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JUVENILE ADDENDUM: Guidelines for Indigent Defense Caseloads

**A Report to the
Texas Indigent Defense Commission**

Pursuant to House Bill 1318
83rd Texas Legislature



Juvenile Addendum: Guidelines for Indigent Defense Caseloads

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Hanlon instructed members of the juvenile Delphi Panel on the professional standards that define reasonably effective counsel. His experience, creativity, and leadership in pioneering new, more rigorous methods to determine caseload guidelines in Missouri inspired many aspects of the research approach used here. The participation of these valued contributors elevated the quality of the study.

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Executive Summary

Executive Summary

House Bill (HB) 1318, passed by the 83rd Texas Legislature, instructed the Texas Indigent Defense Commission (TIDC) to “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.”¹ In response to this directive, TIDC determined to conduct a case weighting study to establish parameters for adult trial cases. A year later, the Commission initiated a follow-up study focusing on juvenile caseloads. The research answers two important questions:

1. How much time “is” currently being spent on the defense of court-appointed juvenile cases?
2. How much time “should” be spent to achieve reasonably effective representation for juvenile clients?

The Importance of Attorney Caseloads in Effective Representation

The same parameters that guide the provision of defense to adults also apply to juveniles; any young person at risk of incarceration has a right to legal representation.² Yet, attorneys who are burdened by too many cases cannot meet their obligation to provide “competent” and “quality” representation.³ Precise criteria defining excessive caseloads are elusive because of the many different factors that influence the time required for effective representation. Nonetheless, objective research methods integrating time measurement with expert opinion from experienced attorneys can yield meaningful guidelines.

Weighted Caseload Study

Texas’ juvenile weighted caseload study began with input from an Advisory Panel of indigent defense stakeholders convened in late 2013. These included national caseload experts, national indigent defense practitioners, Texas Indigent Defense Commissioners, criminal defense attorneys, legislators, state agency representatives, and other stakeholder constituencies with

¹ Tex. H.B. 1318, 83rd Leg., R.S. (2013).

² *In re Gault* 387 U.S. 1 (1967)

³ See PERFORMANCE GUIDELINES FOR NON-CAPITAL CRIMINAL DEFENSE REPRESENTATION (2011) [hereinafter PERFORMANCE GUIDELINES], available at https://www.texasbar.com/AM/Template.cfm?Section=Texas_Bar_Journal&Template=/CM/ContentDisplay.cfm&ContentID=14703, Tex. Disciplinary Rules of Prof’l Conduct R. 1.03.

an interest in indigent defense. Their expertise helped research staff integrate diverse perspectives and clarify direction for the Texas study.

Two data collection approaches were used: a Timekeeping Study described current attorney practice, while a panel of experts used the Delphi Method to determine time required for standards-based practice. Three levels of cases were considered. From least to most complex, these were Conduct Indicating a Need for Supervision (CINS)/misdemeanors; non-determinate sentence/non-certification felonies; and determinate sentence/certification felonies.

For cases at each offense level, time records were organized in nine task categories: (1) Client Communication, (2) Discovery, (3) Attorney Investigation, (4) External Investigator's Time, (5) Legal Research/Trial Preparation, (6) Social Work/Case Management, (7) Negotiation/Meetings, (8) Court Time, (9) and Case-Specific Office Support. Expert Delphi Panel attorneys later recommended combining the Social Work/Case Management and Legal Research/Trial Preparation categories into a single Case Preparation category for eight task groupings.

Timekeeping Study

Information about time spent on actual cases was provided by 17 private practice attorneys and 46 public defender attorneys representing six juvenile public defender offices (PDOs) statewide. Two of these offices that do permanent timekeeping, El Paso and Harris County Juvenile Public Defender Offices, contributed complete time records for 3,319 cases closed between January 1, 2012 and February 11, 2016. Other PDO and private attorneys tracked their time on criminal defense cases over a 12-week period.

Results show that in current practice, CINS/misdemeanor cases are being disposed in 6.3 hours. Non-determinate sentence/non-certification felonies are resolved in 11.7 hours, and determinate sentence/certification felonies take 57.6 hours. At all three case levels the largest proportion of time (28 to 46 percent) is spent in Court Time conducting activities such as filing documents, communicating with the court about cases, and appearing at hearings, and trials. The next most time-intensive category for low- and intermediate complexity cases is Client Communication, accounting for about 15 percent of case time. For the most complex cases, attorneys spend 21 percent of their time on Discovery. Other tasks generally require five to ten percent of attorneys' time.

Although the *State Bar of Texas, Performance Guidelines for Non-Capital Criminal Defense Representation* emphasize the importance of using a third party to interview potential witnesses adverse to the client "in a manner that permits counsel to effectively impeach the

witness with statements made during the interview,”⁴ more juvenile investigation is currently performed by attorneys than by independent investigators. Separate case-time estimates were done to accommodate attorneys with and without access to investigation.

Delphi Panel

To arrive at final caseload guidelines for Texas, a panel of 20 highly experienced juvenile defense practitioners was selected to take part in a Delphi process. The Delphi Method offers a rational and structured means to integrate opinions of highly informed professionals to solve problems.⁵ Members averaging more than 23 years of experience were selected to represent each of the state’s nine Administrative Judicial Regions. Over a three-month period, panel members completed a three-round sequence of activities designed to integrate independent judgment and collaborative decision-making to arrive at recommended case weights.

Delphi experts agreed the greatest time increment is needed in the area of non-attorney investigator’s time. They advised an eight-fold increase above current levels for highly complex cases, and as much as 3.5 times more external investigation in the least complex CINS and misdemeanor cases. Three to six times more effort was also recommended by the Delphi Panel for Case-Specific Office Support and for Case Preparation including both development of the legal case and the provision of juvenile client supports and services to improve case outcomes.

Final Recommended Caseload Guidelines

The final caseload guidelines differ depending upon assumptions about external fact investigation. If all investigation can be delegated to an external professional, an attorney meeting the Delphi Panel’s full-time caseload recommendation would have time available for 20 additional CINS/misdemeanor cases, 19 additional non-determinate sentence/non-certification felony cases, or 6 additional determinate sentence/certification felony cases each year.

For the delivery of reasonably effective representation, Delphi experts conclude juvenile attorneys should carry an annual full-time equivalent caseload of no more than the following.

Attorney caseloads without investigator support:

- 210 CINS/misdemeanors,
- 108 non-determinate sentence/non-certification felonies, or
- 30 determinate sentence/certification felonies.

⁴ See PERFORMANCE GUIDELINES, *supra* note 3, at 624.

⁵ See *generally* Section II (discussing the Delphi Method).

Attorney caseloads with investigator support:

- 230 CINS/misdemeanors,
- 127 non-determinate sentence/non-certification felonies, or
- 36 determinate sentence/certification felonies.

Conclusion

According to national standards, defense attorneys “should not accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations.”⁶ With the development of caseload guidelines for the state of Texas, a valuable new tool is available to help define the point at which caseloads become excessive. This tool can be used in important ways to protect the Constitutional right to counsel and the equitable administration of justice.

With evidence-based caseload parameters, appointing authorities and attorneys taking appointments can be held accountable for managing workloads, information is available to set fair compensation rates, and jurisdictions adhering to reasonable caseload limits are less exposed to potential litigation. Caseload guidelines alone may not guarantee the provision of reasonably effective counsel, but they are certainly a necessary component, essential to securing the Sixth Amendment right to counsel for the indigent accused.

⁶ See ABA, PROVIDING DEFENSE SERVICES, Standard 5-5.3, *available at* http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_defsvcs_toc.html. See also ABA STANDING COMM. ON LEGAL AID AND INDIGENT DEFENDANTS, GIDEON’S BROKEN PROMISE: AMERICA’S CONTINUING QUEST FOR EQUAL JUSTICE 17 (2004), *available at* http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_bp_right_to_counsel_in_criminal_proceedings.authcheckdam.pdf.

**Guidelines for Juvenile
Indigent Defense Caseloads**

I. Introduction

In January 2015, the Texas Indigent Defense Commission (TIDC) published the state’s first trial-level weighted caseload study. A year later, the Commission initiated a follow-up study focusing on juvenile caseloads. In Texas, juvenile courts have exclusive jurisdiction over youth ages 10 and under 17, unless the case is transferred to the adult court system through a process known as “certification.”¹ The same parameters that guide the provision of defense to adults also apply to juveniles; any young person at risk of incarceration has a right to legal representation.² Moreover, foundational court decisions³ have established that, in accordance with the Sixth Amendment of the U.S. Constitution, court-appointed attorneys have an obligation to provide indigent defendants with effective assistance of counsel. Professional standards articulated by the American Bar Association, the State Bar of Texas, and the National Juvenile Defender Center likewise affirm appointed lawyers’ duty to competently represent their clients’ interests whether defending adults or juveniles.⁴

Attorneys who are burdened by too many cases cannot meet their obligation to provide “competent” and “quality” representation.⁵ High caseloads contribute to a “meet and plead” system⁶ that can result in serious incidents of attorney error. *Justice Denied*, a national report about indigent defense in the United States, described the ways in which attorneys with too many cases are unable to abide by professional rules of conduct as the time is simply

¹ Texas Family Code Chapter 51.02(2) & 54.02

² *In re Gault* 387 U.S. 1 (1967).

³ In *Powell v. Alabama*, 287 U.S. 45 (1932), the United States Supreme Court held that the Sixth Amendment requires that indigent defendants in state court capital cases must be provided the right to counsel. Supreme Court decisions after *Gideon* afforded representation to indigent defendants in other types of cases including misdemeanor cases resulting in imprisonment and juvenile delinquency proceedings. See *Argersinger v. Hamlin*, 407 U.S. 25 (1972); *Wilbur v. City of Mt. Vernon*, 989 F.Supp.2d 1122 (2013); In Texas, the Court of Criminal Appeals has long recognized the right to counsel in misdemeanor cases where imprisonment is possible absent a valid waiver of the right to counsel. See, e.g., *Lewis v. State*, 501 S.W.2d 88 (Tex. Crim. App. 1973). *In re Gault*, 387 U.S. 1 (1967).

⁴ Professional standards have been articulated in documents such as STATE BAR OF TEX., PERFORMANCE GUIDELINES FOR NON-CAPITAL CRIMINAL DEFENSE REPRESENTATION (2011) [hereinafter PERFORMANCE GUIDELINES], available at https://www.texasbar.com/AM/Template.cfm?Section=Texas_Bar_Journal&Template=/CM/ContentDisplay.cfm&ContentID=14703; ABA, EIGHT GUIDELINES OF PUBLIC DEFENSE RELATED TO EXCESSIVE WORKLOADS (2009), available at https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_eight_guidelines_of_public_defense.authcheckdam.pdf; ABA, TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM (2009), available at http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_tenprinciplesbooklet.authcheckdam.pdf; NATIONAL JUVENILE DEFENSE STANDARDS (2012), available at <http://njdc.info/wp-content/uploads/2013/09/NationalJuvenileDefenseStandards2013.pdf>

⁵ See PERFORMANCE GUIDELINES. Tex. Disciplinary Rules of Prof’l Conduct R. 1.03.

⁶ See Memorandum of Decision, *Wilbur v. City of Mount Vernon*, No. C11-1100RSL, 2013 WL 6275319 (W.D. Wash. Dec. 4, 2013), available at http://www.opd.wa.gov/documents/0181-2013_WilburDecision.pdf.

unavailable “to interview their clients properly, effectively seek their pretrial release, file appropriate motions, conduct necessary fact investigations, negotiate responsibly with the prosecutor, adequately prepare for hearings, and perform countless other tasks that normally would be undertaken by a lawyer with sufficient time and resources.”⁷ Overburdened defense attorneys have made mistakes resulting in wrongful convictions or excessive sentences for their clients, distorting and threatening individuals’ right to counsel.⁸

In an effort to address these concerns, House Bill (HB) 1318 passed by the 83rd Texas Legislature instructed TIDC to “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.”⁹ The juvenile weighted caseload study described herein will provide Texas policymakers and practitioners with guidelines against which to gauge the appropriateness of caseloads currently carried by juvenile counsel in the state.

II. Project Design

The methodology used in the original trial-level adult criminal weighted caseload study was replicated to address two fundamental research questions:

- 1) How much time “is” currently being spent on the defense of court-appointed juvenile cases?
- 2) How much time “should” be spent to achieve reasonably effective representation for juvenile clients?

The following paragraphs provide an overview of the study approach.

Study Advisement

To provide context and inform planning for the study, the research team sought input from stakeholders with diverse policy and professional perspectives.

⁷ NAT’L RIGHT TO COUNSEL COMM., CONSTITUTION PROJECT, JUSTICE DENIED: AMERICA’S CONTINUING NEGLECT OF OUR CONSTITUTIONAL RIGHT TO COUNSEL, 7 (2009).

⁸ See JUSTICE POLICY INST., SYSTEM OVERLOAD: THE COSTS OF UNDER-RESOURCING PUBLIC DEFENSE 20–21 (2011), *available at* www.justicepolicy.org/uploads/justicepolicy/documents/system_overload_final.pdf. NORMAN LEFSTEIN, SECURING REASONABLE CASELOADS: ETHICS AND LAW IN PUBLIC DEFENSE (2011) [hereinafter SECURING REASONABLE CASELOADS], *available at* http://www.americanbar.org/content/dam/aba/publications/books/ls_sclaid_def_securing_reasonable_caseloads.authcheckdam.pdf.

⁹ Tex. H.B. 1318, 83rd Leg., R.S. (2013).

State and National Advisors

The overall weighted caseload study objectives and research approach was initially informed by input from state and national advisors. A group convened in October of 2013 blended diverse perspectives. Resulting recommendations were used to plan the original trial-level study, and established the foundation for the juvenile study presented here. Constituencies in attendance included national caseload experts and indigent defense practitioners, Texas criminal defense attorneys, representatives of key stakeholder groups (e.g., Texas counties, criminal defense advocates), Indigent Defense Commissioners, and state legislators responsible for HB 1318 that called for the study.¹⁰

Expert Juvenile Defense Advisors

To provide specific expertise in juvenile defense, attorneys from the state’s major public defender offices (PDOs) in Harris, El Paso, and Travis Counties were asked to assist with the project. Experienced juvenile defenders from these offices volunteered to meet with the research team on multiple occasions in conference calls, webinars, and face-to-face meetings. They helped researchers understand key differences between adult and juvenile practice and advised in the creation of the time and task categories underlying the data collection framework.

Methodologies

Two primary methodologies were used to develop caseload recommendations for Texas. Attorney timekeeping data was used to establish how much time “is” currently being spent to defend juvenile clients. The Delphi Method was used to determine the amount of time that “should” be spent to provide reasonably effective counsel.

Attorney Timekeeping

To measure the time currently expended by attorneys on juvenile court-appointed cases, actual records of attorney practice were needed. It proved unfeasible to collect time data from a representative sample of attorneys taking juvenile cases,¹¹ primarily because the number of private practice attorneys carrying most of the state’s juvenile court-appointed caseload is so small. During FY 2015, only 138 Texas attorneys took 50 or more court-appointed juvenile cases.¹² To obtain a number of juvenile cases comparable to that used in the original trial-level

¹⁰ See GUIDELINES FOR INDIGENT DEFENSE CASELOADS (2015), *available at* http://www.tidc.texas.gov/media/31818/150122_weightedcl_final.pdf

¹¹ See Appendix C in GUIDELINES FOR INDIGENT DEFENSE CASELOADS based on private practice and public defender attorneys sampled to represent the state’s nine Administrative Judicial Regions.

¹² TEXAS INDIGENT DEFENSE COMMISSION, FY 2015 STATEWIDE INDIGENT DEFENSE CASELOAD REPORT, *available at* <http://tidc.tamu.edu/public.net/Reports/AttorneyCaseLoad.aspx>

study (8,151 cases), all of these juvenile practitioners would have had to participate in timekeeping for a full year.¹³

Though these private attorneys were invited to contribute time records to the study, few volunteered resulting in no new time data from private attorneys. However, 17 private practice attorneys had previously tracked juvenile case time during the original trial-level study.¹⁴ These attorneys contributed a 12-week sample of time spent on 91 juvenile cases which were included in the analyses.

Table 2-1. Timekeeping Data Sources

Attorney Type	12-week Timekeeping	Multi-Year Data Download	Number of Cases	Number of Attorneys
Private Practice	Yes		91	17
El Paso County PDO		Yes	1,130	17
Harris County PDO		Yes	2,189	13
Hidalgo County PDO	Yes		228	2
Travis County PDO	Yes		463	8
Texas Rio Grande Legal Aid	Yes		35	3
Webb County PDO	Yes		168	3
Total			4,304	63

To acquire additional time data needed for meaningful analysis, the research team reached out to the Harris and El Paso County Public Defender Offices (PDOs). These offices defend a substantial volume of juvenile cases, and attorneys have done permanent timekeeping for a number of years. The PDOs provided over four years of case information (e.g., offense type, appointment date, and disposition date) and complete timekeeping records for 3,319 cases closed between January 1, 2012 and February 11, 2016.

Other juvenile public defender offices that could not contribute existing time records nonetheless volunteered to collect a 12-week time sample. The Travis County, Webb County, and the combined Bee and Willacy County (i.e., Texas Rio Grande Legal Aid) Public Defender Offices collected juvenile data in 2014 in conjunction with the adult weighted caseload study. Two additional attorneys at the Hidalgo County Public Defender Office collected new time data between September 21, 2015 and December 11, 2015. Altogether 16 public defender attorneys contributed sampled time records on 894 cases through the same online collection

¹³ Without the assertive telephone outreach used in the adult study, just one private practice attorney was successfully recruited by email to track time on juvenile cases.

¹⁴ Timekeeping for these cases occurred between February 3, 2014 and April 25, 2014.

system provided by the research team to private lawyers. The final numbers of cases collected through the timekeeping and database procedure are available in Table 2-1.

It should be noted that the study's nearly exclusive reliance on public defender time records introduces selection bias into the study. Because Harris and El Paso County Juvenile PDOs alone contributed 77 percent of the actual time records, results are weighted heavily toward practices in these two offices. Moreover, public defenders on the whole may generally spend more or less time on appointed cases than private practice counsel. To the extent that such differences exist, the effect of this sampling approach will be to over- or under-estimate the time that is currently being spent on juvenile cases statewide.

The Delphi Process

While data on the time that "is" being spent on court-appointed juvenile cases was generated through timekeeping, the same highly structured Delphi Method¹⁵ used in the original trial-level study was applied to determine how much time "should" be spent to achieve reasonably effective counsel. Twenty highly experienced juvenile defense attorneys, averaging 22.7 years of law practice, agreed to be a part of the Delphi Panel. Fifteen panel members were solo private practitioners or partners, while the remaining five were public defenders. A complete list of members is presented in Appendix C.

On November 9, 2015, Delphi Panel members participated in a webinar to review the group's charge and explain the research procedure. Following this training, Delphi Panel members spent the next five weeks completing a highly specified iterative process involving a three-round sequence of qualitative assessments. During the first round, respondents made independent judgments about the frequency with which specific tasks should be done and the amount of time that should be spent when each task is performed. In the second round, respondents reviewed median recommendations from the panel as a whole, then had the option to adjust their individual responses. Each offense level (Table 2-2) was considered separately using this same procedure.

For the third round of data collection, an in-person meeting was held on January 15, 2016. In a day-long facilitated discussion, Delphi Panel members applied their cumulative expertise to reach consensus on final caseload guidelines. A national caseload expert, Steve Hanlon, was present to set the parameters for the group's discussion. He reminded the group of the professional standards that should form the basis for time recommendations.¹⁶

¹⁵ See generally, *supra* 10, Section II & Section VII (discussing the Delphi method).

¹⁶ Since retiring from Missouri law firm Holland & Knight, Attorney Steven F. Hanlon has confined his practice to assisting and representing public defenders with excessive caseloads. Mr. Hanlon helped pioneer the use of the Delphi Method to determine reasonable caseloads in Missouri, and has consulted in the conduct of similar studies

Data Collection Framework

A standardized framework was created for data collection and analysis. Structured definitions of a case, offense categories, and time task categories were used to organize information for both the timekeeping study and the Delphi Panel deliberations.

Case Definition

Attorney time was measured at the case level. In accordance with the trial-level weighted caseload study, the definition of a “case” is taken from the Office of Court Administration’s instructions to reporting courts.¹⁷ By this standard, one or more charges under a single indictment or information are considered to be a single case. Time for each case was attributed to the highest level offense charged.

Texas Office of Court Administration Definition of Juvenile Cases

[I]f the same respondent is charged in more than one petition, report this as more than one case. If a petition contains more than one count, report this as one case under the category for the **most serious offense alleged**. *[Emphasis in the original.]*

Table 2-2. Offense Levels and Dispositional Range

CASE COMPLEXITY	OFFENSE LEVEL	DISPOSITIONAL OPTIONS
LOW	CINS	Counseling, community-based interventions, or probation (See Tex. Family Code § 54.04)
	Misdemeanor	Deferred prosecution, court-ordered probation at home, or out-of-home placement except commitment to TJJD (See Tex. Family Code § 54.04)
INTERMEDIATE	Non-Determinate Sentence/ Non- Certification Felony	Probation or indeterminate commitment to TJJD up to the age of 19 (See Tex. Family Code §54.04)
HIGH	Determinate Sentence	Probation for up to 10 years or commitment to TJJD with optional transfer to adult prison after 19 th birthday, with a total 40-year maximum sentence length depending on the offense (See Tex. Family Code §54.04(d)(3), (q); 54.0451; 245.051(c); and 245.152(c))
	Certification Felony	Punishable in an adult prison for up to a life sentence depending on the offense (See Tex. Penal Code § 12.31(a)(1), (b)(1))

in Rhode Island, Tennessee, Texas, and Louisiana.

¹⁷ OFFICE OF COURT ADMIN. TEX. JUDICIAL COUNCIL, OFFICIAL DISTRICT COURT MONTHLY REPORT INSTRUCTIONS 1 (2013), available at http://www.txcourts.gov/media/513947/District-Report-Instructions-9_1_13.pdf.

Offense Types

Attorney time was measured separately for three levels of case complexity (Table 2-2). The research team’s juvenile defense experts agreed that offenses in each category are handled similarly by the courts. The least complex cases were comprised of two offenses: Conduct Indicating a Need for Supervision (CINS) and misdemeanors. CINS cases are Class C misdemeanor status offenses, meaning they are law violations only because they are committed by a juvenile. Examples include running away from home, violation of a school district’s student code of conduct, and prostitution.

The intermediate-level offense category includes non-determinate sentence/non-certification felonies. These are cases for which youth cannot be certified as adults and, if committed to the Texas Juvenile Justice Department, the Department may release the child or continue supervision up to his or her 19th birthday. Many of these cases result in court-ordered probation for a period of supervision determined by the court.

Table 2-3. Juvenile Offenses Eligible for a Determinate Sentence¹⁸

• Murder	• Aggravated assault
• Attempted murder	• Aggravated robbery
• Capital murder	• Attempted aggravated robbery
• Attempted capital murder	• Felony injury to a child, elderly, or disabled person
• Manslaughter	• Felony deadly conduct
• Intoxication manslaughter	• Aggravated or first-degree controlled substance felony
• Aggravated kidnapping	• Criminal solicitation of a capital or first-degree felony
• Attempted aggravated kidnapping	• Second-degree felony indecency with a child
• Aggravated sexual assault	• Criminal solicitation of a minor
• Sexual assault	• First degree felony arson
• Attempted sexual assault	• Habitual felony conduct (three consecutive felony adjudications)

The most severe and rarely used offense category includes felony cases disposed with a determinate sentence or certification. A determinate sentencing petition, if approved by a grand jury, allows for more severe penalties than would be possible under indeterminate processing of the same offense. Determinate sentences are fixed with potential outcomes including probation for up to ten years or a sentence to confinement up to 40 years (depending on the offense) with the portion up to age 19 served at TJJD and a transfer to an adult prison thereafter. Juvenile offenses eligible for determinate sentences are in Table 2-3.

¹⁸ Tex. Family Code §53.035

Table 2-4. Juvenile Eligibility for Certification as an Adult

Age at the Time of the Offense	Offense
At least 14 years	Capital felony, an aggravated controlled substance felony, or a first degree felony. (See Tex. Family Code §54.02(a)(2)(A))
At least 15 years	Any felony, including second or third degree, or a state jail felony. (See Tex. Family Code §54.02(a)(2)(B))
Eighteen years or older, and the offense was committed as a juvenile:	
10-16 years	Capital felony or murder. (See Tex. Family Code §54.02(j)(2)(A))
14-16 years	Aggravated controlled substance felony or a first degree felony other than murder. (See Tex. Family Code §54.02(j)(2)(B))
15-16 years	Second or third degree or state jail felony. (See Tex. Fam. Code §54.02(j)(2)(C))

In certification cases, prosecutors file a motion to transfer the juvenile’s case to the adult criminal court system (i.e., certify the juvenile as an adult). If the juvenile court waives its exclusive jurisdiction and transfers the case to the adult court, the prosecuting attorney may seek a grand jury indictment against the offender. If the grand jury does not return an indictment, the case must be dismissed and may not be returned to the juvenile court.¹⁹ If the indictment is approved by a grand jury, the juvenile is treated as an adult for trial and sentencing purposes.²⁰

Time Categories

For cases at each offense level, time records were organized in nine task categories: (1) Client Communication, (2) Discovery, (3) Attorney Investigation, (4) External Investigator’s Time, (5) Legal Research/Trial Preparation, (6) Social Work/Case Management, (7) Negotiation/Meetings, (8) Court Time, (9) and Case-Specific Office Support. The Delphi Panel provided time recommendations for these same task categories, with one exception. At the Delphi meeting, the Panel recommended combining the Social Work/Case Management and Legal Research/Trial Preparation categories into a single Case Preparation category.²¹ To preserve

¹⁹ Tex. Family Code §54.02(i)

²⁰ The research team was unable to identify in the timekeeping data whether cases eligible for determinate processing or certification were actually prosecuted as such. The decision rule adopted for analysis attributed cases with a determinate sentence or certification disposition to the “high-complexity” category. However, in their deliberations, the Delphi Panel was able to conceptually distinguish determinate sentence- or certification-eligible felonies that were prosecuted as such (designated “high complexity”) and those prosecuted as determinate sentence/certification cases (designated “intermediate complexity”).

²¹ Detailed reporting of time in each category is available for the Timekeeping Study in Appendix A and for the Delphi Panel in Appendix E.

Table 2-5. Time Categories and Definitions

Client Communication
<ul style="list-style-type: none"> • Meetings, letters, emails, texting, phone, discussions at court with client and/or family members • Jail visits, wait time, time locating client • Arranging for interpreter
Discovery
<ul style="list-style-type: none"> • Discovery requests • Review of discovery materials or state's evidence
Attorney Investigation
<ul style="list-style-type: none"> • Investigation of the facts conducted by the attorney (Record external private practice or public defender investigation under "Investigator's Time") • Visits to the crime scene • Consulting with external investigator • Depositions and statements from witnesses/family/friends • (See State Bar Defense Guideline 4.1b3 regarding counsel's responsibilities in the investigation of potential witnesses adverse to the client)²²
External Investigator's Time
<ul style="list-style-type: none"> • Investigation of the facts conducted by private practice or public defender investigators • If investigation is conducted by office support staff, record the time as "Case-Specific Office Support"
Case Preparation (combines Legal Research/Trial Preparation and Social Work/Case Management)
<ul style="list-style-type: none"> • Legal research • Consulting with experts (e.g., immigration attorney, social workers, forensics specialists) • Drafting case-specific motions and pleadings • Developing theory of the case • Preparing/coordinating with witnesses, jury instruction • Preparing for disposition, alternative disposition research • Social work/case management, defined as: <ul style="list-style-type: none"> ○ Assistance to help clients to get benefits and services needed for better defense outcomes. Examples include mental health treatment, medical care, public benefits, housing, etc. ○ Other forms of direct client assistance to improve their wellbeing and case outcomes
Negotiation/ Meetings
<ul style="list-style-type: none"> • Negotiation with officials (e.g., judges, DA, probation dept., pretrial services) regarding plea bargaining, discovery, trial preparation, motions, client supervision, disposition, or other litigation issues
Court Time
<ul style="list-style-type: none"> • Filing documents (including standardized motions) • Calls, emails, internet usage to schedule court time or check court dates • Calls to court clerk regarding a specific case • Court appearances, hearings and trials, time waiting in court, detention hearings
Case-Specific Office Support
<ul style="list-style-type: none"> • Time spent by attorneys or their staff (paralegals, clerical, or administrative support staff) conducting administrative duties related to the defense of a specific client • Includes file creation and management, invoicing, and calendaring • Other case-specific functions performed by a non-attorney assistant

²² The reference to State Bar Defense Guideline 4.1b3 was provided in the Delphi Panel instructions only. It was not provided to attorneys participating in the Timekeeping Study.

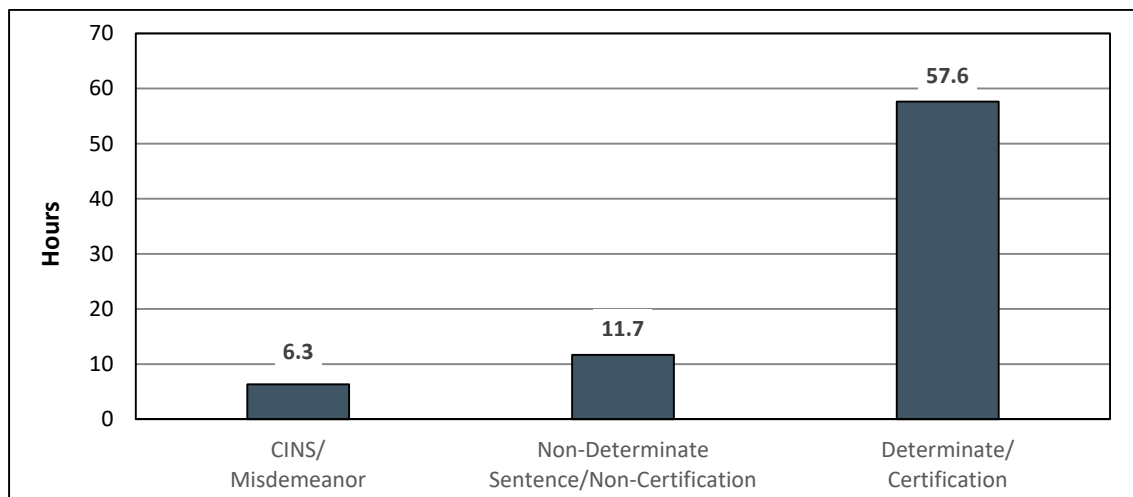
comparability, the same change was applied to the timekeeping data. The final set of categories used by the Delphi Panel and the accompanying definitions are shown in Table 2-5.

III. Time Currently Being Spent on Court-Appointed Cases

The first phase of the case weighting study involved measurement of current indigent defense practice. This data provides a “real world” description of defense-related services. It also offers a baseline for assessing the amount of change in attorney time that may be required to deliver reasonably effective representation.

Figure 3-1 shows the average hours practicing juvenile attorneys spend per case at each offense level. Currently, CINS/misdemeanor cases are being disposed in 6.3 hours. Non-determinate sentence/non-certification felonies are resolved in 11.7 hours, and determinate sentence/certification felonies take 57.6 hours to dispose. At all three case levels the largest proportion of time (28 to 46 percent) is spent in Court Time conducting activities such as filing documents, communicating with the court about cases, and appearing at hearings, and trials. The next most time-intensive category for low- and intermediate complexity cases is Client Communication, accounting for about 15 percent of case time. For the most complex cases, attorneys spend 21 percent of their time on Discovery. Other tasks generally require five to ten percent of attorneys’ time (See Appendix A).

Figure 3-1. Average Hours Currently Spent on Indigent Defense Cases



IV. The Delphi Caseload Determination

The second phase of the case weighting study was designed to produce guidelines for the number of cases an attorney can responsibly carry, assuming they devote the amount of time that “should” be spent on each case. Expert opinion structured by the Delphi Method was used to judge caseload sizes consistent with the delivery of reasonably effective counsel (see Methodology, above).

Time Increment by Case Complexity

Figure 4-1 compares the “reasonable” caseload guidelines recommended by Delphi experts to the time actually being spent on cases measured through timekeeping. More time than observed in current practice is recommended across all offense types. Delphi Panel members concluded that the most high-stakes cases, determinate sentence/certification felonies, should receive the greatest increase in attention from defense counsel. Where youth are at risk of receiving a sentence to confinement, the group recommended spending an additional 12 hours, a 20% increase. Reflecting the serious potential consequences of these cases, the Panel recommended 3.6 times more time be spent on determinate sentence/certification cases than on similar offenses prosecuted as non-determinate sentence/non-certification felonies.

The Panel also advised doubling the time spent on non-determinate sentence/non-certification felony cases of intermediate complexity from 11.7 hours currently expended to 19.4 hours for reasonably effective representation. CINS/Misdemeanors require the least amount of time, 10.0 hours, and the smallest increment of increase, 59 percent, was recommended for this lowest complexity case category.

Figure 4-1. Current Practice Hours and Recommended Delphi Hours

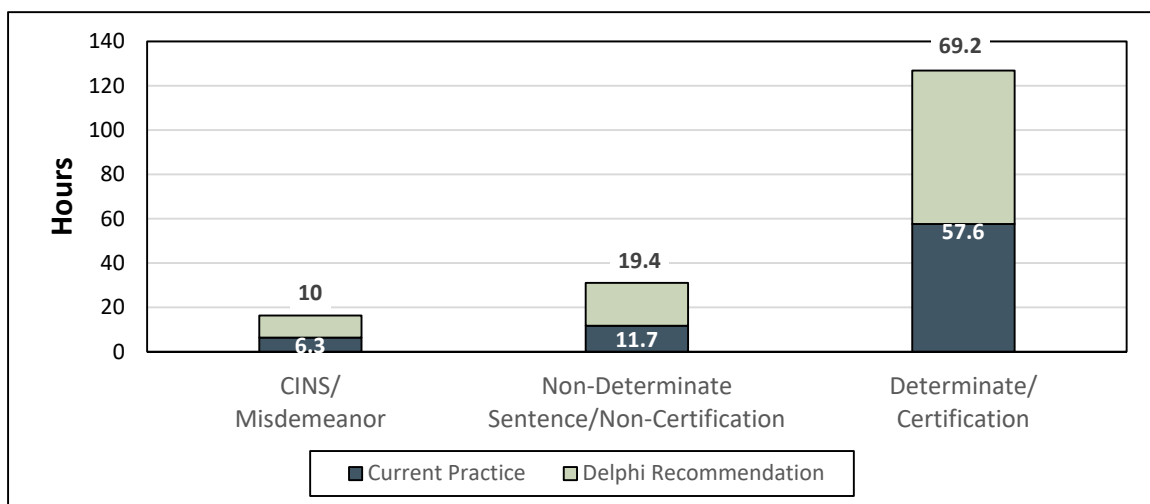


Figure 4-2. Adjustments to Current Practice Recommended by Delphi Panel

Figure 4-2a. CINS/Misdemeanor Time Adjustments by Task

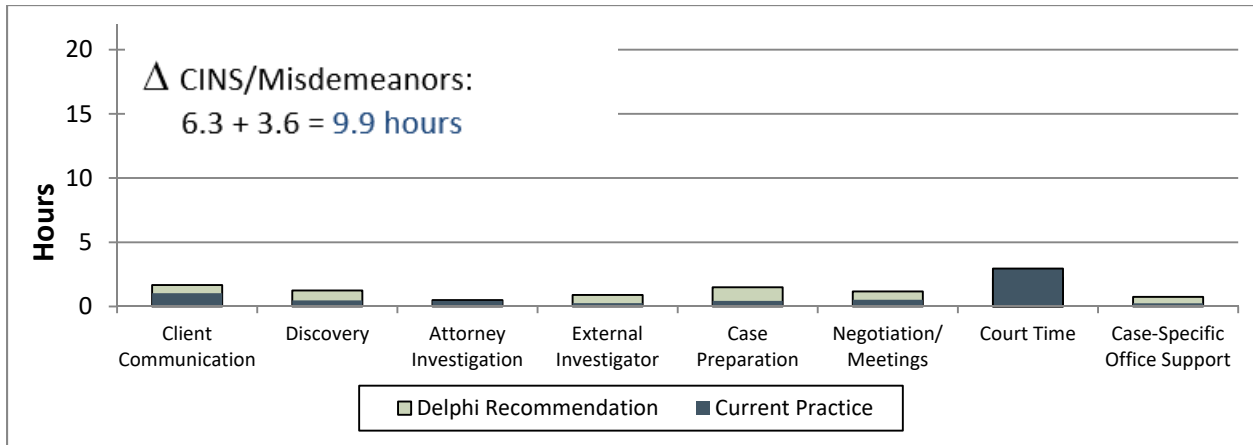


Figure 4-2b. Non-Determinate Sentence/Non-Certification Felony Time Adjustments by Task

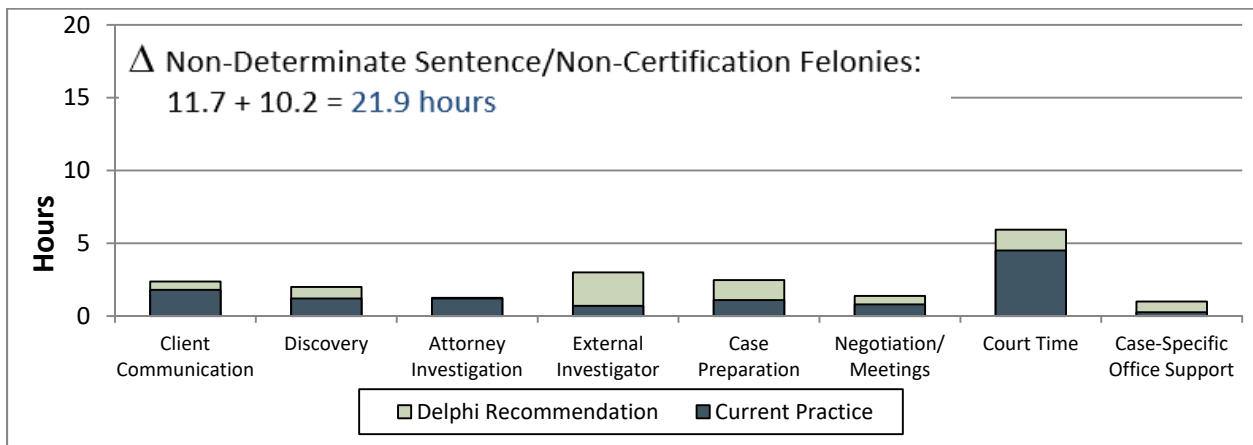
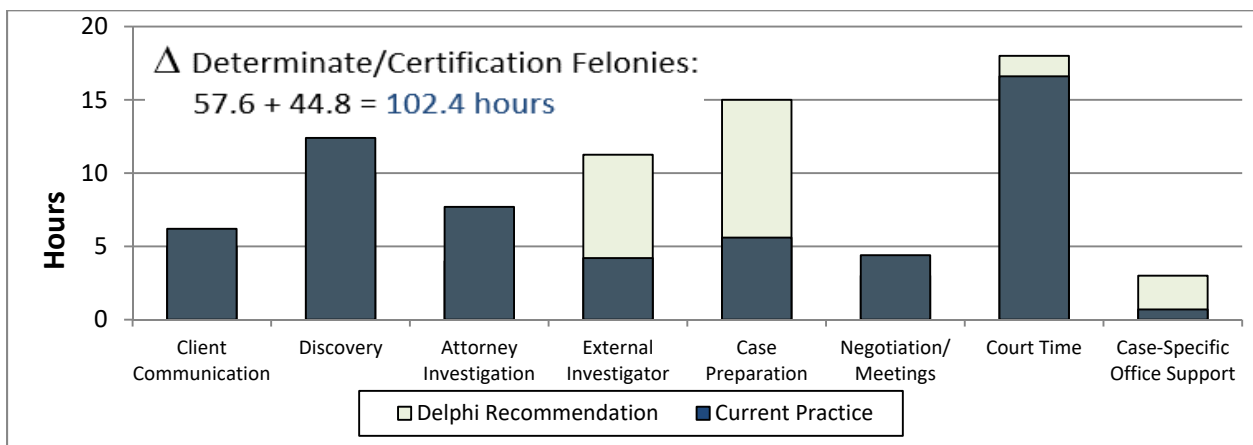


Figure 4-2c. Determinate Sentence/Certification Felony Time Adjustments by Task



Time Increment by Task

To identify specific tasks where additional time should be allocated, more detailed analysis of the data was conducted. Findings are presented in Figure 4-2.

External Investigation

At all case levels, the greatest proportional increase in recommended time was for investigation performed by a non-attorney professional. The *State Bar of Texas, Performance Guidelines for Non-Capital Criminal Defense Representation* emphasize the importance of using a third party to interview potential witnesses adverse to the client “in a manner that permits counsel to effectively impeach the witness with statements made during the interview.”²³ If a witness for the defense later changes their testimony, only an independent investigator can swear before the court as to the original statements made.

Despite this admonition, time data shows attorneys currently perform more investigation than external investigators in juvenile cases. Moreover, since these data were provided by public defender offices with investigators on staff, external investigation may be even less prevalent in private appointed cases where access is more limited. To remedy this deficit, the Delphi Panel recommended 3.5 times more External Investigation for the lowest level cases, four times more for intermediate non-determinate sentence/non-certification felonies, and 5.9 times more investigation for determinate sentence/certification felonies where clients face the worst potential consequences.

Case Preparation

Significant increases were also recommended by the Delphi Panel for Case Preparation time including both legal case development (Legal Research/Trial Preparation) and direct client assistance services (Social Work/Case Management). These activities are closely integrated in juvenile defense to achieve a rehabilitation-oriented outcome. Delphi members advocated for at least two times more Case Preparation for all case levels. The greatest time increment (3.5 times more) was recommended for the lowest level cases.

Other Time Categories

The greatest amount of attorney time is currently spent in Court Time, conducting activities such as filing documents, communicating with the court about cases, and appearing at hearings, and trials. Delphi members agreed that this should be the single most time-consuming activity, and suggested considerably more Court Time is needed for high-level felony cases. For high-level determinate sentence/certification felonies in particular, Panel members also suggested sizeable increases in the time spent on Client Communication, review of

²³ See PERFORMANCE GUIDELINES, *supra* note 4, at 624.

discovery or state’s evidence (i.e., Discovery), Negotiation/Meetings regarding discovery, plea bargaining, motions, or other litigation issues, and Case-Specific Office Support encompassing time spent by attorneys or staff on case administration.

V. Texas Caseload Guidelines

Texas’s juvenile weighted caseload study compiles and integrates new sources of information to develop caseload limits. This section of the report compares how court-appointed attorneys actually spend their time compared to the Delphi Panel’s expert opinion regarding how indigent defense “should” be provided in this state. The analysis culminates in a recommendation for juvenile caseload guidelines.

Delphi Recommended Cases per Year

The time attorneys say “should” be spent in different types of cases was used as the basis for calculating maximum caseload guidelines. To convert the hourly time estimates reported above into annual caseloads, it was assumed that attorneys work 2,087 hours per year²⁴ and that all of this time is spent defending juvenile clients. The resulting calculation is straightforward:

$$\frac{(2,087 \text{ Hours/Work-Year})}{(\# \text{ Hours/Case})} = \text{Annual Full-Time Caseload}$$

Calculated separately at each offense level, the resulting guidelines represent the maximum number of clients a single attorney should represent in a year if they handle only a single type of juvenile case.

Caseload Recommendations Compared to Current Practice and NAC Standards

Current Practice vs. NAC Standards

In 1973, the National Advisory Commission (NAC) on Criminal Justice Standards and Goals

A public defender caseload should not exceed 150 felonies, 400 misdemeanors, 200 juvenile cases, 200 Mental Health Act cases, or 25 appeals cases per year.

National Advisory Commission (1973)

²⁴ The 2,087-hour work week is taken from the US Government’s Federal civilian employee full-time pay computation, available online at: <http://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/computing-hourly-rates-of-pay-using-the-2087-hour-divisor/>.

organized and funded by the federal government, recommended national annual maximum caseload numbers for indigent defense programs. Although serious concerns have been expressed about the validity of the NAC standards for contemporary criminal defense representation,²⁵ for over 40 years the Commission's advised limit of 200 juvenile cases has been widely cited. For this reason, it is worthwhile to compare NAC standards to juvenile case weights from the current study.

To make a direct comparison it is first necessary to consolidate caseloads for each of the three levels of case complexity into a single caseload value. Based on timekeeping data,²⁶ 60 percent of cases are CINS/misdemeanors, 39 percent are non-determinate sentence/non-certification felonies, and one percent are felonies disposed with a determinate sentence or certification.

Though the NAC parameters have been the only available standard for over four decades, 200 juvenile cases per year would be considered excessive in today's practice environment. The Texas weighted caseload study produced a criterion of 168 juvenile cases per year, 16% fewer than allowed by the NAC standard. According to these findings, jurisdictions using the 1973 national guidelines would therefore be advised to reduce annual appointments by at least 32 cases.

Current Practice vs. Delphi Recommendation

The most relevant comparison for juvenile defenders contrasts actual caseloads observed in timekeeping data versus the number of cases recommended by the Delphi Panel. However, final guidelines vary depending on assumptions about how much casework is performed by attorneys and their staff and how much is allocated to external investigators.

Delphi experts affirm the standards set forth by the *State Bar of Texas, Performance Guidelines for Non-Capital Criminal Defense Representation*: Whenever possible attorneys should engage private investigators to gather the facts of the case.²⁷ Only then is there a means to impeach a witness in court. In practice, however, only about one-third of all juvenile case investigation is being conducted by a non-attorney professional.²⁸

Moreover, the timekeeping data assessing time that "is" being spent is derived almost entirely from juvenile public defender offices (PDO) with ready access to independent investigators on

²⁵ For a summary of limitations of the NAC standards, see Lefstein, *SECURING REASONABLE CASELOADS*, *supra* note 8, at 43–45.

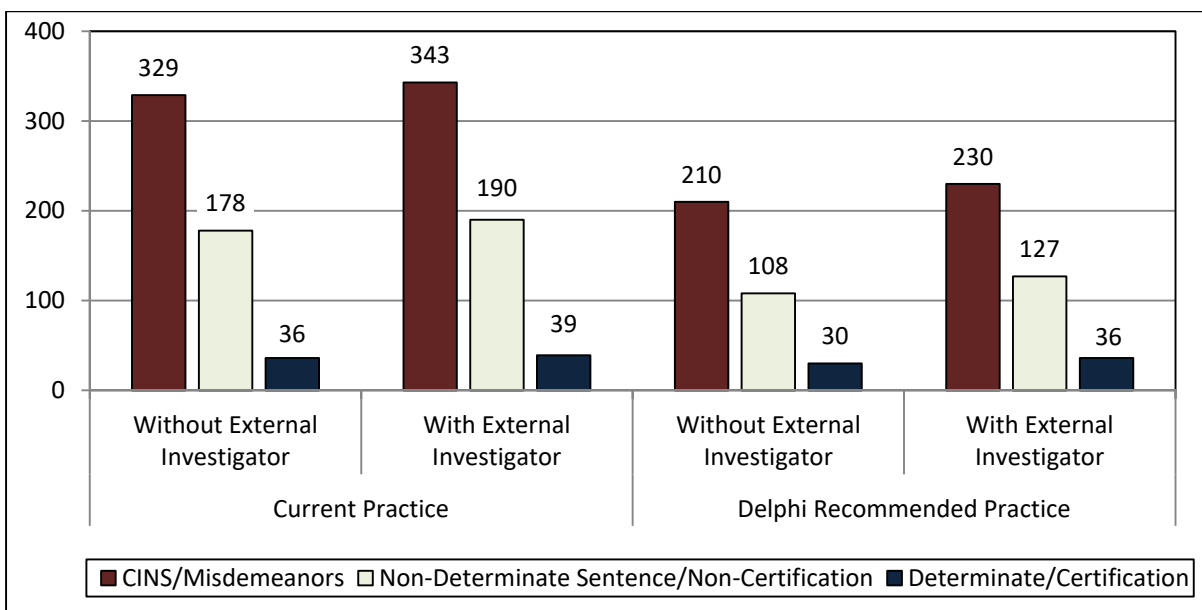
²⁶ Statewide data indicating whether felonies were prosecuted as non-determinate sentence/non-certification felonies or determinate sentence/certification felonies was unavailable from either the Office of Court Administration or the Texas Juvenile Justice Department.

²⁷ See *generally*, *supra* 10, Section V, Time Increment by Task.

²⁸ See Appendix A.

staff. Indeed, FY 2015 data from county Indigent Defense Expenditure Reports (IDER) shows that on average, PDOs spent 26 times more money for independent investigators (\$34.57/case) than other attorneys (\$1.34/case).²⁹ The overall amount of external investigation measured among PDOs in this study is therefore considerably higher than for private practice attorneys representing the large majority of juvenile appointments in the state.³⁰

Figure 5-1. Case Recommendations Comparing Current Practice to Delphi Recommendation with and without Investigation



Assumptions about who conducts investigation affect the final caseload guidelines. Figure 5-1 shows that if all investigation is performed by an external professional, an attorney meeting the Delphi Panel’s full-time caseload recommendation would have time available for 20 additional CINS/misdemeanor cases, 19 additional non-determinate sentence/non-certification felony cases, or 6 additional determinate sentence/certification felony cases each year.

Under either scenario for the provision of investigation, Delphi experts recommend that caseloads be lowered from current practice in all three offense categories to achieve reasonably effective representation (Figure 5-1). When counsel spend their own time doing fact investigation, as do two-thirds of private practice juvenile attorneys taking appointed juvenile cases, the Delphi Panel recommends the following adjustments. Those with a full-time

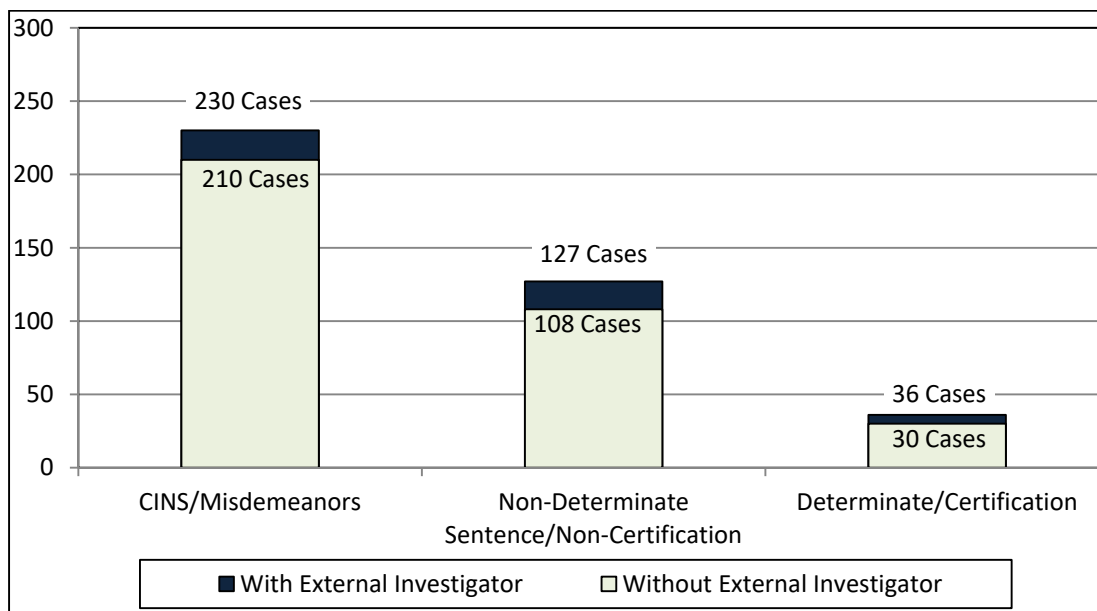
²⁹ While PDOs spent \$453,320 on investigation for 13,112 juvenile cases, the remainder of the state spent just \$35,518 on investigation for 26,553 juvenile cases.

³⁰ In FY 2015, public defender offices handled 33 percent of the appointed juvenile cases in the state (13,112 cases). Other court-appointed attorneys handled the remaining 67 percent (26,553 juvenile cases).

CINS/misdemeanor caseload should carry 113 fewer cases than is observed in actual practice – a 33 percent reduction. Attorneys with a full-time caseload of non-determinate sentence/non-certification felony cases should defend 70 fewer cases – a 39 percent reduction. Finally, attorneys representing a full-time caseload of determinate sentence/certification felony cases are advised to defend six fewer cases each year – a 17 percent reduction.

It is worth noting that a limited amount of investigation conducted by attorneys is considered appropriate by the Delphi experts. They advise attorneys to do 5 percent of all investigation conducted in CINS/misdemeanor cases, 9 percent in non-determinate sentence/non-certification felony cases, and 21 percent in determinate sentence/certification felony cases.³¹

Figure 5-2. Final Recommended Caseload Guidelines for Texas



Final Recommended Caseload Guidelines

This report demonstrates that establishing indigent defense caseload parameters is necessarily a qualitative determination. However, the research approach used here has relied upon methods to introduce order and logic into the decision-making process. Methods have followed a rigorous process incorporating:

³¹ See Appendix E.

- Independent judgments made by highly qualified professionals,
- Collaborative consideration of factors impacting time required for effective counsel,
- A rational decision-making protocol to promote valid results, and
- Use of evidence from convergent data sources

Upon its conclusion, the study offers guidance to policymakers and appointing authorities regarding the number of juvenile cases that can be effectively defended. The results indicate, for the delivery of reasonably effective representation juvenile attorneys should carry an annual full-time equivalent caseload of no more than the following:

Attorney caseloads without investigator support:

- 210 CINS/misdemeanors,
- 108 non-determinate sentence/non-certification felonies, or
- 30 determinate sentence/certification felonies.

Attorney caseloads with investigator support:

- 230 CINS/misdemeanors,
- 127 non-determinate sentence/non-certification felonies, or
- 36 determinate sentence/certification felonies.

VI. Conclusion

According to national standards, defense attorneys “should not accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations.”³² A central purpose of this research has been to collect data and establish the amount of time required to provide reasonably effective counsel given contemporary requirements of juvenile defense within the state of Texas. Rigorous research methods were employed, first to assess current time being spent on different levels of cases, then to get normative judgments from a wide spectrum of attorneys regarding the time required to meet professional obligations.

Results, presented in Figure 5-2, show the final caseload recommendations. With evidence-based parameters, appointing authorities and attorneys taking appointments can be held

³² See ABA, PROVIDING DEFENSE SERVICES, Standard 5-5.3, *available at* http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_defsvcs_toc.html. See also ABA STANDING COMM. ON LEGAL AID AND INDIGENT DEFENDANTS, GIDEON’S BROKEN PROMISE: AMERICA’S CONTINUING QUEST FOR EQUAL JUSTICE 17 (2004), *available at* http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_bp_right_to_counsel_in_criminal_proceedings.authcheckdam.pdf.

accountable for managing workloads. In addition, information is available to set fair compensation rates, and jurisdictions adhering to reasonable caseload limits are less exposed to potential litigation. Caseload guidelines alone do not guarantee the provision of reasonably effective counsel, but they are an essential component in securing the promise of the Sixth Amendment right to counsel for the indigent accused.

With the development of juvenile guidelines for the state of Texas, a tool is available to define the point at which caseloads become excessive. This tool can be used in important ways to protect the Constitutional right to counsel and the equitable administration of justice.³³

³³ See *supra* 10, Section IX for the various uses of these new guidelines.

APPENDIX A

Detailed Timekeeping Results

Average Minutes Currently Spent In Indigent Defense Cases by Offense and Task

	Misdemeanors	Felony	Felony
	CINS/Misdemeanors	Non-Determinate Sentence/ Non-Certification	Determinate Sentence/ Certification
Client Communication	61.9 (16.3%)	110.0 (15.7%)	369.8 (10.7%)
Negotiation/Meetings	31.5 (8.3%)	50.4 (7.1%)	264.0 (7.6%)
Discovery	28.1 (7.4%)	69.8 (10.0%)	741.1 (21.4%)
Atty. Investigation	26.2 (6.9%)	74.8 (10.7%)	460.0 (13.3%)
Investigator's Time	15.4 (4.0%)	43.1 (6.1%)	252.4 (7.3%)
Case Preparation	25.8 (6.8%)	63.9 (9.1%)	336.5 (9.7%)
Court Time	177.0 (46.5%)	270.3 (38.5%)	995.3 (28.8%)
Case-Specific Office Support	14.7 (3.9%)	19.5 (2.8%)	39.2 (1.1%)
TOTAL MINUTES	380.6 (100%)	701.7 (100%)	3458.3 (100%)

APPENDIX B

Attorneys Contributing Timekeeping Data

Attorneys Contributing Timekeeping Data

Name	Firm
Benavides, Ana	Harris Public Defender Office
Bombara, Nicole	El Paso Public Defender Office
Burnett, Abner	Texas Rio Grande Legal Aid
Burnett, Janet	El Paso Public Defender Office
Cartwright, Don	Law Office of Don Cartwright
Castaneda, Ruben	Travis County Juvenile Public Defender's Office
Contreras, Dave	El Paso Public Defender Office
Cox, William	El Paso Public Defender Office
Curl, Matthew	M. Fox Curl & Associates, PC
Donohue, Katie	Texas Rio Grande Legal Aid
Downing, Amanda	Harris Public Defender Office
Downing, Jeffrey	Harris Public Defender Office
Duncan, Cheri	Harris Public Defender Office
Freed, Gregory	Travis County Juvenile Public Defender's Office
Gonzales, Monica	Harris Public Defender Office
Gonzalez, Manuel	Albin, Yates, Balius, Roach
Gravois, Jackie	Harris Public Defender Office
Gutierrez, Amador	Gutierrez & Hunter, Attorneys at Law
Halm, Yajaira	El Paso Public Defender Office
Halpert, Steven	Harris Public Defender Office
Huffman, Richard	El Paso Public Defender Office
Huggler, James	Law Office of James Huggler
Jacinto, JoAnn	El Paso Public Defender Office
Jimenez, Jeannette	El Paso Public Defender Office
Johnson, Sarah	Law Office of Sarah Johnson
Kundiger, Daniel	Harris Public Defender Office
Lewis, Michael	Law Office of Michael Lewis
Maesse, Nicole	El Paso Public Defender Office
Mais, Jr., Charles	Mais, Boucher and Associates
Marquez, Daniel	El Paso Public Defender Office
Mclain, Jerry	El Paso Public Defender Office
McLauchlan, John	Law Office of John D. McLauchlan
Meador, Miranda	Harris Public Defender Office
Mullowney, Lacey	Ballard & Mullowney, PC
Narvaez, Jennifer	Hidalgo Public Defender Office
Ochoa, Claudia	El Paso Public Defender Office
Parson, Michael	Hidalgo Public Defender Office
Payan, Edyth	El Paso Public Defender Office

Name	Firm
Perez-Jaramillo, Maggie	Law Office of Maggie Perez-Jaramillo
Powell, Carole	El Paso Public Defender Office
Quevedo, Mary	El Paso Public Defender Office
Riskind, Miriam	Isenberg & Riskind
Sanchez, Elizabeth	El Paso Public Defender Office
Shaffer, Robert	Law Office of Robert L. Shaffer, PC
Shapiro, Leah	Harris Public Defender Office
Silva, Ambrosio	Travis County Juvenile Public Defender's Office
Simer, Michel	Simer, Tetens, & Fanning
Tuthill, Robert	Harris Public Defender Office
Valentine, Cecelia	Harris Public Defender Office
Velasquez, Greg	El Paso Public Defender Office
Wilson, Reginald	Law Office of Reginald Wilson

APPENDIX C

Delphi Panel Members

Delphi Panel Members

Name	Title	Organization	Administrative Judicial Region/City
Kevin Collins	Attorney at Law	Kevin Collins, P.C.	AJR: 4 San Antonio
Bill Cox	Attorney at Law	El Paso Public Defender	AJR: 6 El Paso
Terri Daniel	Attorney at Law	Terri Daniel, PLLC	AJR: 1 Allen
Jacqueline Dodd	Attorney at Law	Loughmiller Higgins, P.C.	AJR: 2 Houston
Dena Fisher	Attorney at Law	Fisher Law Office, P.C.	AJR: 2 Houston
Patrick Gendron	Attorney at Law	Law Office of Patrick Gendron	AJR: 2 Bryan
Cyndi Porter-Gore	Attorney at Law	Porter Gore Law Firm, PC	AJR: 1 Allen
Steve Halpert	Attorney at Law	Harris County Public Defender Office	AJR: 2 Houston
Anne Hazlewood	Attorney at Law	Law Office of Anne Hazlewood	AJR: 9 Lubbock
Kameron Johnson	Chief Juvenile Public Defender	Travis County Juvenile Public Defender's Office	AJR: 3 Austin
Paul Motz	Attorney at Law	Law Office of Paul A. Motz	AJR: 3 Austin
Emilio Martinez	Attorney at Law	Webb County Public Defender	AJR: 4 Laredo
Stephanie Patten	Attorney at Law	Law Office of Stephanie Patten	AJR: 8 Fort Worth
Laura Peterson	Attorney at Law	Humphreys & Peterson Law Firm, PLLC	AJR: 1 Dallas
Jennifer Regalado	Attorney at Law	Hidalgo Public Defender Office	AJR: 5 McAllen
Betty Rodriguez	Attorney at Law	Law Office of Betty Rodriguez	AJR: 3 Austin
Cole Spainhour	Attorney at Law	Law Office of Cole Spainhour	AJR: 3 Austin
William Thursland	Attorney at Law	Law Office of William Thursland	AJR:9 Houston
Brian Willett	Attorney at Law	Willett Law Office, PLLC	AJR:8 Fort Worth
Warren Wolf	Attorney at Law	Law Office of Warren Wolf	AJR: 4 San Antonio

APPENDIX D

Delphi Survey Response Forms

Example Delphi Panel Round One Response Form

Juvenile CINS/Misdemeanor

INSTRUCTIONS: Consider the TYPICAL case. For each group please provide estimates of the amount of time that is reasonably required to perform the respective task with reasonable effectiveness.

	Minutes per Case when Task Is Performed	Percent of Cases where Task Should Be Performed	<p>Explanation (optional): You may enter as much text as you want to explain your recommendations. Copy and paste from a Word file if your comments are lengthy.</p> <div style="border: 1px solid black; height: 150px; width: 100%;"></div>
Client Communication	<input type="text"/> mins.	<input type="text"/> %	
Negotiation/Meetings	<input type="text"/> mins.	<input type="text"/> %	
Discovery	<input type="text"/> mins.	<input type="text"/> %	
Attorney Investigation	<input type="text"/> mins.	<input type="text"/> %	
Investigator's Time	<input type="text"/> mins.	<input type="text"/> %	
Legal Research/Trial Preparation	<input type="text"/> mins.	<input type="text"/> %	
Court Time	<input type="text"/> mins.	<input type="text"/> %	
Social Work/Case Management	<input type="text"/> mins.	<input type="text"/> %	
Case-Specific Office Support	<input type="text"/> mins.	<input type="text"/> %	
Total Case Time:	<input type="text" value="0.00"/> hour(s) total case time		

Example Delphi Panel Round Two Response Form

Juvenile CINS/Misdemeanor

INSTRUCTIONS: Consider the TYPICAL case. For each group please provide estimates of the amount of time that is reasonably required to perform the respective task with reasonable effectiveness.

	Minutes per Case when Task Is Performed			Percent of Cases where Task Should Be Performed		
	YOUR ANSWERS	PEERS Median	PEERS Range*	YOUR ANSWERS	PEERS Median	PEERS Range*
Client Communication	<input type="text"/> mins.	110	75-120	<input type="text"/> %	100	100-100%
Negotiation/Meetings	<input type="text"/> mins.	47.5	30-90	<input type="text"/> %	100	98-100%
Discovery	<input type="text"/> mins.	60	45-90	<input type="text"/> %	100	100-100%
Attorney Investigation	<input type="text"/> mins.	60	30-120	<input type="text"/> %	94	50-100%
Investigator's Time	<input type="text"/> mins.	60	30-120	<input type="text"/> %	20	5-50%
Legal Research/Trial Preparation	<input type="text"/> mins.	120	90-270	<input type="text"/> %	30	10-75%
Court Time	<input type="text"/> mins.	150	120-180	<input type="text"/> %	100	98-100%
Social Work/Case Management	<input type="text"/> mins.	45	30-60	<input type="text"/> %	50	20-99%
Case-Specific Office Support	<input type="text"/> mins.	30	30-75	<input type="text"/> %	99	50-100%
Total Case Time:	<input type="text"/> 0.00 hour(s) total case time					

* The range shown is for the middle 50% of answers (i.e., 25th and 75th percentile)

COMMENTS:

APPENDIX E

Detailed Delphi Panel Results

Average Minutes Recommended by Delphi Panel

	Misdemeanors	Felony	Felony
	CINS/Misdemeanors	Non-Determinate	Determinate
Client Communication	100 (16.75%)	142 (12.2%)	300 (7.2%)
Negotiation/Meetings	70 (11.7%)	83 (7.1%)	180 (4.3%)
Discovery	75 (12.6%)	120 (10.3%)	600 (14.4%)
Attorney Investigation	30 (5.0%)	75 (6.4%)	240 (5.8%)
Investigator's Time	540 (9.0%)	720 (15.5%)	900 (16.2%)
Case Preparation	90 (15.1%)	148 (12.7%)	900 (21.7%)
Court Time	141 (22.3%)	360 (30.6%)	1080 (26.0%)
Case-Specific Office Support	45 (7.5%)	60 (5.2%)	180 (4.3%)
TOTAL MINUTES	598 (100%)	1,164 (100%)	4,154 (100%)



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