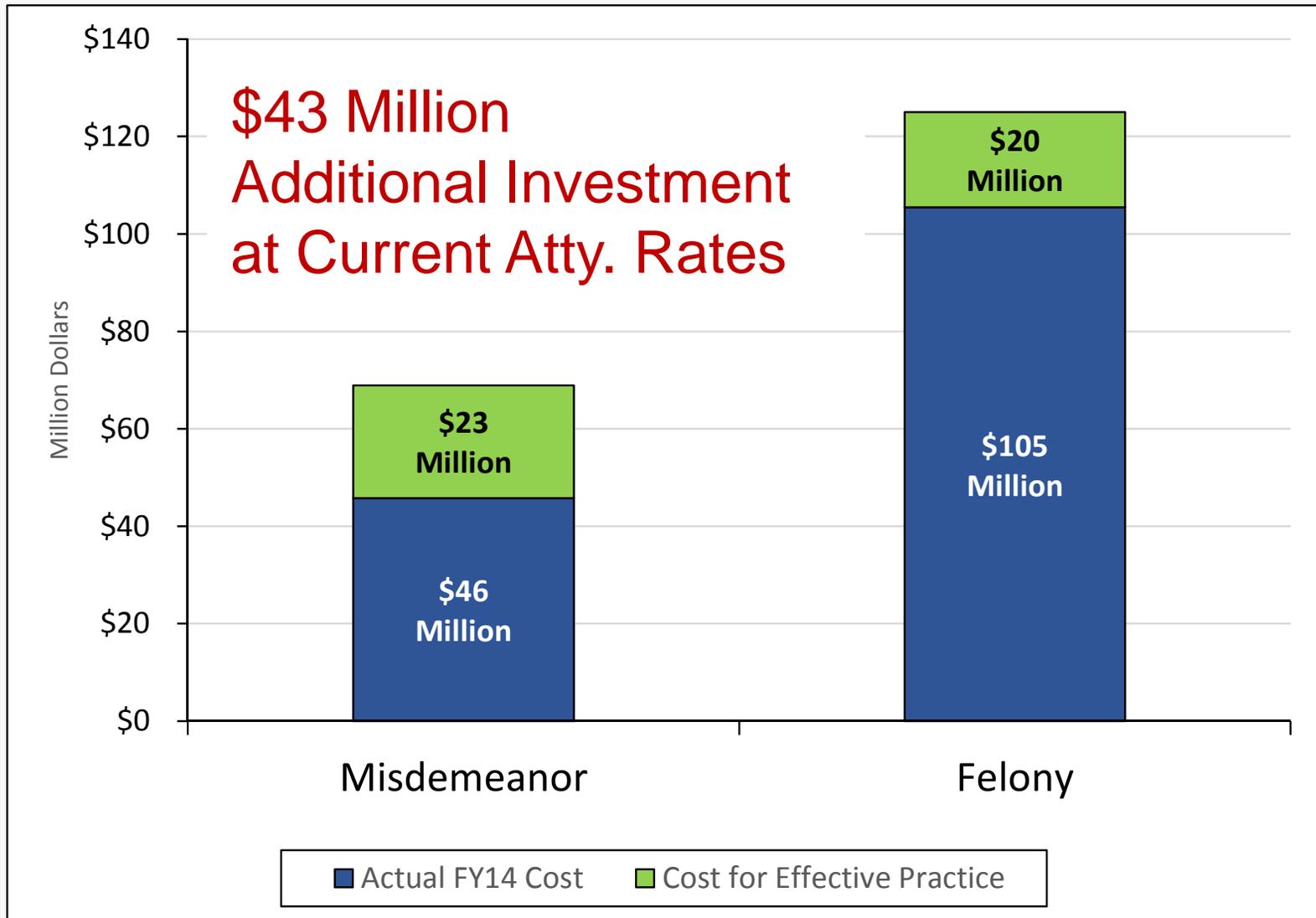


Additional Time Required

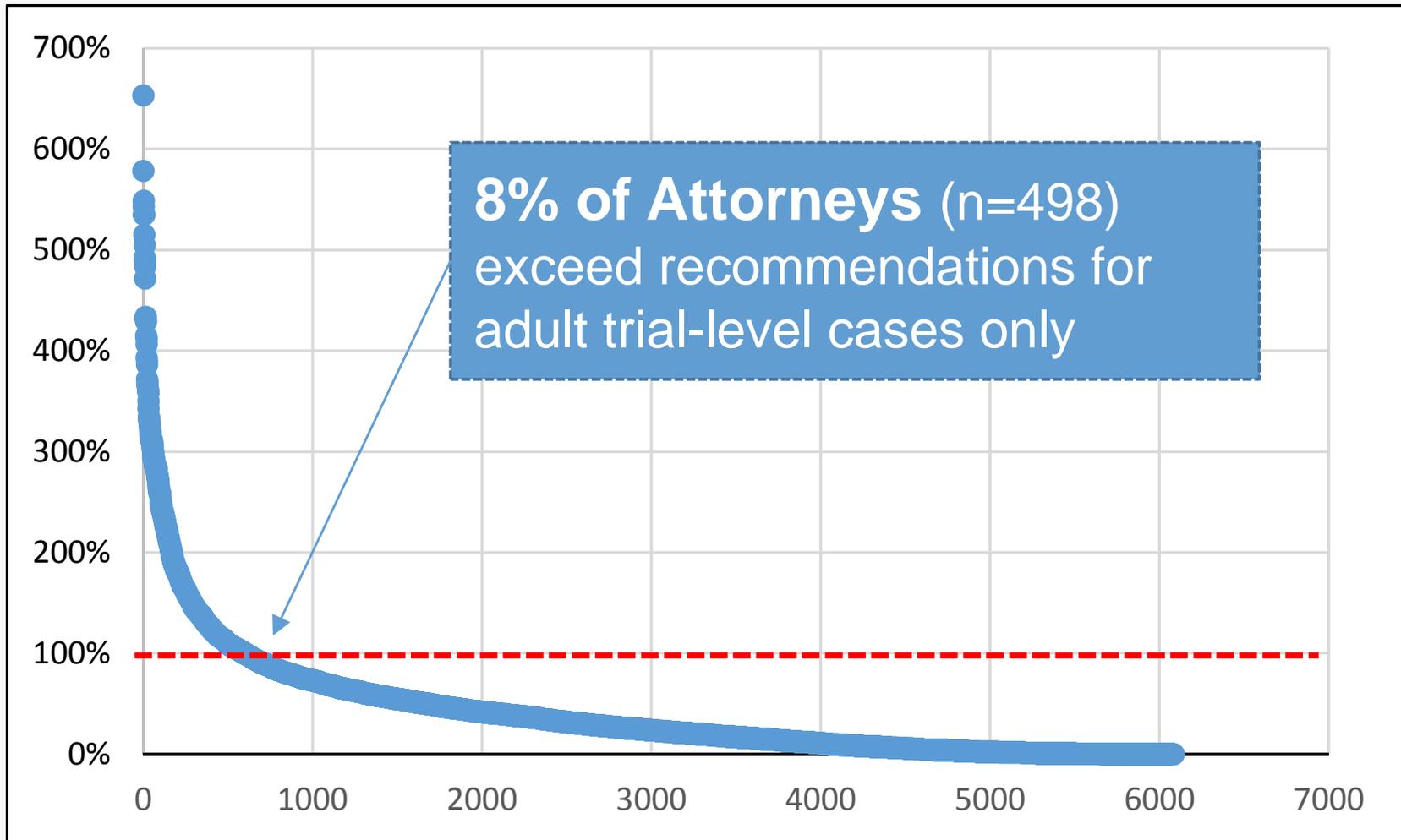
**1.2 Million Additional
Attorney Hours**



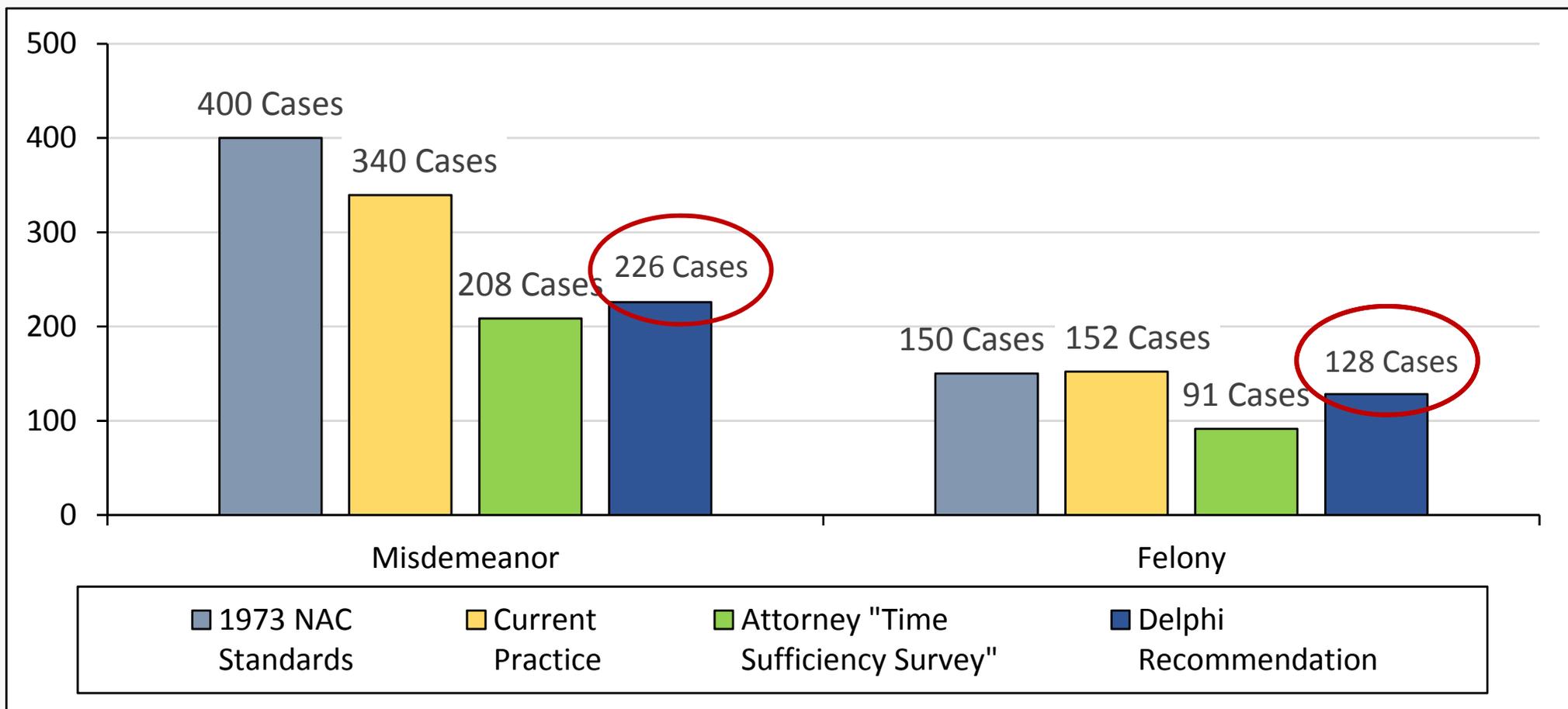
Fiscal Impact



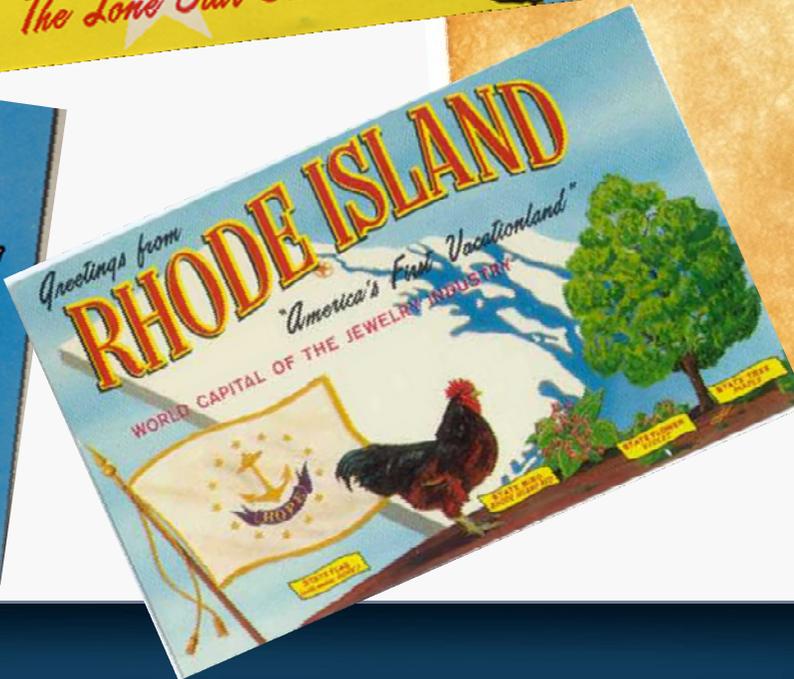
Recommended Caseload Guidelines Exceeded



Bottom Line



Past and Future



...and coming soon to a state near you!

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