



# ***Establishing Meaningful Caseloads: A Review of the Texas Study***

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Dottie Carmichael  
Stephen Hanlon***

**June 9, 2015  
National Association of Public Defense  
Webinar**



***The mission of the Texas Indigent Defense Commission is to provide financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law.***



**Chair: The Honorable Sharon Keller,  
Presiding Judge, Court of Criminal Appeals  
Vice-Chair: The Honorable Olen Underwood  
Executive Director: Mr. James D. Bethke**

**Ex Officio Members:**

**Honorable Sharon Keller  
Honorable Nathan Hecht  
Honorable John Whitmire  
Honorable Royce West  
Honorable Roberto Alonzo  
Honorable Abel Herrero**

**Members Appointed by Governor:**

**Honorable Olen Underwood  
Honorable Sherry Radack  
Honorable Jon Burrows  
Honorable B. Glen Whitley  
Honorable Linda Rodriguez  
Mr. Anthony Odiorne  
Mr. Don Hase**

# Texas Weighted Caseload Study Overview



**LIBERAL ARTS**  
TEXAS A&M UNIVERSITY



Public Policy Research Institute

Texas Indigent Defense Commission

January 2015

Office of Court Administration

## Guidelines for Indigent Defense Caseloads

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

Pursuant to House Bill 1318  
83<sup>rd</sup> Texas Legislature



# House Bill 1318

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



Rep. Sylvester Turner  
District 139



Rep. Armando Walle  
District 140



Sen. John Whitmire  
District 15



Sen. Rodney Ellis  
District 13

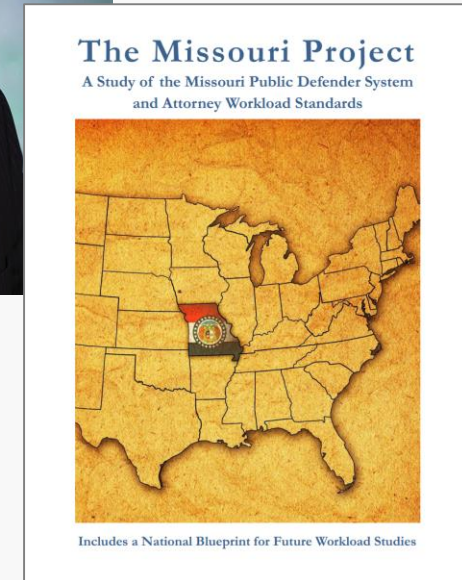
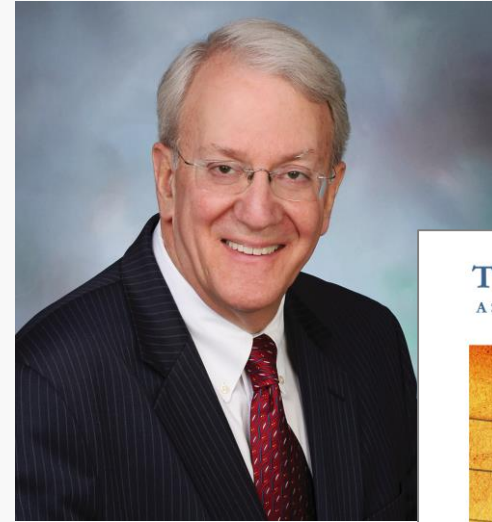
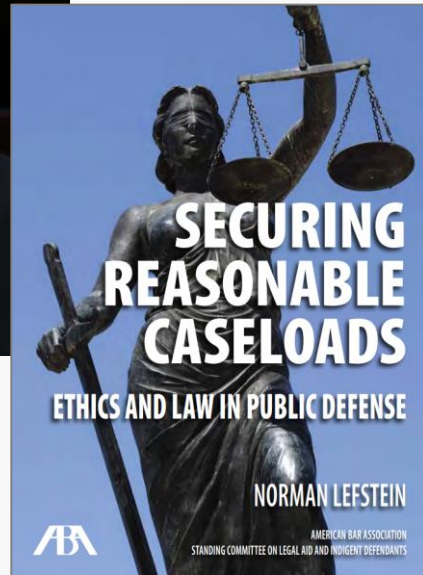


Sen. Sylvia Garcia  
District 6



# National Caseload Experts

Prof. Norman Lefstein  
Indiana State University



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

# WCL Advisory Panel



# Texas Path to Indigent Defense Caseloads



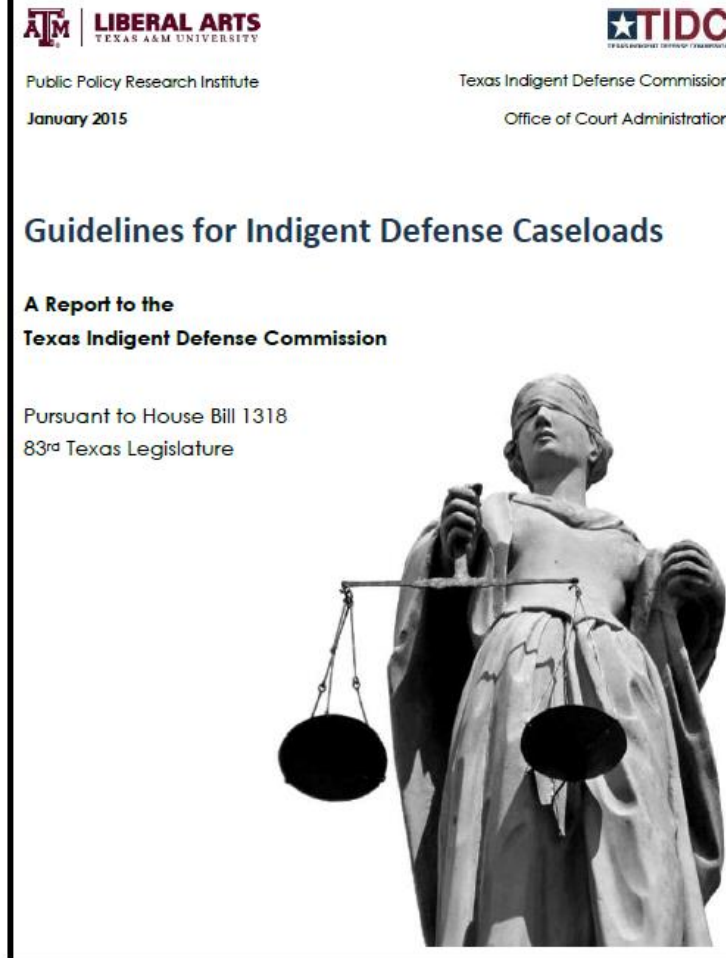
STATE BAR *of* TEXAS



Texas Criminal Defense Lawyers Association



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# 1. Attorney Timekeeping



- 196 attorneys
- Average 15 years' experience
- Telephone recruitment from 39 largest counties
- 60,000 time entries; 8,151 cases

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

## 2. Time Sufficiency Survey



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

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

# Time Sufficiency Survey Data Collection Form

## Trial Level MISDEMEANORS

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

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

### Hours when Performed

### Percent of Cases

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

### 3. Delphi Panel of Experts



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

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



### 3. Delphi Process

**MAKE REASONABLE  
JUDGMENTS ABOUT  
AMOUNTS OF TIME  
REQUIRED IN ORDER  
TO PERFORM A WIDE  
VARIETY OF DEFENSE  
TASKS**



# HB 1318 Charge

## WHAT IS REQUIRED FOR AN:

**“ATTORNEY TO GIVE EACH INDIGENT DEFENDANT THE TIME AND EFFORT NECESSARY TO ENSURE EFFECTIVE REPRESENTATION”**

**“STUDY MUST BE BASED ON RELEVANT POLICIES, PERFORMANCE GUIDELINES, AND BEST PRACTICES”**

# **SOURCES FOR POLICIES, GUIDELINES, AND BEST PRACTICES**

1. Court Decisions
2. Texas Rules of Professional Conduct
3. SBOT Performance Guidelines
4. ABA Standards for Criminal Justice,  
Defense Function Standards

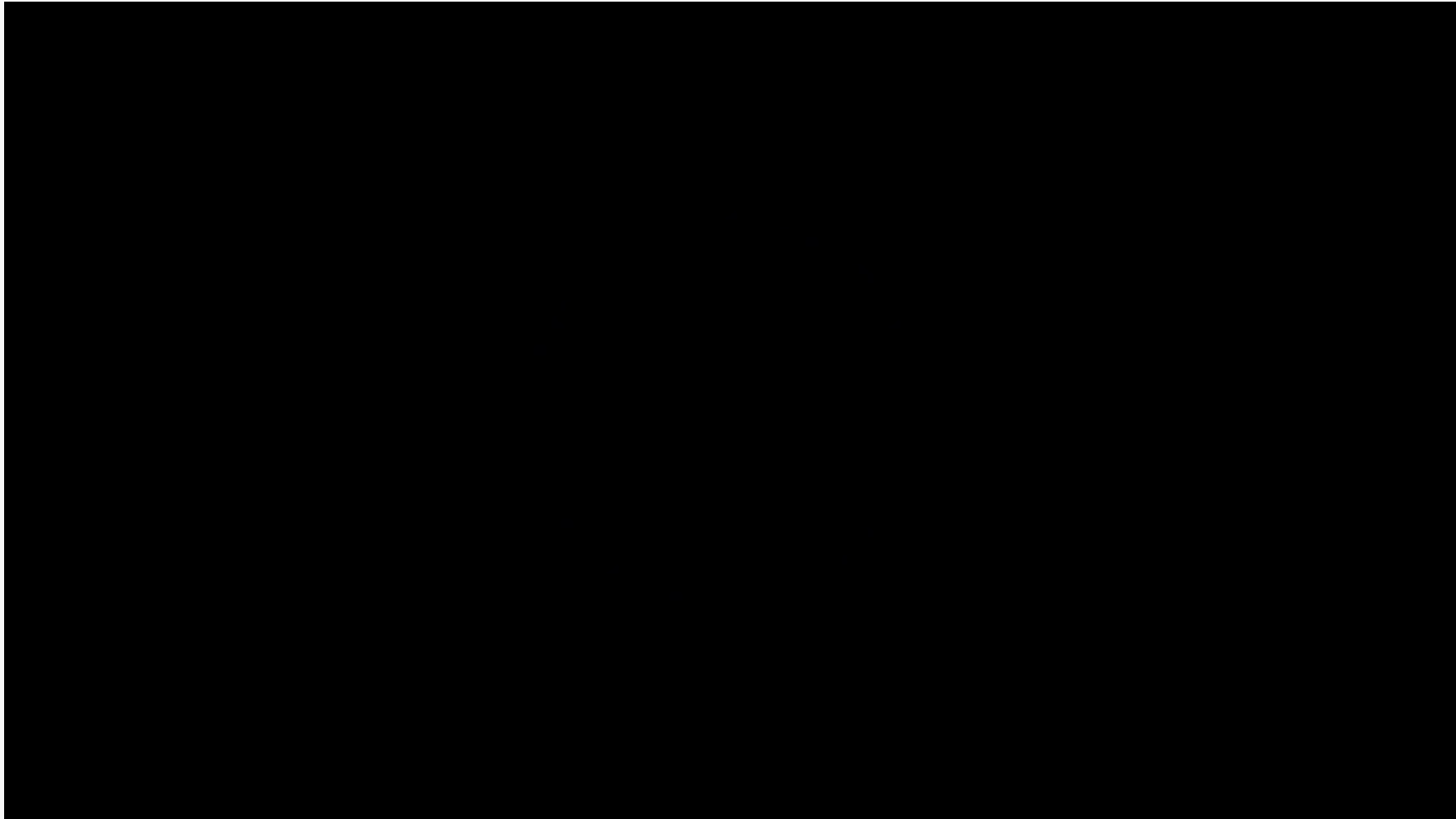
# *United States v. Cronin*

## 466 U.S. 648 (1984)

***“ . . . the constitutional right to effective assistance of counsel is the right of the defendant to require that the government’s case survive the **crucible of meaningful adversarial testing.**”***



# Plight of the Public Defender



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

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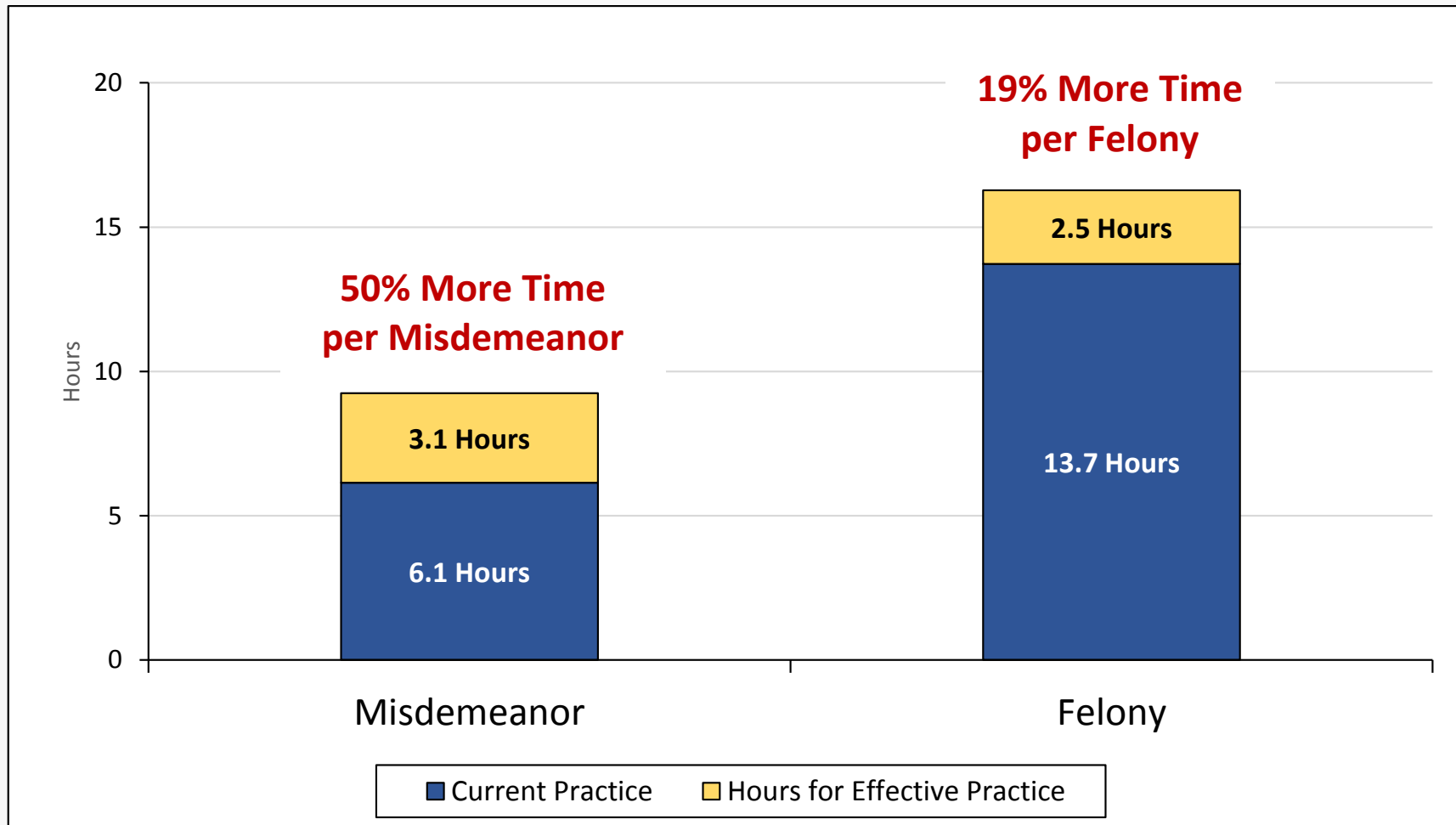


*“... a system that is defrauding America out of its Constitutional rights.”*

# ***Weighted Caseload Study***

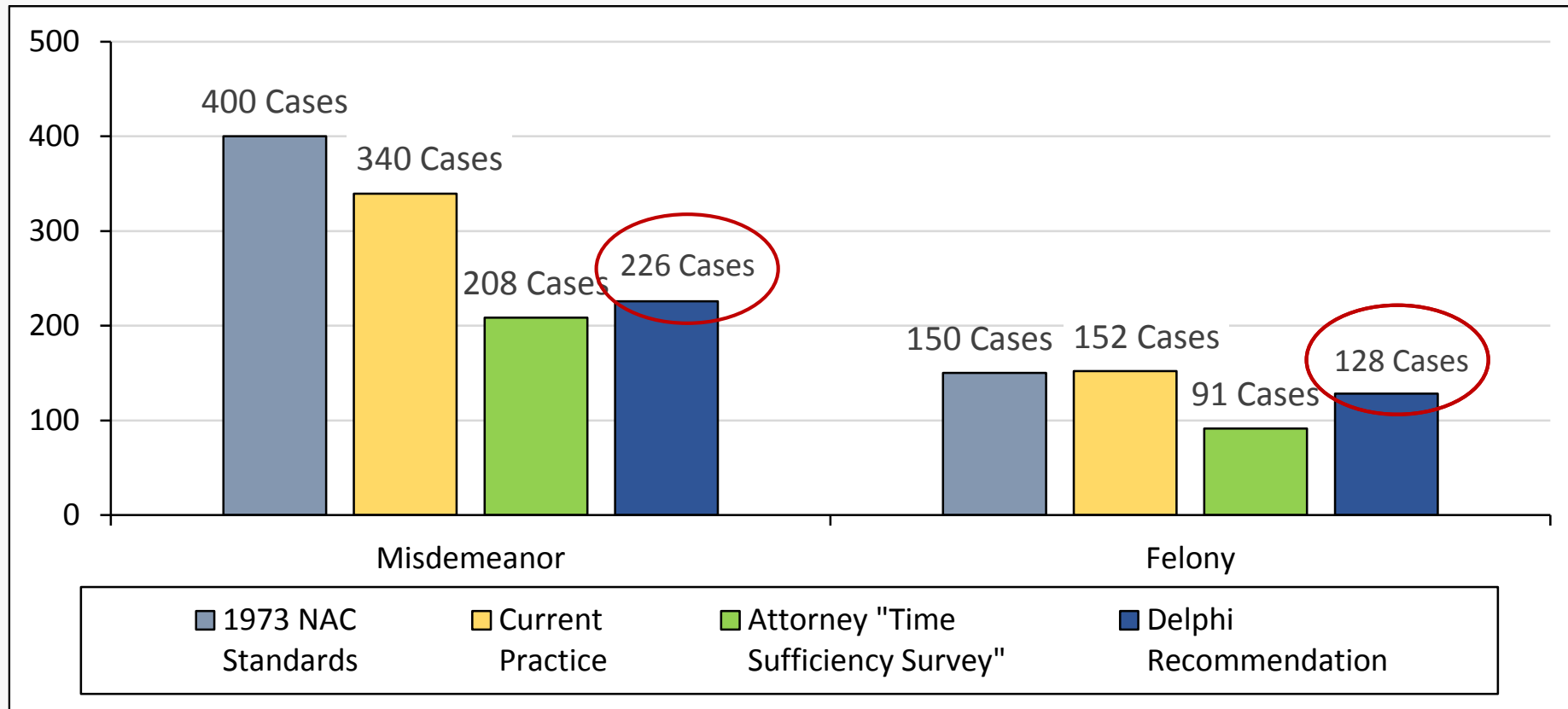
## ***RESULTS***

# Additional Time Required

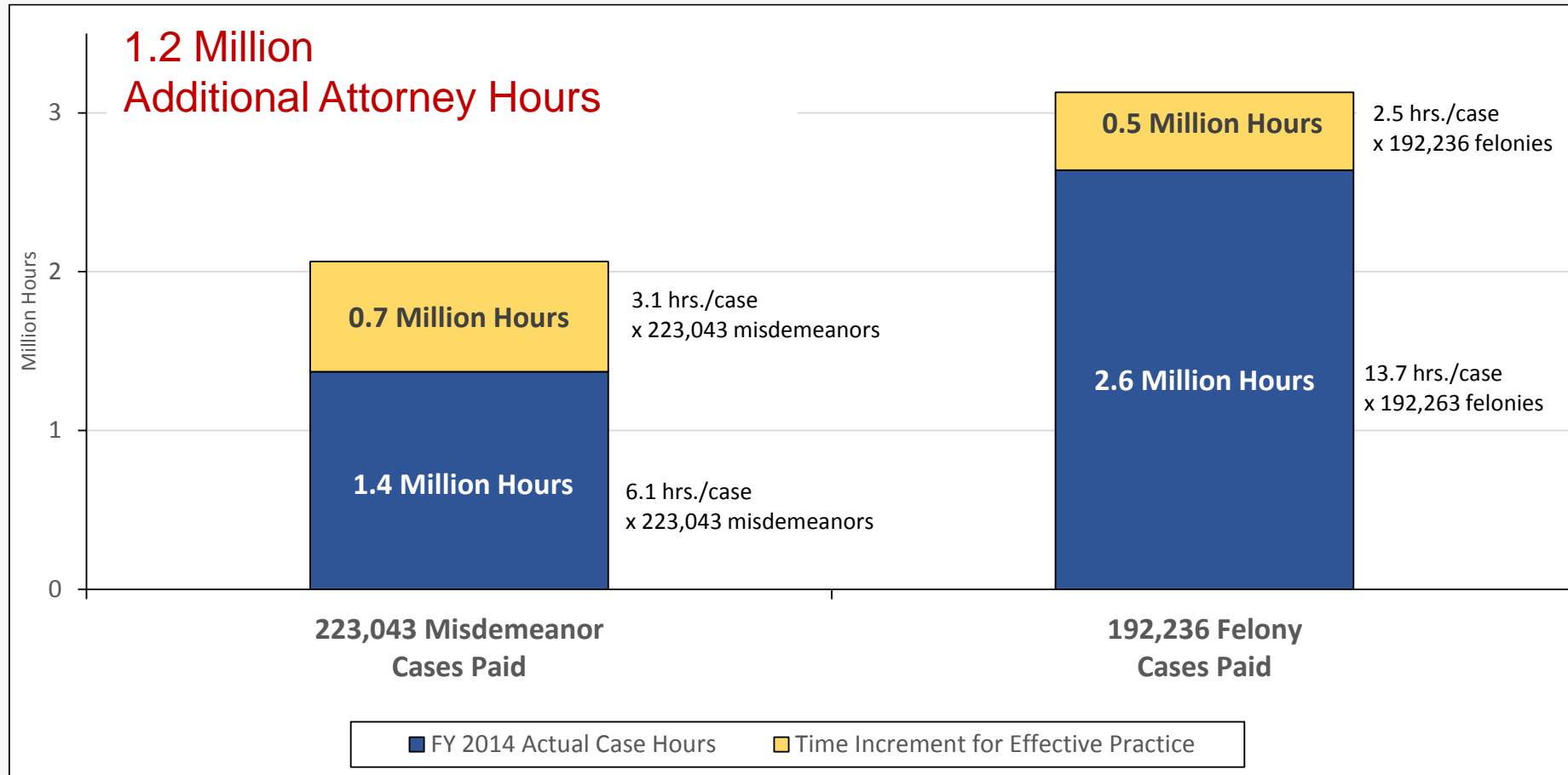




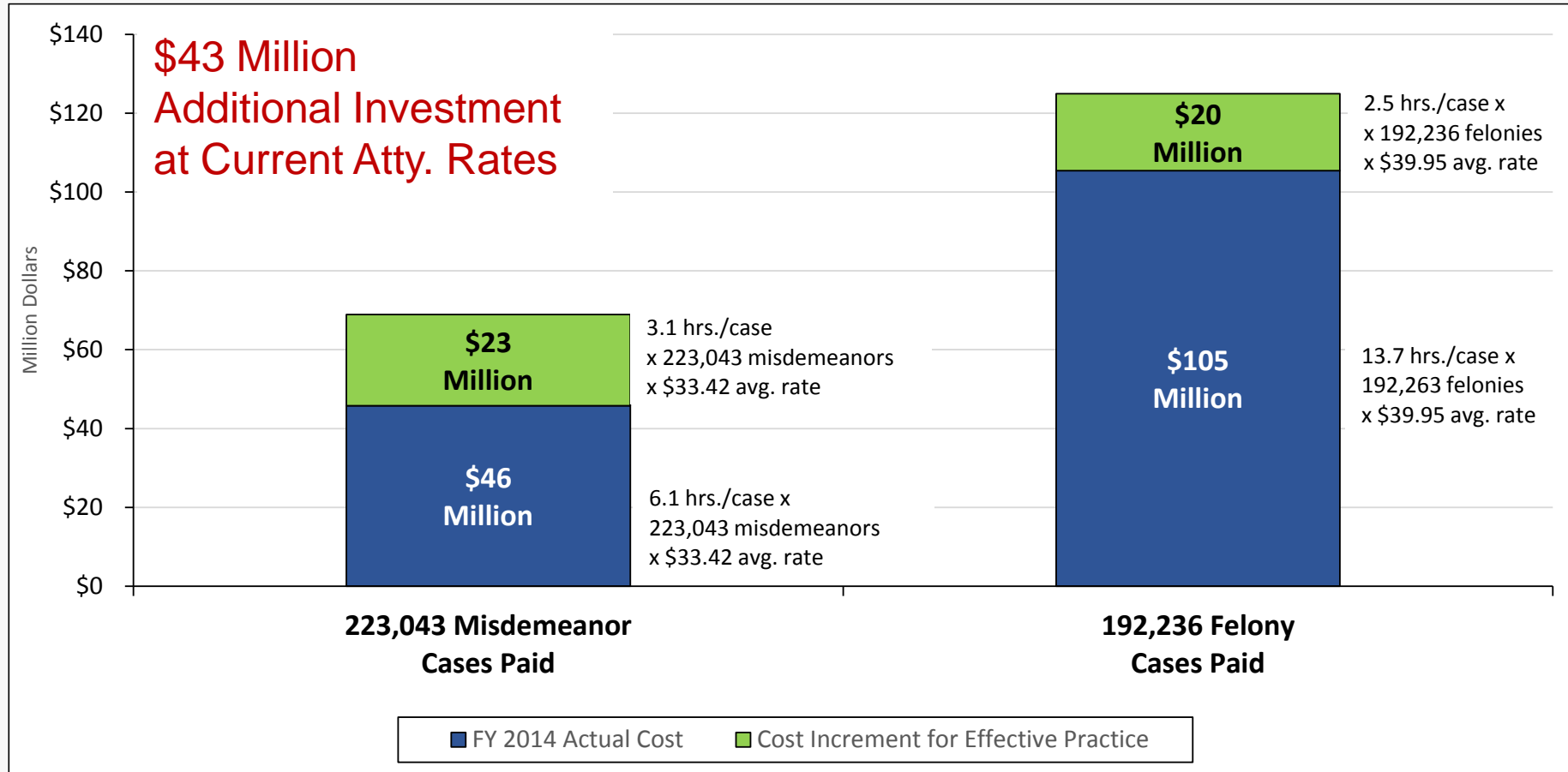
# Bottom Line



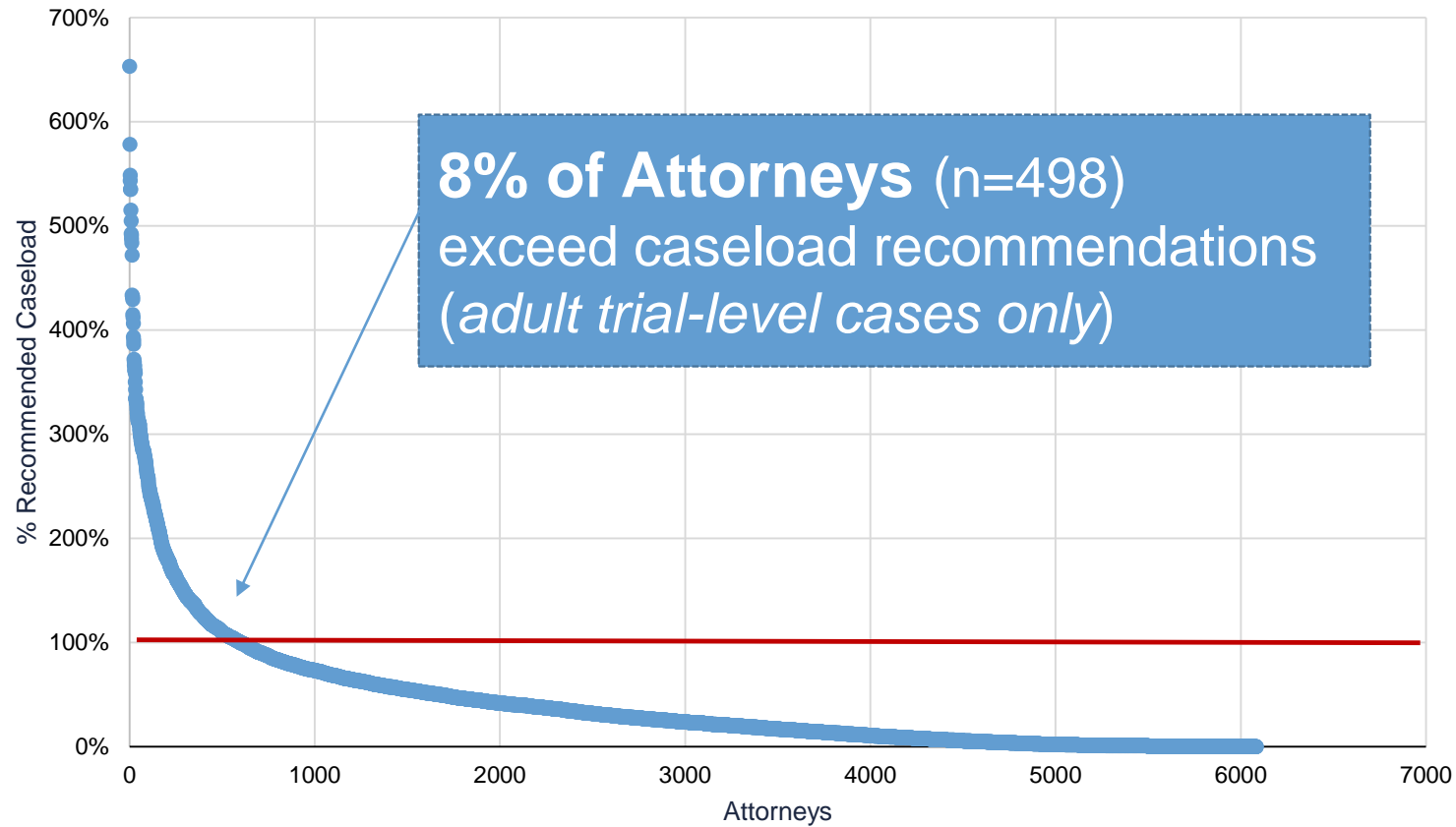
# Additional Time Required



# Fiscal Impact



# Recommended Caseload Guidelines Exceeded



# Case Weights Applied

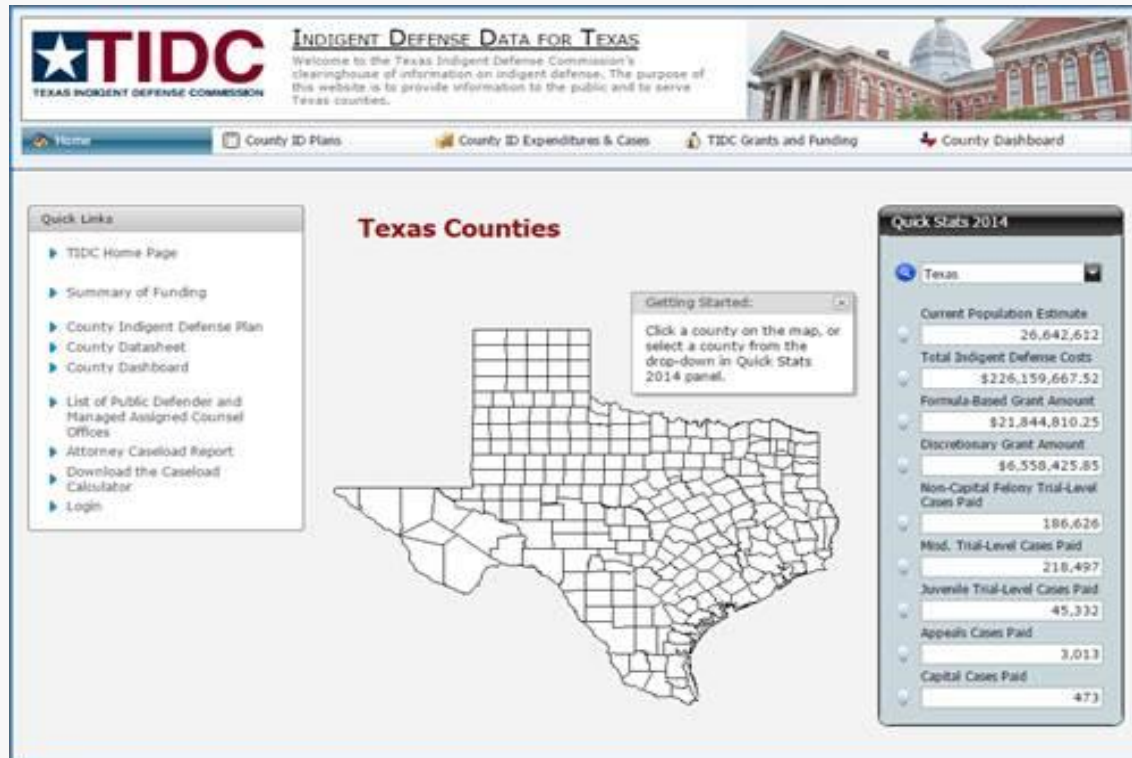
	This is the weight:		This is how it's applied:	
	Cases per 2,087 Hour Work Year	Current Annual Caseload	Case Weight Applied to Current Caseload	Percent of Recommended Limit
MA	236	45	45/236	19.1%
MB	216	104	104/216	48.1%
SJF	174	66	66/174	37.9%
F3	144	25	25/144	17.4%
F2	105	10	10/105	9.5%
F1	77	5	5/77	6.5%
Percent of recommended caseload this attorney is representing:				138.5%

# Automatic Caseload Calculator

The screenshot shows the TIDC website header with the logo and mission statement. Below the navigation bar, the 'Quick Links' menu is visible, with 'Download the Caseload Calculator' circled in red. To the right, there's a map of Texas counties and a 'Quick Stats 2013' sidebar displaying various statistics like population estimate, defense costs, and grant amounts.



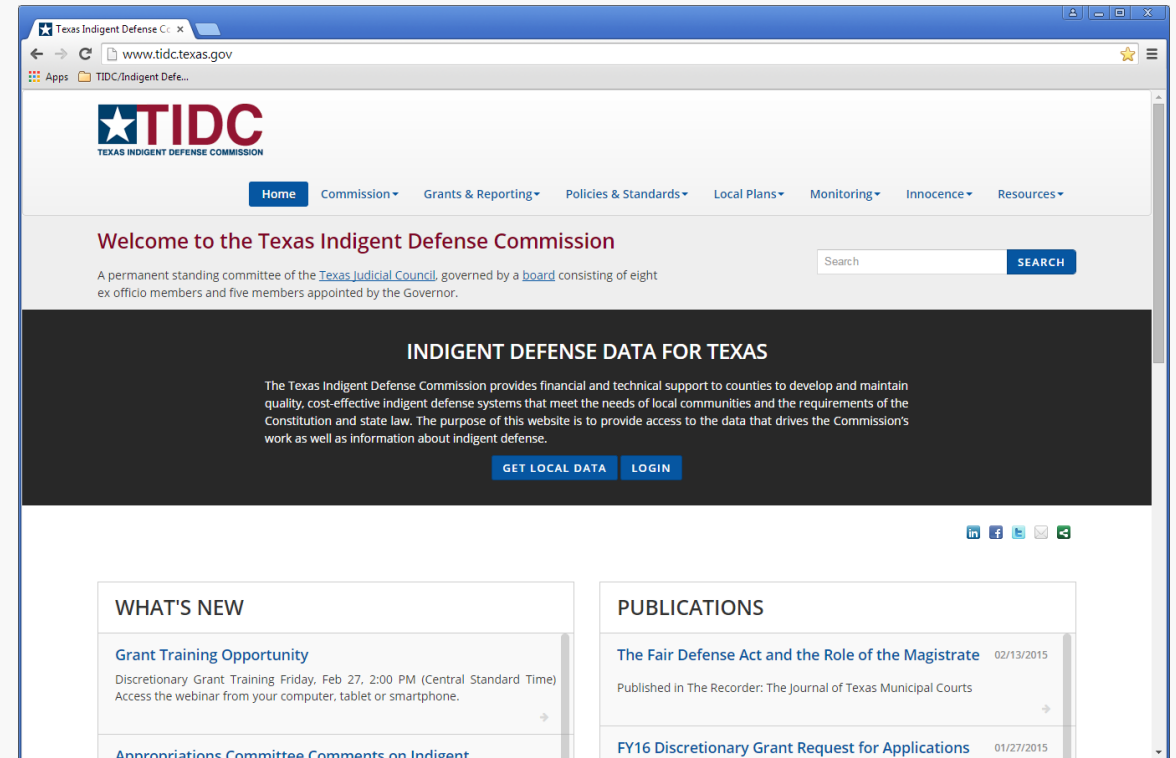
# TIDC Online



The screenshot shows the TIDC website interface. At the top, there is a header with the TIDC logo and the text "INDIGENT DEFENSE DATA FOR TEXAS". Below the header, there is a navigation bar with links: Home, County ID Plans, County ID Expenditures & Cases, TIDC Grants and Funding, and County Dashboard. The main content area features a map of Texas counties on the left, a "Quick Stats 2014" panel on the right, and a "Getting Started" box in the center. The "Quick Stats 2014" panel lists various statistics:

Category	Value
Current Population Estimate	26,642,622
Total Indigent Defense Costs	\$226,159,667.52
Formula-Based Grant Amount	\$21,844,810.25
Discretionary Grant Amount	\$6,558,425.85
Non-Capital Felony Trial-Level Cases Paid	186,626
Mod. Trial-Level Cases Paid	218,497
Juvenile Trial-Level Cases Paid	45,332
Appeals Cases Paid	3,013
Capital Cases Paid	473

<http://tidc.tamu.edu/public.net/>



The screenshot shows the TIDC website interface. At the top, there is a header with the TIDC logo and the text "INDIGENT DEFENSE DATA FOR TEXAS". Below the header, there is a navigation bar with links: Home, Commission, Grants & Reporting, Policies & Standards, Local Plans, Monitoring, Innocence, and Resources. The main content area features a "Welcome to the Texas Indigent Defense Commission" message, a search bar, and a "Quick Stats 2014" panel. The "Quick Stats 2014" panel lists various statistics:

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[tidc.texas.gov](http://tidc.texas.gov)

# Past and Future

