



# **A National Assessment of Public Defender Office Caseloads**

**Justice Research and Statistics  
Association Annual Meeting**

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# Bureau of Justice Statistics



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FORM CPDO-07

**RETURN TO** NORC/CPDO-07 16th Floor  
One North State Street  
Chicago, Illinois 60602

**U.S. DEPARTMENT OF JUSTICE  
BUREAU OF JUSTICE STATISTICS**  
(NORC ACTING AS DATA COLLECTION AGENT)

**2007 Census of Public Defender Offices**



- Developed through a collaborative effort between BJS, NLADA, and a number of chief defenders and other experts in the field of indigent defense.
- Reviewed by the American Bar Association's Standing Committee for Legal Aid and Indigent Defense and the National Association of Criminal Defense Lawyers.
- Topics include:
  - Public defender office policies
  - Criteria for indigency determinations
  - Number of attorneys and support staff
  - Number and type of cases received
  - Office expenditures
  - Professional development
  - Type of representation provided
  - Capital case representation

# Bureau of Justice Statistics



Designed to collect office-level data from approximately 1,000 publicly-funded public defender offices in the U.S.

- **Includes** all public defender offices that were principally funded by state or local governments and provided general criminal defense services, conflict services, or capital case representation.
- **Excludes** offices that provided primarily contract or assigned counsel services with private attorneys
- **Excludes** any public defender offices that were privately or principally funded by tribal or federal government, or provided primarily appellate or juvenile services.

Data presented here describe 957 public defender offices.



## State-based public defender programs VS. County-based public defender offices

- **22 states** with state public defender programs provided aggregate data for all offices within the state.
  - Data presented at the state level.
- **27 states + DC** with county-based indigent defense systems provided public-defender data at the office level.
  - Data presented at the office level.
  - Number of cases received is used as a measure of office size and office data is presented across small, medium, large, and extra large offices.

In 2007, approximately 15,000 FTE public defenders nationwide received nearly 5.6 million cases

Type of office	States	Population served (thousands)	Cases received	FTE litigating attorneys	Total expenditures (thousands)
U.S. total	50	240,160	5,572,450	15,026	\$2,310,040
State-based	22	73,370	1,491,420	4,321	833,358
County-based	28	166,790	4,081,030	10,705	1,476,682

# 9 state programs had a formal policy regarding maximum number of cases an attorney can carry at one time

## Source of the maximum caseload policy-

State	State law	State Supreme Court Rule	State bar association	Oversight board	Office policy only	Compliance is mandatory
<b>Total number</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>7</b>
<b>Colorado</b>	<b>X</b>		<b>X</b>			<b>No</b>
<b>Connecticut</b>				<b>X</b>		<b>Yes</b>
<b>Maryland</b>					<b>X</b>	<b>No</b>
<b>Massachusetts</b>	<b>X</b>					<b>Yes</b>
<b>New Hampshire</b>				<b>X</b>		<b>Yes</b>
<b>Vermont</b>					<b>X</b>	<b>Yes</b>
<b>Wisconsin</b>		<b>X</b>				<b>Yes</b>

# About 20% of county-based offices had a formal policy regarding maximum number of cases an attorney can carry

County-based offices	Percent with maximum caseload policy	Source of caseload policy--				Compliance is mandatory
		State law	State bar association	Governing board or state commission	Office policy only	
All offices	21%	9%	20%	28%	43%	82%
Less than 1,000 cases received	14	11	21	26	32	90
1,000-2,500	18	9	14	18	68	86
2,501-5,000	22	9	23	32	36	73
More than 5,000	29	9	20	31	38	82

# 7 state public defender programs had neither caseload limits nor the ability to refuse cases

State	Programs with --	
	Caseload limits	Authority to refuse appointments due to caseload
Total percent	50 %	36 %
Arkansas	No	Yes
Colorado	Yes	No
Iowa	No	Yes
Hawaii	No	No
Wisconsin	Yes	No

# More than half of all county-based offices had neither caseload limits or the authority to refuse cases

<b>County-based offices</b>	<b>Percent of offices with --</b>	
	<b>Caseload limits</b>	<b>Authority to refuse appointments due to caseload</b>
<b>All offices</b>	<b>15 %</b>	<b>36 %</b>
<b>Less than 1,000 cases</b>	<b>12 %</b>	<b>28 %</b>
<b>1,000-2,500</b>	<b>14</b>	<b>27</b>
<b>2,501-5,000</b>	<b>16</b>	<b>40</b>
<b>More than 5,000</b>	<b>20</b>	<b>49</b>

# A quarter of all cases received by state public defender programs in 2007 were felony non-capital cases

State	All cases	Percent of cases received by case type			Felony capital cases
		Felony (non-capital)	Misdemeanor	Juvenile	
Total	1,491,420	25 %	43 %	14 %	440
Median	72,740	25	50	13	2
Maryland	199,750	21 %	63 %	10 %	15
Wisconsin	142,400	25	50	18	N/A
Minnesota	139,120	20	14	19	0
Massachusetts	16,820	76	19	3	N/A
North Dakota	2,270	35	29	22	N/A

# Half of cases received in county-based offices were misdemeanors that carried a jail sentence

County-based offices	All cases	Percent of cases received by case type			
		Felony	Misdemeanor	Juvenile	Felony capital
Total offices	4,081,030	30 %	51 %	9 %	1,210
Median	2,482	34	40	6	0
Less than 1,000 cases received	62,582	33	47	10	19
1,000-2,500	200,396	39	41	9	45
2,501-5,000	374,617	38	42	10	60
More than 5,000	3,443,435	29	52	9	1,086

# National Standard for Maximum Public Defender Caseloads\*

**On average, public defenders should not exceed, per year:**

- **150 felony**
- **400 misdemeanor**
- **200 juvenile**
- **200 mental health**
- **OR 25 appeals**

\*1973 National Advisory Commission on Criminal Justice System Standards and Goals

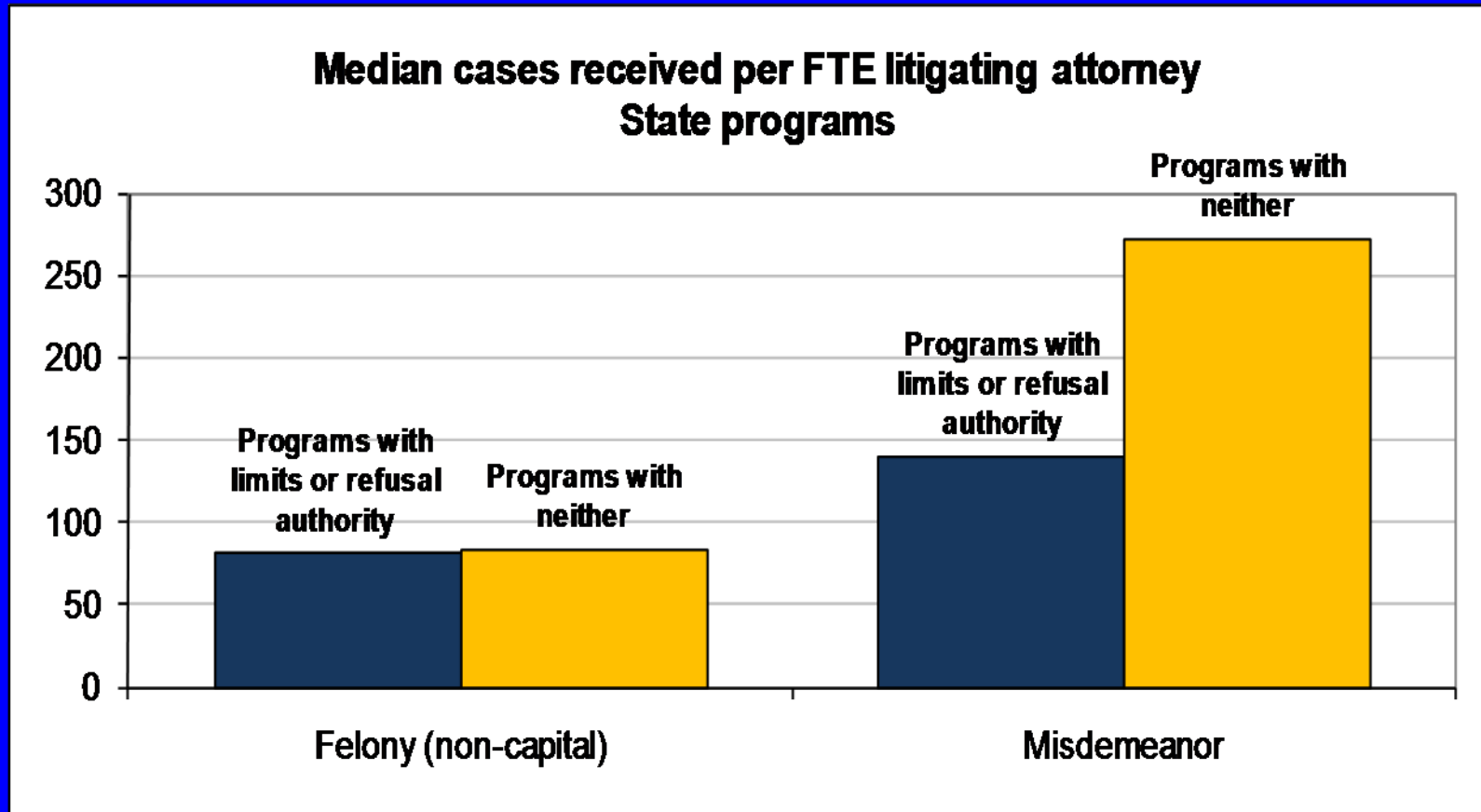
# Public defenders in state programs handled a median of 70 felony AND 139 misdemeanor cases in 2007

State	FTE litigating attorneys	Felony (non-capital) cases received		Misdemeanor cases received	
		Number	Per FTE	Number	Per FTE
<b>Total</b>	<b>4,321</b>	<b>378,400</b>	<b>88</b>	<b>636,226</b>	<b>147</b>
<b>Median</b>	<b>163</b>	<b>11,415</b>	<b>70</b>	<b>22,673</b>	<b>139</b>
<b>Colorado</b>	<b>241</b>	<b>55,160</b>	<b>229</b>	<b>26,670</b>	<b>94</b>
<b>Hawaii</b>	<b>93</b>	<b>4,600</b>	<b>49</b>	<b>31,170</b>	<b>335</b>
<b>Wisconsin</b>	<b>294</b>	<b>35,800</b>	<b>122</b>	<b>71,810</b>	<b>244</b>
<b>Wyoming</b>	<b>38</b>	<b>120</b>	<b>3</b>	<b>12,000</b>	<b>316</b>
<b>Massachusetts</b>	<b>197</b>	<b>12,830</b>	<b>65</b>	<b>3,180</b>	<b>16</b>
<b>New Hampshire</b>	<b>107</b>	<b>7,420</b>	<b>69</b>	<b>13,350</b>	<b>125</b>

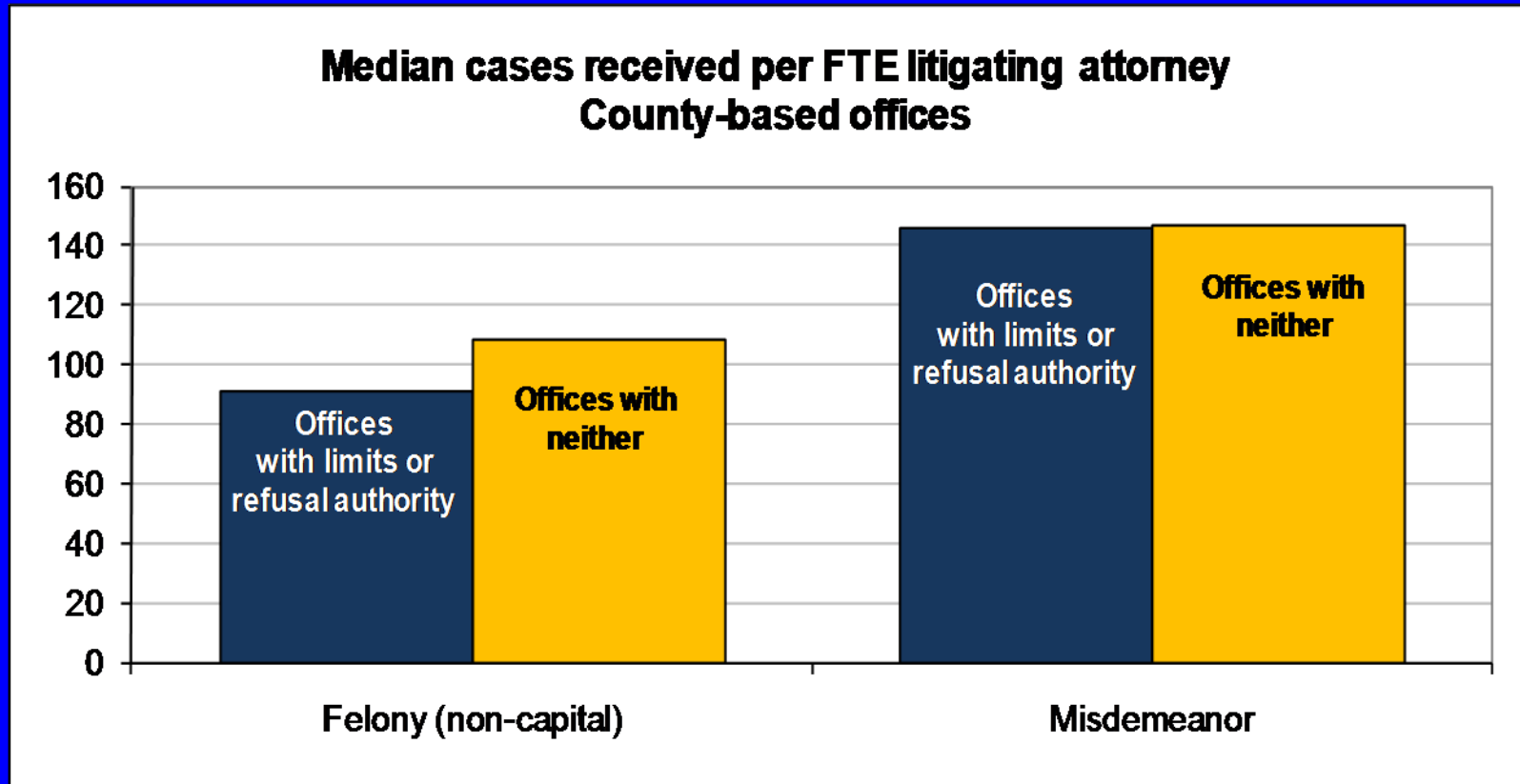
# Public defenders in county-based offices handled a median of 100 felony AND 146 misdemeanor cases in 2007

County-based offices	Median FTE litigating attorneys	Felony (non-capital) cases		Misdemeanor cases	
		Median number received	Median per FTE attorney	Median number received	Median per FTE attorney
<b>All offices</b>	<b>7</b>	<b>853</b>	<b>100</b>	<b>1,000</b>	<b>146</b>
Less than 1,000 cases received	2	110	50	183	100
1,000-2,500	5	550	110	651	136
2,501-5,000	9	1,200	140	1,650	170
More than 5,000	28	3,500	126	5,302	208

# State programs with either caseload limits or authority to refuse cases had substantially fewer misdemeanor cases per attorney



# County-based offices with either caseload limits or authority to refuse cases had fewer felony cases per attorney



# Public defender offices and the NAC standard

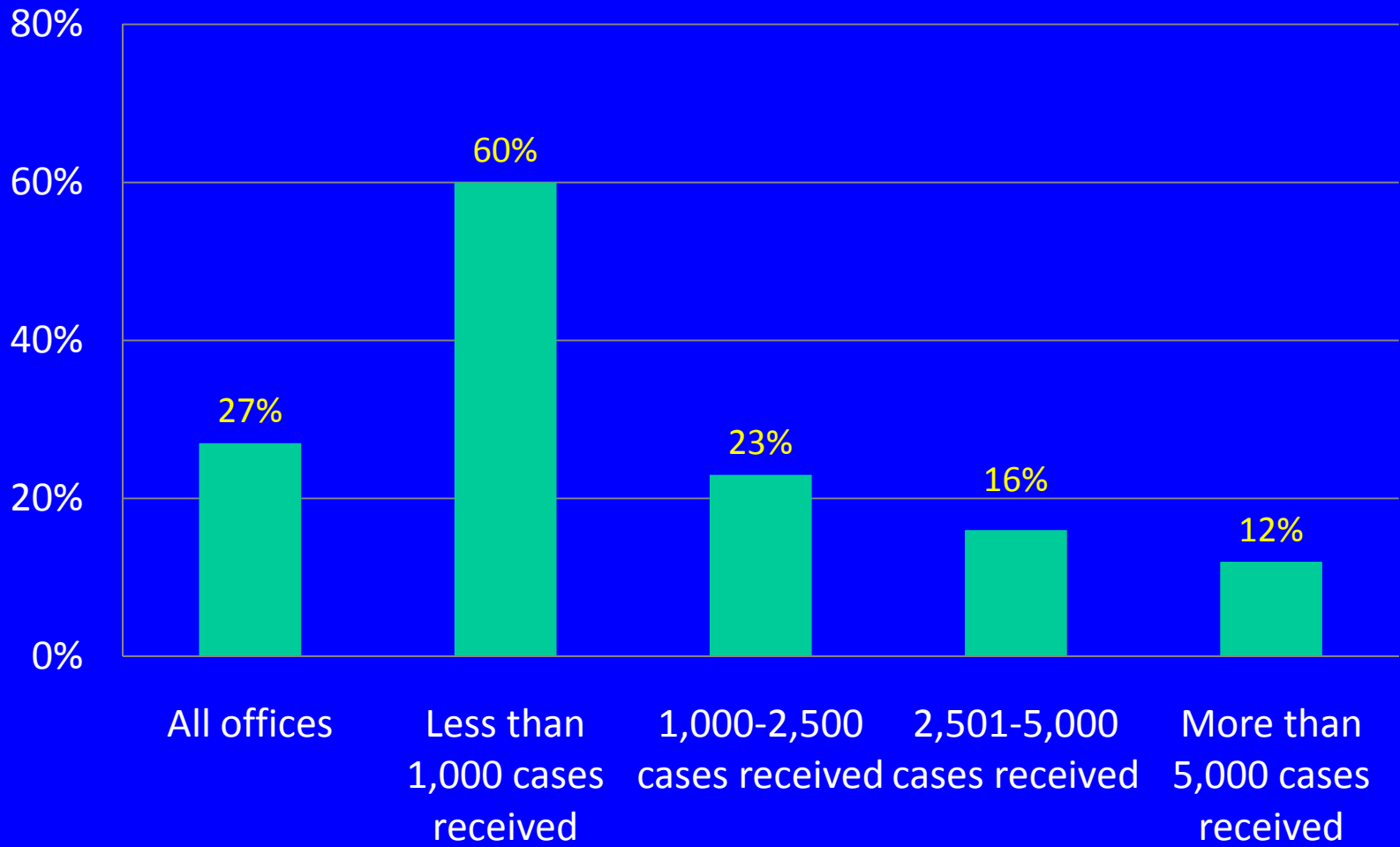
**Analysis restricted to 4 case types:**

- 1. Felony**
- 2. Misdemeanor**
- 3. Juvenile**
- 4. Appeals**

# 4 of 17 state programs reporting complete data had a sufficient number of attorneys to meet caseload standards

State	FTE litigating attorneys	Attorneys needed to meet caseload standards	Attorneys as a percent of number needed
All	3,159	4,655	66
Median	128	151	67
Massachusetts	197	107	<b>185</b>
Montana	128	87	148
Wyoming	38	36	108
New Hampshire	107	103	104
Vermont	31	46	67
Virginia	305	461	66
Colorado	241	479	50
Wisconsin	294	671	44
Iowa	99	307	31

# About 1 in 4 county-based public defender offices had a sufficient number of attorneys to meet caseload standards



# Possible future data collections related to indigent defense

- **Nationwide portrait of indigent defense systems**
  - **Public defender offices**
  - **Contract attorney systems**
  - **Court-appointed counsel**
- **Collect critical items regarding all indigent defense service providers**