

California Public Defense Workloads and Support Staffing

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Alameda County – Public Protection Committee

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Innovative Criminal Justice Reform at Deason Center

Right to Counsel

- Public Defense
- System Design
- Ethical Workloads
- Prompt Access to Counsel

Rural Justice

- Legal Deserts
- System Mapping
- State Partnerships
- Pilot Day One Office

Prosecutorial Discretion

- Screening and Charging
- D.A. Consultations
- Charging Delays
- Best Practices

The National Public Defense Workload Study (2023)

Results of the National Workload Study

Case Type	Case Weight
Felony – High – LWOP	286.0
Felony – High – Murder	248.0
Felony – High – Sex	167.0
Felony – High – Other	99.0
Felony – Mid	57.0
Felony – Low	35.0

Case Type	Case Weight
DUI – High	33.0
DUI – Low	19.0
Misdemeanor – High	22.3
Misdemeanor – Low	13.8
Probation/Parole Violations	13.5

What is a Case Weight?

- **Case weight = average hours per case, by case type**
 - **Mid-Level Felony: 57 hours/case**
- **Why use a case weight?**
 - **Focused on time needed to do work**
 - **Constructed from time estimates on attorney tasks**
 - **Adjustable to circumstances**
 - **Mixed caseloads**
 - **Part-time attorneys**

Lawyer Activities/Tasks:

Client Communication and Care
Discovery and Investigation
Experts
Legal Research, Motions Practice,
Other Writing
Negotiations
Court Preparation
Court Time
Sentencing/Mitigation and Post-
Adjudication

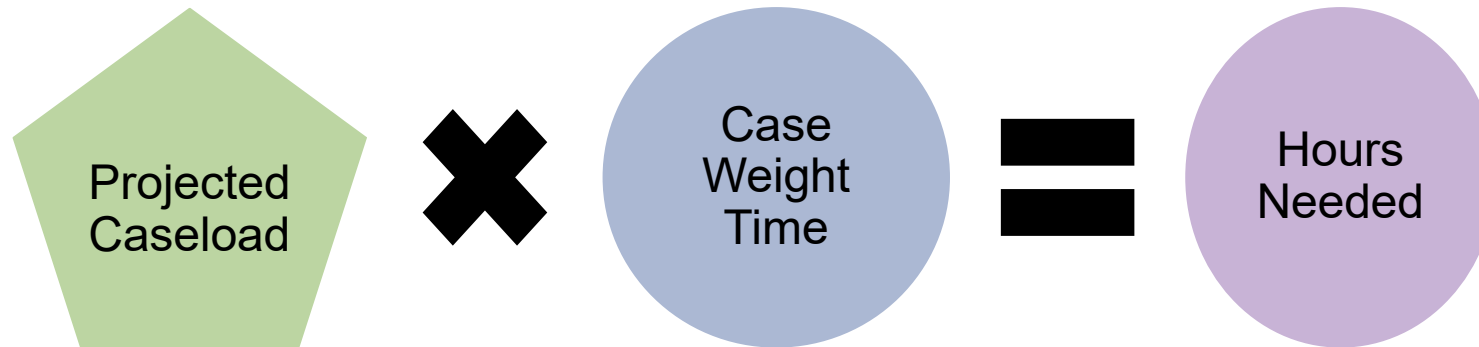
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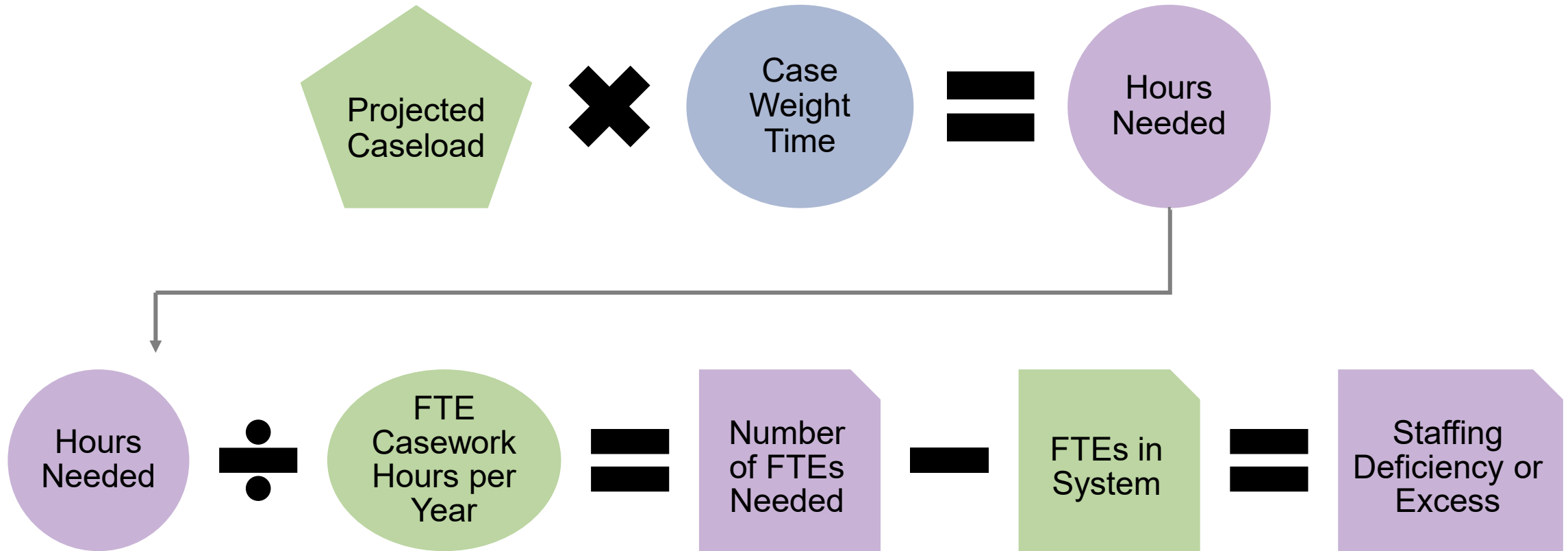
Staffing Needs Analysis

- **Project or estimate next years caseload by case type**



- **Must be completed for each of the 11 Case Types**
- **Total across case types = Total Hours Needed**

Staffing Needs Analysis



California

- **Guidance on how NPDWS applies in California**
- **Focused on case mapping**
- **Allows counties to apply easily and consistently**

Understanding The National Public Defense Workload Study

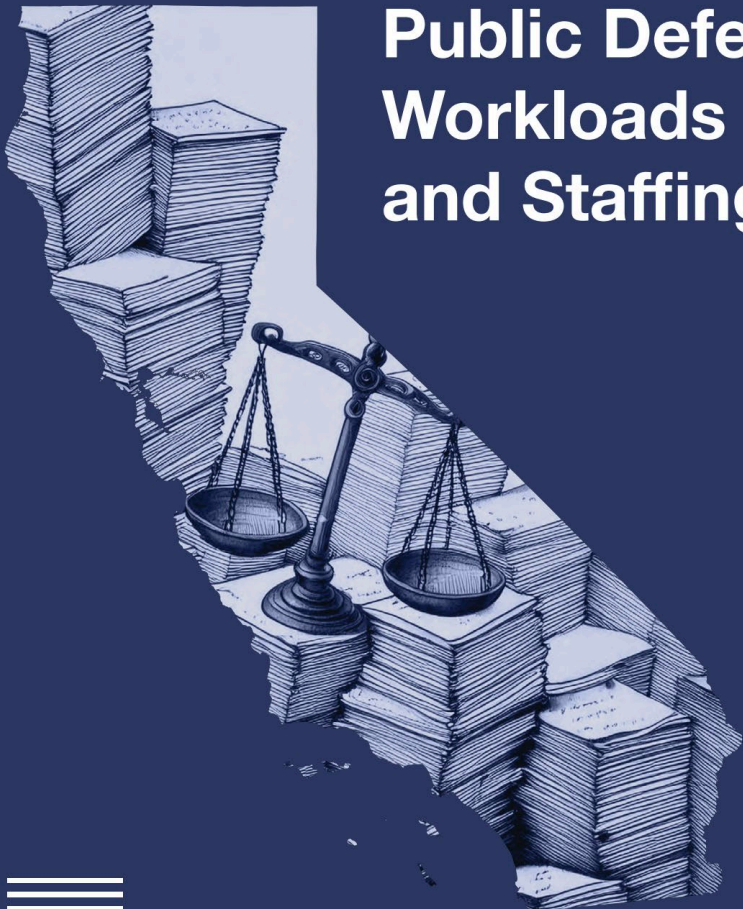
A Practical Guide to Mapping
Common California Offenses

December 2023

California

REPORT & RECOMMENDATIONS

California Public Defense Workloads and Staffing



DEASON
CENTER

SMU Dedman School of Law

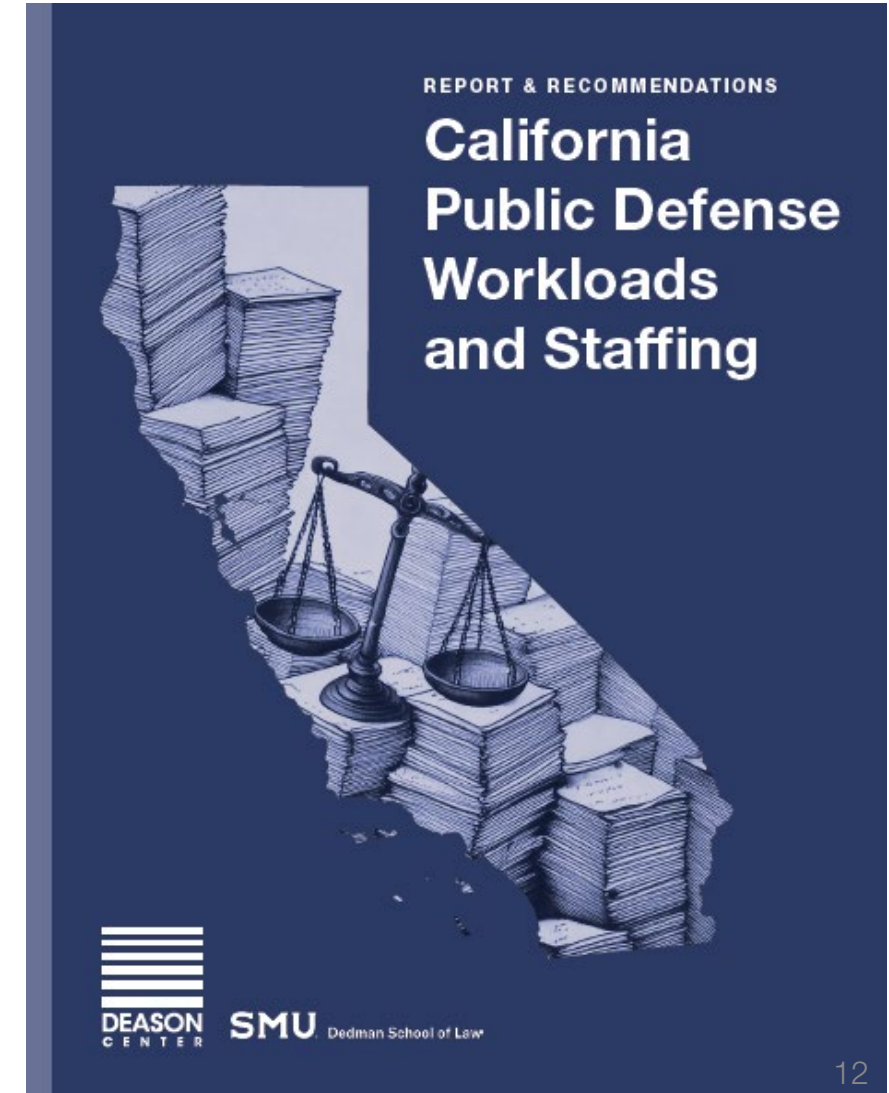




OSPD, “in consultation with CPDA and other subject matter experts, shall...

- **assess appropriate workloads for public defenders and indigent defense attorneys and. . .**
- **submit a report with their findings and recommendations to the Legislature**

- **Qualitative data** on caseloads and impact
- Data regarding **staffing**, including support staffing
- **Recommendations** re: future State action



- **Literature Review**
- **Existing Public Defense Data**
- **Site Visits**
- **Focus Groups**
- **Chief Public Defender Survey**
- **Mapping California Lawyers**

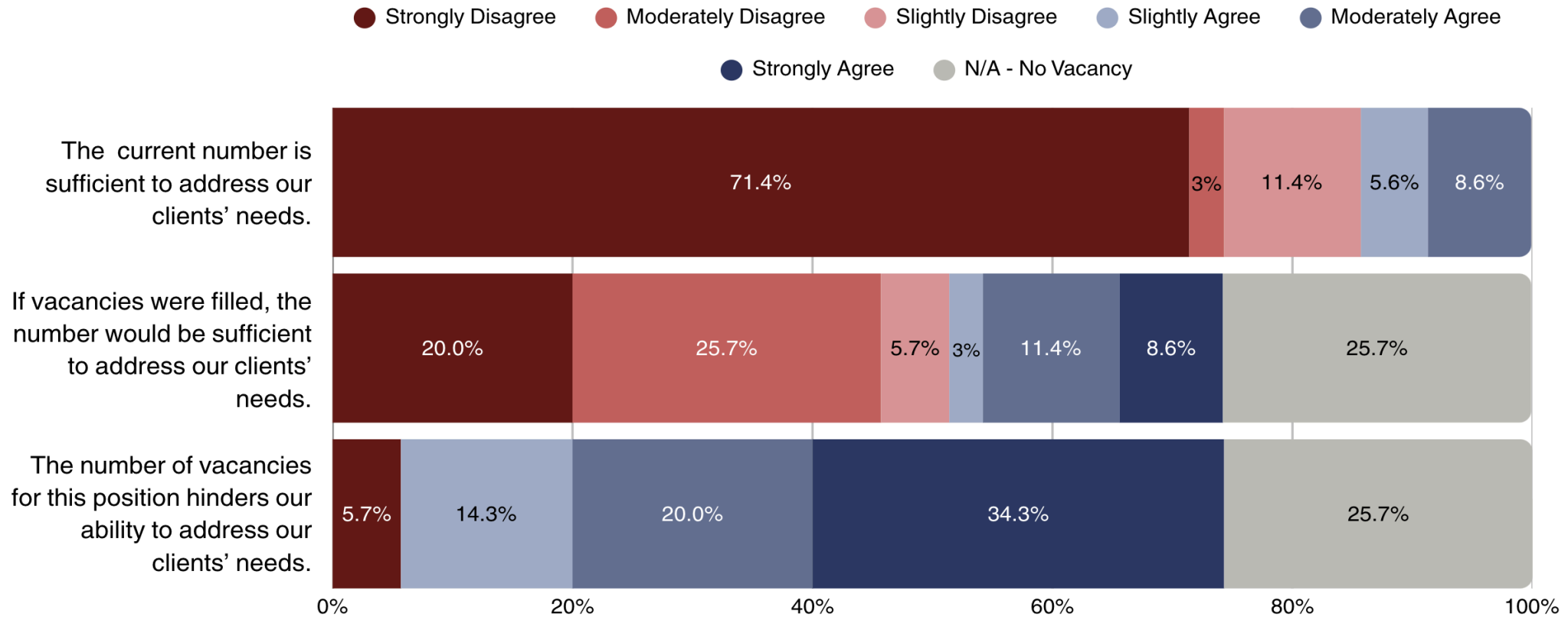
Public Defense Attorney Staffing and Workloads



SMU Dedman School of Law

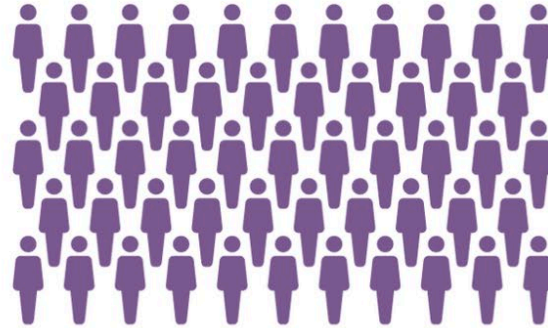
Attorney Staffing Sufficiency

Figure 1: Adult Criminal Trial Attorney Sufficiency



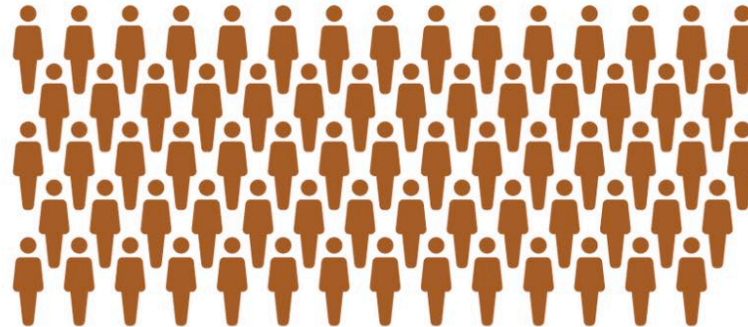
California Public Defenders Have Fewer Attorneys Compared to District Attorneys

2,645
PD Attorneys



73%
of prosecution

3,603
DA Attorneys

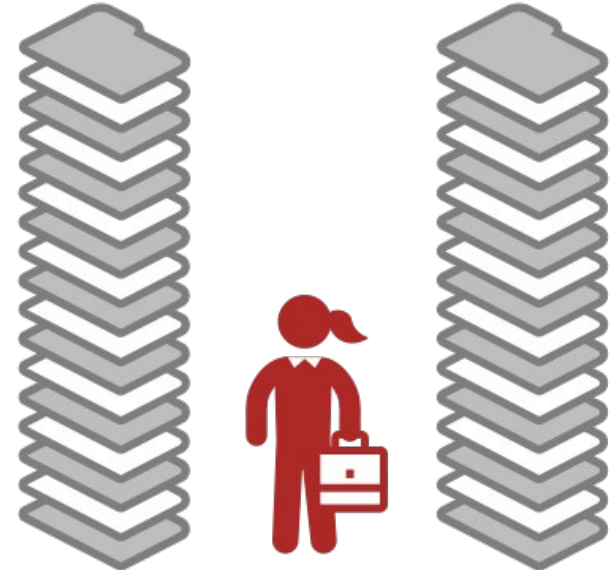


Each  represents **50 people**

Data from 31 counties that report staffing data to California Department of Justice (2022)

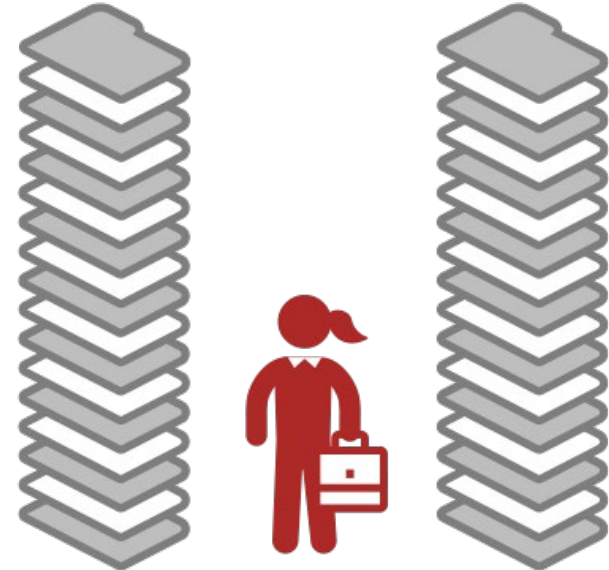
Trial Attorney Workloads: Felony

- “[O]ver 90 open cases.”
- “[B]etween about 80 and 120 [open] felony cases . . . [with] a couple [of] homicides . . . [and] some life exposure cases.”
- “70-80 [open] cases. Five facing life: two murders, one attempted murder, two ‘three-strikes’ [cases].”



Trial Attorney Workloads: Misdemeanor

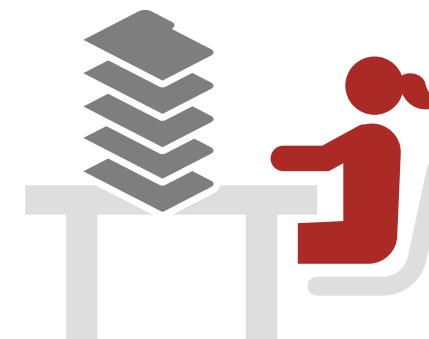
- “[S]omewhere around 300 cases . . . set for trial”
- One lawyer had 454 open cases, while another in the same office had 214 open cases
- In the first 10 months of practice, one lawyer reporting being assigned to approximately 2,000 misdemeanor cases



- “I feel like I’m **drowning** and overwhelmed”
- “People **burn out** not because of the work, but because you don’t have enough time to work well.”
- “I worry that due to the **crushing caseloads**, things are slipping through the cracks.”

Case consequences of overwork

- **Reduced client contact and care**
- **Insufficient investigation**
- **Reduced litigation**
 - **Motions**
 - **Trials**
- **Increased backlogs and delay**



- **“I do not have the time to talk to my clients, let alone strategize with them and discuss case theory, witnesses, etc.”**
- **“It's really hard for me to find time to go through video evidence. We get so much video evidence, and it just takes a lot of time to review. So there are inevitably cases where, you know, I'd like to watch the video, but . . . I don't really have time to watch video in every single case.”**

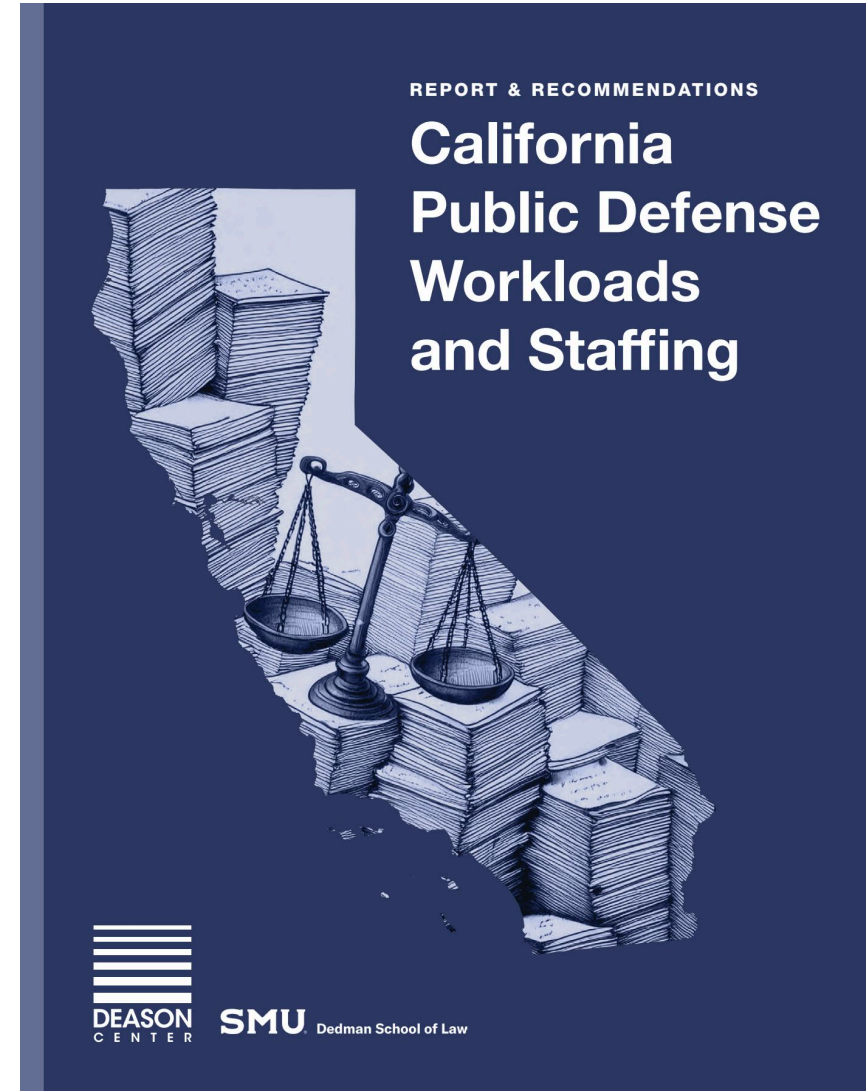
Applications of the NPDWS in California:

- One office reported **needing 22% more trial attorneys.**
- Several offices reported that they would need to **double their trial attorney numbers** to meet the NPDWS standards.
- One chief public defender noted that applying the NPDWS standards showed “that **we are even more understaffed and underfunded than any of us realized.** It is a startling disparity.”

Attorney Workload Recommendations

The state should **limit public defense workloads** and provide **funding** to ensure that county-based public defense systems can comply with workload limits.

- CA should adopt workload standards consistent with NPDWS
- Regular state funding





Public Defense Non-Attorney Staffing

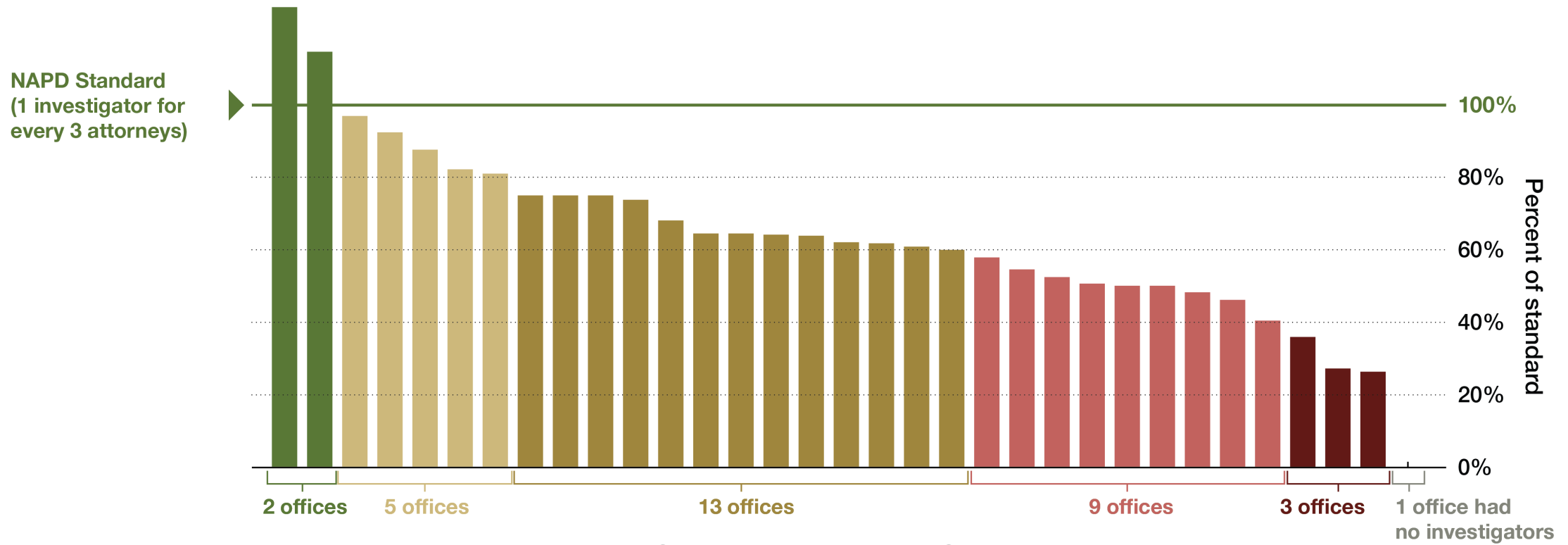
Non-Attorney Staffing

- **Investigators**
- **Social Workers**
- **Paralegals**
- **Admins**

- “In my experience, there’s just not enough [investigators]. They don’t have time to do all the things, and **I really pare down my investigation requests to the bare minimum.**”
- “I oftentimes feel bad for the poor misdemeanor attorneys . . . we just have to **say no to them** all the time.”

Most California Public Defender Offices Don't Have Enough Investigators

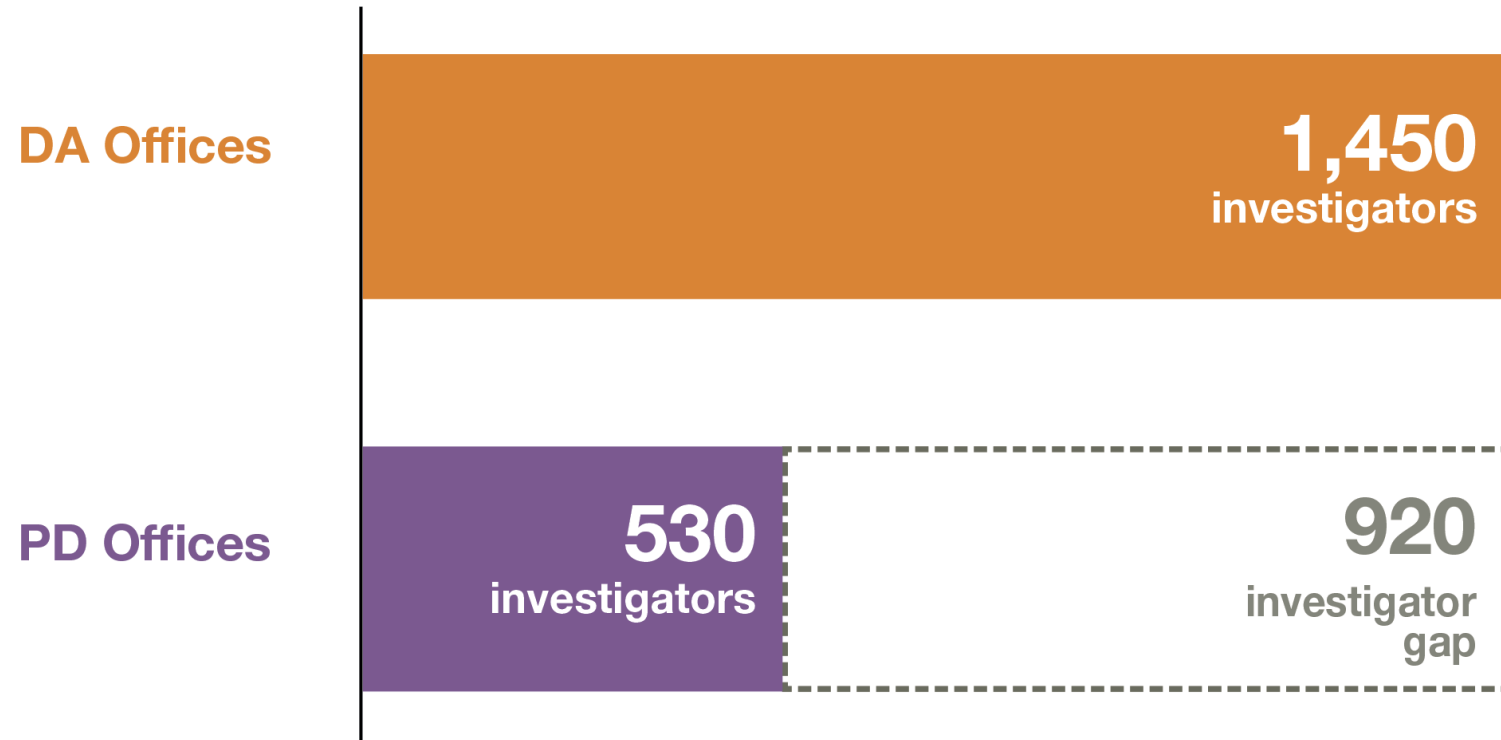
Investigator to Attorney Ratio, by Public Defender Office



2024 Deason Center survey data

Source: Deason Criminal Justice Reform Center, SMU Dedman School of Law. Do not distribute or replicate without attribution.

California Public Defenders Have Fewer Investigators Than District Attorneys

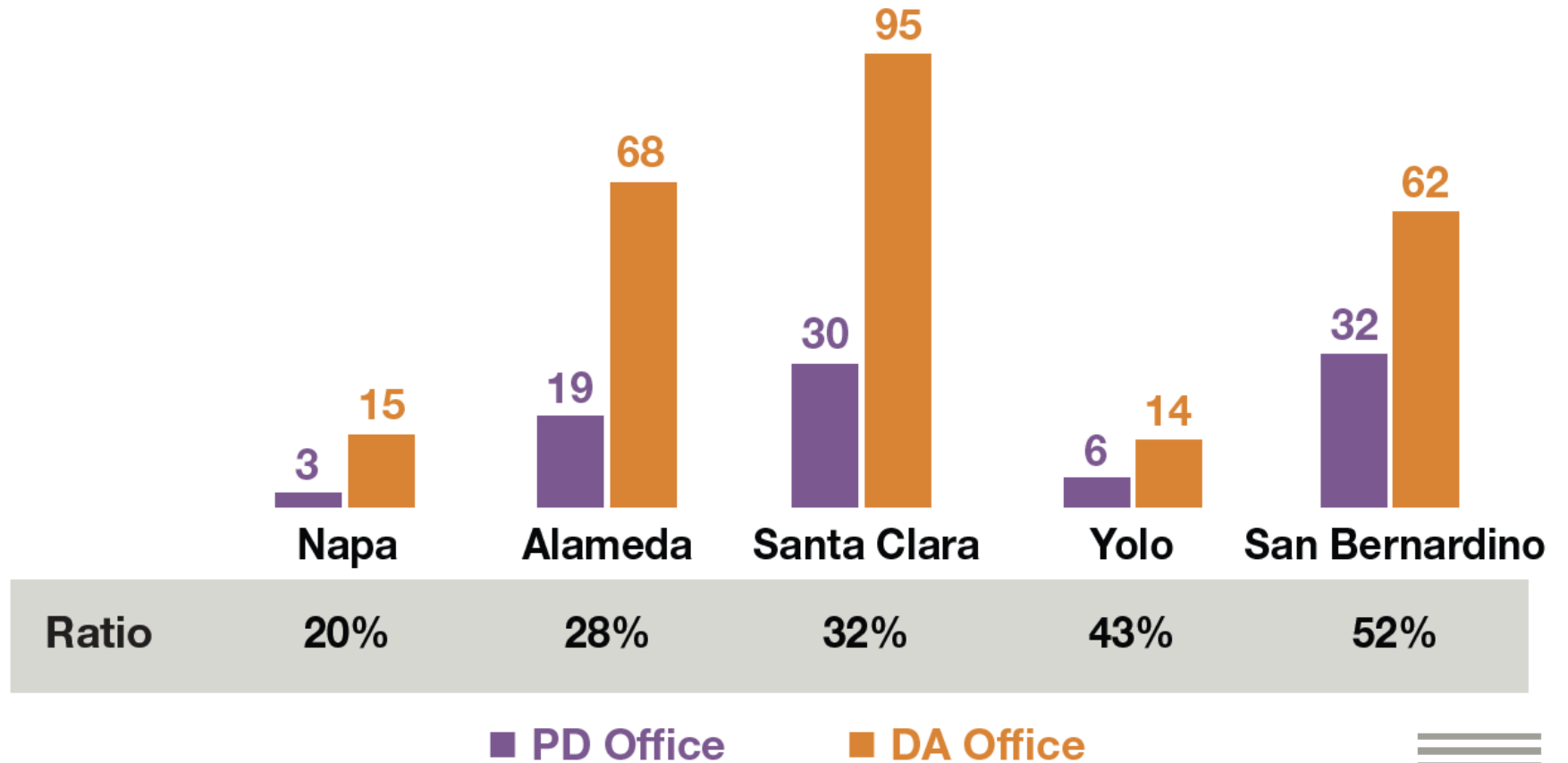


Data from 31 counties that report staffing data to California Department of Justice (2022)

Source: Deason Criminal Justice Reform Center, SMU Dedman School of Law. Do not distribute or replicate without attribution.



Investigator Staffing Comparisons (2022)



Data from California
Department of Justice (2022)

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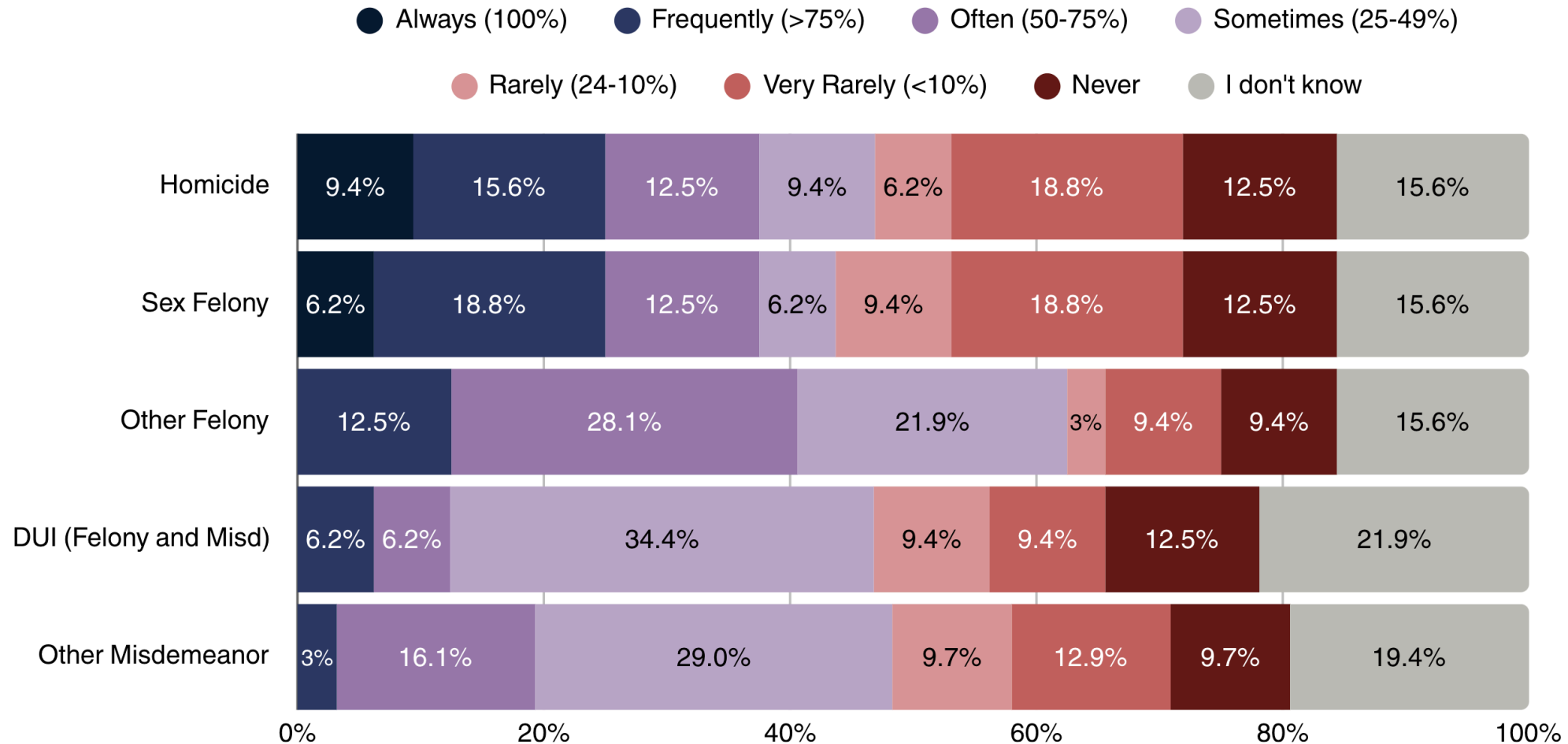


- **No county met the NAPD-recommended staffing ratio for social workers**
- **Seven offices had no social workers on staff**
- **More than 80% of Chief Public Defenders reported inadequate access to social workers**

Access to Social Workers

Chief Public Defenders Report Limited Use of Social Workers

In your office, how often are Social Workers used in the below types of ADULT CRIMINAL cases?



California Public Defenders Have Fewer Support Staff Compared to District Attorneys

1,968
PD Support Staff



34%
of prosecution

5,731
DA Support Staff



Each  represents **50 people**

Data from 31 counties that report staffing data to California Department of Justice (2022)

The state should **require adequate support staffing** for public defense and provide **funding** to ensure that county-based public defense systems can comply with support staffing standards.

Recommended Support Staffing Standards for California Public Defense Systems



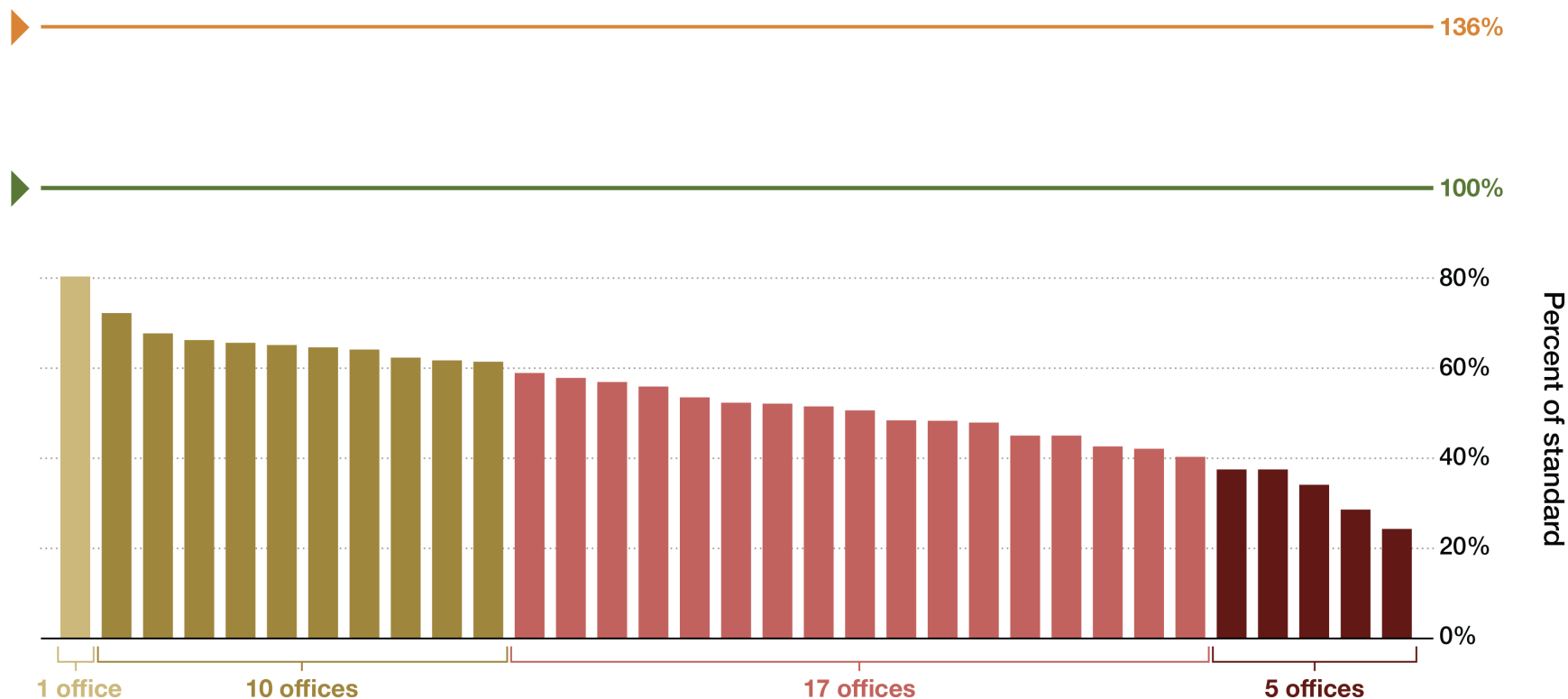
Non-Attorney Staffing Recommendations

No California Public Defender Office Has Enough Support Staff

Support Staff to Attorney Ratio, by Public Defender Office

District Attorney
2022 Ratio (10.9
support staff for
every 6 attorneys)

CA Recommended
(8 support staff for
every 6 attorneys)



1 office

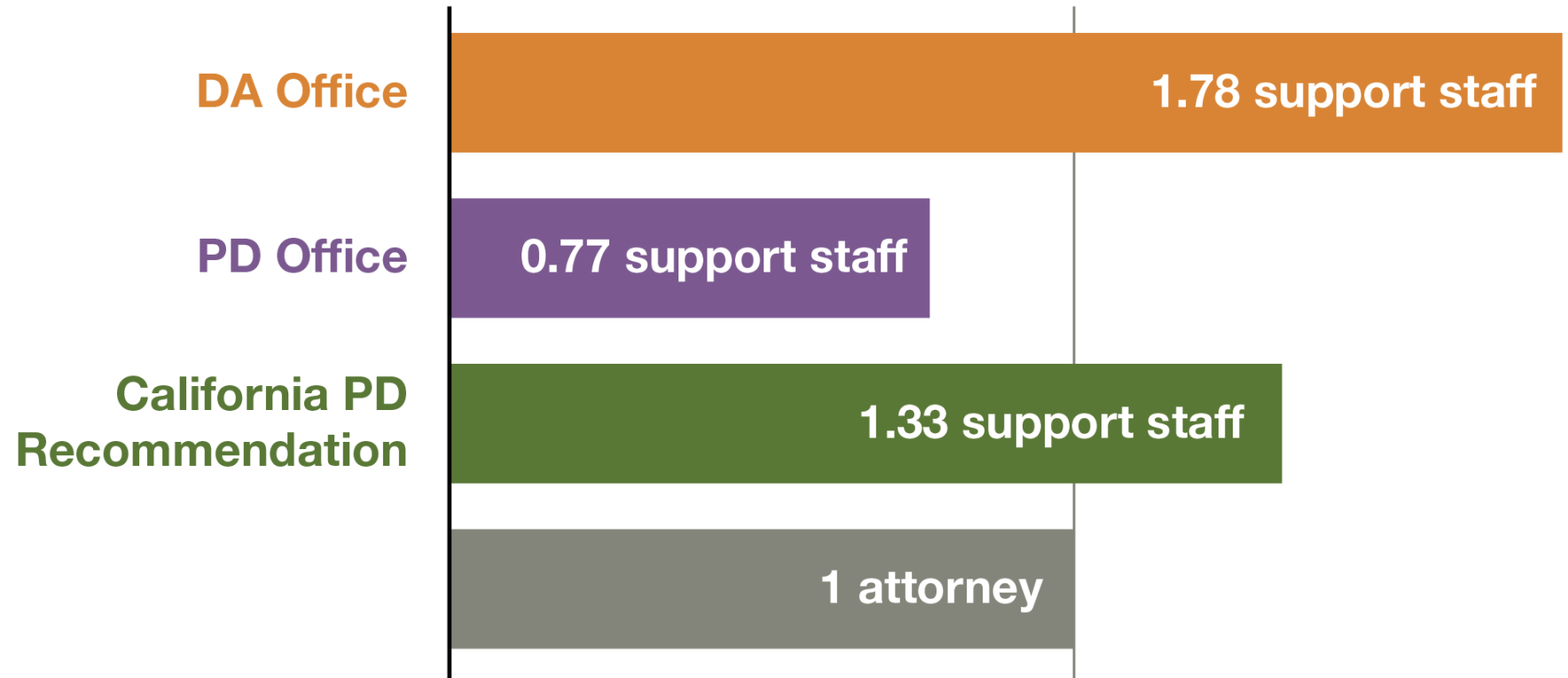
10 offices

17 offices

5 offices

33 California Public Defender Offices

Recommended PD Support Staffing Remains Lower Than DA Support Staffing



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Questions?
Contact: MaliaBrink@smu.edu