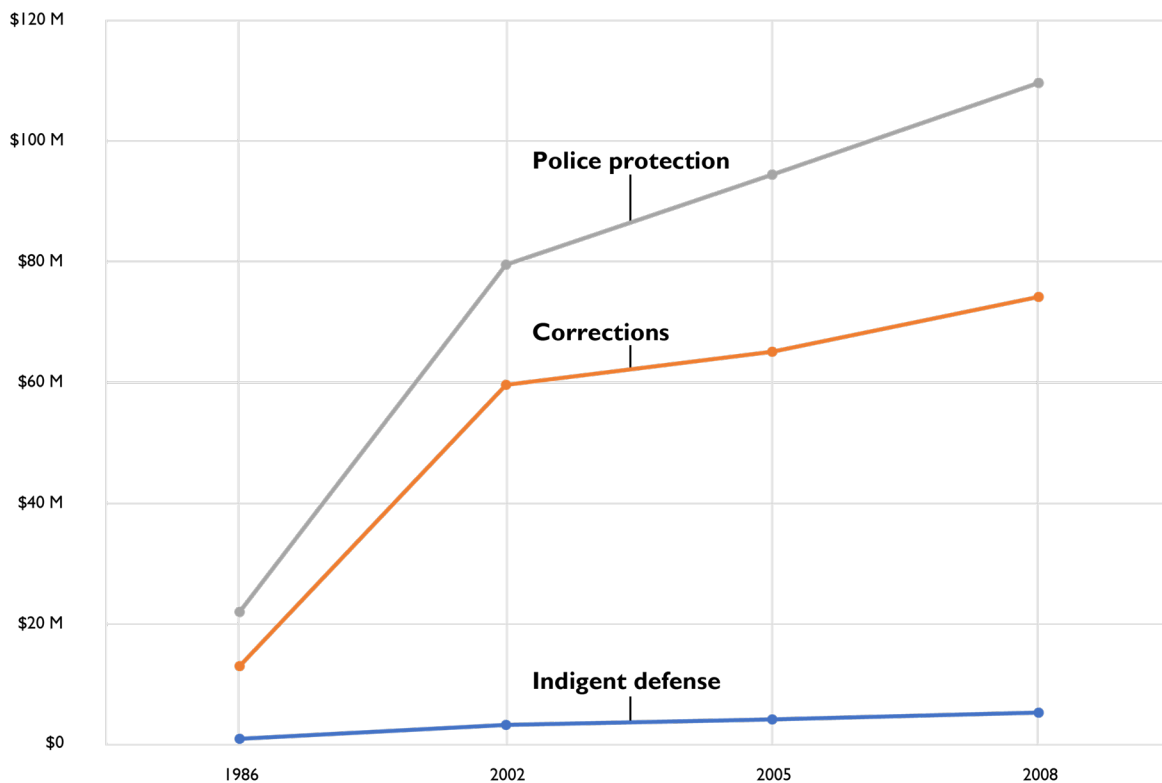


Gideon v. Wainwright / Right to Counsel: Quantitative Analysis—Answer Key

Under the U.S. system of government, each state has the power to write their own laws and create their own justice system. State legislatures provide funding and pass their own legislation affecting the justice system. The Supreme Court decision in *Gideon v. Wainwright* (1963) requires states to provide counsel for the defense in all criminal felony proceedings upon request by the defendant (at no cost), but it does not dictate how states should do so. Some states have a public defender system with defense attorneys in a public defender's office. Other states rely upon individual courts contracting with private attorneys in the community to provide this service. The amount of money provided to pay for these services varies tremendously among the states and this impacts the decisions made to defend the accused in many ways.

Consider the impact of average state spending on the rights of defendants to receive effective assistance of counsel. For each graph, answer the questions that follow:

Chart I: Comparison of National Spending on Police, Corrections, and Indigent Defense



Source: Justice Policy Institute (http://www.justicepolicy.org/uploads/justicepolicy/documents/system_overload_final.pdf)

Chart 1 Questions

1. Identify a trend in spending for criminal justice.
Spending for police and enforcement have sharply increased between 1986 and 2008, increasing over 100%. Spending for indigent defense increased very minimally between 1986 and 2008.
2. Describe a similarity or difference between spending for corrections (prisons and jails) and spending for indigent defense.
Similarity: Both spending items increased. Difference: There is a clear priority in spending for police and corrections as compared to very small funding for indigent defense.
3. Explain what the impact of the spending preferences represented in this graph might be.
Student answers will vary. Students should be able to make a connection that indicates an understanding that a society's priorities are reflected in their spending choices.

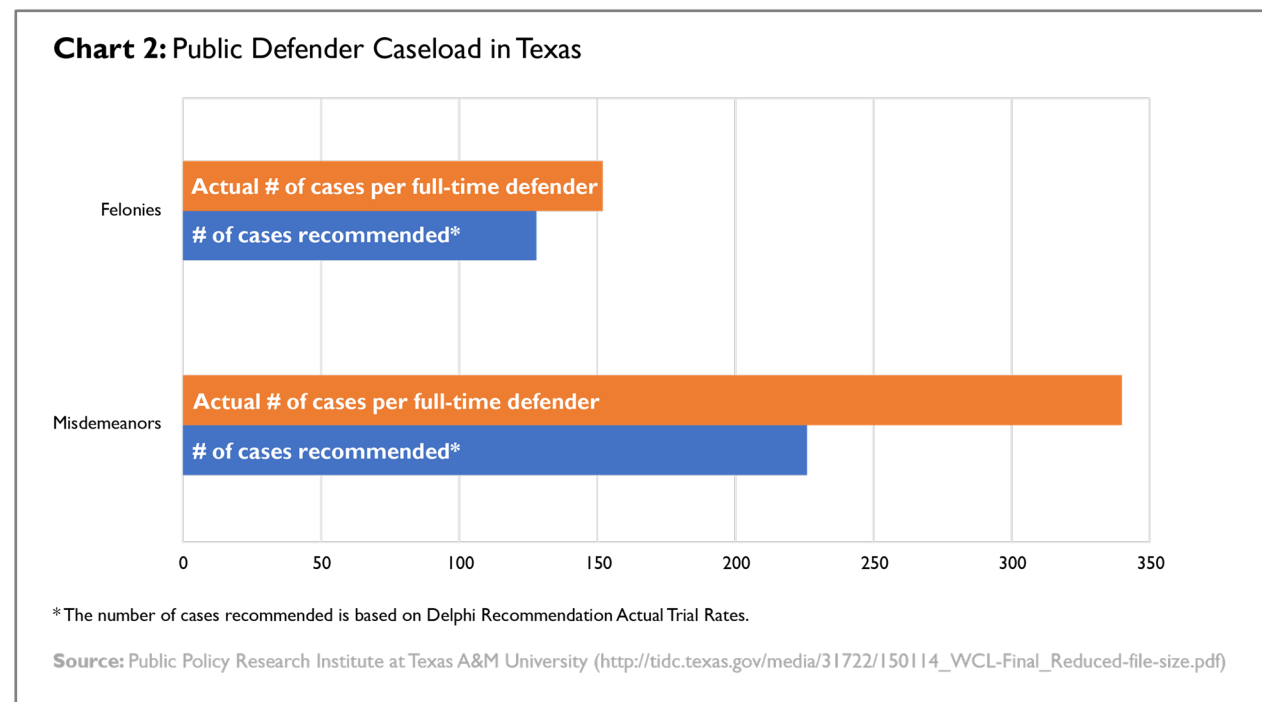


Chart 2 Questions

1. Based on the information provided in the graph, identify the category of cases that is the largest for public defenders in Texas.
Misdemeanor cases
2. According to the graph, which category has the smallest discrepancy (difference) between recommended and actual case load?
Felony cases

- Explain how the discrepancy of actual case load exceeding recommended case load for public defenders might impact the effectiveness of legal counsel.

Student answers will vary but should include that public defenders are less likely to be able to adequately represent their clients when their caseload exceeds the number of recommended cases. Students may state that the inability to devote the resources (time, etc.) needed for the defense of the accused will lead to a less vigorous defense.

- Identify one way that states might address this discrepancy.

Student answers will vary but may include increased funding by states, laws that would set limits on number of cases each attorney could handle at a time, laws requiring that certain tests be conducted (e.g., DNA testing, psychiatric evaluations, etc.).

- What might prevent states from enacting the solution you proposed in #4?

States may lack revenue to fund these measures.

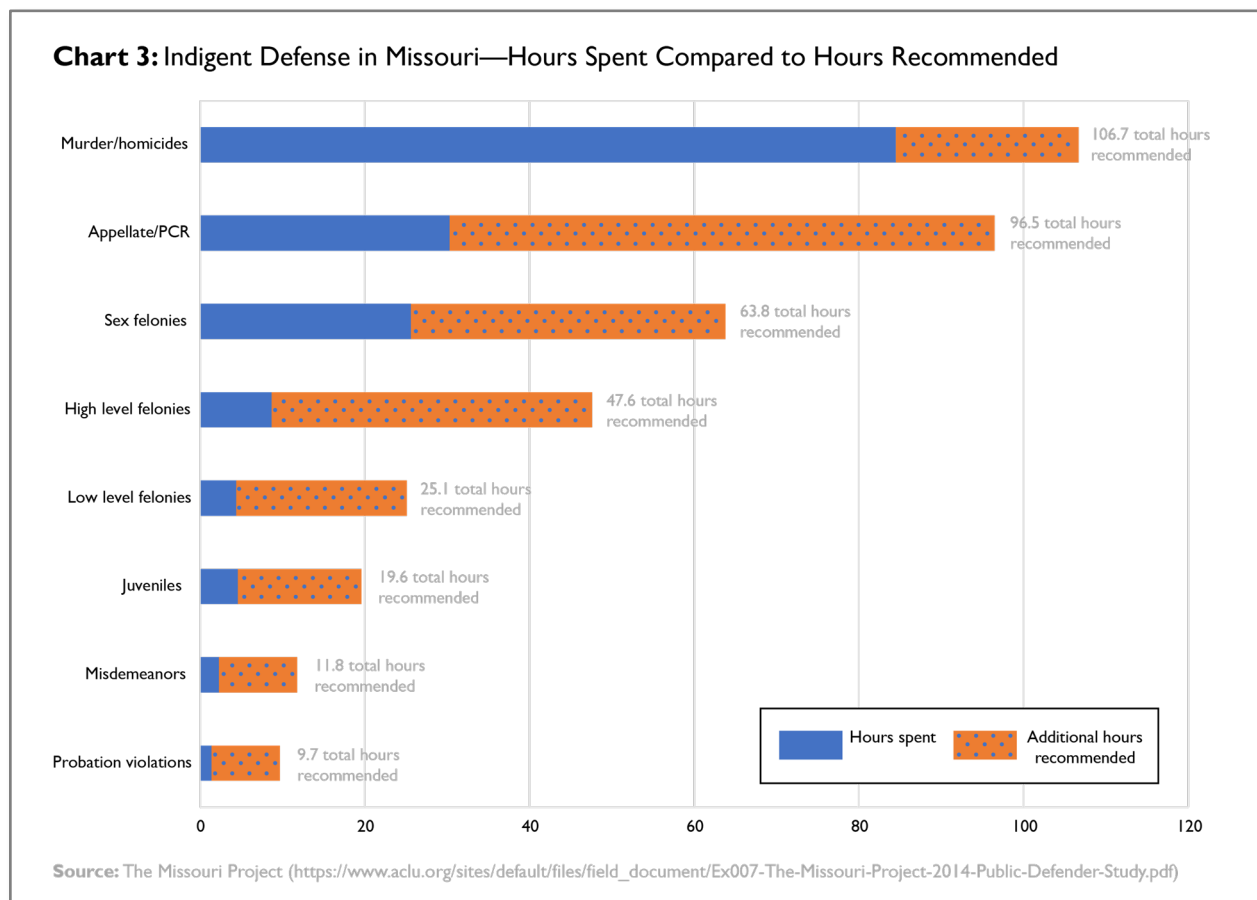


Chart 3 Questions

- Identify the 3 categories of cases which have the greatest difference between average hours recommended and average hours spent.

Appellate cases, sex felonies, and high-level felonies.

2. Which 3 types of case has the highest possible penalties imposed on defendants?
Felonies: murder/homicides, sex felonies, and high-level felonies.
3. Explain how the discrepancy of average hours recommended and average hours spent might impact the effectiveness of legal counsel.
Student answers will vary but should include that when fewer than recommended hours are spent by public defenders, they are less likely to be able to adequately represent their clients. Students may state that the inability to devote the resources (time, etc.) needed for the defense of the accused will lead to a less vigorous defense.
4. Identify one way that states could address this discrepancy.
Student answers will vary - could include increased funding by states, laws that would set limits on number and types of cases each attorney could handle at a time.
5. What might prevent states from enacting the solution you proposed in #4.
States may lack funding to support those solutions.