

We the People

Article 1

# Systemic Factors Affecting the Quality of Criminal Defense Representation

by

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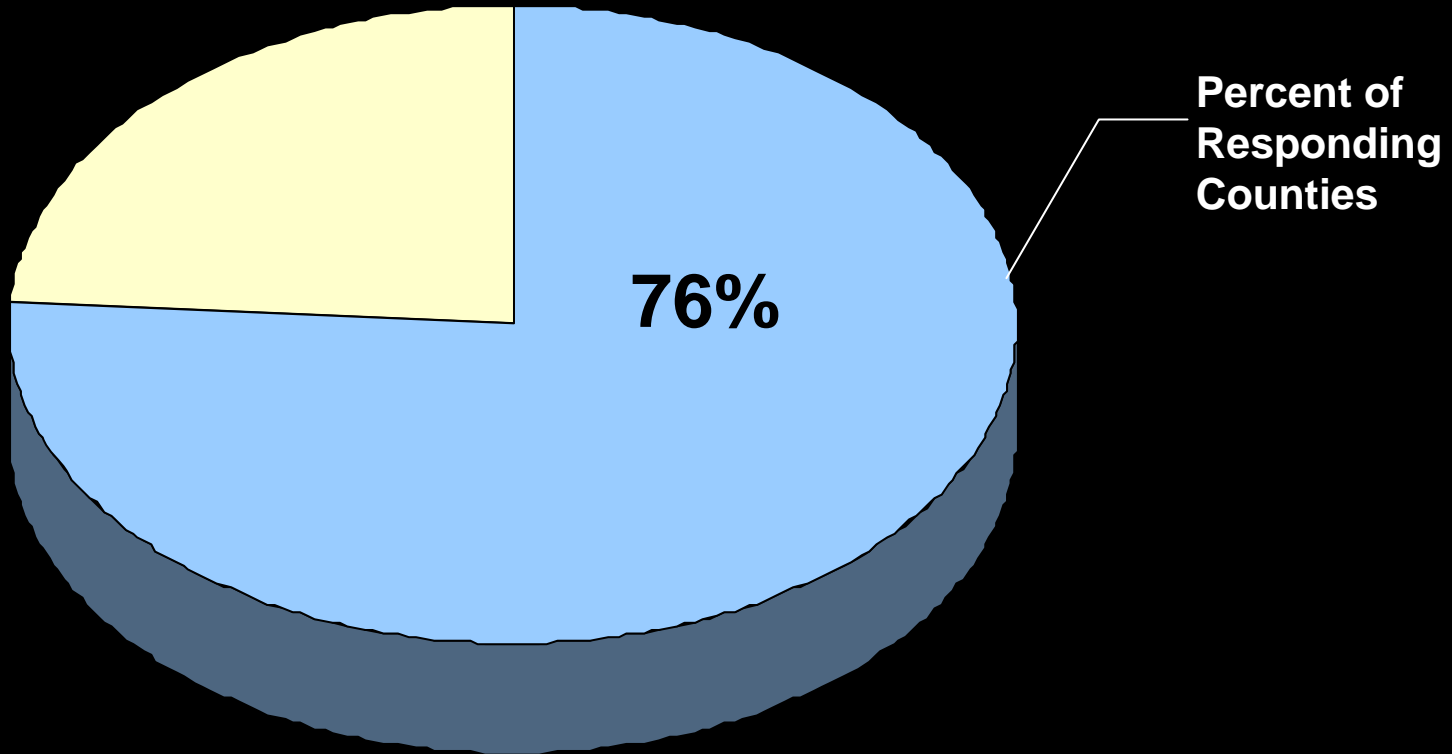
# Survey Respondents

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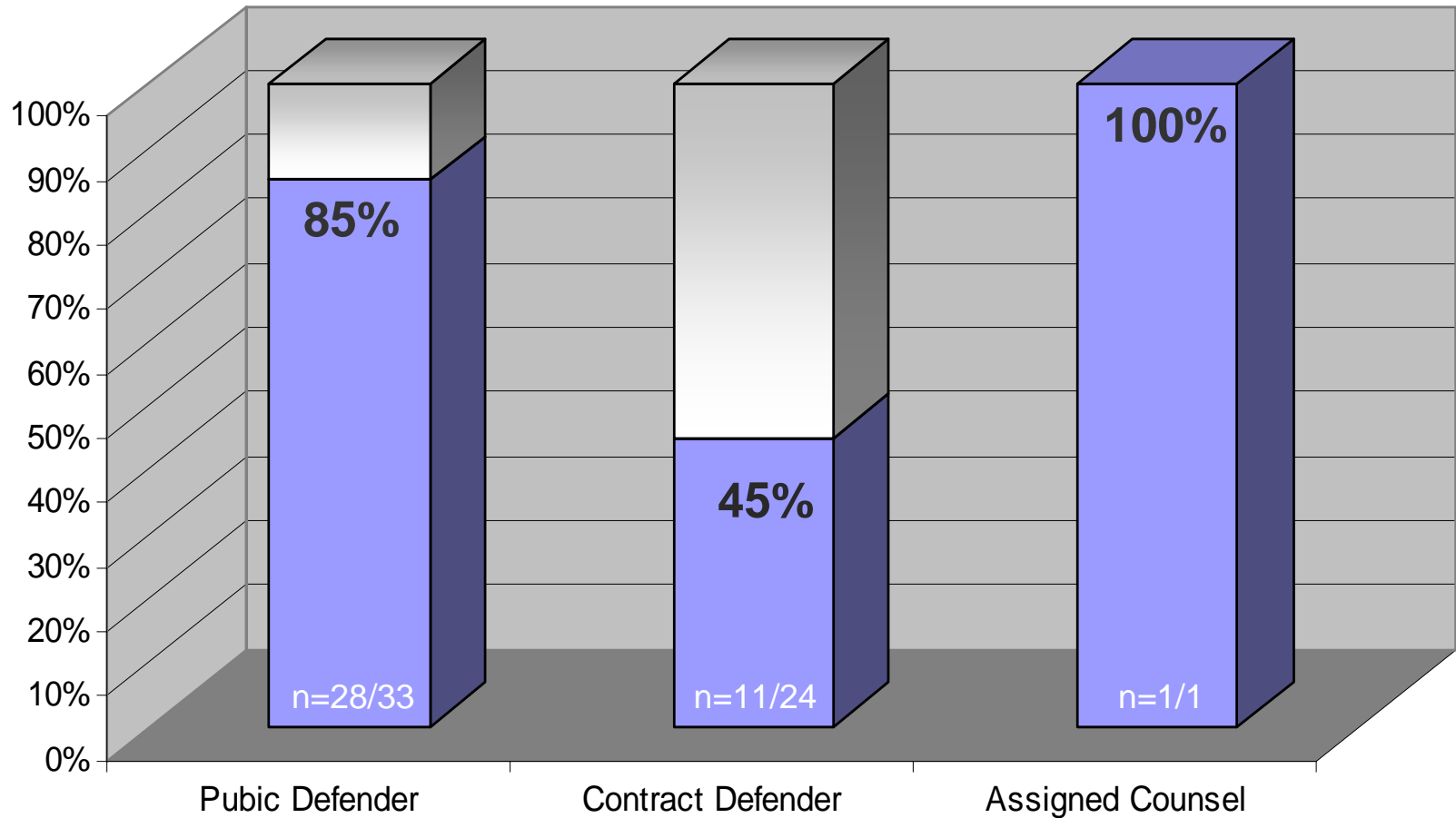
- Public Defenders
- Contract Defenders
- Assigned Counsel Systems
- Certified Criminal Defense Specialists
- Judges

# Counties Represented by Survey Data

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# County Responses by Provider Type



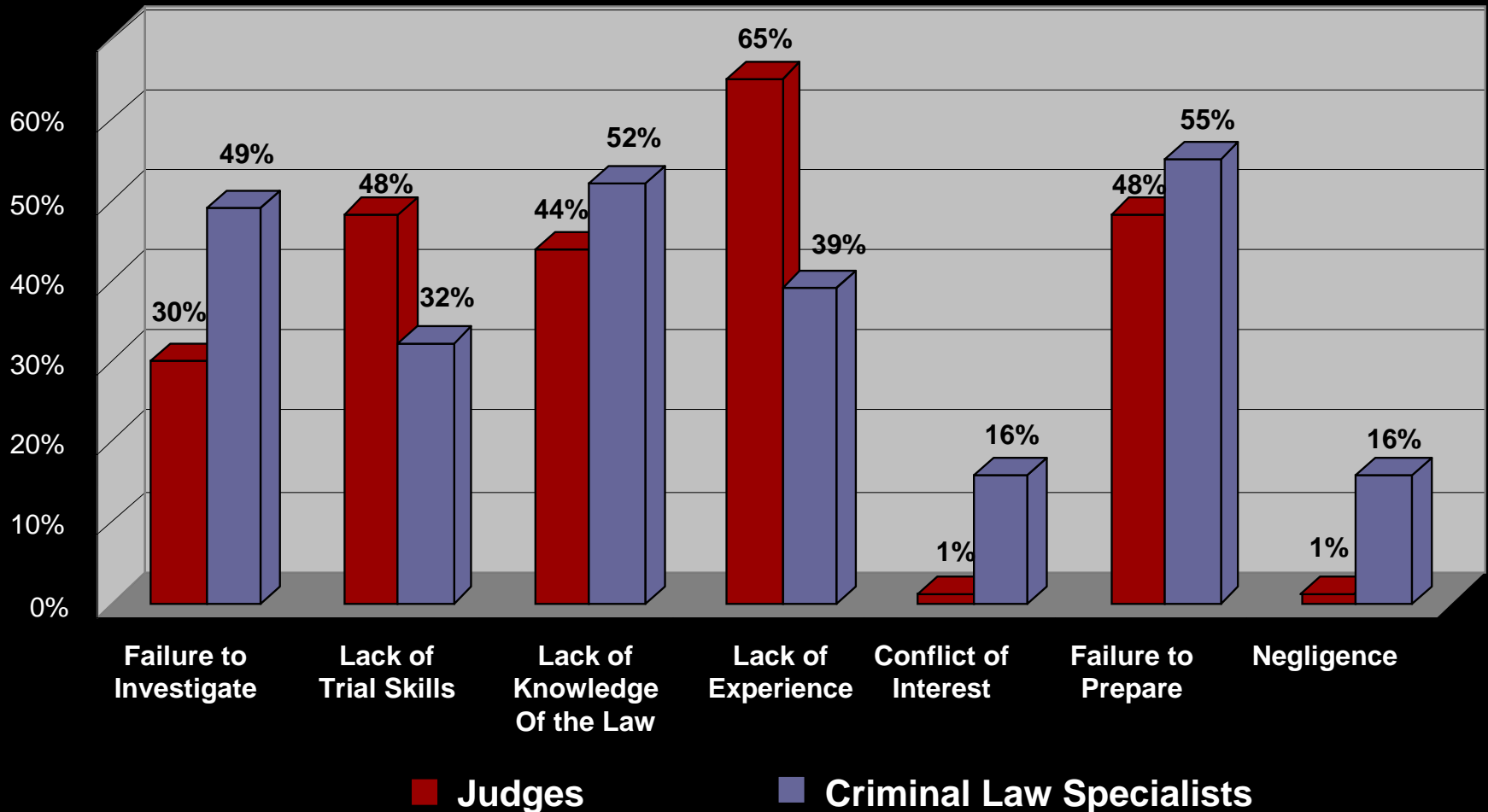
# Most Frequent Performance Deficiency

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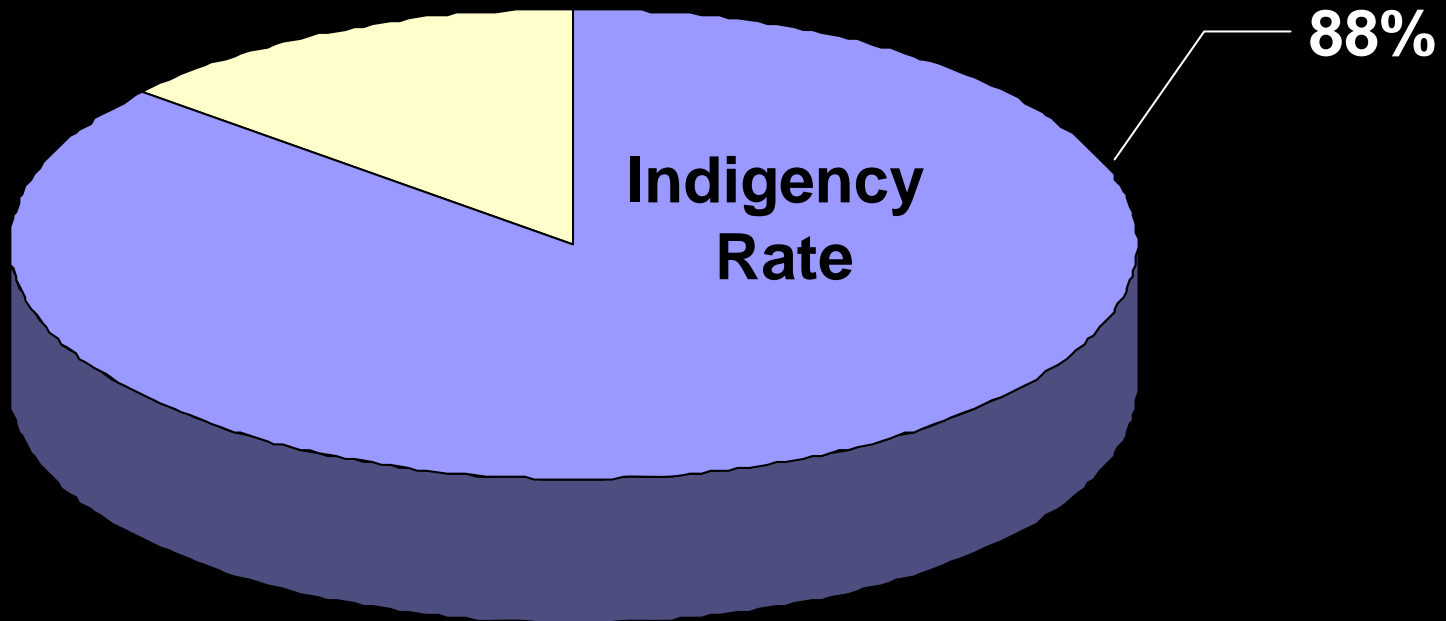
<b>Deficient Performance Claims</b>	<b>No. of successful claims</b>
<b>Failure to Investigate</b>	<b>38</b>
<b>Lack of Knowledge of Law</b>	<b>21</b>
<b>Guilty plea advice</b>	<b>7</b>
<b>Failure to Call Expert</b>	<b>3</b>
<b>Failure to challenge/present forensic evidence</b>	<b>3</b>
<b>Failure to file Notice of Appeal</b>	<b>3</b>
<b>Lack of Trial Skills</b>	<b>11</b>
<b>Failure to suppress inadmissible evidence</b>	<b>3</b>
<b>Conflict of Interest</b>	<b>1</b>
<b>Other Sentencing error</b>	<b>5</b>
<b>Failure to raise mental health issue</b>	<b>8</b>
<b>Failure to call witness</b>	<b>3</b>
<b>Failure to comply with discovery requirements</b>	<b>1</b>
<b>Negligence</b>	<b>1</b>
<b>Other</b>	<b>4</b>
<b>Total Deficient Performance Claims</b>	<b>109</b>

# Judges' and Specialists' Observations

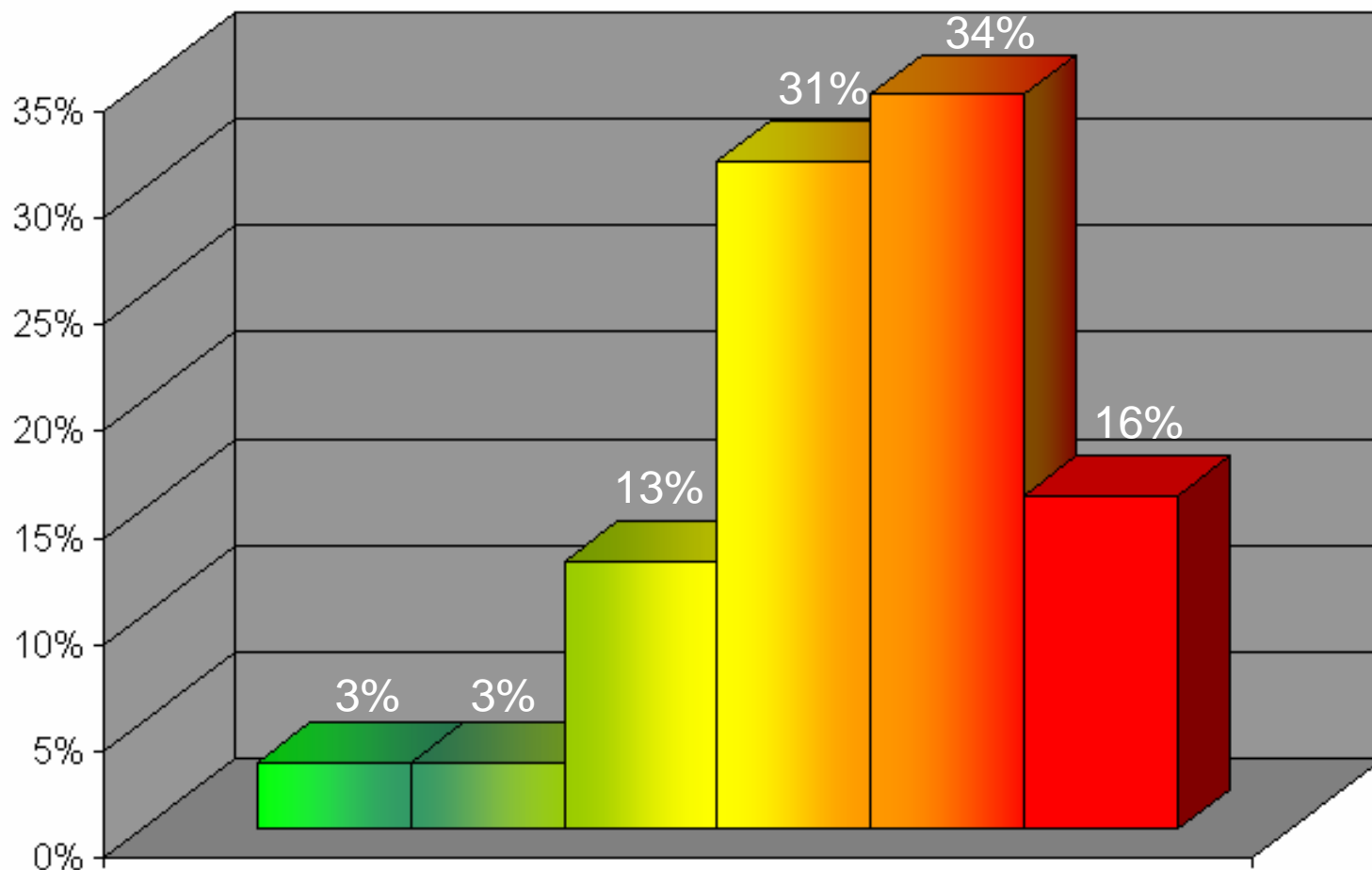


# Indigent Caseload

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# Excessive Attorney Caseloads



Not a Problem

Minor Problem

Moderate Problem

Significant Problem

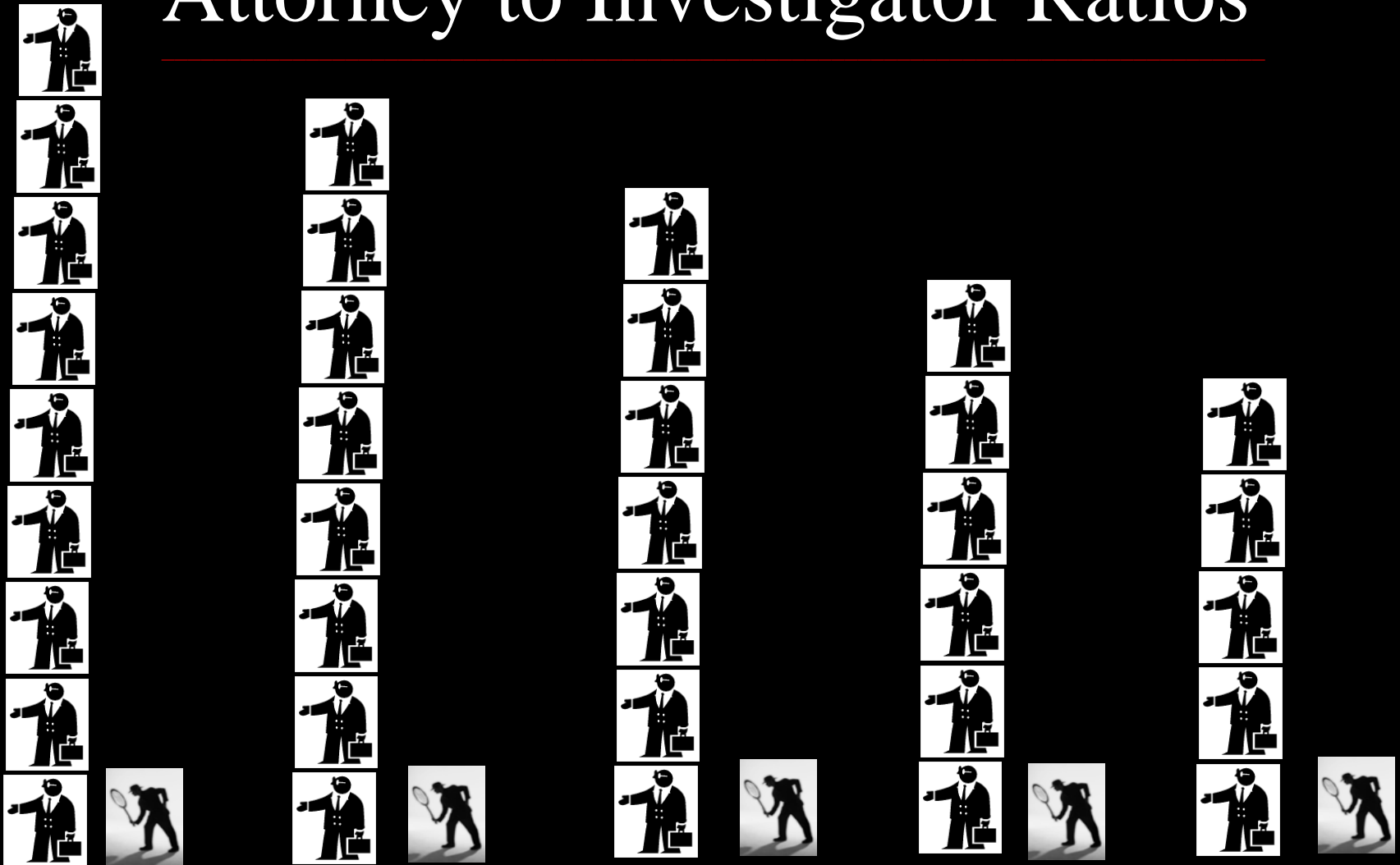
Very Significant Problem

Serious Problem

# Zero Investigator Counties

County	Primary Provider	Investigator to Attorney ratio
■ Del Norte	Contract Defender	0:1
■ Inyo	Contract Defender	0:1
■ Modoc	Contract Defender	0:2
■ Siskiyou	Public Defender	0:4
■ San Luis Obispo	Contract Defender	0:6
■ Nevada	Public Defender	0:9

# Attorney to Investigator Ratios



9 to 1  
2 offices

8 to 1  
1 office

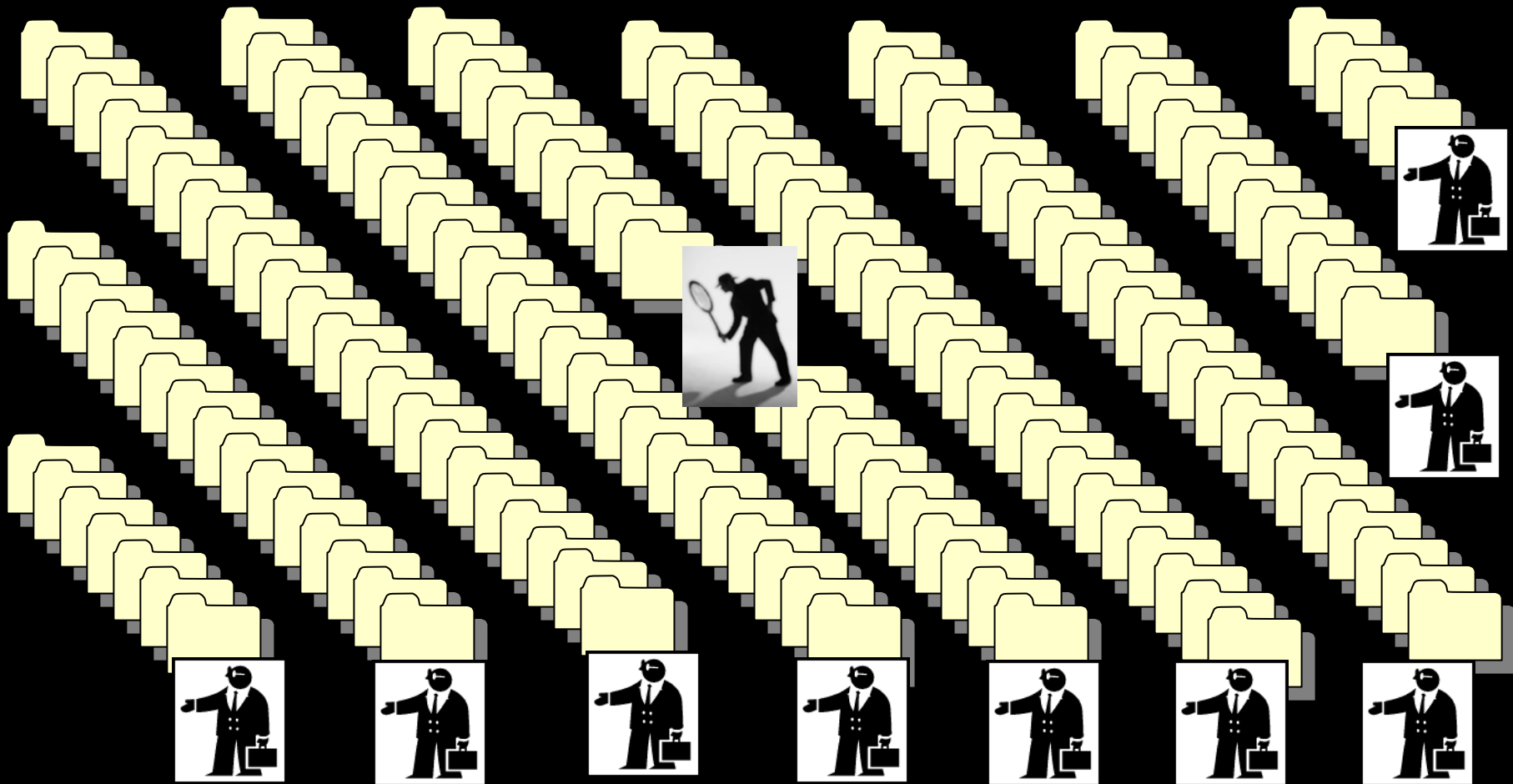
7 to 1  
4 offices

6 to 1  
3 offices

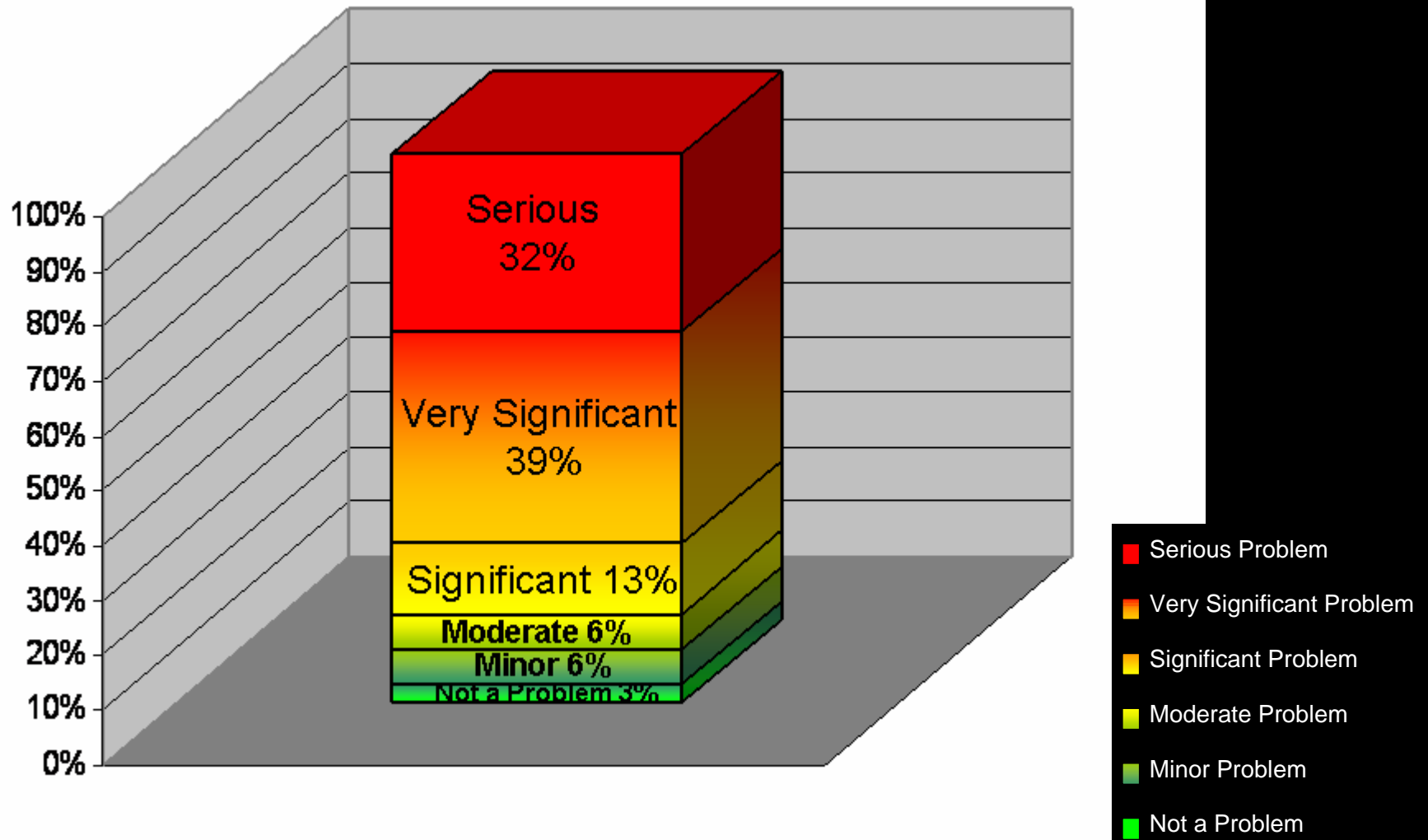
5 to 1  
8 offices

# Investigator Overload

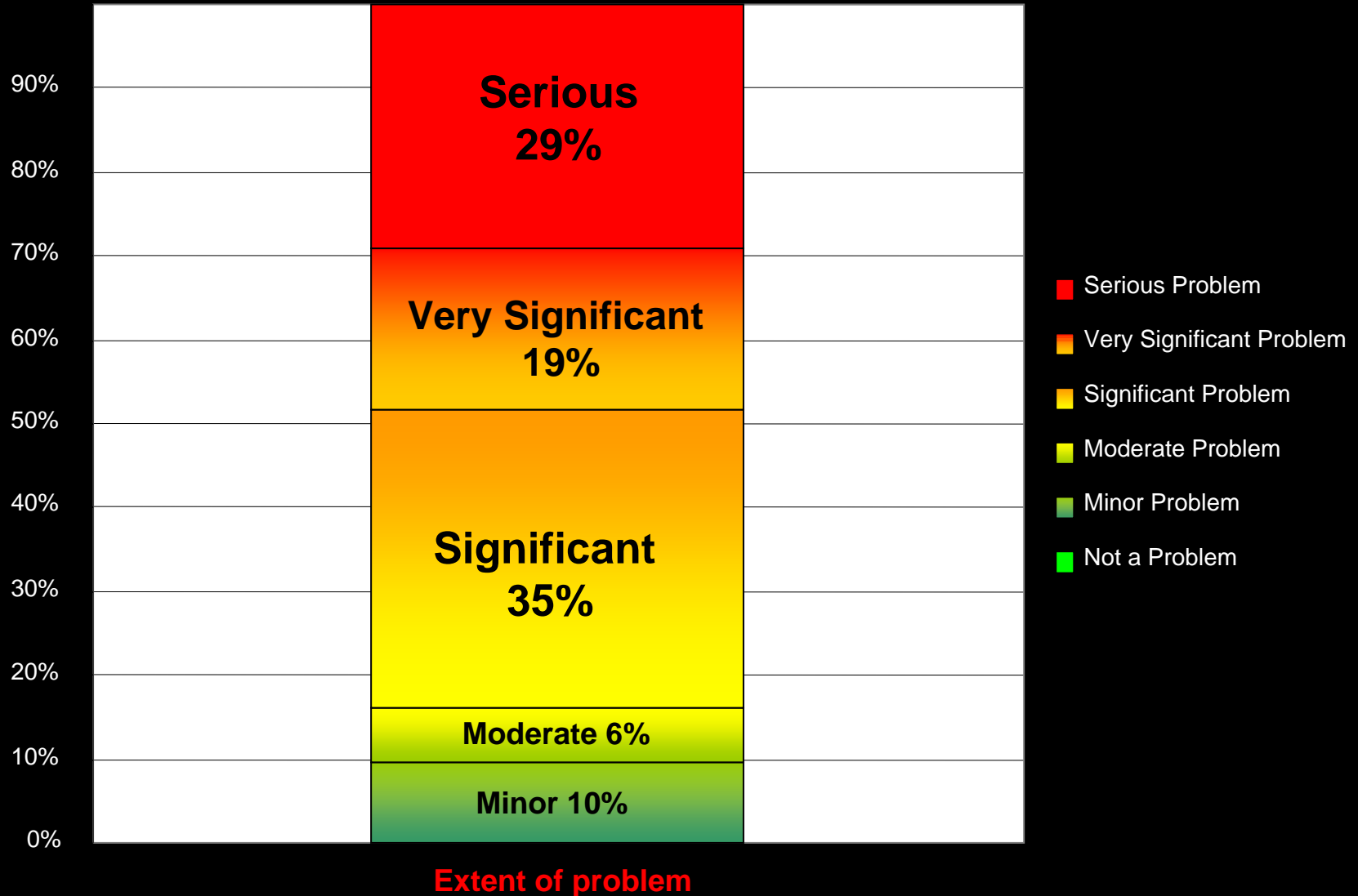
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# Lack of Prompt Discovery

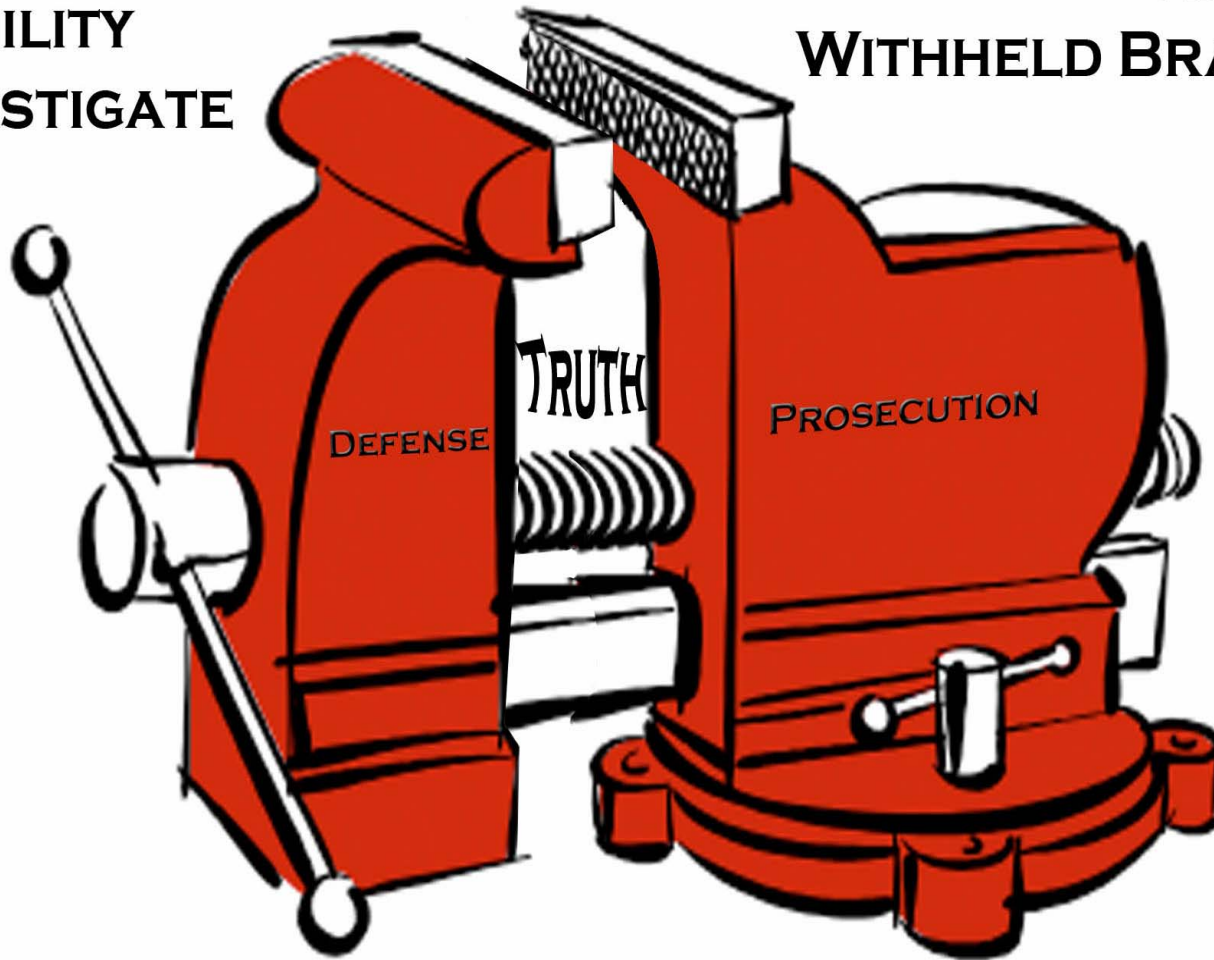


# Inability to Interview Prosecution Witnesses



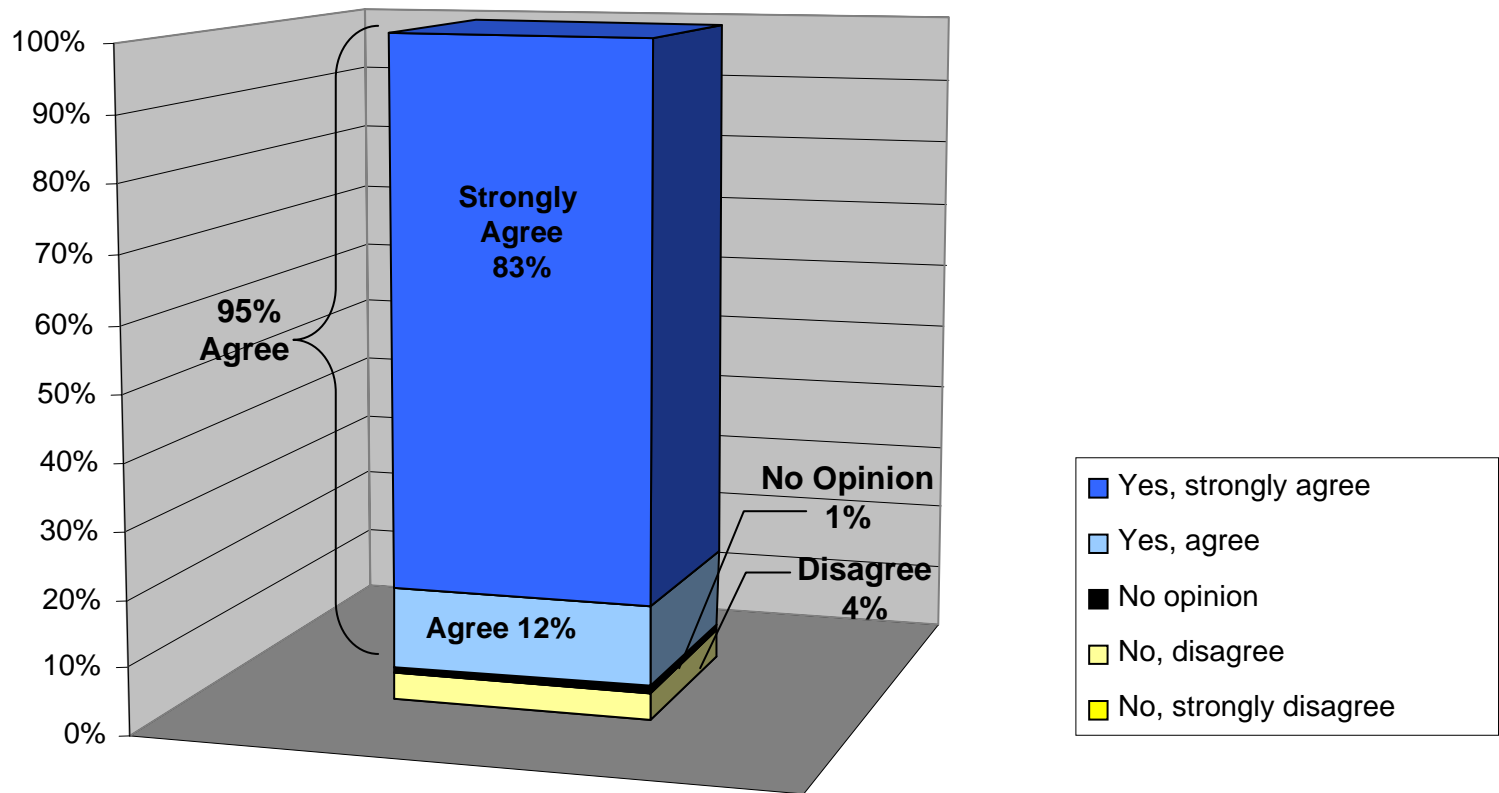
**INABILITY  
TO INVESTIGATE**

**DELAYED DISCOVERY  
AND  
WITHHELD BRADY EVIDENCE**



**CONTRIBUTORS TO INEFFECTIVE ASSISTANCE OF COUNSEL**

# Bring back the Prelim



# Counties in Crisis

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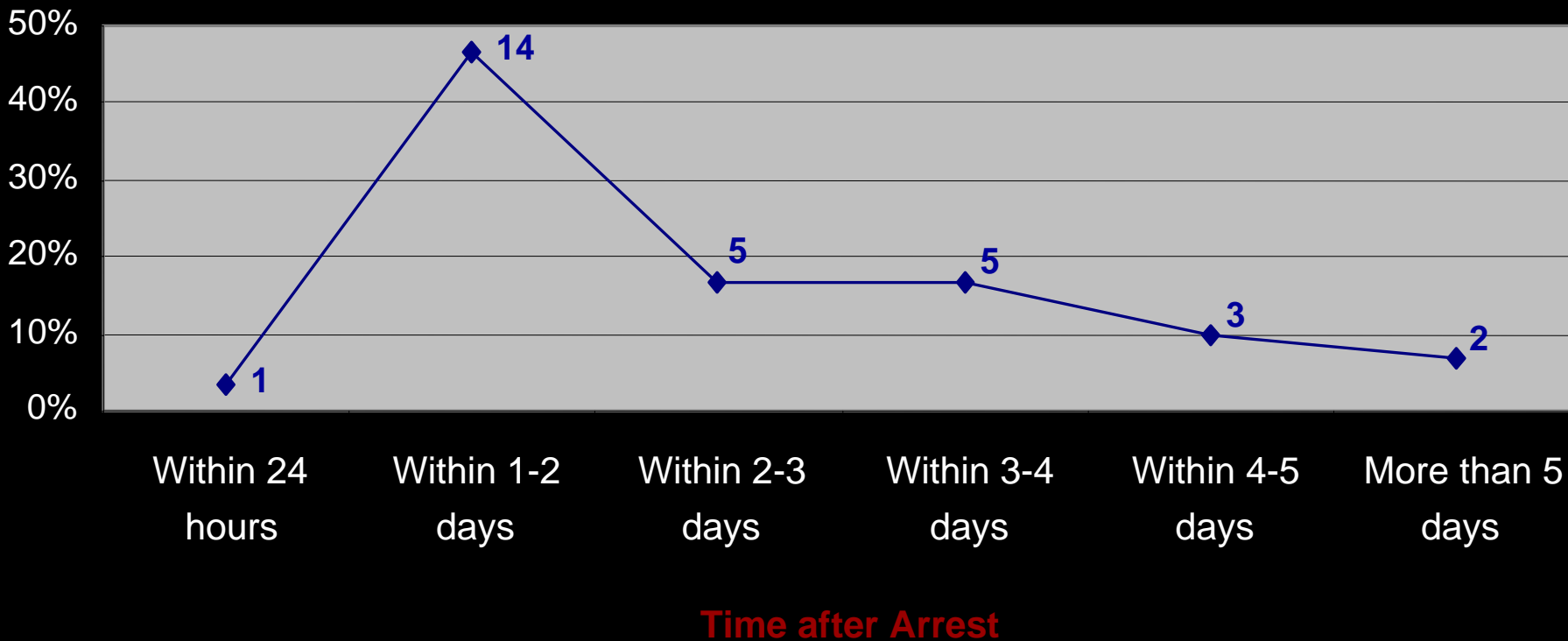
# Crisis Categories

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- Excessive Attorney Caseloads
- Excessive Investigator Workloads
- Lack of Prompt Discovery by DA
- Withholding *Brady* Evidence
- Inability to Interview DA Witnesses
- Lack funds to match DA'S Experts
- Judicial Pressure to Expedite Cases
- Death Penalty Case
- First Contact greater than 5 days

# First Contact with Indigent Accused

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# Comment from the Front Lines

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“I have been a public defender for over 30 years in three different counties. There is a great disparity in the quality of defender services throughout the state. I think that statewide minimum standards – with teeth – should be established and every county should be required to meet these standards.”

- Public Defender from rural California County

# Center for Indigent Defense Services

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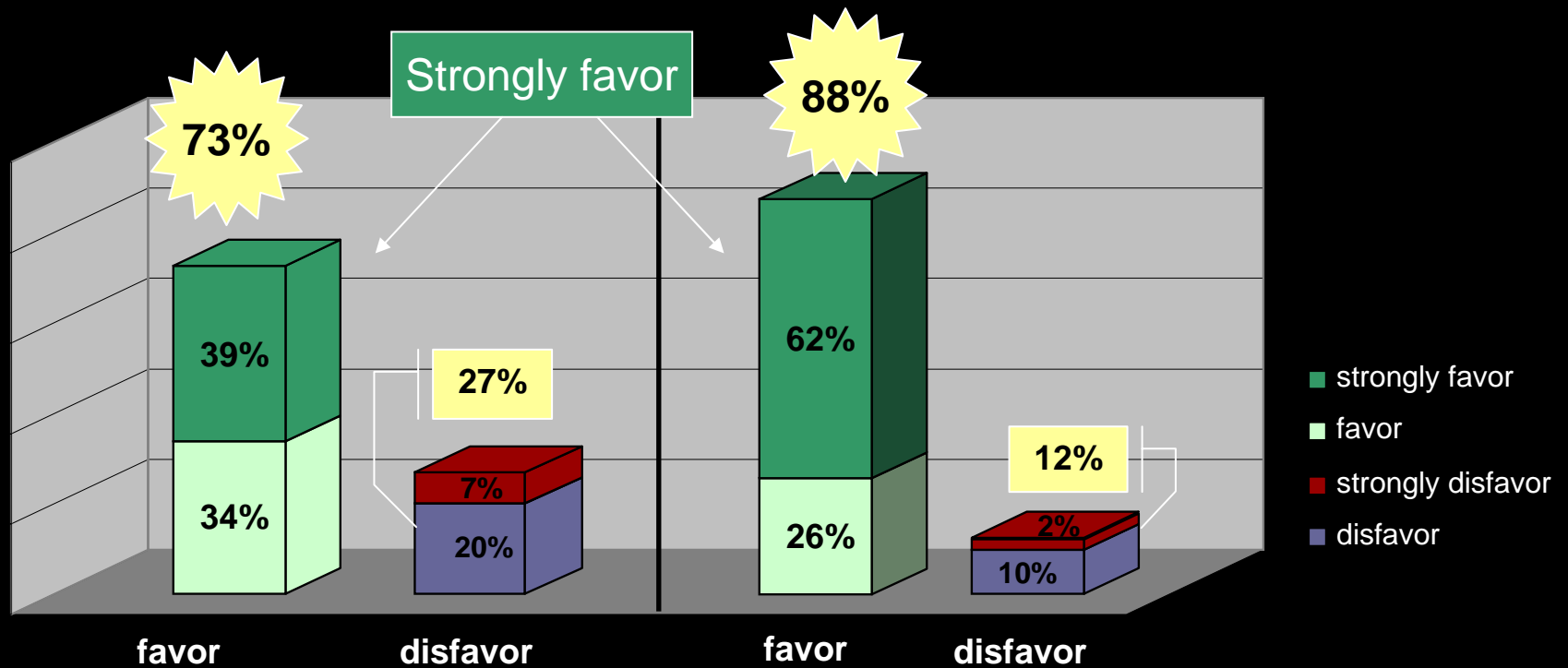
- FUNCTIONS
- Perform Workload Audits
  - Attorney
  - Investigators
- Develop County Workload Standards
- Training
- Funding: \$10 surcharge on bar dues  
(\$2,104, 720)

# Significant Training Needs

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- Immigration Consequences of Guilty Pleas
- Brain Disorders, Mental Illness, and Retardation
- Death Penalty Mitigation
- Challenging Eyewitness Identification
- Presenting/Challenging Expert Testimony
- Understanding Forensic Evidence

# Support for Independent Forensics Lab



Certified Specialists

Indigent Defense Providers

# Minimum Requirements for Indigent Defense Contracts

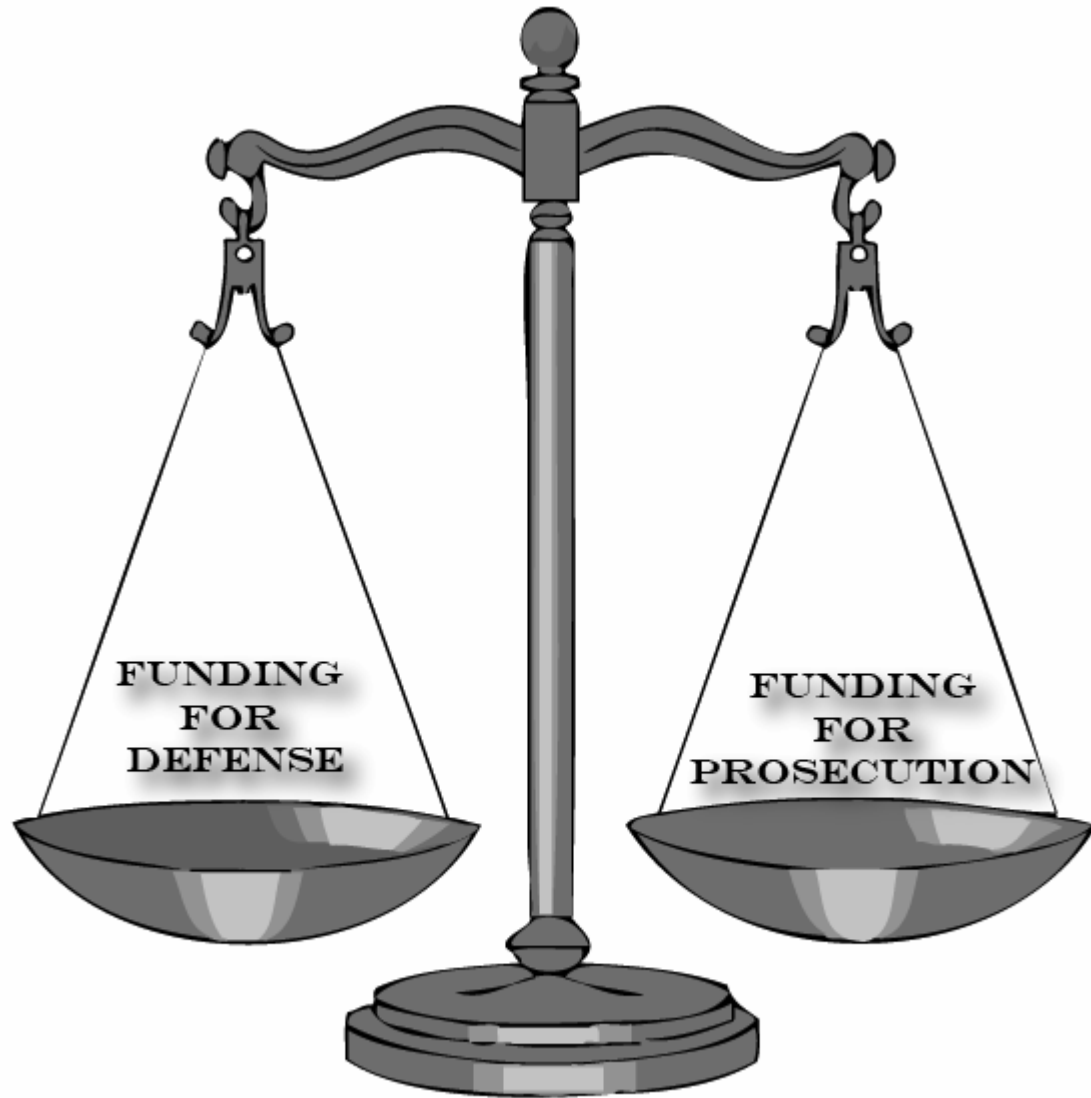
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- Attorney Qualifications for Serious/Violent Felonies
  - 3 years experience
  - 3 jury trials
- Workload Standards
- Supervisory Structure
- Case Management Information System

# Recommendation 3.2: Prohibition of Flat-Fee Contracts

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- Transparency
- Cost-Plus Bids
- Contract for specified number of cases
- Show number and costs of:
  - Attorneys
  - Investigators
  - Support Staff
- Show Supervisory Structure



**PARITY**