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# North Carolina Office of Indigent Defense Services Workload Assessment

*Final Report*

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## EXECUTIVE SUMMARY

The North Carolina General Assembly has long relied upon weighted caseload to determine the need for Superior Court and District Court judges, clerks of Superior Court, Superior Court and District Court staff, magistrates, assistant district attorneys, and victim witness legal assistants. In 2017, the General Assembly directed the Office of Indigent Defense Services (IDS) to contract with the National Center for State Courts to “develop a workload formula for the public defender offices.”<sup>i</sup> Using the same methodology established in previous North Carolina workload assessments, as well as in workload assessments conducted for courts and other justice system partners across the United States, NCSC worked closely with IDS attorneys and staff to develop weighted caseload formulas for attorneys, administrative staff, and investigators in North Carolina public defender offices.

### Project Design

To provide oversight and guidance on matters of policy throughout the project, IDS established the Indigent Defense Workload Standards Advisory Committee (the Advisory Committee) comprising chief public defenders, senior public defenders, office investigators and administrative staff, IDS staff, and an IDS Commission member. Like previous North Carolina weighted caseload studies, the workload assessment was conducted in two phases:

1. A time study in which all public defender office attorneys and staff were asked to record all case-related and non-case-related work, including evenings and weekends, over a seven-week period. The time study

provides an empirical description of the amount of time currently devoted to handling cases of each type, as well as the division of the workday between case-related and non-case-related activities. 99.7 percent of public defender office attorneys, as well as 100 percent of public defender office staff, participated in the time study, providing a complete and robust empirical understanding of current practice.

2. A quality adjustment process to ensure that the final weighted caseload model incorporates sufficient time for effective representation. Grounded in applicable professional standards, the quality adjustment process included:
  - a statewide sufficiency of time survey asking attorneys and staff about the amount of time currently available to perform various case-related and non-case-related tasks;
  - site visits by NCSC and IDS staff to five public defender offices to develop an in-depth understanding of public defender office operations across the state and to identify challenges attorneys and staff face in handling their workload; and
  - a structured review of the case weights by a set of Delphi panels comprising experienced attorneys and staff members, representing offices of different sizes from across North Carolina.

This two-stage approach takes advantage of empirical data from the time study to describe current practice (“what is”) and relies upon expert opinion only to formulate the quality adjustments (“what should be”), resulting in a high degree of accuracy. In contrast, approaches

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<sup>i</sup> CURRENT OPERATIONS APPROPRIATIONS ACT OF 2017, N.C. SESS. LAW 2017-57 § 18A.2.

that do not incorporate time study data into the weighted caseload model, relying instead on Delphi panels to develop the entire model, tend to overstate the time currently spent on cases and therefore the total time needed.

## **Results**

Applying the final weighted caseload model shows a need for 497 attorneys to effectively handle current public defender office caseloads, an increase of 73 percent over current staffing levels. The model also shows a need for 112 administrative staff members (a 10 percent increase), and a need for 139 investigators, or a 223 percent increase. The weighted caseload model therefore suggests that public defender offices need either more resources or smaller caseloads to enable attorneys to provide every client with effective assistance of counsel.

## **Recommendations**

This workload assessment provides strong evidence of a need for more attorney and staff resources to effectively handle the current workload of North Carolina's public defender offices. The following recommendations are intended to promote the effective implementation of the weighted caseload model and to preserve the model's integrity and utility over time.

### ***Recommendation 1***

Public defender offices should be provided with enough attorneys, administrative staff, and investigators to represent clients effectively. The site visits, sufficiency of time survey, and Delphi quality adjustment panels clearly demonstrate that attorneys and staff face serious resource constraints at current caseloads and staffing levels. Appropriate resource levels can be achieved either by adding attorneys and staff to public defender offices or by reducing public defender office caseloads. Reducing public

defender caseloads would entail referring additional cases to private assigned counsel (PAC), which would require additional PAC funding and might pose logistical hurdles.

### ***Recommendation 2***

Inefficiencies in court processes and procedures waste valuable time and resources not just for public defenders, but also for private assigned counsel, assistant district attorneys, judges, court staff, clients, witnesses, and victims. The courts, district attorneys, IDS, and other justice system partners should work together to improve the efficiency of the court system and reduce the amount of time devoted to activities that do not directly contribute to the resolution of cases, such as calendar call.

### ***Recommendation 3***

Social workers serve a critical function in public defender offices. Their specialized professional knowledge enables them to investigate clients' social histories, obtain educational and health records, place clients in treatment and other programs, prepare mitigation information, and assist in developing alternative sentencing plans—often more efficiently and effectively than an attorney or an investigator can. North Carolina's public defender offices currently employ just five social workers, although there are 287 attorneys in sixteen public defender offices. To improve both the effectiveness and efficiency of client representation, social workers should be made available in all North Carolina public defender offices.

### ***Recommendation 4***

Administrative staff, investigators, and social workers are essential components of the defense team. These staff members complement the work of the attorney, increasing the attorney's effectiveness and efficiency in representing clients, but cannot fulfill the attorney's unique



professional functions. Therefore, staff and attorney positions should not be treated as fungible.

***Recommendation 5***

IDS and public defender offices should actively use the weighted caseload model to monitor and manage workloads. Annual calculations of workload based on dispositions can aid IDS in determining the appropriate allocation of attorneys and staff to offices, and can help offices assign the appropriate numbers of attorneys and staff to units (e.g., felony, misdemeanor, juvenile) based on the workload associated with various case types. Calculating incoming workload on the basis of appointments can also assist public defender offices in monitoring capacity and assigning cases to individual attorneys. NCSC is currently working with IDS to develop workload-based management tools for public defender offices.

***Recommendation 6***

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, legal practice, court technology, and administrative policies. NCSC recommends that Indigent Defense Services conduct a comprehensive update of the public defender office weighted caseload model every five to seven years. Such an update should include both a time study and a comprehensive quality adjustment process. Between updates, if a major change in the law appears to have a significant impact on attorney and staff workload, a Delphi panel can be convened to make interim adjustments to the affected case weight(s).

## I. INTRODUCTION

The Sixth Amendment to the United States Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense.”<sup>2</sup> In 1963, the Supreme Court held that the Sixth Amendment requires states to provide counsel for criminal defendants who cannot afford to hire counsel for themselves.<sup>3</sup> Twenty-one years later, the Court held that the right to counsel is a right not merely to token representation, but to the effective assistance of counsel.<sup>4</sup>

For any criminal defense attorney, maintaining a manageable caseload is essential to the ability to provide effective assistance of counsel. According to the Model Rules of Professional Conduct, the requirement of diligence in representation includes the responsibility to control the lawyer’s workload “so that each matter can be handled competently.”<sup>5</sup> Similarly, the American Bar Association Standards for Criminal Justice: Defense Function assert that “[d]efense counsel should not carry a workload that, by reason of its excessive size or complexity, interferes with providing quality representation, endangers a client’s interest in independent, thorough, or speedy representation, or has a significant potential to lead to the breach of professional obligations”<sup>6</sup> Faced with an excessive workload, an attorney may not have sufficient time to investigate the facts of the case, visit the crime scene, identify and

interview witnesses, prepare mitigation information, address potential collateral consequences, explore the possibility of diversion or alternative sentencing, or maintain regular communication with the client.

Since the beginning of the twenty-first century, concern over excessive workloads among attorneys who represent indigent clients has grown. Forty years after *Gideon v. Wainwright* established the right to state-provided defense counsel, the American Bar Association’s Standing Committee on Legal Aid and Indigent Defendants (SCLAID) held a series of hearings to determine whether that promise was being kept. SCLAID concluded that the defense function was systematically underfunded and that indigent defense providers in many states were chronically overworked and could not devote sufficient time to their cases.<sup>7</sup> Similarly, in 2009 the Constitution Project’s National Right to Counsel Committee found that inadequate funding and excessive workloads were “a problem virtually everywhere in public defense throughout the United States.”<sup>8</sup> In 2011, the Justice Policy Institute concluded that inadequate representation resulting from excessive indigent defense workloads leads to increased incarceration costs, reduces public trust and confidence in the judicial system, and has a disproportionate impact on people of color and low-income communities.<sup>9</sup>

In response to these concerns, the American Bar Association promulgated a series of guidelines related to indigent defense workloads. These

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<sup>2</sup> U.S. CONST. amend. VI.

<sup>3</sup> *Gideon v. Wainwright*, 372 U.S. 335 (1963).

<sup>4</sup> *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

<sup>5</sup> MODEL RULES OF PROF’L CONDUCT R. 1.3 cmt. 4 (2007).

<sup>6</sup> ABA STANDARDS FOR CRIMINAL JUSTICE: DEFENSE FUNCTION, Standard 4-1.8(a) (4<sup>th</sup> ed. 2015).

<sup>7</sup> STANDING CMTE. ON LEGAL AID AND INDIGENT DEFENDANTS, AM. BAR ASS’N, *GIDEON’S BROKEN*

PROMISE: AMERICA’S CONTINUING QUEST FOR EQUAL JUSTICE (2004).

<sup>8</sup> NAT’L RIGHT TO COUNSEL CMTE., JUSTICE DENIED: AMERICA’S CONTINUING NEGLECT OF OUR CONSTITUTIONAL RIGHT TO COUNSEL 65 (2009).

<sup>9</sup> JUSTICE POLICY INST., SYSTEM OVERLOAD: THE COSTS OF UNDER-RESOURCING PUBLIC DEFENSE (2011).

guidelines direct providers to “avoid[] excessive workloads and the adverse impact that such workloads have on providing quality legal representation to all clients.” The guidelines also advise that public defense providers establish “a supervision program that continuously monitors the workloads of its lawyers to assure that all essential tasks on behalf of clients ... are performed.”<sup>10</sup>

To monitor workloads effectively, public defenders must first establish workload standards. The only existing national public defender workload standards were established in 1973 by the National Advisory Commission on Criminal Justice Standards and Goals and later adopted by the National Legal Aid and Defender Association. Assuming that each attorney handles only one case type, the standards call for limiting per-attorney caseloads to 150 felonies, 400 non-traffic misdemeanors, 200 juvenile court cases, 200 Mental Health Act cases, or 25 appeals per year.<sup>11</sup> These standards have frequently been criticized on the grounds that

they were not based upon empirical research, do not allow for the varying complexity of different types of cases within each of the broad categories (e.g., homicide, violent felonies, and nonviolent felonies), ignore variation among the states in criminal justice policies and procedures, and predate the widespread usage of information technology in courts and law offices.<sup>12</sup>

Over the past decade and a half, statewide public defender systems have increasingly begun to adopt state-specific weighted caseload systems for monitoring workload. Some of the earliest empirically based studies of public defender workload were conducted by National Center for State Courts (NCSC) in Maryland (2005), New Mexico (2007), and Virginia (2010).<sup>13</sup> More recently, the ABA has partnered with accounting firms to establish weighted caseload formulas in Missouri (2014), Louisiana (2017), Colorado (2017), and Rhode Island (2017).<sup>14</sup> Other organizations have conducted weighted caseload studies in Texas (2015), New York (2016), and Idaho (2017).<sup>15</sup> These studies uniformly find that

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<sup>10</sup> AM. BAR ASS’N, EIGHT GUIDELINES OF PUBLIC DEFENSE RELATED TO EXCESSIVE WORKLOADS, guidelines 1 – 2 (2009).

<sup>11</sup> TASK FORCE ON COURTS, NAT’L ADVISORY COMM’N ON CRIM. JUST STANDARDS AND GOALS, COURTS, Standard 13.12 (1973).

<sup>12</sup> Matthew Kleiman & Cynthia G. Lee, *Public Defenders*, in ENCYCLOPEDIA OF CRIMINOLOGY AND CRIMINAL JUSTICE 4134, 4139 (Gerben Bruinsma & David Weisburg eds., 2013).

<sup>13</sup> MATTHEW KLEIMAN & CYNTHIA G. LEE, VIRGINIA INDIGENT DEFENSE COMMISSION ATTORNEY AND SUPPORT STAFF WORKLOAD ASSESSMENT (2010); NAT’L CTR. FOR STATE COURTS & AM. PROSECUTORS RESEARCH INST., A WORKLOAD ASSESSMENT STUDY FOR THE NEW MEXICO TRIAL COURT JUDICIARY, NEW MEXICO DISTRICT ATTORNEYS’ OFFICES AND NEW MEXICO PUBLIC DEFENDER DEPARTMENT (2007); BRIAN J. OSTROM, MATTHEW KLEIMAN & CHRISTOPHER RYAN, MARYLAND ATTORNEY AND STAFF WORKLOAD ASSESSMENT (2005).

<sup>14</sup> BLUMSHAPIRO & STANDING CMTE. ON LEG. AID & INDIGENT DEFENDANTS, AM. BAR ASS’N, THE RHODE ISLAND PROJECT: A STUDY OF THE RHODE ISLAND

PUBLIC DEFENDER SYSTEM AND ATTORNEY WORKLOAD STANDARDS (Nov. 2017); RUBIN BROWN & STANDING CMTE. ON LEG. AID & INDIGENT DEFENDANTS, AM. BAR ASS’N, THE COLORADO PROJECT: A STUDY OF THE COLORADO PUBLIC DEFENDER SYSTEM AND ATTORNEY WORKLOAD STANDARDS (Aug. 2017); POSTLETHWAITE & NETTERVILLE & STANDING CMTE. ON LEG. AID & INDIGENT DEFENDANTS, AM. BAR ASS’N, THE LOUISIANA PROJECT: A STUDY OF THE LOUISIANA PUBLIC DEFENDER SYSTEM AND ATTORNEY WORKLOAD STANDARDS (Feb. 2017); RUBIN BROWN, THE MISSOURI PROJECT: A STUDY OF THE MISSOURI PUBLIC DEFENDER SYSTEM AND ATTORNEY WORKLOAD STANDARDS (June 2014).

<sup>15</sup> IDAHO POLICY INST., BOISE STATE UNIV., IDAHO PUBLIC DEFENSE WORKLOAD STUDY (2018); N.Y. STATE OFFICE OF INDIGENT LEGAL SERVICES, A DETERMINATION OF CASELOAD STANDARDS PURSUANT TO § IV OF THE HURRELL-HARRING V. THE STATE OF NEW YORK SETTLEMENT (Dec. 2016); DOTTIE CARMICHAEL ET AL., GUIDELINES FOR INDIGENT DEFENSE CASELOADS: A REPORT TO THE TEXAS INDIGENT DEFENSE COMMISSION (Jan. 2015).

public defender agencies do not have enough attorneys to effectively handle their workloads.

Weighted caseload is well established in North Carolina for calculating the need for Superior Court and District Court judges, clerks of Superior Court, Superior Court and District Court staff, magistrates, assistant district attorneys and victim witness legal assistants. In 2017, the North Carolina General Assembly directed the Office of Indigent Defense Services to “develop a workload formula for the public defender offices.”<sup>16</sup> As specified by the General Assembly, the Office of Indigent Defense Services (IDS) contracted with the National Center for State Courts (NCSC) to conduct this comprehensive workload assessment for IDS public defender office attorneys, administrative staff, and investigators.

### **A. Indigent Defense Services in North Carolina**

Since 2001, the Office of Indigent Defense Services (IDS) has been responsible for overseeing the provision of legal representation to indigent defendants and other persons entitled to counsel under North Carolina law.<sup>17</sup> At the time of the workload assessment, IDS provided direct representation to clients in criminal, juvenile, parent representation, special proceedings (mental health), and child support enforcement cases through sixteen public defender offices covering seventeen districts. Specialty or “statewide” offices provide representation in capital cases (Office of the Capital Defender), appeals (Office of the Appellate Defender), parent representation (Office of Parent Representation, then part of the Office of the Appellate Defender), and special proceedings (Office of Special Counsel). As of early 2018, IDS employed a total of 287 attorneys and 150 support staff in public

defender offices, including administrative assistants, legal assistants, paralegals, investigators, social workers, and interpreters. To serve areas where no public defender office exists, as well as cases in which the district public defender has a conflict of interest or is overloaded, IDS operates a private assigned counsel (PAC) program.

In addition to providing counsel through its district and statewide offices and the PAC program, IDS is responsible for developing and implementing training, qualification, and performance standards to govern the provision of legal services to indigent persons. The thirteen-member Commission on Indigent Defense Services (IDS Commission) serves as the governing body for IDS.

### **B. About Weighted Caseload**

The weighted caseload method of workload analysis is grounded in the understanding that different types of cases vary in complexity, and consequently in the amount of work they generate for attorneys and staff. For example, a typical felony creates a greater need for attorney and staff resources than the average misdemeanor case. The weighted caseload method calculates resource need based on the total workload of each office, while accounting for the variations in workload associated with different types of cases. The weighted caseload formula consists of three critical elements:

1. *Case dispositions*, or the number of cases of each type disposed each year;
2. *Case weights*, which represent the average amount of time required to handle cases of each type over the life of the case; and
3. The *year value*, or the amount of time each attorney or staff member has available for case-related work in one year.

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<sup>16</sup> CURRENT OPERATIONS APPROPRIATIONS ACT OF 2017, N.C. SESS. LAW 2017-57 § 18A.2.

<sup>17</sup> See INDIGENT DEFENSE SERVICES ACT OF 2000, N.C. GEN. STAT. §§ 7A-498 – 7A-498.9.

Total annual workload is calculated by multiplying the annual dispositions for each case type by the corresponding case weight, then summing the workload across all case types. Each office's workload is then divided by the year value to determine the total number of full-time equivalent attorneys, investigators, and administrative staff members needed to handle the workload.

### C. Introduction to Workload Assessment Methodology

A weighted caseload model is established through a study called a *workload assessment*. There are two primary methods of workload assessment: the Delphi method and the time study method. Originally developed for the United States Department of Defense by the RAND Corporation in the 1950s as a tool for forecasting the influence of technology on warfare, the *Delphi method* is a structured, iterative, consensus-based process for gathering and distilling expert opinion about a particular topic.<sup>18</sup> The Delphi method is best suited for situations in which “[t]he problem does not lend itself to precise analytical techniques but can benefit from subjective judgments on a collective basis,” such as when empirical data are nonexistent, inaccurate, or unavailable.<sup>19</sup> Under the classical Delphi approach, experts interact through questionnaires and remain anonymous throughout the entire process. In the context of workload assessment, the traditional Delphi approach has evolved into a structured in-person group discussion, which may or may not be preceded by one or more rounds of questionnaires.

Unlike the Delphi method, which is grounded entirely in expert opinion, the *time study* method

of workload assessment is based on empirical data describing how attorneys and staff spend their time. During the time study, participants track their working time by case type and/or event, allowing researchers to construct an empirical profile of their activity. Depending on the project design, the time study may record only certain case-related activities, or all work performed by attorneys and staff, including case-related and non-case-related work. A time study typically runs for several weeks and may involve a sample of attorneys and staff members, or all attorneys and staff throughout the state.

A well-executed time study will produce a more accurate calculation of the time currently spent handling cases than a typical Delphi study; however, unlike a Delphi study, a time study can quantify only the time that attorneys and staff currently spend on their cases, and does not examine whether this is the amount of time that they *should* be spending to handle their cases efficiently and effectively. For this reason, NCSC has long employed a two-phase approach to workload assessment that is frequently referred to as the “what is”/“what should be” approach. Other organizations that conduct weighted caseload studies have since adopted the “what is”/“what should be” terminology, but typically do not incorporate the empirical data from the time study into the final workload model.

Under the NCSC framework, a time study forms the empirical foundation of the workload model. The time study results in a set of *preliminary case weights* that describe the amount of time attorneys and staff currently spend handling cases of each type, or “what is.” Using a variant on the Delphi method, panels of experienced indigent defense attorneys or staff members then

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<sup>18</sup> Harold A. Linstone & Murray Turoff, *Introduction to THE DELPHI METHOD: TECHNIQUES AND APPLICATIONS* 3, 10 (Harold A. Linstone & Murray Turoff eds., 2002).

<sup>19</sup> *Id.* at 4.

formulate *quality adjustments* to the case weights.

In contrast to the NCSC approach, the ABA and some other organizations conduct a time study merely to create a baseline for comparison with case weights constructed from scratch by Delphi panels that typically consists of both private-practice and public defender attorneys. The time study results are not incorporated into the final model. In these studies, inclusion of private-practice attorneys in the Delphi panels is intended to compensate for the “ethical blindness” of public defender attorneys whose only experience defending clients has taken place within the context of an underfunded and overworked public defender system, and who therefore cannot be expected to understand how much time is required to handle their cases properly.<sup>20</sup> The case weights are constructed entirely on the basis of the Delphi group’s opinion, then compared with the time study case weights to illustrate the inadequacy of current practice. A key drawback of this strategy is that it effectively discards available empirical data on current practice, instead relying entirely on expert opinion.

Over the course of more than three decades of experience conducting workload assessments for judges, court staff, and attorneys, NCSC researchers have consistently observed that a time study is far more accurate than the Delphi method in quantifying current practice. For example, during a judicial workload assessment conducted in Florida in 2000, NCSC compared case weights developed through the two-step time study and quality adjustment process with case weights estimated entirely on the basis of

expert opinion by Delphi panels. As compared with the quality-adjusted time study model, the Delphi model overestimated total judicial workload by 36 percent in Circuit Court and 169 percent in State Court.<sup>21</sup> One factor that leads Delphi panel participants to overestimate the amount of time they currently devote to cases is the tendency to focus on the most difficult and time-consuming cases, ignoring or discounting more typical cases. NCSC’s two-phase approach greatly reduces the possibility for such distortion by using empirical data to calculate the amount of time currently spent on cases, limiting the use of expert opinion to the estimation of those quantities which cannot be measured empirically—namely, the amount of additional time required for quality performance.

The NCSC two-phase workload assessment methodology provides the basis for judicial and/or court staff weighted caseload models currently in use in the majority of states. North Carolina has previously relied on the same two-phase “what-is”/“what should be” methodology to create weighted caseload models for assistant district attorneys and victim witness legal assistants<sup>22</sup> and for Superior Court judges.<sup>23</sup>

#### **D. Study Methodology**

Using the NCSC “what is”/“what should be” framework, the current workload assessment was conducted in two phases:

1. A *time study* in which all public defender office attorneys and staff were asked to record all case-related and non-case-related work, including evenings and weekends, over a seven-week period. The time study provides an empirical description of the

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<sup>20</sup> Geoffrey T. Burkhart, *How to Leverage Public Defense Workload Studies*, 14 OHIO ST. J. CRIM. L. 403, 418 (2017).

<sup>21</sup> BRIAN J. OSTROM ET AL., FLORIDA DELPHI-BASED WEIGHTED CASELOAD PROJECT 71 (2000).

<sup>22</sup> MATTHEW KLEIMAN & CYNTHIA G. LEE, NORTH CAROLINA ASSISTANT DISTRICT ATTORNEY/VICTIM

WITNESS LEGAL ASSISTANT WORKLOAD ASSESSMENT (2010).

<sup>23</sup> CYNTHIA G. LEE & MATTHEW KLEIMAN, NORTH CAROLINA SUPERIOR COURT JUDICIAL WORKLOAD ASSESSMENT (2011).

amount of time currently devoted to handling cases of each type, as well as the division of the workday between case-related and non-case-related activities.

2. A *quality adjustment* process to ensure that the final weighted caseload models incorporate sufficient time for effective representation. The quality adjustment process included:
  - a statewide *sufficiency of time survey* asking attorneys and staff about the amount of time currently available to perform various case-related and non-case-related tasks;
  - *site visits* by NCSC and IDS staff to five public defender offices to develop an in-depth understanding of public defender office operations across the state and to identify challenges attorneys and staff face in handling their workload; and
  - a structured review of the case weights by a set of *Delphi panels* comprising experienced attorneys and staff members, representing offices of different sizes from across North Carolina.

The quality adjustment process, including both the sufficiency of time survey and the Delphi quality adjustment sessions, was grounded in applicable professional standards and guidelines, including the ABA Standards for Criminal Justice: Defense Function, the NLADA Performance Guidelines for Criminal Defense Representation, the North Carolina IDS Best Practice Guidelines in Potentially Capital Cases at the Trial Level, the North Carolina IDS Performance Guidelines for Non-Capital Criminal Cases at the Trial Level, the North Carolina IDS Performance Guidelines for Attorneys Representing Juveniles in Delinquency Proceedings, the North Carolina IDS Performance Guidelines for Attorneys Representing Parent Respondents in Abuse, Neglect, Dependency or TPR Proceedings, and the North Carolina Rules of Professional Conduct.

Throughout the course of the project, an Indigent Defense Workload Standards Advisory Committee (the Advisory Committee) comprising chief public defenders, senior public defenders, office investigators and administrative staff, IDS staff, and an IDS Commission member provided oversight. The Advisory Committee provided guidance on the study design (e.g., case type and event categories, duration of time study), reviewed and approved the results of each phase of the study, and made all policy decisions relating to the final workload model (e.g., number of case-related working days per year, day values for case-specific work, administrative adjustments).

## II. CASE TYPES AND ACTIVITIES

On May 29, 2018, the Advisory Committee met to finalize the study design and establish the case type and activity categories upon which the time study would be based. Together, the case types, case-specific activities, non-case-specific activities, and non-case-related activities describe all the work performed by North Carolina public defender office attorneys and staff.

### A. Case Type Categories

The Advisory Committee was charged with determining the case types categories into which all public defender office cases would be divided for purposes of the weighted caseload model. The case type categories were designed to satisfy the following requirements:

- The case type categories are both mutually exclusive and collectively exhaustive, meaning that any given case falls into one, and only one, case type category;
- Categories are legally and logically distinct;
- There are meaningful differences among categories in the amount of attorney or staff work required to represent clients in cases of different types;
- There are a sufficient number of case dispositions within the category to develop a valid case weight; and
- Dispositions for the case type category or its component case types are tracked consistently and reliably.

Exhibit 1 summarizes the case type categories for public defender office attorneys and staff. Details regarding the specific case types

included in each category are available in Appendix A (attorneys) and Appendix B (staff).

### B. Activity Categories

In addition to the case type categories, the Advisory Committee also defined a set of activity categories to describe all case-related and non-case-related work performed by attorneys and staff. Because variations in local needs and staff availability result in some overlap between the roles of administrative staff and investigators, administrative staff and investigators used the same activity categories.

Case-related work was separated into two categories of activities: *case-specific activities*, including all work traceable to a single case in which the attorney has been appointed to represent the client, and *non-case-specific activities*, which may relate to a case in which the attorney has not been appointed to represent the client (e.g., first appearance court, consultation) or to multiple cases (e.g., travel to visit clients in jail).

*Non-case-related activities* include all work that is not related to any case, such as office administration and professional development. To simplify the task of completing the time study forms and to aid in validation of the time study data, vacation and other leave, lunch and breaks, and time spent completing time study forms were included as non-case-related activities.

Exhibit 2 lists the case-specific, non-case-specific, and non-case-related activity categories for public defender office attorneys and staff. Appendix A (attorneys) and Appendix B (staff) provide detailed definitions of each activity.



## Exhibit 1: Case Type Categories

Attorneys	Administrative Staff and Investigators
<p><b><i>Criminal</i></b></p> <ul style="list-style-type: none"> <li>Capital Murder</li> <li>First-Degree Murder, Non-Capital</li> <li>Felony A, B1, B2</li> <li>Felony C, D, E, F</li> <li>Felony G, H, I</li> <li>Driving While Impaired</li> <li>Misdemeanor, Traffic and Non-Traffic</li> <li>Probation Violation, Felony and Non-Felony</li> <li>Specialized Courts</li> <li>Other Criminal</li> </ul> <p><b><i>Juvenile</i></b></p> <ul style="list-style-type: none"> <li>Felony A, B1, B2 - Juvenile</li> <li>Felony C, D, E - Juvenile</li> <li>Felony F, G, H, I - Juvenile</li> <li>Misdemeanor - Juvenile</li> <li>Specialized Courts - Juvenile</li> <li>Other Juvenile</li> </ul> <p><b><i>Civil</i></b></p> <ul style="list-style-type: none"> <li>Abuse/Neglect/Dependency Adjudication</li> <li>Abuse/Neglect/Dependency Review</li> <li>Termination of Parental Rights</li> <li>Involuntary Commitment/Competency</li> <li>Child Support Contempt</li> <li>Other Civil</li> <li>Specialized Courts</li> </ul>	<p><b><i>Criminal</i></b></p> <ul style="list-style-type: none"> <li>First-Degree Murder, Capital and Non-Capital Felony</li> <li>Driving While Impaired</li> <li>Misdemeanor, Traffic and Non-Traffic</li> <li>Probation Violation, Felony and Non-Felony</li> <li>Specialized Courts</li> <li>Other Criminal</li> </ul> <p><b><i>Juvenile</i></b></p> <ul style="list-style-type: none"> <li>Felony</li> <li>Misdemeanor</li> <li>Specialized Courts</li> </ul> <p><b><i>Civil</i></b></p> <ul style="list-style-type: none"> <li>Abuse/Neglect/Dependency Adjudication</li> <li>Abuse/Neglect/Dependency Review</li> <li>Termination of Parental Rights</li> <li>Involuntary Commitment/Competency</li> <li>Child Support Contempt</li> <li>Other Civil</li> <li>Specialized Courts</li> </ul>

Note: Detailed definitions of case types are available in Appendix A (attorneys) and Appendix B (staff).

## Exhibit 2. Activity Categories

Attorneys	Administrative Staff and Investigators
<b><i>Case-Specific</i></b>	<b><i>Case-Specific</i></b>
Same-Day Case	Intake and Records Management
Fact Investigation and Discovery	Secretarial Services
Mitigation and Social History Research	Investigative Services
Legal Research and Drafting	Legal Research and Paralegal Services
Non-Adjudicatory Hearing Preparation	Social Work/Sentencing Advocacy Functions
Other Court Preparation	Interpreter Services
Plea or Disposition Negotiation	Reviewing Discovery and Records
Trial or Adjudication Preparation	Courtroom Support
Pretrial or Motion Hearing	Waiting Time
Plea and/or Sentencing Hearing	
Trial or Adjudication Hearing	
Post-Trial or Post-Adjudication Hearing	
Specialized Court Work	
Client Contact	
Waiting Time	
<b><i>Non-Case-Specific</i></b>	<b><i>Non-Case-Specific</i></b>
Case Screening and Assignment	Case Screening and Assignment
First Appearance Court	First Appearance Court
Case-Related Travel	Case-Related Travel
External Consultation	
Internal Consultation	
<b><i>Non-Case-Related</i></b>	<b><i>Non-Case-Related</i></b>
Administrative/Personnel Tasks	Administrative/Personnel Tasks
Attorney and Staff Supervision	Staff Supervision
PAC/Contract Administration	External Committees and Administration
External Committees and Administration	Community Outreach
Community Outreach	General Research and Reading
General Legal Research	Training and Conferences
Training, Conferences, CLE	Leave and Vacation
Leave and Vacation	Lunch and Breaks
Lunch and Breaks	NCSC Time Study
NCSC Time Study	

Note: Detailed definitions of case types are available in Appendix A (attorneys) and Appendix B (staff).

### III. TIME STUDY

To provide an empirical portrait of current practice, NCSC conducted a comprehensive time study. For a period of seven weeks, all attorneys and staff were asked to track all their working time by case type and activity. Separately, IDS provided annual counts of dispositions by case type category and office. NCSC used the time study and dispositions data to calculate the average number of minutes currently spent resolving cases within each case type category (preliminary case weights). The time study results also informed the advisory committee's selections of day and year values for case-specific work, as well as administrative adjustments for chief public defenders and line supervisors (both attorney and staff supervisors).

#### A. Data Collection

##### 1. Time Study

During a seven-week period<sup>24</sup> from January 16 through March 4, 2018, all public defender office attorneys, investigators, and administrative staff were asked to track all working time by case type category and activity (for case-specific work), or by activity (for non-case-specific and non-case-related work). Participants were instructed to record all working time, including any after-hours and weekend work. All participants tracked their time to the nearest five minutes using a web-based form.

To maximize data quality, all time study participants were asked to view a web-based

training module explaining how to categorize and record their time. In addition to the training modules, participants were provided with web-based reference materials, and NCSC staff were available to answer questions by telephone and e-mail.

The web-based method of data collection allowed time study participants to verify that their own data were accurately entered and permitted real-time monitoring of participation rates, helping to maximize the quality and completeness of the time study data. To ensure sustained participation throughout the course of the time study, IDS and public defender office leadership personally contacted any participant who failed to enter data over a period of three days. In some cases, participants had tracked their time on paper forms and simply needed to enter their data using the web-based form; in other cases, participants needed a reminder to continue participating. Such personal encouragement ensured sustained participation throughout the course of the study. At the conclusion of the time study, the data were weighted to account for the small amounts of missing data associated with sick leave, vacation time, weather-related closures, and temporary failures to report data.

In total, 99.7 percent of public defender office attorneys and 100 percent of public defender office staff across the state of North Carolina participated in the time study.<sup>25</sup> This extremely high level of participation ensured sufficient data to develop an accurate and reliable profile of the amount of time attorneys and staff currently spend representing clients in each type

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<sup>24</sup> Statewide weighted caseload studies, including North Carolina's 2010 assistant district attorney/victim witness legal assistant study and 2011 Superior Court judge study, typically employ a four-week time study. With statewide participation, a four-week time study is sufficient to produce reliable results. To generate a larger data set, provide an even greater degree of reliability, and ensure against the

risks associated with unexpected events such as weather-related court closings, the Advisory Committee opted to conduct a seven-week time study.

<sup>25</sup> Employees on extended leave were excused from participation and were not factored into participation rates.

of case, as well as on non-case-specific and non-case-related work.

## **2. Caseload Data**

To translate the time study data into the average amount of time expended on each type of case (preliminary case weights), it was first necessary to determine how many individual cases of each type are disposed on an annual basis. IDS provided disposition data for fiscal year 2017, as shown in Exhibit 3a.<sup>26</sup>

### **B. Preliminary Case Weights**

Following the seven-week data collection period, the time study and caseload data were used to calculate preliminary case weights. A preliminary case weight represents the average amount of time attorneys and staff currently spend to handle a case of a particular type, from

client intake to post-disposition matters. The use of separate case weights for each case type category accounts for the fact that cases of varying levels of complexity require different amounts of attorney or staff time for effective representation.

To calculate the preliminary case weights, the time recorded for each case type category was weighted to the equivalent of one year's worth of time for attorneys, investigators, and administrative staff statewide. The total annual time for each case type was then divided by the number of dispositions to yield the average amount of hands-on time attorneys and staff currently spend on each case. The advisory committee then reviewed the preliminary case weights and adopted them as an accurate representation of current practice. Exhibits 3a and 3b show the preliminary case weights for attorneys and staff.

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<sup>26</sup> To minimize the impact of temporary fluctuations in caseloads on calculations of resource need, workload models for judges and other justice system personnel are frequently based on a three-year moving average of caseloads. Unlike courts and prosecutors' offices, which do not control the flow of incoming cases, IDS public defender offices have

some ability to regulate their caseloads by sending cases to private assigned counsel (PAC). For this reason, NCSC and IDS determined that the single most recent year's worth of disposition data would most accurately reflect current caseloads for purposes of the IDS workload model.

**Exhibit 3a. Dispositions and Preliminary Case Weights, Attorneys**

	Annual Minutes	÷	FY 2017 Dispositions	=	Case Weight (minutes)
First-Degree Murder, Capital and Non-Capital	1,624,896	÷	261	=	6,226
Felony A, B1, B2	1,063,018	÷	422	=	2,519
Felony C, D, E, F	3,356,903	÷	4,392	=	764
Felony G, H, I	5,742,744	÷	18,095	=	317
Driving While Impaired	1,655,961	÷	5,480	=	302
Misdemeanor, Traffic and Non-Traffic	5,785,476	÷	44,713	=	129
Probation Violation, Felony and Non-Felony	1,445,145	÷	12,344	=	117
Specialized Courts - All	334,736	÷	540	=	620
Other Criminal	272,731	÷	1,801	=	151
Felony - Juvenile	271,960	÷	375	=	725
Misdemeanor - Juvenile	202,247	÷	656	=	308
Other Juvenile	43,105	÷	662	=	65
Abuse/Neglect/Dependency Adjudication	177,918	÷	470	=	379
Abuse/Neglect/Dependency Review	274,752	÷	418	=	657
Termination of Parental Rights	58,829	÷	44	=	1,337
Involuntary Commitment/Competency	116,078	÷	8,178	=	14
Child Support Contempt	13,755	÷	122	=	113
Other Civil	2,940	÷	75	=	39

**Exhibit 3b. Preliminary Case Weights, Staff**

	Case Weight (minutes)	
	Admin. Staff	Investigators
First-Degree Murder, Capital and Non-Capital	403	2,614
Felony	114	87
Driving While Impaired	59	14
Misdemeanor, Traffic and Non-Traffic	52	11
Probation Violation, Felony and Non-Felony	44	12
Specialized Courts - All	67	249
Other Criminal	370	67
Felony - Juvenile	116	68
Misdemeanor - Juvenile	81	23
Other Juvenile	13	2
Abuse/Neglect/Dependency Adjudication	144	2
Abuse/Neglect/Dependency Review	125	3
Termination of Parental Rights	68	21
Involuntary Commitment/Competency	4	0
Child Support Contempt	135	0
Other Civil	25	0

## IV. QUALITY ADJUSTMENT

The preliminary case weights generated during the time study measure the amount of time North Carolina attorneys and staff *currently* spend handling various types of cases, but do not necessarily indicate whether this is the amount of time they *should* spend. To assess whether current practice allows adequate time for quality performance, attorneys and staff across the state completed a web-based sufficiency of time survey. NCSC and IDS staff made site visits to public defender offices in five counties to interview attorneys, investigators, social workers, and administrative staff. Finally, six expert panels of experienced attorneys, investigators, and administrative staff engaged in a standards-based quality adjustment process to ensure that the case weights incorporated adequate time for effective client representation.

### A. Sufficiency of Time Survey

To provide a statewide perspective on any areas of concern related to current practice, all attorneys and staff were invited to complete a web-based sufficiency of time survey in October 2018. For each case type, respondents were presented with a detailed list of potential case activities derived from applicable professional standards and guidelines, including the ABA Standards for Criminal Justice: Defense Function, the NLADA Performance Guidelines for Criminal Defense Representation, the North Carolina IDS Best Practice Guidelines in Potentially Capital Cases at the Trial Level, the North Carolina IDS Performance Guidelines for Non-Capital Criminal Cases at the Trial Level, the North Carolina IDS Performance Guidelines for Attorneys Representing Juveniles in Delinquency Proceedings, the North Carolina IDS Performance Guidelines for Attorneys Representing Parent Respondents in Abuse, Neglect, Dependency or TPR Proceedings, and the North Carolina Rules of Professional Conduct. For each activity, respondents were

asked to indicate whether additional time was needed. For each case type, attorneys were also asked to specify the percentage of cases in which investigators are currently involved as well as the percentage of cases in which investigators should be involved. The survey also included questions about the sufficiency of time for non-case-related work, as well as space for attorneys and staff to comment freely on their workloads.

Detailed results and response rates are available in Appendix C (attorneys) and Appendix D (staff).

### B. Site Visits

Between November 2017 and August 2018, NCSC and IDS staff made site visits to public defender offices in five counties: Durham, Mecklenburg, Buncombe, Scotland, and Hoke. Sites were selected to provide variation in terms of both population size and geography. During each site visit, public defender attorneys and staff participated in semi-structured individual and group interviews. The interviews provided project staff with an in-depth understanding of the issues and challenges attorneys and staff face in representing their clients, including resource limitations and external constraints. Across offices, several common themes emerged.

#### *1. Attorneys and investigators need additional time to review evidence and discovery.*

As video and audio recording technologies such as surveillance cameras and police body cameras have proliferated in recent years, the volume of recordings that the defense team must review has skyrocketed. To ensure a full understanding of the evidence in the case, attorneys feel an ethical obligation to review each recording in its entirety, which may not always be possible given current staffing levels. Although investigators provide invaluable assistance in reviewing recordings and other evidence and

identifying issues, attorneys assert that a thorough review of the evidence by the attorney is essential for effective representation. Resource constraints often mean that the attorney's only review of a recording takes place with the client present, forcing the attorney to divide his or her attention between the recording and the client. Technological issues in playing recordings, including inconsistent file formats and software problems, place additional time demands on both attorneys and investigators.

More broadly, the overall volume of discovery presents challenges to both attorneys and investigators. Discovery is frequently provided in multiple batches (e.g., multiple CDs), which often contain duplicative material. Sorting through duplicate files to identify new material is a necessary but time-consuming task for attorneys and investigators.

*"When I started, there was little to no video, audio, jail calls, complex forensic evidence—now we get all of that. With DVDs, you have to figure out what's on it, and the logistics of actually accessing the DVD. It all takes time."*  
– Attorney

## **2. Institutional constraints impose demands on attorney and staff time and divert resources from the active representation of clients.**

Attorneys and investigators consistently reported that the policies and practices of external actors, including the courts, district attorneys, and jails, create substantial time demands and divert public defender resources from client-focused activities. A prime example is "calendar call" in District Court and Superior Court. Each pending criminal case is regularly placed on the court's calendar for an administrative setting. Because there is no way to predict when an individual case will be called, both attorneys and clients frequently wait in the courtroom throughout the administrative setting, which in some counties

can last all day or even continue into a second day. Little substantive progress is made during administrative settings. During calendar call, attorneys cannot easily confer with the district attorney or leave the courtroom to consult with clients. As a result, attorneys spend a large fraction of their time simply waiting in the courtroom rather than actively working on cases. Calendar call also has a significant impact on clients, who must often arrange for child care or time off from work to spend hours waiting in the courtroom.

Jail visitation and transportation constitute another major source of inefficiency. Attorneys and investigators report jails' delays in producing clients for visitation, shortages of visitation rooms, and limitations on producing clients in court. The result is waiting time for attorneys and investigator, which diverts resources from productive work.

Court and jail delays frequently force attorneys to cancel appointments with clients and expert witnesses. Cancelled meetings cause frustration and mistrust on the part of clients, compromising the attorney-client relationship and impeding the effectiveness of the representation. Cancelled appointments with experts waste valuable resources and hamper the attorney's ability to develop the case.

*"I had a list of people I wanted to see at the jail, but I was stuck in court until 4:30."* – Attorney

*"I set up a meeting with an expert witness, which was hard to schedule. I was 45 minutes late to talk to them because I was stuck in court. They were frustrated. I ended up having to schedule a meeting with the expert witness on a weekend."* – Attorney

*"We fight with private lawyers and feds and experts for three visiting rooms at the jail. They got rid of the huge room where we could meet people."* – Attorney



*“A lot doesn’t have to do with resources but with effective calendaring of cases by the D.A., which would be good for the legislature to do something about.” – Attorney*

*“If things were more efficient, that would be beneficial to everybody. It would help the system as well.” – Attorney*

### **3. Investigators and administrative staff are an integral part of the defense team.**

Both attorneys and staff emphasized the critical role that investigators and administrative staff play in representing clients. Administrative staff are often the client’s first and primary point of contact with the attorney. Their responsiveness and professionalism help to establish trust with the client, facilitating the development of a strong attorney-client relationship. When an attorney is delayed in court or otherwise unavailable, one-on-one attention from an administrative staff member can reassure the client that the attorney is committed to the case and will remain in contact with the client.

Like administrative staff, investigators help to establish the client’s trust and confidence in the defense team. In some offices, investigators conduct intake interviews and review evidence with clients. Investigators tend to have a deep, well-established understanding of the local community, which can be invaluable in securing clients’ trust and establishing open communication. Investigators also report that they can often explain the evidence to clients more effectively than an attorney. In many cases, the mere fact that they are represented by a defense team that includes an investigator, rather than a solitary attorney, helps to bolster the client’s confidence in the representation, leading to better communication.

Administrative staff and investigators can also increase the efficiency and effectiveness of

attorneys’ work. In some offices, legal assistants prepare and file routine motions and other paperwork that would otherwise have to be prepared by attorneys. Investigators can identify and obtain time-sensitive evidence, locate and interview witnesses, request records, and visit crime scenes. Unlike the client’s own attorney, an investigator can also testify in court regarding the investigation. Investigators can review and document discovery and identify duplicative discovery materials, saving attorney time. In some offices, investigators also support attorneys in the courtroom during jury selection and trials. In many offices, however, administrative staff and investigators are in short supply, leading attorneys to ration their own use of these resources or employ them only in the most serious cases.

*“We are the first to see the client, and every time they come to the office we see them. We are the first connection to the attorney.”*  
– Administrative staff member

*“There are clients who don’t understand that public defenders are attorneys. Our staff has done a lot to clean up that image. We explain to the client who the attorney is and talk about how good they are. We explain they are real attorneys and that they will fight for you.”*  
– Administrative staff member

*“We take in the emotion from the client, squeeze it out, and give the attorney what is relevant so they can be efficient when they talk to their clients. This helps the attorney be more responsive to client needs.”*  
– Administrative staff member

*“We play a vital role in representing our clients. We get information or relate to the client in a way that an attorney can’t, and that’s beneficial for everyone.”*  
– Investigator

*“Investigators can bridge the gap with clients. It’s not that attorneys can’t communicate ... but sometimes the title gets in the way. As an investigator, I can go in with a different approach and relate on different level.”*  
–Investigator

*“Investigators and staff come up with ideas that benefit us, come up with stuff we don’t think of.”* – Attorney

#### **4. Social workers can greatly enhance client representation.**

As of the time study, IDS employed just five social workers in its sixteen public defender offices. These few social workers advance client representation in many ways. Social workers are adept at locating educational, medical, and mental health records that are relevant to the client’s mental state at the time of the incident, affirmative defenses, and mitigation. Social workers can help attorneys obtain case dispositions that benefit the client as well as the public by securing placement in drug treatment and other programs. In parent representation cases, social workers can attend supervised visitation to provide the attorney with an independent perspective on parent-child interactions. Social workers also prepare parents for court and review hearing outcomes with parents, helping to ensure that parents understand and comply with their obligations.

*“Clients are so much more complicated now than they were even five or six years ago—you don’t just have drug addiction, you have mental health issues, you’ve got homelessness. Attorneys send me the cases they’re stuck on. They know an issue is there, they just need someone with the right skills to go and find it.”*  
– Social worker

#### **5. IDS attorneys and staff are committed to client-centered representation.**

Despite the challenges and resource constraints they face, public defender office attorneys and staff consistently emphasized the importance of client-centered representation. The client, they explained, needs to fully understand the charges and the evidence and be permitted to make an informed decision about how to proceed. Many attorneys and investigators noted that thoroughly reviewing the evidence with the client is an important step in ensuring informed client decision-making. Attorneys, social workers, and investigators also stressed the importance of understanding the case in the context of the client’s life, which can lead to important insights and better case dispositions.

*“We go by what the client wants; it’s up to them. We give them the best information.”*  
– Investigator

*“There’s a lot going on in their lives. Only we see that; no one else sees that.”* – Investigator

#### **C. Delphi Quality Adjustment Panels**

To ensure that the final workload model incorporated sufficient time for effective representation, project staff facilitated a series of quality adjustment sessions with six panels of attorneys, investigators, and administrative staff in October 2018. Each panel consisted of attorneys or staff members from a representative variety of offices across the state. Each attorney panel groups focused on a subset of case types, including adult felony, adult misdemeanor, juvenile, and parent representation. The investigator and administrative staff panels addressed all case types.

## ***1. Quality Adjustment Methodology***

Employing a variant on the Delphi method for consensus-based forecasting by a panel of experts, each group undertook a systematic, standards-based review of the activities involved in representing clients for each case type. Instead of estimating an entire case weight for each case type, the panels focused exclusively on marginal changes to current practice—in other words, on the amount of *additional* time required, above and beyond the time currently being spent, to provide effective representation. To avoid anchoring, a cognitive bias in which the decision-maker relies too heavily upon an initial piece of information, the panels were not presented with the preliminary case weights from the time study. Instead, they were presented with a list of potential activities for each case type. The activity lists were grounded in applicable professional standards and performance guidelines, including the ABA Standards for Criminal Justice: Defense Function, the NLADA Performance Guidelines for Criminal Defense Representation, the North Carolina IDS Best Practice Guidelines in Potentially Capital Cases at the Trial Level, the North Carolina IDS Performance Guidelines for Non-Capital Criminal Cases at the Trial Level, the North Carolina IDS Performance Guidelines for Attorneys Representing Juveniles in Delinquency Proceedings, the North Carolina IDS Performance Guidelines for Attorneys Representing Parent Respondents in Abuse, Neglect, Dependency or TPR Proceedings, and the North Carolina Rules of Professional Conduct.

Panelists were asked to identify specific activities for which they needed *additional* time to deliver quality representation. For each activity, the panel was then asked to come to a consensus on the amount of additional time needed (magnitude of adjustment), as well as the percentage of cases in which the adjustment was needed (frequency of adjustment). Panelists

discussed and reviewed each proposed adjustment until they reached a consensus that all adjustments were necessary and reasonable. To incorporate a statewide perspective and aid panelists in identifying activities needing adjustment, panelists were provided with the sufficiency of time survey results for reference. For each adjustment, panelists were also asked to provide a detailed description of the benefits to clients, the court system, and the public (e.g., improved case dispositions, better compliance with court orders, increases in procedural justice, consideration of collateral consequences, reductions in jail bed usage). For example, the felony attorney panel’s rationale for adding time for the initial client interview was: *“More time during the initial interview to determine if the client needs additional services and connect the client to services to help prevent the client from coming back to jail. Having the services already in place may aid in mitigation and give clients better disposition options from the prosecutor/court because their needs are already being addressed.”*

The juvenile attorney panel needed more time to consider its adjustments than was available during the in-person session, and for civil case types other than parent representation it was not possible to convene a sufficient number of attorneys to conduct an in-person quality adjustment session. For these case types, the quality adjustments were formulated through e-mail exchanges, using a process analogous to the in-person quality adjustment exercise.

## ***2. Summary of Quality Adjustments***

Across all adult criminal case types, attorneys recommended adjustments to activities performed early in the case. Attorneys consistently reported that they needed more time to conduct the initial interview, engage the client in the intake process, and obtain relevant documents. The panels also added time to connect clients with needed services, ensure

clients' needs are met during pretrial detention, review the client's immigration status, and communicate with the client and family. The magnitude of the adjustments was greatest for murder and serious felony cases. For less serious charges, this included connecting the client with needed services and reviewing their immigration status. Other adjustments included additional time for investigation, motion practice, trial preparation, post-disposition matters, and responding to client questions.

The juvenile attorney panel noted a need for additional time and resources across all case activities in both felony and misdemeanor cases. Many of the recommended adjustments were related to the increased complexity of working with juvenile clients. This included taking extra time to explain the process and outcomes, to ensure understanding and compliance from both the juvenile and the family, to deal with additional privacy protections around school and health records for minors, to secure parental permissions and cooperation, and to work with witnesses who are also minors.

Among the civil case types for attorneys, abuse/neglect/dependency (A/N/D) adjudications received the greatest share of adjustments. Adjustments included more time for taking depositions, fact-checking reports from social services and other agencies, reviewing discovery, drafting consent orders, preparing for trial, and legal research. Both A/N/D adjudication and A/N/D review cases were allotted additional time for responding to client questions throughout the life of the case. In termination of parental rights cases, time was added to prepare a trial notebook for the termination hearing. Involuntary commitments and competency were adjusted to allow more time to connect clients with placements for services and housing.

The administrative staff panel reviewed four primary activity groups across all case types:

intake and records management, secretarial services, legal research and paralegal services, and courtroom support. All case types received adjustments for obtaining case records, entering case details into the case management system, retrieving archived records, and filing and maintaining archived records. More serious criminal cases were adjusted to allow for additional telephone contact with clients, with the intent of keeping clients and families informed about the case. Time was added in adult and juvenile criminal cases for discovery, including obtaining documents and records, conforming to privacy standards (e.g., HIPAA), and keeping up with changes to agency forms. Murder cases were adjusted to allow staff to provide additional in-court support, including taking notes, transcribing notes, and tracking down information during court events. Staff noted that involuntary commitments are especially sensitive in nature and require quick turnaround. In these cases, more time was recommended for collecting competency documents, entering details into the case management system, and case screening and assignment.

Like the administrative staff panel, the investigator panel considered the need for quality adjustments in all case types. In adult criminal and juvenile cases, investigators recommended additional time for identifying and interviewing witnesses and obtaining discovery documents. In adult criminal cases, more time was also recommended for reviewing discovery and records, especially those involving newer technology such as body cameras and mobile phones. Investigators also recommended adding time to serve subpoenas for school records in juvenile cases. The panel recommended no adjustments to the investigator weights for civil case types.

During the quality adjustment sessions, both attorneys and staff emphasized the need for social workers in all offices, as well as the

essential roles administrative staff and investigators play on the defense team.

Appendix E (attorneys), Appendix F (administrative staff), and Appendix G (investigators) contain detailed rationales for the Delphi panels' recommended quality adjustments.

### ***3. Investigator Frequency Adjustment***

An important conclusion from the site visits, sufficiency of time survey, and quality adjustment panels was that the scarcity of investigators leads attorneys to prioritize their usage of investigators, and to choose not to bring investigators in on some cases in which investigator involvement would be appropriate. Because IDS disposition reports do not distinguish cases with investigator involvement from cases without investigator involvement, the weighted caseload model for investigators is based on total dispositions. The time associated with each case on which an investigator works is spread across all cases. For example, during the sufficiency of time survey, attorneys reported that investigators are currently involved in 32 percent of misdemeanor cases. The preliminary case weight for Misdemeanor, Traffic and Non-Traffic cases is 11 minutes per disposition. This

means that in the 32 percent of Misdemeanor, Traffic and Non-Traffic cases with investigator involvement, investigators currently spend an average of 34 minutes per case. In the remaining 68 percent of Misdemeanor, Traffic and Non-Traffic cases, investigators currently perform no work.

The investigator Delphi panel recommended quality adjustments to the time spent on cases in which investigators are already involved. The site visit interviews and the attorney sufficiency of time survey, however, indicate that it is also necessary to increase the percentage of cases in which investigators are involved. Exhibit 4 compares the current percentage of cases in which an investigator is involved with the recommended percentage, as reported by attorneys during the sufficiency of time survey. After the investigator Delphi panel's recommended quality adjustments were applied, each investigator case weight was adjusted by an additional factor to allow for investigator involvement in the appropriate share of cases. For example, the investigator case weight for Misdemeanor, Traffic and Non-Traffic cases was increased to allow for investigator involvement in 57 percent of cases rather than 32 percent.

**Exhibit 4. Frequency of Investigator Involvement, Attorney Sufficiency of Time Survey**

<b>Case Type</b>	<b>Current</b>	<b>Recommended</b>
Capital Murder	72%	85%
First-Degree Murder, Non-Capital	30	62
Felony A, B1, B2	35	50
Felony C, E, D, F	39	58
DWI	32	57
Misdemeanor, Traffic and Non-Traffic	32	57
Probation Violation, Felony and Non-Felony	30	59
Specialized Courts—All	58	64
Felony—Juvenile	23	61
Misdemeanor—Juvenile	14	28
A/N/D Adjudication	60	76
A/N/D Review	9	30
Termination of Parental Rights	8	20

#### 4. *Quality-Adjusted Case Weights*

During its final meeting in November 2018, the Advisory Committee reviewed and adopted the Delphi panels' recommended quality

adjustments. Exhibits 5a and 5b compare the preliminary and adjusted case weights for attorneys and staff, with adjusted case weights in bold.

**Exhibit 5a. Preliminary and Quality-Adjusted Case Weights, Attorneys**

	Preliminary Case Weight (minutes)	Final Case Weight (minutes)
First-Degree Murder, Capital and Non-Capital	6,226	<b>8,189</b>
Felony A, B1, B2	2,519	<b>4,519</b>
Felony C, D, E, F	764	<b>1,560</b>
Felony G, H, I	317	<b>524</b>
Driving While Impaired	302	<b>527</b>
Misdemeanor, Traffic and Non-Traffic	129	<b>246</b>
Probation Violation, Felony and Non-Felony	117	<b>189</b>
Specialized Courts - All	620	620
Other Criminal	151	151
Felony - Juvenile	725	<b>1,544</b>
Misdemeanor - Juvenile	308	<b>699</b>
Other Juvenile	65	65
Abuse/Neglect/Dependency Adjudication	379	<b>937</b>
Abuse/Neglect/Dependency Review	657	<b>687</b>
Termination of Parental Rights	1,337	<b>1,367</b>
Involuntary Commitment/Competency	14	<b>41</b>
Child Support Contempt	113	113
Other Civil	39	39

**Exhibit 5b. Preliminary and Quality-Adjusted Case Weights, Staff**

	Administrative Staff		Investigators	
	Preliminary Case Weight (minutes)	Final Case Weight (minutes)	Preliminary Case Weight (minutes)	Final Case Weight (minutes)
First-Degree Murder, Capital and Non-Capital Felony	403	691	2,614	4,494
Driving While Impaired	114	133	87	298
Misdemeanor, Traffic and Non-Traffic	59	67	14	56
Probation Violation, Felony and Non-Felony	52	60	11	52
Specialized Courts - All	44	53	12	23
Other Criminal	67	67	249	274
Felony - Juvenile	370	370	67	67
Misdemeanor - Juvenile	116	124	68	270
Other Juvenile	81	86	23	81
Abuse/Neglect/Dependency Adjudication	13	13	2	2
Abuse/Neglect/Dependency Review	144	144	2	3
Termination of Parental Rights	125	125	3	10
Involuntary Commitment/Competency	68	68	21	56
Child Support Contempt	4	40	0	0
Other Civil	135	135	0	0
	25	25	0	0



## V. RESOURCE NEED

In the weighted caseload model, three factors contribute to the calculation of attorney and staff need: caseload data (dispositions), case weights, and the year value. The year value is equal to the amount of time each full-time attorney or staff member has available for case-specific work on an annual basis. The relationship among dispositions, case weights, and year value is expressed as follows:

$$\frac{\text{Dispositions} \times \text{Case Weights}}{\text{Year Value}} = \text{Resource Need (FTE)}$$

Multiplying the dispositions by the corresponding case weights calculates the total annual case-specific workload in minutes.

Dividing the workload by the year value yields the total number of full-time equivalent (FTE) attorneys or staff needed to handle the workload.

### A. Year Values

To develop the year values for attorneys and staff, it was necessary to determine the number of days available for case-related work in each year (work year), and to divide the work day between case-specific, non-case-specific, and non-case-related work (day value).

#### 1. Work Year

The *work year* represents the number of days per year during which a full-time attorney or staff member works on case-specific matters. As shown in Exhibit 6, the Advisory Committee constructed the work years for attorneys and staff by beginning with 365 days per year, then subtracting weekends, holidays, annual leave and sick leave, and conferences and training. The work year is 220 days for attorneys, 222 days for administrative staff, and 220 days for investigators.

## Exhibit 6. Attorney and Staff Work Years

	Attorneys	Admin. Staff	Investigators
Total days per year:	365	365	365
- Weekends	104	104	104
- Holidays	12	12	12
- Vacation/sick leave	21	26	26
- Conferences/training	8	1	3
	220	222	220

### 2. Day Values

The day value represents the amount of time each attorney or staff member has available for case-specific work each day. This value is calculated by subtracting time for lunch/breaks, non-case-specific work, and non-case-related work from the total working day.

After reviewing the time study data, the Advisory Committee specified the day values as a matter of policy. To account for differences in the amount of non-case-specific work required of attorneys in offices of different sizes, the Advisory Committee adopted two separate day values for attorneys. As the amount of non-case-specific work performed by staff varied little by office size, the committee adopted a single set of day values for administrative staff and investigators.

For administrative purposes, IDS classifies public defender offices into four “pods” on the basis of geography, size, and case types handled (Exhibit 7). Pod 1 contains the smallest offices, and Pod 4 includes the largest. The time study data reveal that attorneys in Pod 1 routinely spend more time on case-related travel, a non-case-specific activity, than attorneys in Pods 2, 3, and 4. For this reason, the Advisory Committee established separate day values for case-specific work of 6.0 hours for Pod 1 attorneys and 6.25 hours for attorneys in Pods 2, 3, and 4. As there was no such variation among office pods in non-case-specific work for administrative staff or investigators, the committee established day values of 5.75 hours for all administrative staff and 6.25 hours for all investigators.

**Exhibit 7. Public Defender Office Pods, by Defender District and County**

Pod 1	Pod 2	Pod 3	Pod 4
1 and 2: Camden, Chowan,	15B: Orange, Chatham	12: Cumberland	18: Guilford
Currituck, Dare, Gates,	28: Buncombe	14: Durham	26: Mecklenburg
Pasquotank, Perquimans,	5: New Hanover	21: Forsyth	10: Wake
Beaufort, Hyde, Martin,	3A: Pitt	27A: Gaston	
Tyrrell, Washington	16B: Robeson		
16A: Scotland, Hoke			
29B: Henderson, Polk,			
Transylvania			
3B: Carteret, Craven,			
Pamlico			

**Exhibit 8. Year Values**

	Work Year (days)	x	Case-Specific Hours per Day	x	Minutes per Hour	=	Year Value (minutes)
<b>Attorneys</b>							
Pod 1	220	x	6.00	x	60	=	79,200
Pods 2-4	220	x	6.25	x	60	=	82,500
<b>Staff</b>							
Admin Staff	222	x	5.75	x	60	=	76,590
Investigators	220	x	6.25	x	60	=	82,500

**3. Year Values**

To calculate the final year values for case-specific work, the number of days in the working year was multiplied by the day value for case-specific work. This figure was then expressed in terms of minutes per year. Exhibit 8 shows the calculation of the year values for attorneys and staff.

**B. Administrative Adjustments**

The time study revealed that administrative responsibilities create additional non-case-specific and non-case-related work for chief public defenders and attorney and staff line supervisors. The Advisory Committee determined that each office should be credited with additional resource need of .5 FTE to accommodate the work of the Chief Public

Defender in each office, and .25 FTE for each line supervisor (attorneys, investigators, and administrative staff).

**C. Resource Need**

To calculate the number of attorneys, administrative staff members, or investigators needed in each office, the annual disposition count for each case type was multiplied by the corresponding quality-adjusted case weight to calculate the annual workload in minutes associated with that case type. Workload was summed across all case types, then divided by the year value, or the amount of time each full-time attorney or staff member has available for case-specific work in one year. This yielded the total number of attorneys and staff required to handle the office’s case-related workload and non-case-related responsibilities, in full-time

equivalent (FTE) terms. The administrative adjustments for chief public defenders and line supervisors were then added to determine total resource need.

Exhibit 9 compares current resources with workload-based resource need for attorneys, administrative staff, and investigators in each public defender office. In the “difference” columns, a positive number indicates a need for additional attorneys or staff; a negative number indicates excess resources. In the aggregate, the model demonstrates a need for 497 attorneys to effectively handle current public defender office caseloads, an increase of 73 percent over current staffing levels. The model also shows a need for 112 administrative staff members (a 10 percent increase), and a need for 139 investigators, or a 223 percent increase. The weighted caseload model therefore suggests that public defender offices need either more resources or smaller caseloads to enable attorneys to provide every client with effective assistance of counsel.

Every office shows a need for additional attorneys and investigators. Four offices currently appear to have more administrative staff than their workload requires. In two offices, this may result in part from the need to staff multiple locations. Another factor may be the current IDS policy of allocating one administrative staff member or investigator for every two attorneys, without specifying a particular ratio between administrative staff and investigators: in these four offices, most or all of the apparent excess in administrative staff is offset by a need for additional investigators. Because there is overlap in the roles of investigators and administrative staff, it is inadvisable to remove administrative staff positions from these offices without first ensuring that the investigative function is fully staffed to support the workload.

### Exhibit 9. Public Defender Office Resource Need

Office	Attorneys (FTE)						Administrative Staff (FTE)					Investigators (FTE)				
	Need Before Admin. Adjust.	Chief PD Adjust.	Line Sup. Adjust.	Total Attorney Need	Current Attorneys	Difference	Need Before Admin. Adjust.	Line Sup. Adjust.	Total Admin. Staff Need	Total Current Admin. Staff	Difference	Need Before Admin. Adjust.	Line Sup. Adjust.	Total Inv. Need	Total Current Inv.	Difference
1	15.08	0.50	0.75	16.33	15.00	1.33	2.83	0.25	3.08	6.00	-2.92	3.84	0.00	3.84	2.00	1.84
3A	18.72	0.50	0.50	19.72	14.00	5.72	3.87	0.25	4.12	4.00	0.12	5.41	0.00	5.41	1.00	4.41
3B	7.63	0.50	0.00	8.13	3.00	5.13	1.47	0.00	1.47	1.00	0.47	1.93	0.00	1.93	1.00	0.93
5	32.30	0.50	0.75	33.55	15.00	18.55	6.59	0.75	7.34	7.00	0.34	8.35	0.00	8.35	2.00	6.35
10	54.58	0.50	1.00	56.08	31.00	25.08	11.42	0.25	11.67	10.00	1.67	16.71	0.25	16.96	4.00	12.96
12	37.31	0.50	0.50	38.31	16.00	22.31	7.02	0.25	7.27	6.00	1.27	11.07	0.25	11.32	2.00	9.32
14	36.54	0.50	0.50	37.54	24.00	13.54	11.24	0.25	11.49	6.00	5.49	9.76	0.00	9.76	3.00	6.76
15B	13.99	0.50	0.00	14.49	10.00	4.49	2.94	0.25	3.19	3.00	0.19	4.13	0.00	4.13	2.00	2.13
16A	11.47	0.50	0.50	12.47	7.00	5.47	2.49	0.25	2.74	3.00	-0.26	2.69	0.00	2.69	2.00	0.69
16B	10.77	0.50	0.00	11.27	10.00	1.27	2.70	0.25	2.95	4.00	-1.05	2.42	0.00	2.42	2.00	0.42
18	49.80	0.50	0.75	51.05	28.00	23.05	10.77	0.25	11.02	8.00	3.02	14.75	0.00	14.75	4.00	10.75
21	31.23	0.50	0.50	32.23	19.00	13.23	7.04	0.25	7.29	7.00	0.29	8.19	0.25	8.44	4.00	4.44
26	91.22	0.50	2.25	93.97	60.00	33.97	20.65	0.50	21.15	25.00	-3.85	28.38	0.25	28.63	8.00	20.63
27A	30.25	0.50	0.25	31.00	15.00	16.00	7.02	0.25	7.27	5.00	2.27	9.00	0.00	9.00	2.00	7.00
28	26.91	0.50	0.50	27.91	12.00	15.91	6.67	0.25	6.92	4.00	2.92	7.35	0.00	7.35	3.00	4.35
29B	12.12	0.50	0.50	13.12	8.00	5.12	2.79	0.25	3.04	3.00	0.04	3.58	0.25	3.83	1.00	2.83
<b>Total</b>	<b>479.93</b>	<b>8.00</b>	<b>9.25</b>	<b>497.18</b>	<b>287.00</b>	<b>210.18</b>	<b>107.50</b>	<b>4.50</b>	<b>112.00</b>	<b>102.00</b>	<b>10.00</b>	<b>137.56</b>	<b>1.25</b>	<b>138.81</b>	<b>43.00</b>	<b>95.81</b>

## **VI. RECOMMENDATIONS**

This workload assessment provides strong evidence of a need for more attorney and staff resources to effectively handle the current workload of North Carolina's public defender offices. The following recommendations are intended to promote the effective implementation of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

Public defender offices should be provided with enough attorneys, administrative staff, and investigators to represent clients effectively. The site visits, sufficiency of time survey, and Delphi quality adjustment panels clearly demonstrate that attorneys and staff face serious resource constraints at current caseloads and staffing levels. Appropriate resource levels can be achieved either by adding attorneys and staff to public defender offices or by reducing public defender office caseloads. Reducing public defender caseloads would entail referring additional cases to private assigned counsel (PAC), which would require additional PAC funding and might pose logistical hurdles.

### **Recommendation 2**

Inefficiencies in court processes and procedures waste valuable time and resources not just for public defenders, but also for private assigned counsel, assistant district attorneys, judges, court staff, clients, witnesses, and victims. The courts, district attorneys, IDS, and other justice system partners should work together to improve the efficiency of the court system and reduce the amount of time devoted to activities that do not directly contribute to the resolution of cases, such as calendar call.

### **Recommendation 3**

Social workers serve a critical function in public defender offices. Their specialized professional knowledge enables them to investigate clients' social histories, obtain educational and health records, place clients in treatment and other

programs, prepare mitigation information, and assist in developing alternative sentencing plans—often more efficiently and effectively than an attorney or an investigator can. North Carolina's public defender offices currently employ just five social workers, although there are 287 attorneys in sixteen public defender offices. To improve both the effectiveness and efficiency of client representation, social workers should be made available in all North Carolina public defender offices.

### **Recommendation 4**

Administrative staff, investigators, and social workers are essential components of the defense team. These staff members complement the work of the attorney, increasing the attorney's effectiveness and efficiency in representing clients, but cannot fulfill the attorney's unique professional functions. Therefore, staff and attorney positions should not be treated as fungible.

### **Recommendation 5**

IDS and public defender offices should actively use the weighted caseload model to monitor and manage workloads. Annual calculations of workload based on dispositions can aid IDS in determining the appropriate allocation of attorneys and staff to offices, and can help offices assign the appropriate numbers of attorneys and staff to units (e.g., felony, misdemeanor, juvenile) based on the workload associated with various case types. Calculating incoming workload on the basis of appointments can also assist public defender offices in monitoring capacity and assigning cases to individual attorneys. NCSC is currently working with IDS to develop workload-based management tools for public defender offices.

### **Recommendation 6**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, legal practice, court technology, and administrative policies. NCSC recommends that Indigent Defense Services conduct a

comprehensive update of the public defender office weighted caseload model every five to seven years. Such an update should include both a time study and a comprehensive quality adjustment process. Between updates, if a major change in the law appears to have a significant impact on attorney and staff workload, a Delphi panel can be convened to make interim adjustments to the affected case weight(s).

## APPENDIX A. GLOSSARY OF TERMS, ATTORNEYS

### CASE TYPES

#### *Criminal*

**1. Murder, Pre-Rule 24**

Any first-degree or undesignated murder case in which the DA has not declared whether the case will proceed capitally or non-capitally (pre-Rule 24) or in which capital status is unknown.

**2. Capital Murder**

Any first-degree or undesignated murder case that has been declared capital by the DA at a Rule 24 hearing, even if the case later becomes non-capital.

**3. First-Degree Murder, Non-Capital**

Any first-degree or undesignated murder case that has been declared non-capital by the DA or at a Rule 24 hearing. Do not use this category for a case which has ever been declared capital.

**4. Felony A, B1, B2**

Includes first-degree murder and undesignated murder cases in which the client is under 18 years old.

**5. Felony C, D, E, F**

**6. Felony G, H, I**

**7. DWI**

**8. Misdemeanor, Traffic and Non-Traffic**

**9. PV, Felony and Non-Felony**

Includes post-release supervision.

**10. Specialized Courts**

Includes drug court, mental health court, DWI court, veterans' court, and other treatment courts.

**11. Other Criminal**

Includes extradition, civil contempt, criminal contempt, MAR capital, and MAR non-capital.

Note: Due in part to challenges in distinguishing time among the first-degree murder case types, time for all first-degree murder case types was combined and a single first-degree murder case weight was developed.

*Juvenile*

1. **Felony A, B1, B2**
2. **Felony C, D, E**
3. **Felony F, G, H, I**
4. **Misdemeanor**
5. **Specialized Courts**  
Includes drug court and other treatment courts.
6. **Other Juvenile**  
Includes civil contempt and interstate compact cases.

*Civil*

1. **A/N/D Adjudication**
2. **A/N/D Review**
3. **TPR**
4. **Involuntary Commitment/Competency**  
Includes adult and juvenile.
5. **Child Support Contempt**
6. **Other Civil**  
Includes other civil contempt.
7. **Specialized Courts**  
Includes family drug court and other treatment courts.



## CASE-SPECIFIC FUNCTIONS

Activities that pertain to a specific case in which you have been appointed to represent the client.

- 1. Same-Day Case**

All work related to a case in which you meet the client on the court date, discuss the case with the ADA, and dispose of the case on the same day.
- 2. Fact Investigation and Discovery**

All work related to fact investigation and discovery (e.g., interviewing witnesses, reviewing video). Includes maintaining general case notes and information and locating legal paperwork.
- 3. Mitigation and Social History Research**

Investigation and records requests related to the client's social history, alternative disposition or sentencing, and mitigation (e.g., obtaining medical and educational records, arranging program placements).
- 4. Legal Research and Drafting**

Includes legal research and drafting and filing motions and proposed orders.
- 5. Non-Adjudicatory Hearing Preparation**

Includes out-of-court preparation (e.g., preparing witnesses) for non-adjudicatory hearings. Non-adjudicatory hearings include all hearings that do not dispose of the charges or petition in the case (e.g., pretrial release, admin setting, pretrial motions, competency hearings in criminal cases, juvenile detention, transfer, nonsecure custody, pre-adjudication hearings in parent representation cases, post-adjudication review, permanency planning hearings), along with guilty pleas and sentencing on a guilty plea.
- 6. Other Court Preparation**

General preparation typically performed for the next day's calendar (e.g., pulling files).
- 7. Plea or Disposition Negotiation**

Includes plea or disposition negotiations with the ADA. In parent representation cases, includes child and family team meetings and mediation.
- 8. Trial or Adjudication Preparation**

Includes out-of-court preparation for a trial or other adjudicatory hearing (e.g., preparing witness questions). Trials and adjudicatory hearings include bench and jury trials, sentencing after a trial, juvenile adjudication hearings, probation violation hearings, and MAR hearings. In parent representation cases, this category includes preparation for adjudication and initial disposition hearings. In special proceedings, this category includes preparation for commitment and competency hearings.
- 9. Pretrial or Motion Hearing**

Includes in-court time for pretrial or motion hearings (e.g., pretrial release, admin setting, pretrial motions, competency hearings in criminal cases, juvenile detention, transfer, nonsecure custody, pre-adjudication hearings in parent representation cases).
- 10. Plea and/or Sentencing Hearing**

Includes in-court time for guilty pleas and sentencing on a guilty plea. Also includes in-court time for dismissals.
- 11. Trial or Adjudication Hearing**

Includes in-court time for a trial or other adjudicatory hearing. Trials and adjudicatory hearings include bench and jury trials, sentencing after a trial, juvenile adjudication hearings, probation violation hearings, and MAR hearings. In parent representation cases, this category includes

adjudication and initial disposition hearings. In special proceedings, this category includes commitment and competency hearings.

**12. Post-Trial or Post-Adjudication Hearing**

Includes in-court time for hearings that occur after the disposition of the charge or petition in the case. In juvenile cases, this category includes post-adjudication review hearings. In parent representation cases, this category includes review hearings and permanency planning hearings.

**13. Specialized Court Work**

Includes all preparation for and in-court time related to drug court and other specialized court cases, such as staffings and hearings.

**14. Client Contact**

Includes all direct contact with client, client's family and friends, and client's significant other. Includes in-person meetings, client interviews, jail visits, hospital visits, telephone calls, and e-mail contact. Includes time spent locating client at jail or hospital.

**15. Waiting Time**

Includes all waiting time in court, at the jail, or at the hospital. Includes waiting time during calendar call and administrative court. *Track waiting time under the case type for which you are waiting. If you are waiting for multiple cases of multiple types, track waiting time under the case type for the next case called.*

## NON-CASE-SPECIFIC FUNCTIONS

Activities that *do not pertain to an individual case in which you or your office has been appointed to provide representation*. Includes activities that are not related to client representation, are related to a case in which you or your office has not been appointed to represent the client, or may be related to multiple cases in which you are providing representation.

### 1. Case Screening and Assignment

Includes screening and assignment of new cases, including conflict screening.

### 2. First Appearance Court

Includes all pre-appointment work in first appearance court, regardless of whether your office is ultimately appointed to represent the client.

### 3. Case-Related Travel

Includes all travel related to client representation, such as travel to visit clients in jail or the hospital, travel for witness interviews, and travel to visit the crime scene. Travel for work that is not related to client representation, such as travel to training or meetings, should be tracked as part of the appropriate activity. *Please note that this activity has been designated as non-case-specific because you may be traveling to visit more than one client in more than one type of case.*

### 4. Administrative and Personnel Tasks

Includes office administration, hiring/recruiting, HR tasks, staff meetings, and non-case-related e-mail and phone calls.

### 5. Attorney and Staff Supervision

Includes supervision, mentoring, non-case-specific internal consulting, and handling client complaints and inquiries about PD office staff.

### 6. PAC/Contract Administration

Includes maintaining PAC rosters, supporting contracts, running the indigent appointment committee, and handling client complaints and inquiries about PAC and contract attorneys.

### 7. External Consultation

Providing advice and consultation to attorneys outside your office, including PAC and contract attorneys.

### 8. Internal Consultation

Providing advice and consultation to attorneys inside your office. Includes consultation related to immigration issues and the forensic network.

### 9. External Committees and Administration

Includes meetings and other work related to committees, boards, associations, and task forces outside the PD office, court system administration, work with criminal justice system stakeholders, IDS committees other than the indigent appointment committee, and external leadership service. Does not include indigent appointment committee.

### 10. Community Outreach

Includes office public relations, community outreach, and community service performed in your capacity as an IDS employee (e.g., speaking at school career days). Also includes contact with former clients.

### 11. General Legal Research

Includes research and reading not related to a particular case in which you are representing the client (e.g., professional journals, advance sheets).

**12. Training, Conferences, CLE**

Attending, developing, and leading training, conferences, and continuing legal education programs.

**13. Leave and Vacation**

Sick leave, personal leave, and vacation time.

**14. Lunch and Breaks**

All non-working time during the workday, including lunch and breaks. *Does not* include waiting time in court, at the jail, or at the hospital.

**15. NCSC Time Study**

Time spent tracking work and filling out paper and web-based forms for the time study.

## APPENDIX B. GLOSSARY OF TERMS, ADMINISTRATIVE STAFF AND INVESTIGATORS

### CASE TYPES

#### *Criminal*

**1. Murder, Pre-Rule 24**

Any first-degree or undesignated murder case in which the DA has not declared whether the case will proceed capitally or non-capitally (pre-Rule 24) or in which capital status is unknown.

**2. Capital Murder**

Any first-degree or undesignated murder case that has been declared capital by the DA at a Rule 24 hearing, even if the case later becomes non-capital.

**3. First-Degree Murder, Non-Capital**

Any first-degree or undesignated murder case that has been declared non-capital by the DA or at a Rule 24 hearing. Do not use this category for a case which has ever been declared capital.

**4. Felony**

Includes first-degree murder and undesignated murder cases in which the client is under 18 years old.

**5. DWI**

**6. Misdemeanor, Traffic and Non-Traffic**

**7. PV, Felony and Non-Felony**

Includes post-release supervision.

**8. Specialized Courts**

Includes drug court, mental health court, DWI court, veterans' court, and other treatment courts.

**9. Other Criminal**

Includes extradition, civil contempt, criminal contempt, MAR capital, and MAR non-capital.

Note: Due in part to challenges in distinguishing time among the first-degree murder case types, time for all first-degree murder case types was combined and a single first-degree murder case weight was developed.

*Juvenile*

1. **Felony**
2. **Misdemeanor**
3. **Specialized Courts**  
Includes drug court and other treatment courts.
4. **Other Juvenile**  
Includes civil contempt and interstate compact cases.

*Civil*

1. **A/N/D Adjudication**
2. **A/N/D Review**
3. **TPR**
4. **Involuntary Commitment/Competency**  
Includes adult and juvenile.
5. **Child Support Contempt**
6. **Other Civil**  
Includes other civil contempt.
7. **Specialized Courts**  
Includes family drug court and other treatment courts.

## CASE-SPECIFIC FUNCTIONS

Activities that pertain to a specific case in which your office has been appointed to represent the client.

**1. Intake and Records Management**

Includes obtaining case documents; entering case information into the case management system; maintaining, archiving, and retrieving files; recording dispositions; and file delivery and pickup.

**2. Secretarial Services**

Includes receptionist and secretarial tasks such as answering telephones, scheduling appointments, faxing documents, and typing.

**3. Investigative Services**

Includes investigative work such as visiting the crime scene, identifying and interviewing witnesses, and serving subpoenas.

**4. Legal Research and Paralegal Services**

Includes legal research and paralegal functions such as drafting motions.

**5. Social Work/Sentencing Advocacy Functions**

Includes social work and sentencing advocacy activities such as developing mitigation and alternative sentencing plans, coordinating placements, and gathering social histories.

**6. Interpreter Services**

Interpreting for clients, family members, and witnesses.

**7. Reviewing Discovery and Records**

Reviewing discovery, medical records, videos, etc.

**8. Courtroom Support**

Providing direct support to an attorney when you are physically present in the courtroom.

**9. Waiting Time**

Includes all waiting time in court, at the jail, or at the hospital. Includes waiting time during calendar call and administrative court. *Track waiting time under the case type for which you are waiting. If you are waiting for multiple cases of multiple types, track waiting time under the case type for the next case called.*

## NON-CASE-SPECIFIC FUNCTIONS

Activities that *do not pertain to an individual case in which your office has been appointed to provide representation*. Includes activities that are not related to client representation, are related to a case in which your office has not been appointed to represent the client, or may be related to multiple cases in which your office is providing representation.

**1. Case Screening and Assignment**

Screening and assignment of new cases, including conflict screening, copying files, etc.

**2. First Appearance Court**

Providing direct support to an attorney in the courtroom during first appearance court, regardless of whether your office is ultimately appointed to represent the client.

**3. Case-Related Travel**

Includes all travel related to client representation, such as travel to visit clients in jail or the hospital, travel for witness interviews, and travel to visit the crime scene. Travel for work that is not related to client representation, such as travel to training or meetings, should be tracked as part of the appropriate activity. *Please note that this activity has been designated as non-case-specific because you may be traveling to visit more than one client in more than one type of case.*

**4. Administrative/Personnel Tasks**

Includes office administration, hiring/recruiting, HR tasks, staff meetings, and non-case-related e-mail and phone calls.

**5. Staff Supervision**

Includes supervision and mentoring of staff.

**6. External Committees and Administration**

Includes meetings and other work related to committees, boards, associations, and task forces outside the PD office, court system administration, work with criminal justice system stakeholders, IDS committees, and external leadership service.

**7. Community Outreach**

Includes office public relations, community outreach, and community service performed in your capacity as an IDS employee (e.g., speaking at school career days).

**8. General Research and Reading**

Includes research and reading not related to a particular case in which your office is representing the client (e.g., professional journals).

**9. Training and Conferences**

Attending, developing, and leading training, conferences, and continuing education programs.

**10. Leave and Vacation**

Sick leave, personal leave, and vacation time.

**11. Lunch and Breaks**

All non-working time during the workday, including lunch and breaks. *Does not* include waiting time in court, at the jail, or at the hospital.

**12. NCSC Time Study**

Time spent tracking work and filling out paper and web-based forms for the time study.



**APPENDIX C. SUFFICIENCY OF TIME SURVEY RESULTS, ATTORNEYS**

1

Sufficiency of Time Results, Attorneys  
Capital Murder

Activity	Adjustment Needed (% of respondents)
<b>Initial Interview</b>	
Review case documents	22%
Engage in client interview	17%
Obtain and review relevant records	19%
Review capital and non-capital outcomes with client	11%
Review immigration issues	8%
Determine whether additional services are needed	17%
Connect client with needed services	17%
<b>Initial Bond Hearing</b>	
Discuss bond options with client	8%
Prepare for appropriate bond argument	8%
Communicate with pretrial service program	3%
If released, explain conditions of release to client	3%
If not released, discuss results with client	6%
If not released, ensure client's special needs are met while incarcerated	11%
If not released, periodically review eligibility for release	8%
If not released, file motion to reduce/modify bond	6%
Connect client with needed services	11%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	11%
Prepare for hearing	11%
Appear at hearing	11%
Explain outcome to client	11%
<b>Competency Hearing</b>	
File initial competency motion	17%
Review competency examination	17%
File formal competency motion	17%
Prepare for competency hearing	17%
Appear at competency hearing	14%
<b>Bond Revocation/Bond Review Hearing</b>	
Discuss options with client	11%
Review relevant documents	6%
Prepare and file bond motion	11%
Communicate with pretrial service program	6%
Prepare for hearing	8%
Appear at hearing	6%
If released, explain conditions of release and consequences to client	%
If not released, discuss results with client	6%
If not released, ensure client's special needs are met while incarcerated	14%
If not released, periodically review eligibility for release	6%

n = 36

Sufficiency of Time Results, Attorneys  
Capital Murder

Activity	Adjustment Needed (% of respondents)
Connect client with needed services	17%
<b>Rule 24 Conference</b>	
Discuss Rule 24 conference with client	11%
Prepare for conference	11%
Appear at conference	8%
Explain outcome to client	8%
<b>Probable Cause Hearing</b>	
Discuss probable cause hearing with client	8%
Prepare for hearing	6%
Appear at hearing	6%
Explain outcome to client	6%
<b>Return of Indictment/Bill of Information</b>	
Review indictment for challenges	8%
Discuss indictment with client	6%
Research challenges	17%
Prepare motion to quash or challenge	14%
Prepare for hearing	11%
Appear at hearing	11%
Explain outcome to client	8%
<b>Investigation</b>	
Develop task list for investigator	22%
Identify potential witnesses	22%
Interview witnesses	22%
Visit the crime scene	25%
Review audio recordings or transcripts	25%
Identify and review records and physical evidence	25%
Confer with expert witnesses	22%
Direct activities of investigative staff	17%
Review investigator reports	14%
Discuss process with client, determine whether additional needs are being met	17%
<b>Discovery</b>	
Respond to discovery requests	11%
Prepare discovery requests	11%
Review discovery	28%
Provide copies of relevant discovery to others, where appropriate	22%
<b>Mitigation Investigation</b>	
Request funds for mitigation specialist	14%
Develop task list for mitigation specialist	25%
Determine relevant mitigation witnesses	25%
Direct and monitor activities of mitigation staff	19%

n = 36

Sufficiency of Time Results, Attorneys  
Capital Murder

Activity	Adjustment Needed (% of respondents)
<b>Motion Practice</b>	
Research pretrial motions	22%
Discuss motion options with client	14%
Prepare and file appropriate pretrial motions	22%
Respond to pretrial motions	14%
Prepare for motion hearing	25%
Appear at motion hearing	14%
Explain outcome to client	8%
<b>Presentence Report Preparation</b>	
Discuss preparation of report with client	8%
Provide information about the client to plan preparer	11%
Appear with client when speaking with plan preparer	8%
Review completed plan	8%
Discuss completed plan with client	8%
Correct plan errors	8%
<b>Plea Negotiations</b>	
Discuss plea offer with prosecutor	17%
Review discovery and evidence with client	22%
Discuss plea with client	17%
Discuss plea with client's family	17%
<b>Juror Preparation/Selection</b>	
Complete background checks on jurors	28%
Prepare juror questionnaire	17%
Prepare for juror questionnaire argument	14%
Argue juror questionnaire	14%
Review returned juror questionnaires	14%
Prepare for voir dire	14%
Appear at voir dire	14%
<b>Trial</b>	
Prepare client	19%
Arrange for witness appearances	19%
Legal research	19%
Prepare an opening statement	17%
Prepare for direct and cross	17%
Prepare for motions	17%
Prepare exhibits	22%
Discuss stipulations with prosecutor	11%
Prepare closing argument	22%
Prepare proposed jury instructions and arguments	22%
Appear at trial	19%

n = 36

Sufficiency of Time Results, Attorneys  
Capital Murder

Activity	Adjustment Needed (% of respondents)
<b>Trial on the Penalty</b>	
Prepare client	17%
Arrange for witness appearances	19%
Legal research	17%
Prepare an opening statement	17%
Prepare for direct and cross	17%
Prepare for motions	17%
Prepare exhibits	17%
Discuss stipulations with prosecutor	14%
Prepare closing argument	17%
Prepare proposed jury instructions and arguments	17%
Appear at trial on the penalty	17%
<b>Sentencing</b>	
Interview client	14%
Discuss outcomes	14%
Review sentencing documents	11%
Interview relevant parties	17%
Secure additional witnesses/experts	17%
Discuss sentencing with prosecutor	11%
Investigate alternative dispositions/specialized client programs	17%
Prepare sentencing argument	17%
Appear at sentencing hearing	14%
Explain outcome to client	11%
Ensure all relevant documents are signed	6%
Determine whether client needs additional services	14%
Connect client with needed services	14%
<b>Post-Disposition</b>	
Research appropriateness of post-disposition motions	11%
Meet with client to discuss motion options and appeal	11%
Prepare post-disposition motion	11%
Appear at post-disposition motion hearing	6%
Explain outcome to client/discuss options	8%
Adequately assist appellate counsel	11%
Review and correct errors in orders/documents	11%
Contact/interview jurors	11%
Prepare for appeal	8%
Keep client informed	8%
Determine whether client needs additional services	8%

n = 36

Sufficiency of Time Results, Attorneys  
*Capital Murder*

Other Case Activities	Activity	Adjustment Needed (% of respondents)
	Respond to client and family questions	19%
	Keep client and family informed of case status	22%
	Legal research	19%
	Determine whether client needs additional services	19%

n = 36



Sufficiency of Time Survey Results, Attorneys  
*First-Degree Murder, Non-Capital*

Activity	Adjustment Needed (% of respondents)
<b>Initial Interview</b>	
Review case documents	26%
Engage in client interview	18%
Obtain and review relevant records	29%
Review capital and non-capital outcomes with client	8%
Review immigration issues	8%
Determine whether additional services are needed	21%
Connect client with needed services	18%
<b>Initial Bond Hearing</b>	
Discuss bond options with client	3%
Prepare for appropriate bond argument	16%
Communicate with pretrial service program	5%
If released, explain conditions of release to client	3%
If not released, discuss results with client	8%
If not released, ensure client's special needs are met while incarcerated	16%
If not released, periodically review eligibility for release	13%
If not released, file motion to reduce/modify bond	13%
Connect client with needed services	16%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	11%
Prepare for hearing	11%
Appear at hearing	8%
Explain outcome to client	5%
<b>Competency Hearing</b>	
File initial competency motion	8%
Review competency examination	8%
File formal competency motion	11%
Prepare for competency hearing	21%
Appear at competency hearing	11%
<b>Bond Revocation/Bond Review Hearing</b>	
Discuss options with client	8%
Review relevant documents	8%
Prepare and file bond motion	16%
Communicate with pretrial service program	8%
Prepare for hearing	21%
Appear at hearing	8%
If released, explain conditions of release and consequences to client	5%
If not released, discuss results with client	5%

n = 38

Sufficiency of Time Survey Results, Attorneys  
*First-Degree Murder, Non-Capital*

Activity	Adjustment Needed (% of respondents)
If not released, ensure client's special needs are met while incarcerated	16%
If not released, periodically review eligibility for release	8%
Connect client with needed services	16%
<b>Rule 24 Conference</b>	
Discuss Rule 24 conference with client	3%
Prepare for conference	5%
Appear at conference	5%
Explain outcome to client	3%
<b>Probable Cause Hearing</b>	
Discuss probable cause hearing with client	5%
Prepare for hearing	8%
Appear at hearing	5%
Explain outcome to client	5%
<b>Return of Indictment/Bill of Information</b>	
Review indictment for challenges	21%
Discuss indictment with client	5%
Research challenges	21%
Prepare motion to quash or challenge	18%
Prepare for hearing	16%
Appear at hearing	13%
Explain outcome to client	11%
<b>Investigation</b>	
Develop task list for investigator	18%
Identify potential witnesses	21%
Interview witnesses	29%
Visit the crime scene	32%
Review audio recordings or transcripts	32%
Identify and review records and physical evidence	26%
Confer with expert witnesses	24%
Direct activities of investigative staff	18%
Review investigator reports	18%
Discuss process with client, determine whether additional needs are being met	16%
<b>Discovery</b>	
Respond to discovery requests	13%
Prepare discovery requests	13%
Review discovery	37%
Provide copies of relevant discovery to others, where appropriate	16%
<b>Mitigation Investigation</b>	

n = 38

Sufficiency of Time Survey Results, Attorneys  
*First-Degree Murder, Non-Capital*

Activity	Adjustment Needed (% of respondents)
Request funds for mitigation specialist	11%
Develop task list for mitigation specialist	8%
Determine relevant mitigation witnesses	11%
Direct and monitor activities of mitigation staff	8%

n = 38



Sufficiency of Time Survey Results, Attorneys  
*First-Degree Murder, Non-Capital*

Activity	Adjustment Needed (% of respondents)
Request funds for mitigation specialist	11%
Develop task list for mitigation specialist	8%
Determine relevant mitigation witnesses	11%
Direct and monitor activities of mitigation staff	8%

n = 38

Sufficiency of Time Survey Results, Attorneys  
 First-Degree Murder, Non-Capital

Activity	Adjustment Needed (% of respondents)
<b>Trial on the Penalty</b>	
Prepare client	11%
Arrange for witness appearances	13%
Legal research	13%
Prepare an opening statement	8%
Prepare for direct and cross	8%
Prepare for motions	8%
Prepare exhibits	11%
Discuss stipulations with prosecutor	5%
Prepare closing argument	5%
Prepare proposed jury instructions and arguments	5%
Appear at trial on the penalty	8%
<b>Sentencing</b>	
Interview client	5%
Discuss outcomes	8%
Review sentencing documents	8%
Interview relevant parties	16%
Secure additional witnesses/experts	11%
Discuss sentencing with prosecutor	8%
Investigate alternative dispositions/specialized client programs	11%
Prepare sentencing argument	11%
Appear at sentencing hearing	8%
Explain outcome to client	5%
Ensure all relevant documents are signed	3%
Determine whether client needs additional services	11%
Connect client with needed services	11%
<b>Post-Disposition</b>	
Research appropriateness of post-disposition motions	8%
Meet with client to discuss motion options and appeal	8%
Prepare post-disposition motion	8%
Appear at post-disposition motion hearing	5%
Explain outcome to client/discuss options	5%
Adequately assist appellate counsel	5%
Review and correct errors in orders/documents	8%
Contact/interview jurors	5%
Prepare for appeal	5%
Keep client informed	5%
Determine whether client needs additional services	5%

n = 38

Sufficiency of Time Survey Results, Attorneys  
*First-Degree Murder, Non-Capital*

Other Case Activities	Activity	Adjustment Needed (% of respondents)
	Respond to client and family questions	29%
	Keep client and family informed of case status	21%
	Legal research	29%
	Determine whether client needs additional services	21%

Sufficiency of Time Survey Results, Attorneys  
 Felony A, B1, B2

Activity	Adjustment Needed (% of respondents)
<b>Initial Interview</b>	
Review case documents	33%
Engage in client interview	26%
Obtain and review relevant records	41%
Review immigration issues	15%
Determine whether additional services are needed	7%
Connect client with needed services	22%
<b>Initial Bond Hearing</b>	
Discuss bond options with client	19%
Prepare for appropriate bond argument	15%
Communicate with pretrial service program	11%
If released, explain conditions of release to client	15%
If not released, discuss results with client	19%
If not released, ensure client's special needs are met while incarcerated	26%
If not released, periodically review eligibility for release	15%
If not released, file motion to reduce/modify bond	15%
Connect client with needed services	19%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	11%
Prepare for hearing	11%
Appear at hearing	7%
Explain outcome to client	11%
<b>Competency Hearing</b>	
File initial competency motion	15%
Review competency examination	7%
File formal competency motion	7%
Prepare for competency hearing	19%
Appear at competency hearing	11%
<b>Bond Revocation/Bond Review Hearing</b>	
Discuss options with client	7%
Review relevant documents	7%
Prepare and file bond motion	11%
Communicate with pretrial service program	7%
Prepare for hearing	15%
Appear at hearing	4%
If released, explain conditions of release and consequences to client	7%
If not released, discuss results with client	11%
If not released, ensure client's special needs are met while incarcerated	15%

n = 27

Sufficiency of Time Survey Results, Attorneys  
*Felony A, B1, B2*

Activity	Adjustment Needed (% of respondents)
If not released, periodically review eligibility for release	11%
Connect client with needed services	7%

n = 27

Sufficiency of Time Survey Results, Attorneys  
*Felony A, B1, B2*

Activity	Adjustment Needed (% of respondents)
<b>Probable Cause Hearing</b>	
Discuss probable cause hearing with client	7%
Prepare for hearing	11%
Appear at hearing	7%
Explain outcome to client	7%
<b>Return of Indictment/Bill of Information</b>	
Review indictment for challenges	19%
Discuss indictment with client	19%
Research challenges	26%
Prepare motion to quash or challenge	11%
Prepare for hearing	15%
Appear at hearing	11%
Explain outcome to client	7%
<b>Investigation</b>	
Identify and interview potential witnesses	37%
Visit the crime scene	33%
Review audio recordings or transcripts	44%
Identify and review records and physical evidence	33%
Confer with expert witnesses	33%
Direct activities of investigative staff	19%
Determine whether client's additional needs are being met	15%
<b>Discovery</b>	
Respond to discovery requests	7%
Prepare discovery requests	7%
Review discovery	41%
<b>Motion Practice</b>	
Research pretrial motions	37%
Discuss motion options with client	19%
Prepare and file appropriate pretrial motions	33%
Respond to pretrial motions	15%
Prepare for motion hearing	26%
Appear at motion hearing	7%
Explain outcome to client	11%

n = 27

Sufficiency of Time Survey Results, Attorneys  
 Felony A, B1, B2

Activity	Adjustment Needed (% of respondents)
<b>Probable Cause Hearing</b>	
Discuss probable cause hearing with client	7%
Prepare for hearing	11%
Appear at hearing	7%
Explain outcome to client	7%
<b>Return of Indictment/Bill of Information</b>	
Review indictment for challenges	19%
Discuss indictment with client	19%
Research challenges	26%
Prepare motion to quash or challenge	11%
Prepare for hearing	15%
Appear at hearing	11%
Explain outcome to client	7%
<b>Investigation</b>	
Identify and interview potential witnesses	37%
Visit the crime scene	33%
Review audio recordings or transcripts	44%
Identify and review records and physical evidence	33%
Confer with expert witnesses	33%
Direct activities of investigative staff	19%
Determine whether client's additional needs are being met	15%
<b>Discovery</b>	
Respond to discovery requests	7%
Prepare discovery requests	7%
Review discovery	41%
<b>Motion Practice</b>	
Research pretrial motions	37%
Discuss motion options with client	19%
Prepare and file appropriate pretrial motions	33%
Respond to pretrial motions	15%
Prepare for motion hearing	26%
Appear at motion hearing	7%
Explain outcome to client	11%

n = 27

Sufficiency of Time Survey Results, Attorneys  
 Felony A, B1, B2

	Activity	Adjustment Needed (% of respondents)
<b>Presentence Report Preparation</b>		
	Discuss preparation of report with client	4%
	Provide information about the client to plan preparer	4%
	Review completed plan	4%
	Discuss completed plan with client	4%
	Correct plan errors	4%
<b>Non-Trial Disposition</b>		
	Engage in plea negotiations with prosecutor	22%
	Discuss plea options with client	37%
	Review discovery and evidence with client	37%
	Inform client of plea options/consequences of plea	26%
	Determine whether client needs additional services	19%
<b>Plea</b>		
	Prepare relevant plea documents	11%
	Prepare client for plea hearing	22%
	Prepare argument for plea hearing	15%
	Appear at plea hearing	7%
	Explain outcome to client	7%
	Ensure all relevant documents are signed	11%
	Connect client with needed services	15%
<b>Trial</b>		
	Prepare client	41%
	Arrange for witness appearances	30%
	Legal research	37%
	Prepare an opening statement	22%
	Prepare for direct and cross	26%
	Prepare for motions	30%
	Prepare exhibits	22%
	Discuss stipulations with prosecutor	15%
	Prepare closing argument	26%
	Prepare proposed jury instructions and arguments	26%
	Prepare for jury selection	22%
	Appear at jury selection	15%
	Appear at trial	15%

n = 27



Sufficiency of Time Survey Results, Attorneys  
 Felony A, B1, B2

Activity	Adjustment Needed (% of respondents)
<b>Sentencing</b>	
Interview client	19%
Discuss outcomes	15%
Review sentencing documents	7%
Interview relevant parties	26%
Discuss sentencing with prosecutor	19%
Investigate alternative dispositions/specialized client programs	30%
Prepare sentencing argument	11%
Appear at sentencing hearing	7%
Explain outcome to client	11%
Ensure all relevant documents are signed	7%
Determine whether client needs additional services	22%
Connect client with needed services	19%
If Immigration at issue, discuss options with client	19%
If immigration at issue, connect client with immigration assistance/services	26%
<b>Post-Disposition</b>	
Research appropriateness of post-disposition motions	4%
Meet with client to discuss motion options and appeal	7%
Prepare post-disposition motion	4%
Appear at post-disposition motion hearing	7%
Explain outcome to client/discuss options	4%
Adequately assist appellate counsel	7%
Review and correct errors in orders/documents	7%
Prepare for appeal	%
Keep client informed	7%
Determine whether client needs additional services	7%
<b>Other Case Activities</b>	
Respond to client and family questions	26%
Keep client and family informed of case status	30%
Legal research	37%
Determine whether client needs additional services	19%

n = 27

Sufficiency of Time Survey Results, Attorney  
 Felony C, E, D, F

Activities	Percentage Adjustment Needed
<b>Initial Interview</b>	
Review case documents	31%
Engage in client interview	23%
Obtain and review relevant records	29%
Review immigration issues	23%
Determine whether additional services are needed	31%
Connect client with needed services	31%
<b>Initial Bond Hearing</b>	
Discuss bond options with client	21%
Prepare for appropriate bond argument	17%
Communicate with pretrial service program	17%
If released, explain conditions of release to client	15%
If not released, discuss results with client	19%
If not released, ensure client's special needs are met while incarcerated	25%
If not released, periodically review eligibility for release	21%
If not released, file motion to reduce/modify bond	19%
Connect client with needed services	21%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	13%
Prepare for hearing	10%
Appear at hearing	10%
Explain outcome to client	13%
<b>Competency Hearing</b>	
File initial competency motion	15%
Review competency examination	17%
File formal competency motion	15%
Prepare for competency hearing	21%
Appear at competency hearing	8%
<b>Bond Revocation/Bond Review Hearing</b>	
Discuss options with client	13%
Review relevant documents	13%
Prepare and file bond motion	13%
Communicate with pretrial service program	13%
Prepare for hearing	25%
Appear at hearing	10%
If released, explain conditions of release and consequences to client	13%
If not released, discuss results with client	17%
If not released, ensure client's special needs are met while incarcerated	21%
If not released, periodically review eligibility for release	21%

n = 48

Sufficiency of Time Survey Results, Attorney  
*Felony C, E, D, F*

Connect client with needed services 19%

n = 48

## Sufficiency of Time Survey Results, Attorney

*Felony C, E, D, F*

## Probable Cause Hearing

Discuss probable cause hearing with client	8%
Prepare for hearing	8%
Appear at hearing	4%
Explain outcome to client	4%

## Return of Indictment/Bill of Information

Review indictment for challenges	13%
Discuss indictment with client	17%
Research challenges	29%
Prepare motion to quash or challenge	15%
Prepare for hearing	13%
Appear at hearing	10%
Explain outcome to client	13%

## Investigation

Identify and interview potential witnesses	40%
Visit the crime scene	42%
Review audio recordings or transcripts	48%
Identify and review records and physical evidence	38%
Confer with expert witnesses	35%
Direct activities of investigative staff	19%
Determine whether client's additional needs are being met	25%

## Discovery

Respond to discovery requests	13%
Prepare discovery requests	15%
Review discovery	38%

## Motion Practice

Research pretrial motions	35%
Discuss motion options with client	21%
Prepare and file appropriate pretrial motions	33%
Respond to pretrial motions	15%
Prepare for motion hearing	31%
Appear at motion hearing	13%
Explain outcome to client	15%

## Presentence Report Preparation

Discuss preparation of report with client	8%
Provide information about the client to plan preparer	8%
Review completed plan	8%
Discuss completed plan with client	8%
Correct plan errors	8%

n = 48

## Sufficiency of Time Survey Results, Attorney

Felony C, E, D, F

## Non-Trial Disposition

Engage in plea negotiations with prosecutor	29%
Discuss plea options with client	33%
Review discovery and evidence with client	35%
Inform client of plea options consequences of plea	29%
Determine whether client needs additional services	29%

## Plea

Prepare relevant plea documents	17%
Prepare client for plea hearing	25%
Prepare argument for plea hearing	17%
Appear at plea hearing	10%
Explain outcome to client	15%
Ensure all relevant documents are signed	13%
Connect client with needed services	25%

## Trial

Prepare client	38%
Arrange for witness appearances	35%
Legal research	40%
Prepare an opening statement	19%
Prepare for direct and cross	31%
Prepare for motions	29%
Prepare exhibits	27%
Discuss stipulations with prosecutor	17%
Prepare closing argument	23%
Prepare proposed jury instructions and arguments	21%
Prepare for jury selection	23%
Appear at jury selection	13%
Appear at trial	13%

## Sentencing

Interview client	23%
Discuss outcomes	29%
Review sentencing documents	15%
Interview relevant parties	29%
Discuss sentencing with prosecutor	21%
Investigate alternative dispositions/specialized client programs	27%
Prepare sentencing argument	19%
Appear at sentencing hearing	15%
Explain outcome to client	15%
Ensure all relevant documents are signed	13%
Determine whether client needs additional services	25%
Connect client with needed services	29%
If Immigration at issue, discuss options with client	25%
If immigration at issue, connect client with immigration assistance/services	31%

n = 48

Sufficiency of Time Survey Results, Attorney

*Felony C, E, D, F*

Post-Disposition

Research appropriateness of post-disposition motions	6%
Meet with client to discuss motion options and appeal	8%
Prepare post-disposition motion	6%
Appear at post-disposition motion hearing	4%
Explain outcome to client/discuss options	4%
Adequately assist appellate counsel	8%
Review and correct errors in orders/documents	8%
Prepare for appeal	4%
Keep client informed	4%
Determine whether client needs additional services	8%

Other Case Activities

Respond to client and family questions	31%
Keep client and family informed of case status	31%
Legal research	40%
Determine whether client needs additional services	29%

n = 48

Sufficiency of Time Survey Results, Attorney

*Felony C, E, D, F*

Post-Disposition

Research appropriateness of post-disposition motions	6%
Meet with client to discuss motion options and appeal	8%
Prepare post-disposition motion	6%
Appear at post-disposition motion hearing	4%
Explain outcome to client/discuss options	4%
Adequately assist appellate counsel	8%
Review and correct errors in orders/documents	8%
Prepare for appeal	4%
Keep client informed	4%
Determine whether client needs additional services	8%

Other Case Activities

Respond to client and family questions	31%
Keep client and family informed of case status	31%
Legal research	40%
Determine whether client needs additional services	29%

n = 48

Sufficiency of Time Survey Results, Attorney  
*Felony G, H, I*

Connect client with needed services 23%

n = 65



## Sufficiency of Time Survey Results, Attorney

*Felony G, H, I*

## Probable Cause Hearing

Discuss probable cause hearing with client	17%
Prepare for hearing	17%
Appear at hearing	8%
Explain outcome to client	9%

## Return of Indictment/Bill of Information

Review indictment for challenges	18%
Discuss indictment with client	17%
Research challenges	29%
Prepare motion to quash or challenge	20%
Prepare for hearing	18%
Appear at hearing	8%
Explain outcome to client	11%

## Investigation

Identify and interview potential witnesses	45%
Visit the crime scene	40%
Review audio recordings or transcripts	45%
Identify and review records and physical evidence	37%
Confer with expert witnesses	34%
Direct activities of investigative staff	20%
Determine whether client's additional needs are being met	26%

## Discovery

Respond to discovery requests	6%
Prepare discovery requests	8%
Review discovery	35%

## Motion Practice

Research pretrial motions	40%
Discuss motion options with client	28%
Prepare and file appropriate pretrial motions	37%
Respond to pretrial motions	18%
Prepare for motion hearing	32%
Appear at motion hearing	15%
Explain outcome to client	18%

## Presentence Report Preparation

Discuss preparation of report with client	8%
Provide information about the client to plan preparer	8%
Review completed plan	6%
Discuss completed plan with client	6%
Correct plan errors	6%

n = 65

## Sufficiency of Time Survey Results, Attorney

## Felony G, H, I

## Non-Trial Disposition

Engage in plea negotiations with prosecutor	37%
Discuss plea options with client	37%
Review discovery and evidence with client	45%
Inform client of plea options consequences of plea	34%
Determine whether client needs additional services	34%

## Plea

Prepare relevant plea documents	17%
Prepare client for plea hearing	25%
Prepare argument for plea hearing	18%
Appear at plea hearing	11%
Explain outcome to client	18%
Ensure all relevant documents are signed	15%
Connect client with needed services	26%

## Trial

Prepare client	43%
Arrange for witness appearances	37%
Legal research	40%
Prepare an opening statement	25%
Prepare for direct and cross	28%
Prepare for motions	28%
Prepare exhibits	29%
Discuss stipulations with prosecutor	23%
Prepare closing argument	26%
Prepare proposed jury instructions and arguments	23%
Prepare for jury selection	25%
Appear at jury selection	17%
Appear at trial	18%

## Sentencing

Interview client	25%
Discuss outcomes	25%
Review sentencing documents	20%
Interview relevant parties	32%
Discuss sentencing with prosecutor	26%
Investigate alternative dispositions/specialized client programs	35%
Prepare sentencing argument	23%
Appear at sentencing hearing	15%
Explain outcome to client	17%
Ensure all relevant documents are signed	15%
Determine whether client needs additional services	32%
Connect client with needed services	34%
If Immigration at issue, discuss options with client	31%
If immigration at issue, connect client with immigration assistance/services	40%

n = 65

Sufficiency of Time Survey Results, Attorney

*Felony G, H, I*

Post-Disposition

Research appropriateness of post-disposition motions	8%
Meet with client to discuss motion options and appeal	9%
Prepare post-disposition motion	8%
Appear at post-disposition motion hearing	8%
Explain outcome to client/discuss options	9%
Adequately assist appellate counsel	11%
Review and correct errors in orders/documents	12%
Prepare for appeal	9%
Keep client informed	9%
Determine whether client needs additional services	12%

Other Case Activities

Respond to client and family questions	45%
Keep client and family informed of case status	43%
Legal research	43%
Determine whether client needs additional services	35%

n = 65

Sufficiency of Time Survey Results, Attorneys  
DWI

Activities	Adjustment Needed (% of Respondents)
<b>Initial Interview</b>	
Review case documents	27%
Engage in client interview	39%
Obtain and review relevant records	32%
Review immigration issues	27%
Determine whether additional services are needed	37%
Connect client with needed services	37%
<b>Initial Bond Hearing</b>	
Discuss bond options with client	12%
Prepare for appropriate bond argument	12%
Communicate with pretrial service program	12%
If released, explain conditions of release to client	17%
If not released, discuss results with client	22%
If not released, ensure client's special needs are met while incarcerated	24%
If not released, periodically review eligibility for release	20%
If not released, file motion to reduce/modify bond	22%
Connect client with needed services	24%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	7%
Prepare for hearing	7%
Appear at hearing	2%
Explain outcome to client	5%
<b>Competency Hearing</b>	
File initial competency motion	7%
Review competency examination	5%
File formal competency motion	15%
Prepare for competency hearing	15%
Appear at competency hearing	7%
<b>Bond Revocation/Bond Review Hearing</b>	
Discuss options with client	15%
Review relevant documents	17%
Prepare and file bond motion	17%
Communicate with pretrial service program	20%
Prepare for hearing	17%
Appear at hearing	10%
If released, explain conditions of release and consequences to client	15%
If not released, discuss results with client	17%
If not released, ensure client's special needs are met while incarcerated	20%
If not released, periodically review eligibility for release	20%
Connect client with needed services	20%

n = 41

Sufficiency of Time Survey Results, Attorneys  
DWI

Activities	Adjustment Needed (% of Respondents)
<b>Initial Interview</b>	
Review case documents	27%
Engage in client interview	39%
Obtain and review relevant records	32%
Review immigration issues	27%
Determine whether additional services are needed	37%
Connect client with needed services	37%
<b>Initial Bond Hearing</b>	
Discuss bond options with client	12%
Prepare for appropriate bond argument	12%
Communicate with pretrial service program	12%
If released, explain conditions of release to client	17%
If not released, discuss results with client	22%
If not released, ensure client's special needs are met while incarcerated	24%
If not released, periodically review eligibility for release	20%
If not released, file motion to reduce/modify bond	22%
Connect client with needed services	24%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	7%
Prepare for hearing	7%
Appear at hearing	2%
Explain outcome to client	5%
<b>Competency Hearing</b>	
File initial competency motion	7%
Review competency examination	5%
File formal competency motion	15%
Prepare for competency hearing	15%
Appear at competency hearing	7%
<b>Bond Revocation/Bond Review Hearing</b>	
Discuss options with client	15%
Review relevant documents	17%
Prepare and file bond motion	17%
Communicate with pretrial service program	20%
Prepare for hearing	17%
Appear at hearing	10%
If released, explain conditions of release and consequences to client	15%
If not released, discuss results with client	17%
If not released, ensure client's special needs are met while incarcerated	20%
If not released, periodically review eligibility for release	20%
Connect client with needed services	20%

n = 41



## Sufficiency of Time Survey Results, Attorneys

*DWI*

## Non-Trial Disposition

Engage in plea negotiations with prosecutor	24%
Discuss plea options with client	29%
Review discovery and evidence with client	41%
Inform client of plea options consequences of plea	41%
Determine whether client needs additional services	34%

## Plea

Prepare relevant plea documents	12%
Prepare client for plea hearing	27%
Prepare argument for plea hearing	22%
Appear at plea hearing	12%
Explain outcome to client	29%
Ensure all relevant documents are signed	17%
Connect client with needed services	29%

## Trial

Prepare client	44%
Arrange for witness appearances	37%
Legal research	44%
Prepare an opening statement	17%
Prepare for direct and cross	32%
Prepare for motions	32%
Prepare exhibits	20%
Discuss stipulations with prosecutor	17%
Prepare closing argument	32%
Prepare proposed jury instructions and arguments	15%
Prepare for jury selection	15%
Appear at jury selection	15%
Appear at trial	22%

## Sentencing

Interview client	24%
Review sentencing documents	17%
Interview relevant parties	15%
Discuss sentencing with prosecutor	20%
Investigate alternative dispositions/specialized client programs	15%
Prepare sentencing argument	20%
Appear at sentencing hearing	12%
Explain outcome to client	22%
Ensure all relevant documents are signed	17%
Determine whether client needs additional services	27%
Connect client with needed services	29%
If Immigration at issue, discuss options with client	22%
If immigration at issue, connect client with immigration assistance/services	22%

n = 41

Sufficiency of Time Survey Results, Attorneys

*DWI*

Post-Disposition

Research appropriateness of post-disposition motions	12%
Meet with client to discuss motion options and appeal	12%
Prepare post-disposition motion	7%
Appear at post-disposition motion hearing	5%
Explain outcome to client/discuss options	15%
Adequately assist appellate counsel	7%
Review and correct errors in orders/documents	7%
Prepare for appeal	12%
Keep client informed	15%
Determine whether client needs additional services	12%

Other Case Activities

Respond to client and family questions	44%
Keep client and family informed of case status	41%
Legal research	44%
Determine whether client needs additional services	34%

n = 41

Sufficiency of Time Survey Results, Attorneys  
 Misdemeanor, Traffic and Non-Traffic

Activities	Adjustment Needed (% of Respondents)
<b>Initial Interview</b>	
Review case documents	27%
Engage in client interview	46%
Obtain and review relevant records	43%
Review immigration issues	46%
Determine whether additional services are needed	51%
Connect client with needed services	57%
<b>Initial Bond Hearing</b>	
Discuss bond options with client	27%
Prepare for appropriate bond argument	24%
Communicate with pretrial service program	30%
If released, explain conditions of release to client	27%
If not released, discuss results with client	27%
If not released, ensure client's special needs are met while incarcerated	32%
If not released, periodically review eligibility for release	30%
If not released, file motion to reduce/modify bond	30%
Connect client with needed services	41%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	14%
Prepare for hearing	11%
Appear at hearing	11%
Explain outcome to client	14%
<b>Competency Hearing</b>	
File initial competency motion	27%
Review competency examination	30%
File formal competency motion	27%
Prepare for competency hearing	27%
Appear at competency hearing	22%
<b>Bond Revocation/Bond Review Hearing</b>	
Discuss options with client	32%
Review relevant documents	30%
Prepare and file bond motion	32%
Communicate with pretrial service program	32%
Prepare for hearing	38%
Appear at hearing	27%
If released, explain conditions of release and consequences to client	30%
If not released, discuss results with client	32%
If not released, ensure client's special needs are met while incarcerated	35%

n = 37



**Sufficiency of Time Survey Results, Attorneys*****Misdemeanor, Traffic and Non-Traffic***

If not released, periodically review eligibility for release	32%
Connect client with needed services	35%

n = 37

**Sufficiency of Time Survey Results, Attorneys**

*Misdemeanor, Traffic and Non-Traffic*

**Investigation**

Identify and interview potential witnesses	54%
Visit the crime scene	43%
Review audio recordings or transcripts	51%
Identify and review records and physical evidence	49%
Confer with expert witnesses	38%
Direct activities of investigative staff	51%

Discuss process with client, Determine whether additional needs are being met 51%

**Discovery**

Respond to discovery requests	11%
Prepare discovery requests	19%
Review discovery	22%

**Motion Practice**

Research pretrial motions	41%
Discuss motion options with client	35%
Prepare and file appropriate pretrial motions	38%
Respond to pretrial motions	27%
Prepare for motion hearing	32%
Appear at motion hearing	30%
Explain outcome to client	32%

**Non-Trial Disposition**

Engage in plea negotiations with prosecutor	38%
Discuss plea options with client	41%
Review discovery and evidence with client	38%
Inform client of plea options consequences of plea	43%
Determine whether client needs additional services	49%

**Plea**

Prepare relevant plea documents	24%
Prepare client for plea hearing	35%
Prepare argument for plea hearing	24%
Appear at plea hearing	19%
Explain outcome to client	32%

**Trial**

Prepare client	22%
Arrange for witness appearances	38%
Legal research	57%
Prepare an opening statement	51%
Prepare for direct and cross	54%
Prepare for motions	24%
Prepare exhibits	38%
Discuss stipulations with prosecutor	32%
Prepare closing argument	35%
Prepare proposed jury instructions and arguments	30%
Appear at trial	35%

n = 37

Sufficiency of Time Survey Results, Attorneys

*Misdemeanor, Traffic and Non-Traffic*

Sentencing

Interview client	27%
Review sentencing documents	30%
Interview relevant parties	32%
Discuss sentencing with prosecutor	24%
Investigate alternative dispositions/specialized client programs	27%
Prepare sentencing argument	27%
Appear at sentencing hearing	32%
Explain outcome to client	22%
Ensure all relevant documents are signed	19%
Connect client with needed services	30%
If Immigration at issue, discuss options with client	16%

If immigration at issue, connect client with immigration assistance/services 35%

Post-Disposition

Post-Disposition	32%
Research appropriateness of post-disposition motions	32%
Meet with client to discuss motion options and appeal	16%
Prepare post-disposition motion	19%
Appear at post-disposition motion hearing	14%
Explain outcome to client/discuss options	11%
Adequately assist appellate counsel	11%
Review and correct errors in orders/documents	8%
Prepare for appeal	11%
Keep client informed	16%
Determine whether client needs additional services	19%

Other Case Activities

Respond to client and family questions	57%
Keep client and family informed of case status	51%
Legal research	43%
Determine whether client needs additional services	46%

Same-Day Misdemeanors (meet client and resolve case on same day)

Review documents	43%
Engage in client interview	54%
Discuss/negotiate case with prosecutor	54%
Appear in court	38%
Explain outcome to client	49%
Ensure all relevant documents are signed	32%

n = 37

Sufficiency of Time Survey Results, Attorneys  
 Probation Violation, Felony and Non-Felony

Activities	Adjustment Needed (% of Respondents)
<b>Initial Interview</b>	
Review original case file	42%
Review case documents	39%
Engage in client interview	44%
Discuss case with probation officer	44%
Review immigration issues	22%
Determine whether additional services are needed	36%
Connect client with needed services	36%
<b>Initial Bond Hearing</b>	
Discuss options with client	22%
Review relevant documents	19%
Prepare and file bond motion	22%
Prepare for hearing	22%
Appear at hearing	19%
If released, explain conditions of release and consequences to client	22%
If not released, discuss results with client	22%
If not released, ensure client's special needs are met while incarcerated	25%
Connect client with needed services	31%
<b>Preliminary Probation Violation Hearing</b>	
Discuss hearing with client	22%
Prepare for hearing	25%
Investigate alternative dispositions specialized client programs	25%
Appear at hearing	17%
Explain outcome to client	22%
<b>Final Probation Violation Hearing</b>	
Discuss hearing with client	47%
Prepare for hearing	39%
Investigate alternative dispositions specialized client programs	47%
Prepare sentencing arguments in case of revocation	33%
Appear at hearing	31%
Explain outcome to client	28%
Ensure all relevant documents are signed	22%
If Immigration at issue, discuss options with client	33%
If immigration at issue, connect client with immigration assistance/services	33%
Connect client with other needed services	42%

n = 36

**Sufficiency of Time Survey Results, Attorneys**

*Probation Violation, Felony and Non-Felony*

**Post-Disposition**

Explain outcome to client/discuss options	14%
Adequately assist appellate counsel	8%
Review and correct errors in orders/documents	11%
Research appropriateness of post-disposition motions/appeal	8%
Determine whether client needs additional services	17%
Prepare de novo review to superior court	8%

**Other Case Activities**

Respond to client and family questions	42%
Keep client and family informed of case status	39%
Legal research	42%
Determine whether client needs additional services	39%

n = 36

Sufficiency of Time Survey Results, Attorneys  
Specialized Courts - All

Activities	Adjustment Needed (% of Respondents)
<b>Initial Interview</b>	
Review case documents	30%
Obtain and review relevant records	40%
Explain specialty court requirements to client	50%
Connect client with needed services	50%
<b>Team Meetings/Staffings/Court Sessions</b>	
Review case file	40%
Investigate alternative sanctions/specialized client programs	30%
Other preparation	30%
Attend team meeting/staffing	40%
Attend specialty court session	20%
Discuss options with client	40%
Explain outcome to client	50%
<b>Monitor Program Compliance</b>	
Engage in periodic discussion with client about progress	50%
Follow up with prosecutor/treatment court coordinator/providers about client concerns	40%
Investigate alternative dispositions specialized client programs	30%
<b>General Case Activities</b>	
Respond to client questions	40%
Keep client informed of case status	30%
Learn details of specific specialty court program	40%
General research related to specialty courts	40%
Other legal research	60%
Connect client with needed services	40%

n = 10



Sufficiency of Time Results, Attorneys  
 Felony - Juvenile

Activity	Adjustment Needed (% of respondents)
<b>Initial Interview</b>	
Review case documents	33%
Engage in client interview	56%
Obtain and review relevant records	67%
Review immigration issues	33%
Determine whether additional services are needed	56%
Connect client with needed services	56%
<b>Initial Secure Custody Hearing</b>	
Discuss secure custody options with client	44%
Prepare for appropriate secure custody argument	56%
Communicate with pre-adjudication service programs	56%
Appear at secure custody hearing	11%
If released, explain conditions of release to client	33%
If not released, discuss results with client	33%
If not released, ensure client's special needs are met while in detention	33%
If not released, periodically review eligibility for release	22%
If not released, file motion to modify secure custody decision	33%
Connect client with needed services	44%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	44%
Prepare for hearing	33%
Appear at hearing	11%
Explain outcome to client	22%
<b>Competency Hearing</b>	
File initial competency motion	11%
Review competency examination	44%
File formal competency motion	11%
Prepare for competency hearing	33%
Appear at competency hearing	0%
<b>Secure Custody Review Hearing</b>	
Discuss options with client	33%
Review relevant documents	44%
Prepare and file motion for review	11%
Communicate with pre-adjudication service program	33%
Prepare for hearing	33%
Appear at hearing	11%
If released, explain conditions of release and consequences to client	11%
If not released, discuss results with client	22%
If not released, ensure client's special needs are met while in detention	33%
If not released, periodically review eligibility for release	22%

n = 9

Sufficiency of Time Results, Attorneys  
*Felony - Juvenile*

Activity	Adjustment Needed (% of respondents)
Connect client with needed services	33%

n = 9



Sufficiency of Time Results, Attorneys  
*Felony - Juvenile*

Activity	Adjustment Needed (% of respondents)
<b>Probable Cause Hearing</b>	
Discuss probable cause hearing with client	22%
Prepare for hearing	33%
Appear at hearing	11%
Explain outcome to client	22%
<b>Transfer Hearing</b>	
Discuss transfer hearing with client	0%
Prepare for hearing	22%
Appear at hearing	0%
Explain outcome to client	0%
If transferred, review decision for appeal to superior court	11%
Prepare for appeal	22%
Argue appeal	22%
Keep client informed	0%
Determine whether client needs additional services	11%
<b>Return of Delinquency Petition</b>	
Review delinquency petition for challenges	44%
Discuss delinquency petition with client	33%
Research challenges	67%
Prepare motion to quash or challenge	56%
Prepare for hearing	44%
Appear at hearing	22%
Explain outcome to client	22%
<b>Investigation</b>	
Identify and interview potential witnesses	67%
Visit the crime scene	44%
Review audio recordings or transcripts	56%
Identify and review records and physical evidence	67%
Confer with expert witnesses	78%
Direct activities of investigative staff	56%
Discuss process with client, Determine whether additional needs are being met	44%
Secure confidential information about juvenile and others involved in case	67%
<b>Discovery</b>	
Respond to discovery requests	11%
Prepare discovery requests	11%
Review discovery	44%
<b>Motion Practice</b>	
Research pre-adjudication motions	44%
Discuss motion options with client	22%
Prepare and file appropriate pre-adjudication motions	44%

n = 9

Sufficiency of Time Results, Attorneys  
*Felony - Juvenile*

Activity	Adjustment Needed (% of respondents)
Respond to prosecutor pre-adjudication motions	22%
Prepare for motion hearing	44%
Appear at motion hearing	22%
Explain outcome to client	22%

n = 9

Sufficiency of Time Results, Attorneys  
*Felony - Juvenile*

Activity	Adjustment Needed (% of respondents)
<b>Negotiated Disposition</b>	
Discuss plea options with client	33%
Review discovery and evidence with client	44%
Research plea options	33%
Engage in plea negotiations with prosecutor	22%
Inform client of plea options/consequences of plea	44%
Determine whether client needs additional services	33%
<b>Pre-Dispositional Report Preparation</b>	
Discuss preparation of report with client	33%
Provide information about the client to report preparer	56%
Review completed report	44%
Discuss completed report with client	44%
Correct report errors	44%
<b>Plea</b>	
Prepare relevant plea documents	22%
Prepare client for plea hearing	33%
Prepare argument for plea hearing	33%
<b>Appear at plea hearing</b>	
Explain outcome to client	11%
Ensure all relevant documents are signed	22%
Connect client with needed services	22%
Adjudication Hearing	44%
Prepare client	33%
Arrange for witness appearances	56%
Interview witnesses	78%
Obtain relevant documents	56%
Arrange for experts to appear	78%
Legal research	67%
Review materials	44%
Prepare an opening statement	22%
Prepare for direct and cross	33%
Prepare for motions	33%
Prepare exhibits	11%
Prepare closing argument	11%
Discuss stipulations with prosecutor	11%
Appear at adjudication hearing	11%

n = 9

Sufficiency of Time Results, Attorneys  
*Felony - Juvenile*

Activity	Adjustment Needed (% of respondents)
<b>Dispositional Hearing</b>	
Interview client	33%
Interview relevant parties	33%
Discuss adjudication with prosecutor	33%
Obtain relevant documents	33%
Review adjudication documents	22%
Investigate alternative dispositions/specialized client programs	33%
Prepare dispositional memorandum	22%
Prepare dispositional argument	33%
Appear at dispositional hearing	11%
Explain outcome to client	22%
Ensure all relevant documents are signed	11%
If Immigration at issue, discuss options with client	22%
If immigration at issue, connect client with immigration assistance/services	22%
Determine whether client needs additional services	22%
Connect client with other needed services	22%
<b>Post-Disposition</b>	
Research appropriateness of post-disposition motions	22%
Meet with client to discuss motion options and appeal	22%
Prepare post-disposition motion	22%
Appear at post-disposition motion hearing	11%
Explain outcome to client/discuss options	11%
Adequately assist appellate counsel	33%
Review and correct errors in orders/documents	33%
Prepare for appeal	22%
Keep client informed	22%
Meet with client to discuss options	22%
Determine whether client needs additional services	22%
<b>Other Case Activities</b>	
Respond to client and family questions	44%
Keep client and family informed of case status	22%
Legal research	56%
Determine whether client needs additional services	33%

n = 9

Sufficiency of Time Survey Results, Attorneys  
 Misdemeanor - Juvenile

Activity	Adjustment Needed (% of respondents)
<b>Initial Interview</b>	
Review case documents	13%
Engage in client interview	25%
Obtain and review relevant records	25%
Review immigration issues	13%
Determine whether additional services are needed	13%
Connect client with needed services	13%
<b>Initial Secure Custody Hearing</b>	
Discuss secure custody options with client	13%
Prepare for appropriate secure custody argument	13%
Communicate with pre-adjudication service programs	25%
Appear at secure custody hearing	13%
If released, explain conditions of release to client	13%
If not released, discuss results with client	13%
If not released, ensure client's special needs are met while in detention	25%
If not released, periodically review eligibility for release	13%
If not released, file motion to modify secure custody decision	13%
Connect client with needed services	25%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	13%
Prepare for hearing	13%
Appear at hearing	13%
Explain outcome to client	13%
<b>Competency Hearing</b>	
File initial competency motion	13%
Review competency examination	38%
File formal competency motion	25%
Prepare for competency hearing	38%
Appear at competency hearing	13%

n = 8

Sufficiency of Time Survey Results, Attorneys  
 Misdemeanor - Juvenile

Activity	Adjustment Needed (% of respondents)
<b>Initial Interview</b>	
Review case documents	13%
Engage in client interview	25%
Obtain and review relevant records	25%
Review immigration issues	13%
Determine whether additional services are needed	13%
Connect client with needed services	13%
<b>Initial Secure Custody Hearing</b>	
Discuss secure custody options with client	13%
Prepare for appropriate secure custody argument	13%
Communicate with pre-adjudication service programs	25%
Appear at secure custody hearing	13%
If released, explain conditions of release to client	13%
If not released, discuss results with client	13%
If not released, ensure client's special needs are met while in detention	25%
If not released, periodically review eligibility for release	13%
If not released, file motion to modify secure custody decision	13%
Connect client with needed services	25%
<b>Arraignment/First Appearance</b>	
Discuss hearing with client	13%
Prepare for hearing	13%
Appear at hearing	13%
Explain outcome to client	13%
<b>Competency Hearing</b>	
File initial competency motion	13%
Review competency examination	38%
File formal competency motion	25%
Prepare for competency hearing	38%
Appear at competency hearing	13%

n = 8



Sufficiency of Time Survey Results, Attorneys  
 Misdemeanor - Juvenile

Activity	Adjustment Needed (% of respondents)
<b>Negotiated Disposition</b>	
Discuss plea options with client	25%
Review discovery and evidence with client	38%
Research plea options	25%
Engage in plea negotiations with prosecutor	13%
Inform client of plea options/consequences of plea	13%
Determine whether client needs additional services	25%
<b>Pre-Dispositional Report Preparation</b>	
Discuss preparation of report with client	38%
Provide information about the client to report preparer	38%
Review completed report	38%
Discuss completed report with client	50%
Correct report errors	38%
<b>Plea</b>	
Prepare relevant plea documents	25%
Prepare client for plea hearing	25%
Prepare argument for plea hearing	13%
Appear at plea hearing	13%
Explain outcome to client	25%
Ensure all relevant documents are signed	13%
Connect client with needed services	25%
<b>Adjudication Hearing</b>	
Prepare client	38%
Arrange for witness appearances	50%
Interview witnesses	50%
Obtain relevant documents	38%
Arrange for experts to appear	38%
Legal research	38%
Review materials	38%
Prepare an opening statement	13%
Prepare for direct and cross	13%
Prepare for motions	13%
Prepare exhibits	25%
Prepare closing argument	13%
Discuss stipulations with prosecutor	13%
Appear at adjudication hearing	13%

n = 8

Sufficiency of Time Survey Results, Attorneys  
 Misdemeanor - Juvenile

Activity	Adjustment Needed (% of respondents)
<b>Negotiated Disposition</b>	
Discuss plea options with client	25%
Review discovery and evidence with client	38%
Research plea options	25%
Engage in plea negotiations with prosecutor	13%
Inform client of plea options/consequences of plea	13%
Determine whether client needs additional services	25%
<b>Pre-Dispositional Report Preparation</b>	
Discuss preparation of report with client	38%
Provide information about the client to report preparer	38%
Review completed report	38%
Discuss completed report with client	50%
Correct report errors	38%
<b>Plea</b>	
Prepare relevant plea documents	25%
Prepare client for plea hearing	25%
Prepare argument for plea hearing	13%
Appear at plea hearing	13%
Explain outcome to client	25%
Ensure all relevant documents are signed	13%
Connect client with needed services	25%
<b>Adjudication Hearing</b>	
Prepare client	38%
Arrange for witness appearances	50%
Interview witnesses	50%
Obtain relevant documents	38%
Arrange for experts to appear	38%
Legal research	38%
Review materials	38%
Prepare an opening statement	13%
Prepare for direct and cross	13%
Prepare for motions	13%
Prepare exhibits	25%
Prepare closing argument	13%
Discuss stipulations with prosecutor	13%
Appear at adjudication hearing	13%

n = 8



Sufficiency of Time Survey Results, Attorneys  
 Misdemeanor - Juvenile

Activity	Adjustment Needed (% of respondents)
<b>Negotiated Disposition</b>	
Discuss plea options with client	25%
Review discovery and evidence with client	38%
Research plea options	25%
Engage in plea negotiations with prosecutor	13%
Inform client of plea options/consequences of plea	13%
Determine whether client needs additional services	25%
<b>Pre-Dispositional Report Preparation</b>	
Discuss preparation of report with client	38%
Provide information about the client to report preparer	38%
Review completed report	38%
Discuss completed report with client	50%
Correct report errors	38%
<b>Plea</b>	
Prepare relevant plea documents	25%
Prepare client for plea hearing	25%
Prepare argument for plea hearing	13%
Appear at plea hearing	13%
Explain outcome to client	25%
Ensure all relevant documents are signed	13%
Connect client with needed services	25%
<b>Adjudication Hearing</b>	
Prepare client	38%
Arrange for witness appearances	50%
Interview witnesses	50%
Obtain relevant documents	38%
Arrange for experts to appear	38%
Legal research	38%
Review materials	38%
Prepare an opening statement	13%
Prepare for direct and cross	13%
Prepare for motions	13%
Prepare exhibits	25%
Prepare closing argument	13%
Discuss stipulations with prosecutor	13%
Appear at adjudication hearing	13%

n = 8

Sufficiency of Time Results, Attorneys  
A/N/D Adjudication

Activity	Adjustment Needed (% of respondents)
<b>Pre-Adjudication Motions</b>	
Research pre-adjudication motions	60%
Discuss motion options with client	40%
Prepare and file appropriate pre-adjudication motions	60%
Respond to pre-adjudication motions	40%
Prepare for motion hearing	40%
Appear at motion hearing	40%
Explain outcome to client	50%
<b>Pre-Adjudication Conference</b>	
Prepare for pre-adjudication conference	40%
Appear at pre-adjudication conference	40%
Explain outcome to client	40%
<b>Consent Judgment</b>	
Research consent judgment options	40%
Discuss consent judgment options with client	50%
Engage in consent judgment negotiations with DSS	50%
Engage in discussions with client's criminal counsel if applicable	50%
Inform client of consent judgment options offered/consequences	50%
Determine whether client needs additional services	40%
<b>Adjudication Hearing</b>	
Prepare client	50%
Arrange for witness appearances	50%
Arrange for experts to appear	50%
Legal research	50%
Review materials	50%
Prepare an opening statement	30%
Prepare for direct and cross	50%
Prepare for motions	50%
Prepare exhibits	50%
Prepare closing argument	50%
Discuss stipulations with DSS	50%
Appear at adjudication hearing	30%
<b>Dispositional Hearing</b>	
Prepare relevant documents	40%
Review documents	40%
Prepare client for dispositional hearing	50%
Prepare argument for dispositional hearing	40%
Arrange for witness appearances	40%
Identify appropriate services/referrals for client/family	50%
Discuss services/referrals for client/family with DSS	50%
Appear at dispositional hearing	30%
Explain outcome to client	30%
Ensure all relevant documents are signed	30%
Connect client with needed services	50%

n = 10

Sufficiency of Time Results, Attorneys  
A/N/D Adjudication

Activity	Adjustment Needed (% of respondents)
<b>Post-Disposition</b>	
Research appropriateness of post-disposition motions	50%
Meet with client to discuss motion options and appeal	50%
Prepare post-disposition motion	50%
Appear at post-disposition motion hearing	50%
Explain outcome to client/discuss options	50%
Adequately assist appellate counsel	50%
Review and correct errors in orders/documents	50%
Monitor client's compliance with order	50%
Determine whether client needs additional services	50%
<b>Parent GAL Appointment</b>	
Prepare motion to appoint a GAL for parent	20%
Review motion filed by others to appoint GAL for parent	30%
Prepare for GAL appointment hearing	20%
Appear at GAL appointment hearing	20%
<b>Other Case Activities</b>	
Respond to client and family questions	50%
Keep client and family informed of case status	60%
Legal research	60%
Determine whether client needs additional services	60%

n = 10

Sufficiency of Time Survey Results, Attorneys  
A/N/D Review

Activity	Adjustment Needed (% of respondents)
<b>Investigation/Prep for Review Hearing/Permanency Plan Hearing</b>	
Request review hearing	29%
Obtain and review all reports	29%
Engage in client interview	29%
Obtain and review other relevant evidence (photos, transcripts etc.)	43%
Identify and interview potential witnesses	43%
Subpoena report authors	43%
Determine whether required DSS services were provided	43%
Legal research	29%
Research other potential motions	14%
Prepare relevant motions	14%
Other hearing preparation	29%
Determine whether client's additional needs are being met	43%
<b>Review Hearing</b>	
Appear at hearing	14%
Explain outcome to client/review conditions	29%
Ensure child's needs are made clear to court/DSS	29%
Connect client with needed services	57%
<b>Permanency Plan Hearing</b>	
Appear at hearing	29%
Explain outcome to client/review conditions	29%
Ensure child's needs are made clear to court/DSS	29%
Connect client with needed services	57%
<b>Post-Review/Permanency Plan Hearing</b>	
Research appropriateness of rehearing/amended order	29%
Meet with client to discuss options	29%
Prepare for rehearing	29%
Appear at rehearing	29%
Explain outcome to client	29%
Prepare notice of appeal	14%
Adequately assist appellate counsel	43%
Explain outcome to client	29%
Determine whether client needs additional services	43%
<b>Other Case Activities</b>	
Respond to client and family questions	43%
Keep client and family informed of case status	43%
Legal research	57%
Determine whether client needs additional services	57%

n = 7

Sufficiency of Time Survey Results, Attorneys  
*Termination of Parental Rights*

	Activity	Adjustment Needed (% of respondents)
Initial Interview	Engage in client interview	60%
	Obtain and review relevant records	60%
	Review TPR petition and other documents	40%
	Engage in discussions with client's criminal counsel (if applicable)	40%
	Review immigration issues	0%
	Determine whether additional services are needed	40%
	Connect client with needed services	40%
Investigation	Obtain and review all reports	60%
	Engage in client interview	60%
	Determine whether required DSS services were provided	80%
	Identify potential witnesses	80%
	Interview witnesses	80%
	Identify and review records and physical evidence	80%
	Determine whether client's additional needs are being met	60%
Discovery	Respond to discovery requests	20%
	Prepare discovery requests	40%
	Review discovery	40%
Special Hearing	Discuss special hearing with client	0%
	Prepare for special hearing	0%
	Appear at special hearing	0%
Motion Practice	Research pretrial motions	60%
	Discuss motion options with client	40%
	Prepare and file appropriate pretrial motions	40%
	Respond to pretrial motions	40%
	Prepare for motion hearing	60%
	Appear at motion hearing	40%
	Explain outcome to client	40%
Voluntary Relinquishment	Discuss voluntary relinquishment with client	40%
	Research relinquishment options	20%
	Prepare for relinquishment hearing	0%
	Appear at relinquishment hearing	0%
	Ensure client understands results/consequences of outcome	20%
	Determine whether client needs additional services	0%

n = 5



<b>Termination Hearing</b>	Prepare client	40%	
	Arrange for witness appearances	60%	
	Arrange for experts to appear	60%	
	Legal research	80%	
	Review materials	40%	
	Prepare an opening statement	40%	
	Prepare for direct and cross	40%	
	Prepare for motions	40%	
	Prepare exhibits	40%	
	Prepare closing argument	40%	
	Discuss stipulations with DSS	40%	
	Appear at termination hearing	40%	
	<b>Dispositional Hearing</b>	Prepare relevant documents	40%
		Review documents	40%
Prepare client for dispositional hearing		40%	
Prepare argument for dispositional hearing		40%	
Arrange for witness appearances		40%	
Research alternative dispositions		40%	
Appear at dispositional hearing		20%	
Explain outcome to client		40%	
Ensure all relevant documents are signed		40%	
Connect client with needed services		20%	
<b>Post-Disposition</b>		Explain outcome to client/discuss options	40%
	Adequately assist appellate counsel	40%	
	Review and correct errors in orders/documents	40%	
	Research appropriateness of post-disposition motions/appeal	20%	
	File notice of appeal	0%	
	Meet with client to discuss options	40%	
	Determine whether client needs additional services	40%	
	Prepare/file motion to stay	40%	
<b>Parent GAL Appointment</b>	Prepare motion to appoint a GAL for parent	0%	
	Review motion filed by others to appoint GAL for parent	0%	
	Prepare for GAL appointment hearing	20%	
	Appear at GAL appointment hearing	20%	
<b>Other Case Activities</b>	Respond to client and family questions	40%	
	Keep client and family informed of case status	40%	
	Legal research	60%	
	Determine whether client needs additional services	60%	

n = 5

**APPENDIX D. SUFFICIENCY OF TIME SURVEY RESULTS,  
ADMINISTRATIVE STAFF AND INVESTIGATORS**

1

**Sufficiency of Time Results, Administrative Staff**  
*Criminal - First Degree Murder, Capital or Non-Capital*

Activity	Adjustment Needed % of respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	24%
Entering case information into the case management system	9%
Maintaining, archiving, and retrieving files	12%
Recording dispositions and filling out AOC forms	6%
File delivery and pickup	3%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	18%
Scheduling appointments	6%
Faxing documents	3%
Typing	12%
Producing form letters	3%
<b>Legal Research and Paralegal Services</b>	
Legal Research	21%
Draft motions	12%
Scheduling hearings	3%
Obtaining discovery	19%
Reviewing discovery	22%
Obtaining recordings	16%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	24%
Reviewing documents and records	28%
Coordinating expert witnesses	12%
Calculating and correcting jail credit	6%
Working with victims to determine restitution	0%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	13%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	15%
Providing direct support to client and family while physically present in the courtroom	15%

n = 59

Sufficiency of Time Results, Administrative Staff  
*Criminal - Felony*

Activity	Adjustment Needed % of respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	27%
Entering case information into the case management system	21%
Maintaining, archiving, and retrieving files	21%
Recording dispositions and filling out AOC forms	14%
File delivery and pickup	16%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	25%
Scheduling appointments	20%
Faxing documents	11%
Typing	19%
Producing form letters	21%
<b>Legal Research and Paralegal Services</b>	
Legal Research	25%
Draft motions	18%
Scheduling hearings	9%
Obtaining discovery	25%
Reviewing discovery	23%
Obtaining recordings	21%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	27%
Reviewing documents and records	27%
Coordinating expert witnesses	18%
Calculating and correcting jail credit	20%
Working with victims to determine restitution	5%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	13%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	21%
Providing direct support to client and family while physically present in the courtroom	13%

n = 69



Sufficiency of Time Results, Administrative Staff  
Criminal - DWI

Activity	Adjustment Needed % of respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	25%
Entering case information into the case management system	21%
Maintaining, archiving, and retrieving files	17%
Recording dispositions and filling out AOC forms	9%
File delivery and pickup	9%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	15%
Scheduling appointments	13%
Faxing documents	8%
Typing	13%
Producing form letters	17%
<b>Legal Research and Paralegal Services</b>	
Legal Research	13%
Draft motions	13%
Scheduling hearings	6%
Obtaining discovery	17%
Reviewing discovery	8%
Obtaining recordings	15%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	13%
Reviewing documents and records	11%
Coordinating expert witnesses	9%
Calculating and correcting jail credit	13%
Working with victims to determine restitution	2%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	9%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	13%
Providing direct support to client and family while physically present in the courtroom	9%

n = 57

Sufficiency of Time Results, Administrative Staff  
*Criminal - Misdemeanor, Traffic and Non-Traffic*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	18%
Entering case information into the case management system	20%
Maintaining, archiving, and retrieving files	18%
Recording dispositions and filling out AOC forms	6%
File delivery and pickup	4%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	20%
Scheduling appointments	12%
Faxing documents	10%
Typing	10%
Producing form letters	16%
<b>Legal Research and Paralegal Services</b>	
Legal Research	14%
Draft motions	12%
Scheduling hearings	6%
Obtaining discovery	8%
Reviewing discovery	6%
Obtaining recordings	10%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	16%
Reviewing documents and records	12%
Coordinating expert witnesses	2%
Calculating and correcting jail credit	12%
Working with victims to determine restitution	4%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	4%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	10%
Providing direct support to client and family while physically present in the courtroom	8%

n = 53

Sufficiency of Time Results, Administrative Staff  
*Criminal - Probation Violation, Felony and Non-Felony*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	23%
Entering case information into the case management system	21%
Maintaining, archiving, and retrieving files	15%
Recording dispositions and filling out AOC forms	9%
File delivery and pickup	6%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	15%
Scheduling appointments	11%
Faxing documents	9%
Typing	9%
Producing form letters	11%
<b>Legal Research and Paralegal Services</b>	
Legal Research	9%
Draft motions	6%
Scheduling hearings	4%
Obtaining discovery	6%
Reviewing discovery	4%
Obtaining recordings	9%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	15%
Reviewing documents and records	13%
Coordinating expert witnesses	2%
Calculating and correcting jail credit	11%
Working with victims to determine restitution	2%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	4%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	11%
Providing direct support to client and family while physically present in the courtroom	6%

n = 50

Sufficiency of Time Results, Administrative Staff  
*Criminal - Specialized Courts - All*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	6%
Entering case information into the case management system	6%
Maintaining, archiving, and retrieving files	6%
Recording dispositions and filling out AOC forms	6%
File delivery and pickup	6%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	11%
Scheduling appointments	6%
Faxing documents	6%
Typing	6%
Producing form letters	6%
<b>Legal Research and Paralegal Services</b>	
Legal Research	11%
Draft motions	11%
Scheduling hearings	6%
Obtaining discovery	11%
Reviewing discovery	6%
Obtaining recordings	11%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	11%
Reviewing documents and records	17%
Coordinating expert witnesses	6%
Calculating and correcting jail credit	0%
Working with victims to determine restitution	0%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	6%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	22%
Providing direct support to client and family while physically present in the courtroom	11%

n = 19

Sufficiency of Time Results, Administrative Staff  
*Criminal - Other Criminal*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	18%
Entering case information into the case management system	18%
Maintaining, archiving, and retrieving files	6%
Recording dispositions and filling out AOC forms	0%
File delivery and pickup	0%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	6%
Scheduling appointments	6%
Faxing documents	0%
Typing	0%
Producing form letters	6%
<b>Legal Research and Paralegal Services</b>	
Legal Research	6%
Draft motions	6%
Scheduling hearings	0%
Obtaining discovery	0%
Reviewing discovery	0%
Obtaining recordings	6%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	0%
Reviewing documents and records	6%
Coordinating expert witnesses	0%
Calculating and correcting jail credit	0%
Working with victims to determine restitution	0%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	0%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	0%
Providing direct support to client and family while physically present in the courtroom	0%

n = 18



Sufficiency of Time Results, Administrative Staff  
*Felony Juvenile*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	11%
Entering case information into the case management system	11%
Maintaining, archiving, and retrieving files	11%
Recording dispositions and filling out AOC forms	5%
File delivery and pickup	11%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	21%
Scheduling appointments	11%
Faxing documents	16%
Typing	11%
Producing form letters	11%
<b>Legal Research and Paralegal Services</b>	
Legal Research	11%
Draft motions	16%
Scheduling hearings	11%
Obtaining discovery	11%
Reviewing discovery	11%
Obtaining recordings	16%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	21%
Reviewing documents and records	11%
Coordinating expert witnesses	11%
Calculating and correcting jail credit	0%
Working with victims to determine restitution	5%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	11%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	11%
Providing direct support to client and family while physically present in the courtroom	11%

n = 21

Sufficiency of Time Results, Administrative Staff  
*Misdemeanor Juvenile*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	10%
Entering case information into the case management system	14%
Maintaining, archiving, and retrieving files	10%
Recording dispositions and filling out AOC forms	14%
File delivery and pickup	14%
<b>Secretarial Services</b>	
Telephone contact with clients, family, etc.	24%
Scheduling appointments	10%
Faxing documents	14%
Typing	14%
Producing form letters	14%
<b>Legal Research and Paralegal Services</b>	
Legal Research	14%
Draft motions	14%
Scheduling hearings	14%
Obtaining discovery	10%
Reviewing discovery	10%
Obtaining recordings	14%
Obtaining documents and records (e.g., school records, hospital records, criminal histories, driving histories, social media)	24%
Reviewing documents and records	14%
Coordinating expert witnesses	10%
Calculating and correcting jail credit	5%
Working with victims to determine restitution	10%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	14%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	10%
Providing direct support to client and family while physically present in the courtroom	14%

n = 22

Sufficiency of Time Results, Investigators  
*Criminal - First Degree Murder, Capital or Non-Capital*

Activity	Adjustment Needed % of respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	29%
Entering case information into the case management system	13%
File delivery and pickup	17%
<b>Investigative Services</b>	
Visiting the crime scene	52%
Identifying witnesses	64%
Interviewing witnesses	72%
Serving subpoenas	48%
Obtaining records	52%
Obtaining documents and records (e.g., school records, hospital records, social media)	60%
Conducting client intake interviews	56%
Family contact	40%
<b>Legal Research</b>	
Legal Research	29%
Draft motions	8%
<b>Social Work / Sentencing Advocacy Functions</b>	
Developing mitigation and alternative sentencing plans	48%
Connecting clients with resources (e.g., substance abuse, homelessness) and coordinating program placements	35%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	43%
<b>Reviewing Discovery and Records</b>	
Reviewing recordings for investigative purposes (client not present)	65%
Reviewing documents for investigative purposes (client not present)	57%
Reviewing discovery and evidence with client	48%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	30%
Providing direct support to client and family while physically present in the courtroom	30%
Testifying at trial	29%

n = 39



Sufficiency of Time Results, Investigators  
*Criminal - Felony*

Activity	Adjustment Needed % of respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	24%
Entering case information into the case management system	10%
File delivery and pickup	14%
<b>Investigative Services</b>	
Visiting the crime scene	40%
Identifying witnesses	60%
Interviewing witnesses	65%
Serving subpoenas	25%
Obtaining records	50%
Obtaining documents and records (e.g., school records, hospital records, social media)	55%
Conducting client intake interviews	45%
Family contact	40%
<b>Legal Research</b>	
Legal Research	11%
Draft motions	0%
<b>Social Work / Sentencing Advocacy Functions</b>	
Developing mitigation and alternative sentencing plans	32%
Connecting clients with resources (e.g., substance abuse, homelessness) and coordinating program placements	37%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	32%
<b>Reviewing Discovery and Records</b>	
Reviewing recordings for investigative purposes (client not present)	68%
Reviewing documents for investigative purposes (client not present)	58%
Reviewing discovery and evidence with client	47%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	32%
Providing direct support to client and family while physically present in the courtroom	32%
Testifying at trial	24%

n = 25

Sufficiency of Time Results, Investigators  
Criminal - DWI

Activity	Adjustment Needed % of respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	0%
Entering case information into the case management system	9%
File delivery and pickup	0%
<b>Investigative Services</b>	
Visiting the crime scene	27%
Identifying witnesses	45%
Interviewing witnesses	45%
Serving subpoenas	36%
Obtaining records	18%
Obtaining documents and records (e.g., school records, hospital records, social media)	18%
Conducting client intake interviews	27%
Family contact	9%
<b>Legal Research</b>	
Legal Research	0%
Draft motions	0%
<b>Social Work / Sentencing Advocacy Functions</b>	
Developing mitigation and alternative sentencing plans	27%
Connecting clients with resources (e.g., substance abuse, homelessness) and coordinating program placements	27%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	9%
<b>Reviewing Discovery and Records</b>	
Reviewing recordings for investigative purposes (client not present)	36%
Reviewing documents for investigative purposes (client not present)	27%
Reviewing discovery and evidence with client	27%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	27%
Providing direct support to client and family while physically present in the courtroom	9%
Testifying at trial	0%

n = 13

Sufficiency of Time Results, Investigators  
*Criminal - Misdemeanor, Traffic and Non-Traffic*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	7%
Entering case information into the case management system	0%
File delivery and pickup	0%
<b>Investigative Services</b>	
Visiting the crime scene	14%
Identifying witnesses	43%
Interviewing witnesses	43%
Serving subpoenas	29%
Obtaining records	29%
Obtaining documents and records (e.g., school records, hospital records, social media)	29%
Conducting client intake interviews	29%
Family contact	14%
<b>Legal Research</b>	
Legal Research	0%
Draft motions	0%
<b>Social Work / Sentencing Advocacy Functions</b>	
Developing mitigation and alternative sentencing plans	21%
Connecting clients with resources (e.g., substance abuse, homelessness) and coordinating program placements	29%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	14%
<b>Reviewing Discovery and Records</b>	
Reviewing recordings for investigative purposes (client not present)	36%
Reviewing documents for investigative purposes (client not present)	43%
Reviewing discovery and evidence with client	36%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	14%
Providing direct support to client and family while physically present in the courtroom	7%
Testifying at trial	7%

n = 16

Sufficiency of Time Results, Investigators  
*Criminal - Probation Violation, Felony and Non-Felony*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	27%
Entering case information into the case management system	0%
File delivery and pickup	0%
<b>Investigative Services</b>	
Visiting the crime scene	9%
Identifying witnesses	18%
Interviewing witnesses	18%
Serving subpoenas	27%
Obtaining records	18%
Obtaining documents and records (e.g., school records, hospital records, social media)	27%
Conducting client intake interviews	18%
Family contact	0%
<b>Legal Research</b>	
Legal Research	0%
Draft motions	0%
<b>Social Work / Sentencing Advocacy Functions</b>	
Developing mitigation and alternative sentencing plans	9%
Connecting clients with resources (e.g., substance abuse, homelessness) and coordinating program placements	18%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	0%
<b>Reviewing Discovery and Records</b>	
Reviewing recordings for investigative purposes (client not present)	18%
Reviewing documents for investigative purposes (client not present)	18%
Reviewing discovery and evidence with client	18%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	9%
Providing direct support to client and family while physically present in the courtroom	9%
Testifying at trial	27%

n = 13

Sufficiency of Time Results, Investigators  
*Felony Juvenile*

Activities	Adjustment Needed % of Respondents
<b>Intake and Records Management</b>	
Obtaining case documents and copying case files	10%
Entering case information into the case management system	10%
File delivery and pickup	10%
<b>Investigative Services</b>	
Visiting the crime scene	30%
Identifying witnesses	40%
Interviewing witnesses	40%
Serving subpoenas	20%
Obtaining records	30%
Obtaining documents and records (e.g., school records, hospital records, social media)	40%
Conducting client intake interviews	30%
Family contact	40%
<b>Legal Research</b>	
Legal Research	0%
Draft motions	0%
<b>Social Work / Sentencing Advocacy Functions</b>	
Developing mitigation and alternative sentencing plans	20%
Connecting clients with resources (e.g., substance abuse, homelessness) and coordinating program placements	20%
Out-of-court client management and family support (e.g., coordinating trial wardrobe)	10%
<b>Reviewing Discovery and Records</b>	
Reviewing recordings for investigative purposes (client not present)	30%
Reviewing documents for investigative purposes (client not present)	30%
Reviewing discovery and evidence with client	20%
<b>Courtroom Support</b>	
Providing direct support to an attorney while physically present in the courtroom	40%
Providing direct support to client and family while physically present in the courtroom	20%
Testifying at trial	10%

n=10

## APPENDIX E. QUALITY ADJUSTMENT RATIONALES, ATTORNEYS

### Murder

#### *Initial Interview*

- Initial client interview: Need to dive into the details of the case and the client from the beginning. This helps identify what additional evidence needs to be located as soon as possible and if there is a need for a psychological assessment.

#### *Initial Bond Hearing*

- Ensure client's needs are met: If the client is not released prior to trial, need to ensure client's special needs are met while incarcerated through communication with the jail. Clients will spend a lot of time in jail in murder cases. Being able to ensure to the client and the client's family that medical and mental health needs are being addressed helps build trust and improves relationships with the client and the client's family.
- Visitation: Need to see the client more often in order to talk about the case and make the interviews more useful. Visitation restrictions make visiting clients more difficult. This is especially true for clients with severe mental health issues, especially those on suicide watch. If they can get medication and get back into the general population, then interviews are more productive.
- Discussions with client's family: It would be helpful to have a detailed conversation with the family at this stage. Currently, attorneys must squeeze in time to talk to family at bond hearings. This can affect their ability to get additional information. A more detailed conversation would help build the relationship with the client and the client's family which can assist in case resolution and case progress.

#### *Investigation*

- Identify potential witnesses— Would like to have more time to interview witnesses instead of depending on investigators to interview witnesses. If the attorney has seen the witnesses, the attorney can assess the witnesses' impact in the case. Direct contact with witnesses also allows the attorney to have more productive conversations with clients. It is important for the attorney to interview the client because the attorney can ask appropriate follow up questions due to their detailed knowledge of the case. This will benefit plea negotiations and evaluation of case.
- Review audio recordings or transcripts: Is important for attorney to review all media evidence because the attorney never knows what might be in the media that could help client. This usually needs multiple reviews in order to review the audio, transcribe it, and listen again. There used to be primarily paper discovery, but now substantially more media (e.g., 78 discs). Attorneys are routinely getting more than 10 pieces of this type of evidence. It can also take time to access the technology, find the meat of the evidence, and figure out what is important. For example, the tape may include 30 minutes of the officer standing there before the witness appears. There is an ethical obligation to watch all the media presented—can't skip anything presented or speed through. Furthermore, accessing the media itself can take longer than listening to and watching the media. Additional time is also needed to review the media with clients.
- Identify and review records and physical evidence: There is a need to review and sift through records. Attorneys are sometimes given multiple copies of the same record. It can take time to organize the voluminous records in these cases.



- Direct activities of investigative staff: Important for the attorney to be involved and knowledgeable about what the investigative staff are doing.

### *Motion Practice*

- Research pretrial motions: Must review changing case law for what motions are possible to file.
- Prepare and file appropriate pretrial motions: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned. Actions are needed in order to force the district attorney (DA) to turn over evidence or information that can help resolve the case pretrial.
- Prepare for motion hearing: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned.
- Appear at motion hearing: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned.

### *Plea Negotiations*

- Discuss plea offer with prosecutor: Sometimes plea offers must be negotiated down. If the attorney has more time to gather mitigation evidence and put in useful forms to assist in discussions with the DA, it could prevent the state from having to house clients for extended periods of time.
- Review discovery and evidence with client: Need more time to review the discovery and then go through it with the client. The more time the attorney spends with the client the more trust the client has in the attorney and that the attorney is doing everything possible for the case.
- Discuss plea with client: Must go over every single consequence of plea, especially related to sex offender registry.
- Discuss plea with client's family: Need time to go over every single consequence of plea, especially related to sex offender registry.

### *Trial Preparation—Trial on the Facts*

- Legal research: Two or three attorneys work together to conduct legal research and prepare motions. Younger attorneys must spend a lot more time doing legal research due to lack of experience. Also need someone sitting in the court room, which is a great training opportunity, to keep track of things to research.
- Prepare for jury, client, and witnesses: Jury selection and client preparation takes a long time. Need time to run focus groups, get client and witnesses prepared, and practice multiple times. If the client is not in jail, the attorney can do focus groups. Mock examination works extremely well in preparing clients for trial—having a court room to run through the client's testimony, and to have witnesses go through the same process, helps them be more prepared. Videotaping the practice can show the witness and client how they are being perceived by the jury. Putting the client through practice helps them make the best decision for themselves about testifying.

### *Post-Disposition*

- Post-disposition requests and support: Need to respond to letters from the client, copy files to provide to the client, and explain to the client what happened to certain items. This requires reviewing past files. May also need to deal with re-sentencing, jail credit issues, federal public defender's offices, and assisting subsequent defense attorney. These activities currently cut into representation of the current client(s).

### *Other Case Activities*

- Respond to client and family's questions: Spending more time with family would build more trust. Attorneys currently don't have the time to talk to multiple different family members but having that time would help talk with more of them. Would also be able to show the family the evidence.

## **Felony A, B1, B2**

### *Initial Interview*

- Obtain and review relevant records: Must identify additional records the attorney needs to obtain (e.g., school, mental health, etc.). Have to talk to family about what records need to be obtained.
- Initial client interview: Need to dive into the details of the case and the client from the beginning. This helps identify what additional evidence needs to be located as soon as possible and if there is a need for a psychological assessment.

### *Initial Bond Hearing*

- Ensure client's needs are met: If the client is not released prior to trial, need to ensure client's special needs are met while incarcerated through communication with the jail. Clients will spend a lot of time in jail in felony cases. Being able to ensure to the client and the client's family that medical and mental health needs are being addressed helps build trust and improves relationships with the client and the client's family.
- Visitation: Need to see the client more often in order to talk about the case and make the interviews more useful. Visitation restrictions make visiting clients more difficult. This is especially true for clients with severe mental health issues, especially those on suicide watch. If they can get medication and get back into the general population, then interviews are more productive.
- Discussions with client's family: It would be helpful to have a detailed conversation with the family at this stage. Currently, must squeeze in time to talk to family at bond hearings. This can affect ability to get additional information. A more detailed conversation would help build the relationship with the client and the client's family which can assist in case resolution and case progress.

### *Investigation*

- Identify potential witnesses– Would like to have more time to interview witnesses instead of depending on investigators to interview witnesses. If the attorney has seen the witnesses, the attorney can assess the witnesses' impact in the case. Direct contact with witnesses also allows the attorney to have more productive conversations with clients. It is important for the attorney to interview the client because the attorney can ask appropriate follow up questions due to their detailed knowledge of the case. This will benefit plea negotiations and evaluation of case.



- Visit the crime scene: Need to look at area to see things like lighting and traffic. This helps if the case is going to trial (or it can help determine if it is going to trial) because these are issues the attorney will conduct cross-examination on. Attorney can also use these observations when talking to clients to see if things match their recollection. This can help narrow down what questions need to be asked or explored.
- Review audio recordings or transcripts: Is important for attorney to review all media evidence because the attorney never knows what might be in the media that could help client. This usually needs multiple reviews in order to review the audio, transcribe it, and listen again. There used to be primarily paper discovery, but now substantially more media (e.g., 78 discs). Attorneys are routinely getting more than 10 pieces of this type of evidence. It can also take time to access the technology, find the meat of the evidence, and figure out what is important. For example, the tape may include 30 minutes of the officer standing there before the witness appears. There is an ethical obligation to watch all the media presented—can't skip anything presented or speed through. Furthermore, accessing the media itself can take longer than listening to and watching the media. Additional time is also needed to review the media with clients.
- Identify and review records and physical evidence: There is a need to review and sift through records. Attorneys are sometimes given multiple copies of the same record. It can take time to organize the voluminous records in these cases.
- Confer with expert witnesses: Would be helpful to have more time with expert witnesses, including DNA and serology experts, mental health evaluators for capacity and/or mitigation, and other experts. Attorneys must develop basic knowledge of specific area in order to have appropriate conversation with expert. Additional experts add more time.

#### *Motion Practice*

- Research pretrial motions: Must review changing case law for what motions are possible to file.
- Prepare and file appropriate pretrial motions: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned. Actions are needed in order to force the district attorney (DA) to turn over evidence or information that can help resolve the case pretrial.
- Prepare for motion hearing: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned.
- Appear at motion hearing: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned.

#### *Non-Trial Disposition*

- Discuss plea offer with prosecutor: Sometimes plea offers must be negotiated down. If the attorney has more time to gather mitigation evidence and put in useful forms to assist in discussions with the DA, it could prevent the state from having to house clients for extended periods of time.
- Review discovery and evidence with client: Need more time to review the discovery and then go through it with the client. The more time the attorney spends with the client the more trust the client has in the attorney and that the attorney is doing everything possible for the case.

- Discuss plea with client: Must go over every single consequence of plea, especially related to sex offender registry.

### *Trial*

- Legal research: Two or three attorneys work together to conduct legal research and prepare motions. Younger attorneys must spend a lot more time doing legal research due to lack of experience. Also need someone sitting in the court room, which is a great training opportunity, to keep track of things to research.
- Prepare for jury, client, and witnesses: Jury selection and client preparation takes a long time. Need time to run focus groups, get client and witnesses prepared, and practice multiple times. If the client is not in jail, the attorney can do focus groups. Mock examination works extremely well in preparing clients for trial—having a court room to run through the client’s testimony, and to have witnesses go through the same process, helps them be more prepared. Videotaping the practice can show the witness and client how they are being perceived by the jury. Putting the client through practice helps them make the best decision for themselves about testifying.
- Having a second chair: This is a training opportunity for younger attorneys. They can take notes and documents. They provide assistance like legal research in the court room, safe guards against errors, second set of eyes on the jury (looking for non-verbal communication by jurors), finding and queuing up exhibits, and getting the witnesses.

### *Post-Disposition*

- Satellite-based monitoring for sex offenders: Must have the hearing to show that the search is reasonable of having the device on. This is going to be a litigated hearing.
- Post-disposition requests and support: Need to respond to letters from the client, copy files to provide to the client, and explain to the client what happened to certain items. This requires reviewing past files. May also need to deal with re-sentencing, jail credit issues, federal public defender’s offices, and assisting subsequent defense attorney. These activities currently cut into representation of the current client(s).

### *Other Case Activities*

- Respond to client and family’s questions: Spending more time with family would build more trust. Attorneys currently don’t have the time to talk to multiple different family members but having that time would help talk with more of them. Would also be able to show the family the evidence.
- Determine if client needs additional services: Need to help client get services. Having services in place can prevent the client from coming back and can also get them a better offer because their needs are being addressed. Need to have social workers in all offices.

## Felony C, D, E, F

### *Initial Interview*

- Obtain and review relevant records: Must identify additional records the attorney needs to obtain (e.g., school, mental health, etc.). Have to talk to family about what records need to be obtained.
- Initial client interview: Need to dive into the details of the case and the client from the beginning. This helps identify what additional evidence needs to be located as soon as possible and if there is a need for a psychological assessment.

### *Initial Bond Hearing*

- Ensure client's needs are met: If the client is not released prior to trial, need to ensure client's special needs are met while incarcerated through communication with the jail. Clients will spend a lot of time in jail in felony cases. Being able to ensure to the client and the client's family that medical and mental health needs are being addressed helps build trust and improves relationships with the client and the client's family.
- Visitation: Need to see the client more often in order to talk about the case and make the interviews more useful. Visitation restrictions make visiting clients more difficult. This is especially true for clients with severe mental health issues, especially those on suicide watch. If they can get medication and get back into the general population, then interviews are more productive.
- Discussions with client's family: It would be helpful to have a detailed conversation with the family at this stage. Currently, attorneys must squeeze in time to talk to family at bond hearings. This can affect their ability to get additional information. A more detailed conversation would help build the relationship with the client and the client's family which can assist in case resolution and case progress.

### *Investigation*

- Identify potential witnesses– Would like to have more time to interview witnesses instead of depending on investigators to interview witnesses. If the attorney has seen the witnesses, the attorney can assess the witnesses' impact in the case. Direct contact with witnesses also allows the attorney to have more productive conversations with clients. It is important for the attorney to interview the client because the attorney can ask appropriate follow up questions due to their detailed knowledge of the case. This will benefit plea negotiations and evaluation of case.
- Visit the crime scene: Need to look at area to see things like lighting and traffic. This helps if the case is going to go to trial (or it can help determine if it is going to trial) because these are issues the attorney will conduct cross-examination on. Attorney can also use these observations when talking to clients to see if things match their recollection. This can help narrow down what questions need to be asked or explored.
- Review audio recordings or transcripts: Is important for attorney to review all media evidence because the attorney never knows what might be in the media that could help client. This usually needs multiple reviews in order to review the audio, transcribe it, and listen again. There used to be primarily paper discovery, but now substantially more media (e.g., 78 discs). Attorneys are routinely getting more than 10 pieces of this type of evidence. It can also take time to access the technology, find the meat of the evidence, and figure out what is important. For example, the tape may include 30 minutes of the officer standing there before the witness appears. There is an ethical obligation to watch all the media presented—can't skip anything presented or speed

through. Furthermore, accessing the media itself can take longer than listening to and watching the media. Additional time is also needed to review the media with clients.

- Identify and review records and physical evidence: There is a need to review and sift through records. Attorneys are sometimes given multiple copies of the same record. It can take time to organize the voluminous records in these cases.
- Confer with expert witnesses: Would be helpful to have more time with expert witnesses, including DNA and serology experts, mental health evaluators for capacity and/or mitigation, and other experts. Attorneys must develop basic knowledge of specific area in order to have appropriate conversation with expert. Additional experts add more time.

### *Motion Practice*

- Research pretrial motions: Must review changing case law for what motions are possible to file.
- Prepare and file appropriate pretrial motions: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned. Actions are needed in order to force the district attorney (DA) to turn over evidence or information that can help resolve the case pretrial.
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- Appear at motion hearing: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned.

### *Non-Trial Disposition*

- Discuss plea offer with prosecutor: Sometimes plea offers must be negotiated down. If the attorney has more time to gather mitigation evidence and put in useful forms to assist in discussions with the DA, it could prevent the state from having to house clients for extended periods of time.
- Review discovery and evidence with client: Need more time to review the discovery and then go through it with the client. The more time the attorney spends with the client the more trust the client has in the attorney and that the attorney is doing everything possible for the case.
- Discuss plea with client: Must go over every single consequence of plea, especially related to sex offender registry.

### *Trial*

- Legal research: Two or three attorneys work together to conduct legal research and prepare motions. Younger attorneys must spend a lot more time doing legal research due to lack of experience. Also need someone sitting in the court room, which is a great training opportunity, to keep track of things to research.
- Prepare for jury, client, and witnesses: Jury selection and client preparation takes a long time. Need time to run focus groups, get client and witnesses prepared, and practice multiple times. If the client is not in jail, the attorney can do focus groups. Mock examination works extremely well in preparing clients for trial—having a court room to run through the client’s testimony, and to

have witnesses go through the same process, helps them be more prepared. Videotaping the practice can show the witness and client how they are being perceived by the jury. Putting the client through practice helps them make the best decision for themselves about testifying.

- Having a second chair: This is a training opportunity for younger attorneys. They can take notes and documents. They provide assistance like legal research in the court room, safe guards against errors, second set of eyes on the jury (looking for non-verbal communication by jurors), finding and queuing up exhibits, and getting the witnesses.

#### *Post-Disposition*

- Satellite based monitoring for sex offenders: Must have the hearing to show that the search is reasonable of having the device on. This is going to be a litigated hearing.
- Post-disposition requests and support: Need to respond to letters from the client, copy files to provide to the client, and explain to the client what happened to certain items. This requires reviewing past files. May also need to deal with re-sentencing, jail credit issues, federal public defender's offices, and assisting subsequent defense attorney. These activities currently cut into representation of the current client(s).

#### *Other Case Activities*

- Respond to client and family's questions: Spending more time with family would build more trust. Attorneys currently don't have the time to talk to multiple different family members but having that time would help talk with more of them. Would also be able to show the family the evidence.
- Determine if client needs additional services: Need to help client get services. Having services in place can prevent the client from coming back and can also get them a better offer because their needs are being addressed. Need to have social workers in all offices.

### **Felony G, H, I**

#### *Initial Interview*

- Obtain and review relevant records: Must identify additional records the attorney needs to obtain (e.g., school, mental health, etc.). Have to talk to family about what records need to be obtained.
- Initial client interview: Need to dive into the details of the case and the client from the beginning. This helps identify what additional evidence needs to be located as soon as possible and if there is a need for a psychological assessment.
- Connect client with needed services: In these types of cases, many clients are out of custody. These clients need to be matched with services in order for the attorney to be able to talk about services the client is already engaged in when it comes time to negotiate a plea.

#### *Initial Bond Hearing*

- Prepare for appropriate bond argument: Need time to contact the family to have them in court for the bond hearing. The ability to show the client's connection to the community matters for the determination of bond.
- Communicate with pretrial service program: Need more time to communicate with pretrial services to discuss what services they can provide if the client is released. This information allows attorneys to make a better argument for bond reduction.

- Ensure client's needs are met: If the client is not released prior to trial, need to ensure client's special needs are met while incarcerated through communication with the jail. Clients will spend a lot of time in jail in felony cases. Being able to ensure to the client and the client's family that medical and mental health needs are being addressed helps build trust and improves relationships with the client and the client's family.
- Visitation: Need to see the client more often in order to talk about the case and make the interviews more useful. Visitation restrictions make visiting clients more difficult. This is especially true for clients with severe mental health issues, especially those on suicide watch. If they can get medication and get back into the general population, then interviews are more productive.

### *Investigation*

- Identify potential witnesses— Would like to have more time to interview witnesses instead of depending on investigators to interview witnesses. If the attorney has seen the witnesses, the attorney can assess the witnesses' impact in the case. Direct contact with witnesses also allows the attorney to have more productive conversations with clients. It is important for the attorney to interview the client because the attorney can ask appropriate follow up questions due to their detailed knowledge of the case. This will benefit plea negotiations and evaluation of case.
- Visit the crime scene: Need to look at area to see things like lighting and traffic. This helps if the case is going to go to trial (or it can help determine if it is going to trial) because these are issues the attorney will conduct cross-examination on. Attorney can also use these observations when talking to clients to see if things match their recollection. This can help narrow down what questions need to be asked or explored.
- Review audio recordings or transcripts: Is important for attorney to review all media evidence because the attorney never knows what might be in the media that could help client. This usually needs multiple reviews in order to review the audio, transcribe it, and listen again. There used to be primarily paper discovery, but now substantially more media (e.g., 78 discs). Attorneys are routinely getting more than 10 pieces of this type of evidence. It can also take time to access the technology, find the meat of the evidence, and figure out what is important. For example, the tape may include 30 minutes of the officer standing there before the witness appears. There is an ethical obligation to watch all the media presented— can't skip anything presented or speed through. Furthermore, accessing the media itself can take longer than listening to and watching the media. Additional time is also needed to review the media with clients.
- Identify and review records and physical evidence: There is a need to review and sift through records. Attorneys are sometimes given multiple copies of the same record. It can take time to organize the voluminous records in these cases.
- Confer with expert witnesses: Would be helpful to have more time with expert witnesses, including DNA and serology experts, mental health evaluators for capacity and/or mitigation, and other experts. Attorneys must develop basic knowledge of specific area in order to have appropriate conversation with expert. Additional experts add more time.

### *Motion Practice*

- Research pretrial motions: Must review changing case law for what motions are possible to file.
- Prepare and file appropriate pretrial motions: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned. Actions are needed in

order to force the district attorney (DA) to turn over evidence or information that can help resolve the case pretrial.

- Prepare for motion hearing: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned.
- Appear at motion hearing: Additional time is needed to prepare and file additional discovery motions, motions to compel, litigation motions, and motions to continue. The ability to litigate pretrial allows trial dates to move forward as planned.

#### *Non-Trial Disposition*

- Discuss plea offer with prosecutor: Sometimes plea offers must be negotiated down. If the attorney has more time to gather mitigation evidence and put in useful forms to assist in discussions with the DA, it could prevent the state from having to house clients for extended periods of time.
- Review discovery and evidence with client: Need more time to review the discovery and then go through it with the client. The more time the attorney spends with the client the more trust the client has in the attorney and that the attorney is doing everything possible for the case.
- Discuss plea with client: Must go over every single consequence of plea, especially related to sex offender registry.

#### *Trial*

- Legal research: Two or three attorneys work together to conduct legal research and prepare motions. Younger attorneys must spend a lot more time doing legal research due to lack of experience. Also need someone sitting in the court room, which is a great training opportunity, to keep track of things to research.
- Prepare for jury, client, and witnesses: Jury selection and client preparation takes a long time. Need time to run focus groups, get client and witnesses prepared, and practice multiple times. If the client is not in jail, the attorney can do focus groups. Mock examination works extremely well in preparing clients for trial—having a court room to run through the client’s testimony, and to have witnesses go through the same process, helps them be more prepared. Videotaping the practice can show the witness and client how they are being perceived by the jury. Putting the client through practice helps them make the best decision for themselves about testifying.

#### *Post-Disposition*

- Post-disposition requests and support: Need to respond to letters from the client, copy files to provide to the client, and explain to the client what happened to certain items. This requires reviewing past files. May also need to deal with re-sentencing, jail credit issues, federal public defender’s offices, and assisting subsequent defense attorney. These activities currently cut into representation of the current client(s).

## DWI

### *Initial Interview*

- Engage in client interview: Need to spend time making the client feel comfortable, going over details of the client's case, and explaining the process, including what comes next.
- Connect client with needed services: Need more time to call needed services and ensure that the client is connected with the services and knows the resources that are available. This helps to mitigate the case, helps the client's personal life (e.g., rehabilitation), and improves public safety. Need to get help from social workers and other experts who are connected to these services. It would be helpful if there were additional support staff (e.g., social worker), but attorney also needs more time to address this if that staff is not available.

### *Competency Hearing*

- Prepare for competency hearing: Time is needed to file competency motion. More time is needed to ensure competency results are understood and discuss what it means for the case. It is unethical to proceed if the client has been found incompetent.

### *Investigation*

- Identify and interview potential witnesses: Time spent interviewing witnesses could provide important evidence and additional information that could be a mitigating factor in the case.
- Identify, collect, and review records and physical evidence: This includes video and audio recordings. Need to obtain media and reports (e.g., police reports), track down officer or person who has it, review evidence with the client to talk about options going forward, and review proper police procedures to compare to what actually happened. There has been a marked increase in technology being used (e.g., body cameras, new chemical analyses for medication) which requires additional time to review.

### *Motion Practice*

- Research pretrial motions: More time is needed for research and training. This means not only legal research but also about the client's specific case and circumstances, faster resolution, mitigating factors, and issues for trial. Some cases are similar and don't need additional research time, but others are unique or novel and require extra time.
- Prepare and file appropriate pretrial motions: Need time to write motions. It would be beneficial to write a case-specific motion, but more efficient to use boilerplate language. Extra time would enhance case information included in the motion and make the motion more specific to client and case.

### *Non-Trial Disposition*

- Review discovery and evidence with client: More time is needed to keep the client informed, including explaining what the evidence is and facts of case. This may help client decide how to move forward (e.g., taking plea versus going to trial) and help with reaching resolution.
- Inform client about plea options: Need to inform client about what is required ahead of entering plea, make sure services are in place ahead of time (e.g., mitigating factors through connected social services), and take time to meet with client ahead of time. Otherwise, the attorney will need to talk to the client in the courtroom when they appear.



### *Trial*

- Prepare client: If the case goes to trial, client preparation is needed to ensure that they understand the process and what they are expected to do.
- Arrange for witness appearances: Need time to bring witnesses together (both state and defense witnesses) before the trial.
- Prepare for direct and cross: Need time to prepare for cross-examining witnesses and go through resources that will support specific lines of questioning (e.g., read police procedure manuals prior to questioning a police officer).

### *Sentencing*

- Connect client with immigration services: If immigration is at issue, it would be beneficial to spend more time connecting immigrant clients with services. It would be helpful to have access to interpreters and social workers, but attorneys need to take additional time to find those resources.
- Connect client with needed services: Clients may need rehabilitative, substance abuse, or other relevant services. It would be beneficial to take time to find the services, talk to client about them, and connect the client with the service.
- Investigate limited driving privileges: More time is needed to check the client's eligibility, make requests, and file paperwork. This would support the client's needs and may help with mitigating factors.

### *Other Case Activities*

- Respond to client and family questions: More time is needed to respond to the volume of phone calls and emails from clients and their family members. This will make the client and their family feel more comfortable and like the attorney is paying attention to their case. There is an ethical duty to improve relationship with client to allow for better advocacy.

## **Misdemeanor – Traffic and Non-Traffic**

### *Initial Interview*

- Obtain and review relevant records: Need time to look up and confirm information in order to make more informed decisions about the case going forward. This requires more time listening to the clients, running client's records, determining eligibility for services, training additional staff to perform this work, and collecting physical or electronic records.
- Review immigration issues: The attorney needs time to refresh knowledge on immigration issues, learn about new issues or laws, and speak to client about their immigration status and relevant issues. Not all offices have an immigration screener or someone in a similar position.
- Determine and connect client with needed services: Need time to determine social services needs (e.g., homelessness, substance abuse or mental health issues) and to talk through issues before referring to social worker. This allows for better understanding of potential mitigating factors and ability to better inform social worker for more efficient connection with services.

### *Competency Hearing*

- Prepare for competency hearing: Time is needed to file competency motion. More time is needed to ensure competency results are understood and discuss what it means for the case. It is unethical to proceed if the client has been found incompetent.

### *Bond Revocation/Bond Reviews Hearing*

- Prepare and file bond motion: Time is needed to prepare motion, including case review and development of case-specific motions.
- Communicate with pretrial service program: Time is needed to initiate contact with pretrial services, prepare and submit requests, and facilitate two-way communication. This varies across districts, as not all districts have pretrial services programs.
- Explain conditions of release and consequences to client: If the client is released, must explain to the client what they can/cannot do before they return to custody. Need time to collect contact information, go over the next steps and next court date. This can prevent violations of bond conditions.
- Discuss results with client: If the client is not released, must ensure client's special needs are met while incarcerated by communicating with the jail (e.g., making sure that clients are receiving medication). This can require talking to the client's family to explain the next steps and the client's options).

### *Investigation*

- Identify and interview potential witnesses: Need time to identify witnesses and interview the witness or be in person or on call with the investigator interviewing the witness. This increases the attorney's ability to better advise the client based on interview content. Additional time is needed for travel and tracking down the witnesses.
- Visit the crime scene: If the crime scene is relevant and case is going to trial, it is helpful to see the crime scene in person rather than rely on reports, pictures, accounts from others. This may give the attorney more information than the prosecution.
- Identify, collect, and review records and physical evidence: This includes video and audio recordings. Need to obtain media and reports (e.g., police reports), track down officer or person who has it, review evidence with the client to talk about options going forward, and review proper police procedures to compare to what actually happened. Must review evidence ahead of time (i.e., before a not guilty plea). This allows for more timely resolution, especially for cases where video is evident (e.g., larceny at a store with surveillance).
- Direct activities of investigative staff: Need time to keep track of investigator activities and ensure timely return of what is needed for case or trial. Currently, there is limited time to review their findings and need more time to meet and review.

### *Motion Practice*

- Research pretrial motions: Time is needed for research and review. This allows for the attorney to be more informed about case and facts ahead of the hearing.
- Explain outcome to client: Need to enhance the client's understanding about what the motion means, what the result means, and what comes next. The client needs to know whether the case is done, how it affects their case, and whether they need to come back.

### *Non-Trial Disposition*

- Review discovery and evidence with client: Need to discuss plea options with the client and consequences of the plea. Client must fully understand the process and conditions of probation. The attorney must be a zealous advocate and cover all bases. The client's better understanding

reduces the likelihood of recidivism, so attorney must take time to involve the client in the conversation and not talk “at” them.

- Plea negotiations: Need more time to make contact with district attorney (DA) and gather information about options for plea negotiations. This varies across districts and is dependent on DA availability.
- Determine if client needs additional services: Attorney needs time to go beyond the initial interview. This prevents recidivism and helps the client be more successful by connecting them with appropriate resources and services. This gives the client the backup they need to negotiate their path to success.

### *Trial*

- Prepare client: If the case goes to trial, client preparation is needed to ensure that they understand the process and what they are expected to do.
- Arrange for witness appearances: Need time to bring witnesses together (both state and defense witnesses) before the trial.
- Legal research: Better legal preparation for trial allows for more effective representation.
- Trial preparation: Need to prepare components of trial, which allows for more effective representation and better information. This reassures the client that the attorney is prepared and will be equipped at trial.

### *Sentencing*

- Connect client with immigration services: If immigration is at issue, it would be beneficial to spend more time connecting immigrant clients with services. It would be helpful to have access to interpreters and social workers, but attorneys need to take additional time to find those resources. Attorney needs to identify the client’s immigration status and all relevant issues. The attorney should also take time to consider collateral consequences, like separation from family.

### *Post-Disposition*

- Keep client informed: Need more time to call client, remind the client of court appearances, and increase accountability.

### *Other Case Activities*

- Respond to client and family questions: More time is needed to keep client and family informed of case status and respond to the volume of phone calls and emails from clients and their family members. This will make the client and their family feel more comfortable and like the attorney is paying attention to their case. There is an ethical duty to improve relationship with client to allow for better advocacy. Attorney also needs to keep in touch with rehabilitation facilities so that the client does not miss court dates.
- Legal research: Need to research specific topics that benefit multiple cases, understand new laws and expertise about certain subjects (e.g., drug paraphernalia), and must do general legal research.

### *Same-Day Misdemeanors (ONLY cases in which you meet the client and resolve the case on the same day)*

- Client interview: This gives the attorney an opportunity to gather more information, advise clients, and make more informed decisions for case moving forward.

## **Probation Violation – Felony and Non-Felony**

### *Initial Interview*

- Review case documents and original case file: Up-front preparation is required to ensure ability to resolve issues before a court appearance. This gives the attorney the chance to catch errors in the judgment, consider jail credit issues, and pull necessary court files.
- Client interview: Need more time to figure out case details and relevant issues and how to address or mitigate those issues.
- Discuss case with probation officer: Need time to discuss what happened with probation officer and help to resolve what happened and how to prevent further issues.

### *Final Probation Violation Hearing*

- Discuss hearing with client: Need time to prepare for hearing, explain hearing to the client, and prepare client for questions. Need to make sure client understands what is happening, is informed and engaged in their case, and understands the consequences and plan for what to say. Attorney also needs to determine willfulness in violation.
- Investigate alternative dispositions/specialized client programs: Finding ways to address underlying issues can help mitigate outcome, support client success, and reduce recidivism. Need time to develop a plan, gather resources, and connect the client to services.
- Prepare sentencing arguments in case of revocation: Probation changes what qualifies as absconding, and the attorney needs time to keep up with these changes and figure out probation process to determine if the client absconded or followed protocol.
- Explain outcome to client: Need to explain to client what the outcome means, including whether they are still on probation, what they need to worry about, what comes next. Need to tell them to speak with their probation officer. This helps the client understand what counts as a violation and reduces recidivism and violations.

### *Other Case Activities*

- Respond to client and family questions: More time is needed to keep client and family informed of case status and respond to the volume of phone calls and emails from clients and their family members. This will make the client and their family feel more comfortable and like the attorney is paying attention to their case. There is an ethical duty to improve relationship with client to allow for better advocacy. Attorney also needs to keep in touch with rehabilitation facilities so that the client does not miss court dates.

## **Felony and Misdemeanor—Juvenile**

### *Initial Interview*

- Obtain and review relevant records: Need time to obtain the relevant documents prior to the initial interview in order to know why the client is locked up.
- Engage in client interview: More time is needed to explain things to the client when they are in custody. Significantly more time is needed for younger clients.

- Review immigration issues: More time is needed to review immigration issues to know how they will impact the client to inform what will be put on the record.

#### *Initial Secure Custody Hearing*

- Discuss secure custody options with client: More time is needed to talk with the client about all potential custody situations that may result from the hearing.
- Prepare for appropriate secure custody argument: More time is needed to speak with Department of Juvenile Justice (DJJ), parents, and the client. These conversations will allow the attorney to shape the best option for the client.
- Communicate with pre-adjudication service programs: Need time to talk with the program providers who were involved prior to the client's custody and find out the details of the situation while the client was involved in those programs.
- Explain conditions of release: If released, must explain the conditions of release to the client in their own language, what it means to violate those conditions, and what will happen if they violate the conditions. Need to explain how electronic monitoring works and the impact it has on their education.
- Discuss non-release with client: If not released, must explain to the client why they were denied and look into alternative living situations for the client.
- Connect client with needed services: If attorneys know the information from the client's prior program attendance, the attorneys can put up a better argument against the probation officer and can argue for alternative living conditions.
- Talk to the family: Need time to discuss the hearing with the client's parents.

#### *Arraignment/First Appearance*

- Discuss hearing with client: Need the time to meet with the client prior to the first appearance to explain the process and what the judge is going to say. More time is needed for younger clients.
- Talk to the family: Parents require a detailed explanation of what is happening. The first conversation with a client's family has to be in-depth and cover all steps of the process in order for them to fully understand the process.

#### *Competency Hearing*

- Review competency examination: Need to review all of the documents to determine if there is something that needs to be contested. Must review the forensic evaluation from the state and determine if that should be contested based on conversations with the parents and/or child.
- Prepare for competency hearing: Need more time when the attorney disagrees with the results of the competency examination in order to review the support for the finding.
- Gather records: More time is needed to gather the necessary records to make an accurate determination of whether the attorney will file the motion or not. If a 504 plan is in place, parents

must sign a release form in order to get the necessary documentation. Having a social worker or a liaison with the school board could make getting the necessary documentation easier.

#### *Secure Custody Review Hearing*

- Communicate with pre-adjudication service program: Need to be able to talk to the service providers directly.
- Prepare for hearing: Need time to review the reports from the detention center and offer alternatives to detention if possible.
- Ensure client's needs are met: If not released, must ensure client's special needs are met while in detention. For this, additional information about the client's individualized education plan or 504 plan is needed. This requires conferring with the parents in order to receive this information.
- Connect client with needed services: Mental health meetings are necessary in order to shape the argument for the case. Attending client and family team meetings has become the norm because it allows the attorney to know the client better.
- Talk with the family: Need to be able to communicate with parents about why their child is in custody and the plan moving forward to try and get the child out of detention.

#### *Probable Cause Hearing*

- Prepare for hearing: It can be very impactful to review discovery and talk to witnesses and police to better prepare for the hearing. This enables the attorney to have a better idea of what happened instead of relying on what the client recalls.

#### *Transfer Hearing*

- Discuss transfer hearing with client: Need time to explain the consequences of the transfer hearing with the client as well as prepare the client for the hearing and all things that may be discussed.
- Prepare for hearing: Need to spend more time talking to witnesses prior to the hearing.
- Gather and review records: Some offices need more time to gather school records, Department of Social Services (DSS) records, and mental health records.
- Talk to the family: Need time to talk with the family, educate them about the transfer hearing, and explain to them that the attorney is advocating for the child. Sometimes families are swayed by the Department of Juvenile Justice (DJJ) because they are in more communication with the family than the attorney.

#### *Investigation*

- Identify and interview potential witnesses: More time is needed to identify and talk to other juvenile witnesses.

- Visit the crime scene: Being able to visit and photograph the crime scene would allow attorneys to notice missing evidence. For example, the attorney may see that a camera had gone unnoticed which could reveal what actually happened in the case.

#### *Discovery*

- Review discovery: Need additional time to do a more thorough review of the discovery and talk to all of the witnesses.

#### *Motion Practice*

- Prepare for motion hearing: More time is needed to research the law surrounding the issue to improve the motions.

#### *Negotiated Disposition*

- Discuss plea options with client: The attorney needs to spend more time explaining the plea options and the implications of those options to the client. More time is needed to explain the legal process to the client and answer any questions they may have
- Determine whether client needs additional services: If the attorney had the time to construct their own disposition reports to list what services have been set up for the client and provide a service plan, the attorney would be able to secure better plea options for their clients.

### **Abuse/Neglect/Dependency Adjudication**

#### *Investigation*

- Fact checking and follow up: Need more time to fact check against what is reported by Department of Social Services (DSS) to ensure accuracy and shared understanding of case. Also need to spend time finding other sources about the client and child. Time spent on front end will save time later in case and support better case outcomes.
- Depositions: Need more time to consider depositions, talk to witnesses and others to better understand the case and identify factors in case, and talk with people who can inform the case (e.g., doctors).

#### *Discovery*

- Review discovery: More time is needed to review discovery more thoroughly and manage the volume of documents sent by DSS and others. This will allow for more time to examine details and incorporate them into the case.

#### *Consent Judgment*

- Draft consent orders: Attorneys take time to write up facts of the case and correct DSS drafted orders. This saves time in the case. It may reduce rate of trial for these cases because the judge doesn't hear the bad information from the other party and irrelevant or incorrect information is kept out. Instead, the judge sees a more direct, relevant list of facts of case. This improves rapport with client, makes them more invested, and makes them feel like they are being properly advocated for.

#### *Adjudicatory Hearing*

- Prepare for trial: Re-preparing for trial after a delay in court calendar (due to backlog, rescheduling, etc.) is important. Attorneys need to refresh their memory of case facts, talk to witnesses again, and make sure everyone is prepared.

#### *Other Case Activities*

- Respond to client and family questions: More time keeping client informed, retrieving information for case sooner, better understanding of relevant details, what is needed; explain process and options/resources, advise about case progression.
- Legal research: Some cases present a unique set of factors or special issues that require more extensive research. Spending extra time up front to clarify issues saves time in pursuing case (e.g., reviewing statutes), supports better defense, and facilitates more informed outcomes in the case.
- Child and family team meetings: Attorneys are often unable to currently attend child and family team meetings due to short notice and not enough time, but cases would benefit from the attorney's participation. It is better to have the adversarial conversation up front during the team meeting. These meetings occur multiple times per case; there are typically a couple of 1- to 2-hour meetings per case, plus travel involved in getting to the meeting.

#### **Abuse/Neglect/Dependency Review**

##### *Other Case Activities*

- Respond to client and family questions: More time is needed to maintain consistent client contact throughout case and for each review hearing. Attorneys should keep clients informed and ensure two-way communication of pertinent issues.

#### **Termination of Parental Rights**

##### *Termination Hearing*

- Prepare trial notebooks: Re-preparing for trial after a delay in court calendar (due to backlog, rescheduling, etc.) is important. Attorneys need to refresh their memory of case facts, talk to witnesses again, and make sure everyone is prepared.



## APPENDIX F. QUALITY ADJUSTMENT RATIONALES, ADMINISTRATIVE STAFF

### First-Degree Murder, Capital and Non-Capital

#### *Intake and Records Management*

- Obtaining case documents and copying case files: More time is needed to gather information about the case and relevant documents, identify co-defendants, and understand the relationships between defendants or other cases. The staff also needs to understand the relevant case information and prepare ahead of time for certain issues (e.g., mental health issues should be flagged ahead of time).
- Entering case information into the case management system: Up-front time is needed to enter notes and other potential case factors for more efficient reference later in the case. Witness information needs to be added, and contact information should be updated.

#### *Secretarial Services*

- Telephone contact with clients and family: Need more time to speak with the client and their family to keep everyone informed and reduce unnecessary frustration. This helps attorneys focus on the case work. More time is also needed to redirect clients and explain that they should speak to the attorney about case details. Staff also need time to take down client information and pass messages along to the attorney.
- Typing: More time ensures better quality of writing for things like motions and lengthy transcriptions (e.g., from audio evidence or police interrogation). There is also a need for time to access and use technology as well as deal with interfacing issues with existing software and equipment.

#### *Legal Research and Paralegal Services*

- Drafting motions and orders: More time will ensure quality completeness when writing motions and orders. Time is needed to identify what is needed by reading the file. In order to be specific, the case file must be read carefully to determine important details. This may be specific to certain offices, depending on resources.
- Obtaining documents and records: This includes school records, hospital records, criminal histories, driving histories, and social media. More time will help with preparation, tracking down documents, and organizing the records for attorneys. There are more steps required to access documents with stricter rules or laws around certain files (e.g., HIPAA). The required forms are often changing across organizations.

#### *Courtroom Support*

- Support attorney in the courtroom: Staff need more time to take notes during court events and transcribe for attorney to use during the case. Staff may also need to find case details during court events. This may be specific to certain offices, depending on resources and other legal assistance.

### Felony

#### *Intake and Records Management*

- Entering case information into the case management system: More time is needed to collect additional information about the case or client. Doing this up-front preparation can save time later

(e.g., jail interviews, identifying co-defendants). Adding information to case notes will allow for better detail and reduce redundancy in information gathering.

- Maintaining, archiving, and retrieving files: Need more time to attach PDF files received from the clerk's office into the system. This reduces redundancy and duplication of files that are hard to locate. If there is an electronic copy in the system, no one has to worry about not being able to locate the document or track down who has it.
- Identify co-defendants and conduct conflict checks: Time up front is needed to read files and reports to identify if there are co-defendants. This can be complicated by discrepancies in the files (e.g., when the complaint numbers don't always match). This time reduces redundancy and saves time for attorney if they know up front where conflicts exist.
- Archiving physical files: Time is needed to archive boxed paper files and maintain, organize, and retrieve files. This promotes better organization, which makes the files easier to access later when the file is needed.

#### *Secretarial Services*

- Telephone contact with clients and family: Need more time to speak with the client and their family to keep everyone informed and reduce unnecessary frustration. Time is also needed for scheduling appointments. This helps attorneys focus on the case work. More time is also needed to redirect clients and explain that they should speak to the attorney about case details. Staff also need time to take down client information and pass messages along to the attorney.

#### *Legal Research and Paralegal Services*

- Obtaining discovery: More time is needed to make copies of physical discovery and discs. This reduces redundancy in information gathering and saves the time later required to track down the physical discovery. It is important to ensure complete information up front.
- Obtaining documents and records: This includes school records, hospital records, criminal histories, driving histories, and social media. More time will help with preparation, tracking down documents, and organizing the records for attorneys. There are more steps required to access documents with stricter rules or laws around certain files (e.g., HIPAA). The required forms are often changing across organizations; there is an increase of mental health issues in cases and encouragement of communication across systems.
- Determining client needs for additional services: More time is needed for identifying client issues and connecting clients with local services. Some offices do not have in-house social workers, but clients benefit from additional services. Time must be taken to address their needs even without an expert or an in-house position to do that.

## **DWI**

#### *Intake and Records Management*

- Obtaining Case Documents: More time is needed to review documents in the district attorney's office. Some offices do not allow for copying or taking records, the staff must take notes on the case details and background. This may vary between office or district.
- Maintaining, archiving, and retrieving files: Need more time to attach PDF files received from the clerk's office into the system. This reduces redundancy and duplication of files that are hard to locate. If there is an electronic copy in the system, no one has to worry about not being able to locate the document or track down who has it.

- Archiving physical files: Time is needed to archive boxed paper files and maintain, organize, and retrieve files. This promotes better organization, which makes the files easier to access later when the file is needed.

#### *Legal Research and Paralegal Services*

- Obtaining documents and records: This includes school records, hospital records, criminal histories, driving histories, and social media. More time will help with preparation, tracking down documents, and organizing the records for attorneys. There are more steps required to access documents with stricter rules or laws around certain files (e.g., HIPAA). The required forms are often changing across organizations; there is an increase of mental health issues in cases and encouragement of communication across systems.

### **Misdemeanor – Traffic and Non-Traffic**

#### *Intake and Records Management*

- Maintaining, archiving, and retrieving files: Need more time to attach PDF files received from the clerk's office into the system. This reduces redundancy and duplication of files that are hard to locate. If there is an electronic copy in the system, no one has to worry about not being able to locate the document or track down who has it.
- Archiving physical files: Time is needed to archive boxed paper files and maintain, organize, and retrieve files. This promotes better organization, which makes the files easier to access later when the file is needed.

#### *Secretarial Services*

- Telephone contact with clients and family: Need more time to speak with the client and their family to keep everyone informed and reduce unnecessary frustration. This helps attorneys focus on the case work. More time is also needed to redirect clients and explain that they should speak to the attorney about case details. Staff also need time to take down client information and pass messages along to the attorney. Time is also needed for scheduling appointments over the phone. There is a higher rate of failure-to-appears and reassignments based on attorney scheduling conflicts for these cases.

### **Probation Violation – Felony and Non-Felony**

#### *Intake and Records Management*

- Case intake: More time is needed to focus on creating the case file at intake and obtaining documents for the case. This allows for better quality decisions and more complete paperwork. If not done, paperwork may come in late which can be an issue because cases are time sensitive. There is a small window in which to prepare for a case, determine what is needed, and decide whether to keep a case or farm out. Need to copy paperwork not included with incoming paperwork and create the file.

### **Other Criminal**

#### *Intake and Records Management*

- Obtaining case documents: More time needed to copy documents from old case files to ensure accuracy and completeness.

## **Felony—Juvenile**

### *Intake and Records Management*

- Entering case information into the case management system: More time is needed to keep better detailed records. Case management and tracking systems often do not communicate very well for juvenile cases. More time for this means better quality of records kept, more complete records, less time spent later, and less redundancy.

### *Legal Research and Paralegal Services*

- Obtaining documents and records: This includes school records, hospital records, criminal histories, driving histories, and social media. More time will help with preparation, tracking down documents, and organizing the records for attorneys. There are more steps required to access documents with stricter rules or laws around certain files (e.g., HIPAA). The required forms are often changing across organizations; there is an increase of mental health issues in cases and encouragement of communication across systems.

## **Misdemeanor—Juvenile**

### *Intake and Records Management*

Entering case information into the case management system: More time is needed to keep better detailed records. Case management and tracking systems often do not communicate very well for juvenile cases. More time for this means better quality of records kept, more complete records, less time spent later, and less redundancy.

### *Legal Research and Paralegal Services*

- Obtaining documents and records: This includes school records, hospital records, criminal histories, driving histories, and social media. More time will help with preparation, tracking down documents, and organizing the records for attorneys. There are more steps required to access documents with stricter rules or laws around certain files (e.g., HIPAA). The required forms are often changing across organizations; there is an increase of mental health issues in cases and encouragement of communication across systems.

## **Involuntary Commitment/Competency**

### *Intake and Records Management*

- Case intake: More time is needed to create and complete paperwork for competency issues. If not done, paperwork may come in late which can be an issue because cases are time sensitive. There is a small window in which to prepare for a case, determine what is needed, and decide whether to keep a case or farm out. Need to copy paperwork not included with incoming paperwork and create the file.
- Entering case information into the case management system: More time is needed to accurately input information into their case management system because it doesn't come from the Automated Criminal/Infraction System (ACIS).

## APPENDIX G. QUALITY ADJUSTMENT RATIONALES, INVESTIGATORS

### Felony

#### *Investigative Services*

- Identifying witnesses: Finding contact information for witnesses is difficult and sometimes multiple attempts are needed. It is also difficult to locate additional witnesses. More time is spent travelling and locating clients and witnesses due to the lack of resources to pinpoint their location.

#### *Reviewing Discovery and Records*

- Reviewing discovery and records for investigative purposes: Every second of media evidence collected needs to be reviewed. With the increase in technology, this requires a significant amount of time. Investigators now have to review the body camera footage from all officers present, client interviews, cell phone footage and data, and any other recordings or evidence. Skipping over any second of the tape could mean missing a valuable piece of evidence for the case. It is essential to review all of the evidence before meeting with the client to build trust between the investigator and client. This important, so the client will open up.

#### *Courtroom Support*

- Support attorney in the courtroom: Having an additional person sit through every part of the trial will provide a better defense for the client. It would provide the attorney with a person to run back and forth to pull information that is relevant to what is happening in the moment. Having an additional person in the courtroom to watch the jury can help the attorney catch things they normally wouldn't see.

### DWI

#### *Investigative Services*

- Identifying witnesses: Finding contact information for witnesses is difficult and sometimes multiple attempts are needed. It is also difficult to locate additional witnesses. More time is spent travelling and locating clients and witnesses due to the lack of resources to pinpoint their location.

#### *Reviewing Discovery and Records*

- Reviewing discovery and records for investigative purposes: Every second of media evidence collected needs to be reviewed. With the increase in technology, this requires a significant amount of time. Investigators now have to review the body camera footage from all officers present, client interviews, cell phone footage and data, and any other recordings or evidence. Skipping over any second of the tape could mean missing a valuable piece of evidence for the case. It is essential to review all of the evidence before meeting with the client to build trust between the investigator and client. This important, so the client will open up.

### Misdemeanor, Traffic and Non-Traffic

#### *Investigative Services*

- Identifying witnesses: Finding contact information for witnesses is difficult and sometimes multiple attempts are needed. It is also difficult to locate additional witnesses. More time is spent travelling and locating clients and witnesses due to the lack of resources to pinpoint their location.

### *Reviewing Discovery and Records*

- Obtaining documents and evidence: Discovery is often not provided in a timely matter which means investigators have to spend time obtaining these documents.

### **Felony—Juvenile**

#### *Investigative Services*

- Interviewing and identifying witnesses: Finding out the full name and location of juvenile witnesses is difficult. Accessing juvenile witnesses is an added complexity because investigator must get permission from the parents prior to interviewing a juvenile witness. Getting access to juveniles while in school is also difficult, and investigators need a document to show to the school that it is legal.
- Serving subpoenas and obtaining records: School systems are unreliable when it comes to providing juvenile records which makes it difficult to obtain the necessary information.

### **Misdemeanor—Juvenile**

#### *Investigative Services*

- Interviewing and identifying witnesses: Finding out the full name and location of juvenile witnesses is difficult. Accessing juvenile witnesses is an added complexity because investigator must get permission from the parents prior to interviewing a juvenile witness. Getting access to juveniles while in school is also difficult, and investigators need a document to show to the school that it is legal.
- Serving subpoenas and obtaining records: School systems are unreliable when it comes to providing juvenile records which makes it difficult to obtain the necessary information.