

Appendix P

National Consensus Meeting: Sample Set of Binder Materials

Included items:

1. Meeting Agenda (Participant List Removed)
2. Civil and Criminal Case Worksheets (Revised to Reflect Modifications that the Majority of Participants Endorsed by Pre-Meeting Vote)
3. Power Point Presentation Handout
4. Time Conversion Table
5. Sample Circuit Meeting Report (Summarizing the Results of the Participant's Circuit-Based Meeting)
6. Criminal Case Worksheet Charts 1–10, with Inserts (Summarizing the Results of All Circuit-Based Meetings)
7. Civil Case Worksheet Charts 11–20, with Inserts (Summarizing the Results of All Circuit-Based Meetings)

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Federal Judicial Center

National Consensus Meeting
2003–2004 District Court Case-Weighting Study

San Antonio, TX
January 29–30, 2004

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Federal Judicial Center District Court Case Weighting Study

National Consensus Meeting of the 2003-2004 District Court Case Weighting Study

San Antonio, TX
January 29-30, 2004

Agenda

January 29, 2004

8:30 *Light refreshments available*

9:00 Participant Welcome

Honorable Barbara Rothstein, Director, Federal Judicial Center

9:05 Explanation of the Process for Requesting New Judgeships

Honorable Dennis Jacobs, Chair, Judicial Resources Committee

9:15 Case Weighting Project Update

Honorable Wiley Y. Daniel, Chair, Statistics Subcommittee

9:30 Review of Event-Based Case Weighting

- Docketed Frequency of Case Events and Activities
- Estimated vs. Objective Time Measures
- How the Data Fit Together

9:45 Overview of Adopted Structure Modifications Arising from Circuit Recommendations

10:00 Explanation of the Decision-Making Process

- Graphs, Case Clusters, and Data Patterns
- The Consensus Rule and Voting to Narrow the Estimate Range
- The Role of Participants as Circuit Representatives

Agenda (continued)

10:30 *Break*

10:45 Begin Work on Consensus Estimates in Criminal Cases

12:45 *Break for a working deli-style lunch that is provided in the meeting room*

1:30 Resume Work on Criminal Case Estimates

3:00 *Break*

3:15 Resume Work on Criminal Case Estimates

5:00 *Adjourn with work on criminal case estimates completed*

January 30, 2004

8:30 *Light refreshments available*

9:00 Begin Work on Civil Case Estimates

11:00 *Break*

11:15 Resume Work on Civil Case Estimates

1:00 *Break for a working deli-style lunch that is provided in the meeting room*

1:45 Resume Work on the Civil Case Estimates

3:00 *Break*

3:15 Resume Work on the Civil Case Estimates

4:30 Complete the Civil Case Estimates and Initiate Wrap-up Discussion

5:00 *Adjourn*

Modified Criminal and Civil Case Worksheets

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District Court Case Weighting Study Event Weight Estimates by Type of Case

Criminal Cases

	Trial and Other Evidentiary Hearings				Non-Evidentiary Hearings and Conferences					In Chambers Case-Related Activities					Case Adjustments			
Case Type Description	Jury Trial	Non-Jury Trial	Sentencing Hearing (evidentiary)	Other Evidentiary Hearing	Conference	Motion Hearing or Other Non-Evidentiary Hearing	Arraignment Hearing	Plea Hearing	Sentencing Hearing (non-evidentiary)	Order on Suppression Motion	Order on a Dispositive Motion		Order on Any Other Enumerated Motion	Trial Prep	Hearing Prep	Inter-preter	Multiple Defendants	Death Penalty
Homicide, Assault, Kidnapping																		
Murder, Manslaughter, Homicide	25.3 ¹	8.4	2.8	7.4														
Aggravated or Felonious Assault, Kidnapping	17.5	7.0	1.5	2.3														
Sexual Offenses																		
Sexual Offenses and Pornography	17.1	5.2	2.0	2.6														
Robbery, Burglary, Larceny and Theft																		
Robbery and Burglary	15.6	2.7	1.4	2.0														
Larceny and Theft	21.4	6.2	1.7	2.5														
Financial Crimes																		
Embezzlement, Forgery and Counterfeiting	19.7	5.1	1.5	1.8														
All Fraud	25.9	10.0	1.9	2.9														

¹Values for trials are based on the average time required to conduct a **one-defendant** trial based on JS-10 reports.

District Court Case Weighting Study Event Weight Estimates by Type of Case

Criminal Cases

Case Type Description	Trial and Other Evidentiary Hearings				Non-Evidentiary Hearings and Conferences					In Chambers Case-Related Activities					Case Adjustments			
	Jury Trial	Non-Jury Trial	Sentencing Hearing (evidentiary)	Other Evidentiary Hearing	Conference	Motion Hearing or Other Non-Evidentiary Hearing	Arraignment Hearing	Plea Hearing	Sentencing Hearing (non-evidentiary)	Order on Suppression Motion	Order on a Dispositive Motion		Order on Any Other Enumerated Motion	Trial Prep	Hearing Prep	Interpreter	Multiple Defendants	Death Penalty
Immigration Offenses																		
Alien Smuggling	12.1 ¹	2.8	0.6	1.4														
Other Immigration	8.0	1.7	0.6	1.4														
Drug Offenses																		
Sell or Distribute	15.4	3.8	1.2	2.1														
Import / Export	14.4	4.1	1.3	1.5														
Manufacture	17.5	-- ²	1.6	2.1														
Possession	16.6	5.5	1.6	2.2														
Continuing Criminal Enterprise	40.1	-- ²	2.1	3.7														
Firearms																		
Firearms	13.4	3.1	1.5	2.3														
Extortion, Threats, and RICO																		
All Extortion, Threats, and RICO	33.5	4.7	1.7	2.2														

¹ Values for trials are based on the average time required to conduct a **one-defendant** trial based on JS-10 reports.

² An estimate of trial time was not presented if there were less than 20 trials in the category.

District Court Case Weighting Study Event Weight Estimates by Type of Case

Criminal Cases

Case Type Description	Trial and Other Evidentiary Hearings				Non-Evidentiary Hearings and Conferences					In Chambers Case-Related Activities					Case Adjustments			
	Jury Trial	Non-Jury Trial	Sentencing Hearing (evidentiary)	Other Evidentiary Hearing	Conference	Motion Hearing or Other Non-Evidentiary Hearing	Arraignment Hearing	Plea Hearing	Sentencing Hearing (non-evidentiary)	Order on Suppression Motion	Order on a Dispositive Motion		Order on Any Other Enumerated Motion	Trial Prep	Hearing Prep	Interpreter	Multiple Defendants	Death Penalty
Espionage and Terrorism																		
Espionage and Terrorism	-- ²	-- ²	-- ²	-- ²														
All Other Felony Offenses																		
All Other Felonies	24.4 ¹	6.6	2.0	2.7														
Misdemeanor and Petty Offenses																		
All Misdemeanor and Petty Offenses	13.1	3.1	1.5	2.0														
Supervised Release and Probation Revocation Hearings																		
Supervised Release and Probation – Evidentiary Revocation Hearing				1.1														
Supervised Release and Probation – Non-Evidentiary Revocation Hearing						30												

¹ Values for trials are based on the average time required to conduct a **one-defendant** trial based on JS-10 reports.

² An estimate of trial time was not presented if there were less than 20 trials in the category.

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District Court Case Weighting Study Event Weight Estimates by Type of Case

Civil Cases

Case Type Description	Trials and Other Evidentiary Hearings				Non-Evidentiary Hearings and Conferences			In-Chambers Case-Related Activities							Case Adjustments	
	Jury Trial	Non-Jury Trial	Hearing on Preliminary Injunction/TRO	Other Evidentiary Hearing	Settlement Conference	Other Conference	Motion Hearing and Other Non-Evidentiary Hearing	Order on Motion for Summary Judgment	Order on a Discovery Motion	Order on a Dispositive Motion		Order on Any Other Enumerated Motion	Trial Prep	Hearing Prep	Multiple Parties (5 or more)	Class Action
Admiralty																
Admiralty	21.5	11.7	2.5	2.7												
Bankruptcy																
Bankruptcy Appeals	-- ¹	-- ¹	2.1	3.2												
Bankruptcy Withdrawals	34.9	17.9	-- ¹	-- ¹												
Banking and Finance																
Banking and Finance	23.2	10.8	3.2	2.2												
Commercial Litigation																
SEC, CFTC, and Similar Enforcement Actions (US Plaintiff)	-- ¹	20.8	3.4	1.6												
SEC, Commodities, and Stockholder Suits (non-US Plaintiff)	39.2	17.5	3.1	2.3												
Civil RICO	48.6	22.0	4.7	2.8												
Antitrust	66.6	53.1	9.8	3.4												
Other Fraud	30.1	13.4	4.0	2.6												
Interstate Commerce	-- ¹	15.0	-- ¹	-- ¹												

¹ An estimate of trial time was not presented if there were less than 20 trials in the category.

District Court Case Weighting Study Event Weight Estimates by Type of Case

Civil Cases

Case Type Description	Trials and Other Evidentiary Hearings				Non-Evidentiary Hearings and Conferences			In-Chambers Case-Related Activities							Case Adjustments	
	Jury Trial	Non-Jury Trial	Hearing on Preliminary Injunction/TRO	Other Evidentiary Hearing	Settlement Conference	Other Conference	Motion Hearing and Other Non-Evidentiary Hearing	Order on Motion for Summary Judgment	Order on a Discovery Motion	Order on a Dispositive Motion		Order on Any Other Enumerated Motion	Trial Prep	Hearing Prep	Multiple Parties (5 or more)	Class Action
Contracts																
Insurance Contracts	21.7	10.3	2.3	2.0												
Overpayment and Recovery	-- ¹	5.6	-- ¹	1.5												
Other Contract Actions	28.1	13.3	3.5	3.1												
Torts																
Personal Injury (excluding admiralty)	16.9	10.7	4.2	2.2												
Medical Malpractice	26.8	16.1	-- ¹	2.2												
Federal Employer's Liability	19.9	-- ¹	-- ¹	-- ¹												
Assault, Libel, and Slander	24.0	5.4	-- ¹	1.5												
Product Liability (excluding admiralty)	28.5	17.4	5.3	3.3												
Asbestos	26.3	-- ¹	-- ¹	-- ¹												
Civil Rights (non-prisoner)																
Civil Rights—Employment	23.0	15.0	4.0	2.7												
Civil Rights—Voting	-- ¹	13.8	3.6	-- ¹												
Civil Rights—Other	23.0	12.5	3.8	2.6												

¹ An estimate of trial time was not presented if there were less than 20 trials in the category.

District Court Case Weighting Study Event Weight Estimates by Type of Case

Civil Cases

Case Type Description	Trials and Other Evidentiary Hearings				Non-Evidentiary Hearings and Conferences			In-Chambers Case-Related Activities							Case Adjustments	
	Jury Trial	Non-Jury Trial	Hearing on Preliminary Injunction/TRO	Other Evidentiary Hearing	Settlement Conference	Other Conference	Motion Hearing and Other Non-Evidentiary Hearing	Order on Motion for Summary Judgment	Order on a Discovery Motion	Order on a Dispositive Motion		Order on Any Other Enumerated Motion	Trial Prep	Hearing Prep	Multiple Parties (5 or more)	Class Action
Prisoner Litigation																
Prisoner Civil Rights / Prison Conditions (Federal)	12.7	-- ¹	-- ¹	-- ¹												
Prisoner Civil Rights / Prison Conditions (State)	12.4	6.6	4.0	2.5												
Death Penalty Habeas Corpus	-- ¹	-- ¹	-- ¹	6.4												
§2254 Habeas Corpus	17.3	5.4	1.9	4.2												
§2255 Vacate Sentence	-- ¹	6.0	-- ¹	2.2												
Mandamus	-- ¹	-- ¹	-- ¹	-- ¹												
Deportation / Immigration	-- ¹	-- ¹	-- ¹	-- ¹												
Social Security																
Social Security	-- ¹	-- ¹	-- ¹	-- ¹												
Intellectual Property																
Copyright and Trademark	31.6	12.8	3.8	3.3												
Patent	47.1	26.7	5.6	7.2												

¹ An estimate of trial time was not presented if there were less than 20 trials in the category.

District Court Case Weighting Study Event Weight Estimates by Type of Case

Civil Cases

Case Type Description	Trials and Other Evidentiary Hearings				Non-Evidentiary Hearings and Conferences			In-Chambers Case-Related Activities							Case Adjustments	
	Jury Trial	Non-Jury Trial	Hearing on Preliminary Injunction/TRO	Other Evidentiary Hearing	Settlement Conference	Other Conference	Motion Hearing and Other Non-Evidentiary Hearing	Order on Motion for Summary Judgment	Order on a Discovery Motion	Order on a Dispositive Motion		Order on Any Other Enumerated Motion	Trial Prep	Hearing Prep	Multiple Parties (5 or more)	Class Action
Real and Personal Property																
Land Condemnation	17.4	4.4	-- ¹	-- ¹												
Foreclosure	-- ¹	7.2	-- ¹	-- ¹												
Other Property Actions (Real or Personal)	26.0	15.9	3.8	2.1												
Labor																
ERISA	22.4	8.3	2.5	2.2												
All Other Labor	23.5	12.1	3.6	2.5												
Forfeiture and Penalty																
Forfeiture and Penalty	13.6	5.2	3.4	3.0												
Other Actions																
Freedom of Information Act	-- ¹	-- ¹	-- ¹	-- ¹												
Federal Tax Suits	14.7	9.5	-- ¹	2.9												
Environmental Matters	45.3	22.8	3.9	7.5												
All Other Actions (incl Local Jurisdiction)	26.4	11.4	3.5	4.2												

¹ An estimate of trial time was not presented if there were less than 20 trials in the category.

Federal Judicial Center

National Consensus Meeting

San Antonio, TX
January 29-30, 2004

Event-Based Case Weighting Review

What Are Case Weights?

- Case weights represent the **relative** amount of attention cases of different types require from district judges.
- They are a better estimate of caseload burden than a count of raw cases.

	Court 1	Court 2	Court 3
Contract Cases	20	50	20
Student Loan Cases	70	45	10
Patent Cases	10	5	70
	-----	-----	-----
Total Cases	100	100	100

Case Weights Estimate Average Burden

The time a judge spends on **any particular** case can vary from no time at all to hundreds of hours – depending on the characteristics of the case.

But case types differ with respect to the time required to manage them **on average**. On average, for example, a patent case demands more judge time than a contract case, which in turn demands more time than a student loan case.

Predicting the Future Based on the Past

The best predictor of the amount of judge time that will be required to process 100 patent cases (or any other case type) filed today is 100 times the **average time** it took to process such cases in the recent past.

Why Does Average Burden Differ?

- There are substantive and legal reasons why some types of cases are more demanding of judge time than others.
- But, ultimately some types of cases take more time because:
 - the judge has to do more things (e.g., hold more conferences, issue more rulings, write more opinions)
 - the things that need to be done take more time (e.g., it takes longer to read the briefs and do research for a motion on a novel patent issue than on a routine contracts issue)

Event-Based Case Weighting

The weight for a particular case type

= (what judges do) * (the time it takes to do it)

Data Sources

- “What judges do” is measured by docket and other case processing activity recorded in district court case management databases
- “The time it takes to do it” is assessed using objective time measures and estimated time measures.

Objective time measures are calculated from standard statistical court reports.

Estimated time measures are obtained through a structured judgment process, which began with the circuit-based meetings and concludes with the National Consensus Meeting.

How do the data fit together?

Calculating Time for a Single Event Category

Example: Conferences

Average number of
events in each case
1.8

multiplied by

Average amount of
time for each event
60 minutes

Case #	# Conferences
1	2
2	0
3	1
.	.
.	.
.	.
100	3
-----	-----
100 cases	180 conferences

The time associated with conferences
that is added to the overall case weight is
 $1.8 \times 60 = 108$ minutes

Example: Civil Case Weight Computed from Event Weights and Event Frequencies

		(A) Trials and Other Evidentiary Proceedings						(B) Nontrial Proceedings			
		Jury Trials		Non-Jury Trials		Other Evidentiary Proceedings		Conferences		Hearings	
Case Type	Computed Case Weight (in Hours)	Event Weight	Event Freq	Event Weight	Event Freq	Event Weight	Event Freq	Event Weight	Event Freq	Event Weight	Event Freq
Other Contracts	12.47	28.10	0.02	13.30	0.03	3.10	0.01	0.75	0.98	0.88	0.78

$$12.47 \text{ hrs} = (28.10 * 0.02) + (13.30 * 0.03) + (3.10 * 0.01) + (0.75 * 0.98) + \dots + (0.63 * 0.78)$$

(C) Non-Proceeding Case-Related Activity									
Order on Motion for Summary Judgment		Order on Discovery Motion		Order on Any Other Enumerated Motion		Trial Prep		Hearing Prep	
Event Weight	Event Freq	Event Weight	Event Freq	Event Weight	Event Freq	Event Weight	Event Freq	Event Weight	Event Freq
6.50	0.51	1.00	1.28	5.00	0.95	4.50	0.05	0.63	0.78

Structural Modifications

Adopted by Vote of the Circuit
Representatives

Civil Worksheet Modifications

	Trials and Other Evidentiary Hearings				Non-Evidentiary and Conferences			In-Chambers Case-Related Activities							Case Adjustment	
Case Type Description	Jury Trial	Non-Jury Trial	Hrng Prelim Inj/TRO	Other Evid Hrng	Settlement Conference	Other Conference	Motn and Other Non-Evid Hrng	Order on Motn Summ Jdgmnt	Order on Discvry Motn	Order on Dispositive Motn		Order on Any Other Enum Motn	Trial Prep	Hrng Prep	Multi Parties (5 or more)	Class Action
Bankruptcy																
Bankruptcy Appeals																
Bankruptcy Withdrawals																
Civil Rights																
Employment																
Voting Rights																
All Other																

Criminal Worksheet Modifications

	Trials and Other Evidentiary Hearings				Non-Evidentiary Hearings and Conferences					In-Chambers Case-Related Activities					Case Adjustments			
Case Type Description	Jury Trial	Non-Jury Trial	Sentencing Hrng (evid)	Other Evid Hrng	Conference	Motn Hrng and Othr Non-Evid Hrng	Arraignment Hrng	Plea Hrng	Sentencing Hrng	Order on Suppression Mtn	Order on Dispositive Motn		Order on Any Other Enum Motn	Trial Prep	Hrng Prep	Interpreter	Death Penalty	Multi Defendant Discnt
Firearms																		
Firearms																		

Other Decisions

- One adjustment to be applied to any given case
- No Review of Agency Decision case type
- No adjustment for high motion volume
- No adjustment for cases with a pro se litigant or defendant
- No adjustment for cases with a defendant charged with 5 or more offenses

The National Consensus Meeting

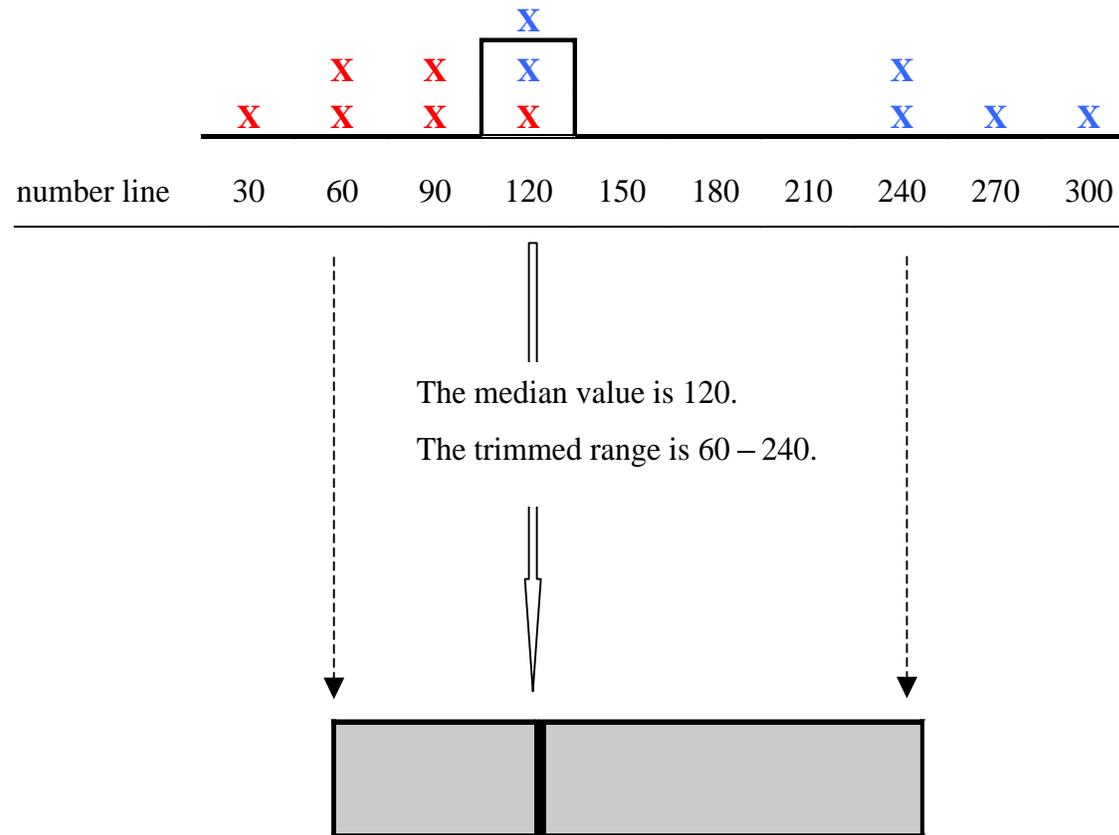
... is the forum for reconciling circuit
variability in estimated time measures

Variability Among Circuit Estimates

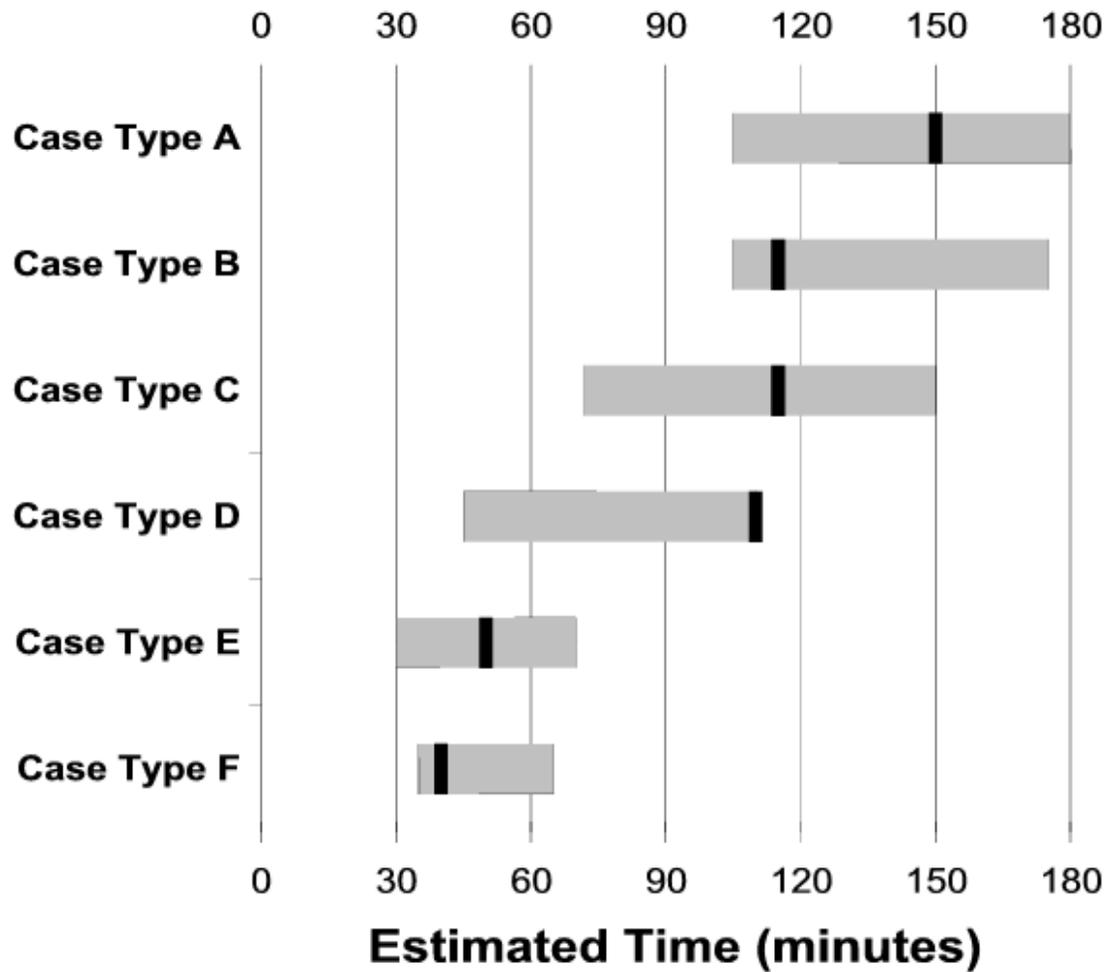
- Estimates vary widely for some case types and events.
- Because of differences in practices and procedures, this variability was expected.

Circuit estimates follow patterns,
however, that point to common
structure.

How are data from the circuit meetings summarized?



Example Estimates Median and Range Information



The black marker is the median value of 12 circuit estimates.

The grey band defines the range of 8 central circuit values.

The Decision Making Process

- Analyze circuit data
- Discuss variability in the estimates
- Vote to narrow the estimate range
- Apply a consensus rule to establish the final value

Consensus Rule and Voting

- discussion is followed by an anonymous vote on estimate options
- if 18 judges agree on an option, the polling stops
- if agreement is absent after three rounds of voting, the median value of the third-round vote becomes the final estimate

Keypad



The Role of Participants as Circuit Representatives

- present the concerns of the circuit
- focus on patterns that are present in the circuit data
- balance personal experience with the data forwarded by the circuit

Equipment Check

Test Question 1:

What will you have for dinner tonight?

Keypad Options

1 = steak and shrimp

2 = vegetarian meal

3 = other

Test Question 2:

What will you drink with your meal?

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Time Conversion Table

<u>Minutes</u>	<u>Hours</u>
15	0.25
30	0.50
45	0.75
60	1.00
75	1.25
90	1.50
105	1.75
120	2.00
135	2.25
150	2.50
165	2.75
180	3.00
210	3.50
240	4.00
270	4.50
300	5.00
330	5.50
360	6.00
390	6.50
420	7.00
450	7.50
480	8.00

<u>Minutes</u>	<u>Hours</u>
510	8.50
540	9.00
570	9.50
600	10.00
660	11.00
720	12.00
780	13.00
840	14.00
900	15.00
960	16.00
1020	17.00
1080	18.00
1140	19.00
1200	20.00
1260	21.00
1320	22.00
1380	23.00
1440	24.00
1500	25.00
1560	26.00
1620	27.00
1680	28.00

<u>Minutes</u>	<u>Hours</u>
1740	29.00
1800	30.00
1860	31.00
1920	32.00
1980	33.00
2040	34.00
2100	35.00
2160	36.00
2220	37.00
2280	38.00
2340	39.00
2400	40.00
2700	45.00
3000	50.00
3300	55.00
3600	60.00
3900	65.00
4200	70.00
6000	75.00
4800	80.00
5100	85.00
5400	90.00

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**REPORT ON THE FINDINGS OF
THE ELEVENTH CIRCUIT DISTRICT COURT CASE WEIGHTS CONSENSUS MEETING
HELD NOVEMBER 13, 2003 IN ATLANTA, GA**

I. Civil Case Worksheet Comment and Recommendations

A. Consensus Values (Refer to Attachment A)

B. Event Types

Conference and Motion Hearing	Participants reported that case characteristics exert the strongest influence over the amount of time required for both a Conference and a Motion Hearing, and they consequently established the same value for each event for each case type.
Other Non-Evidentiary Hearings	Participants stated that distinguishing between Motion Hearings and Other Non-Evidentiary Hearings was not useful, and consequently assigned identical time estimates to both categories. [The effect was to make the values of Conference, Motion Hearing, and Other Non-Evidentiary Hearings equivalent within each case type.]
Order on Any Other Enumerated Motion	Participants commented that the motions in this category should include rulings on Daubert motions and final disposition orders issued in habeas and agency review cases. Participants were unsure how these orders were docketed and the list of motions in the documentation did not clarify whether orders on these motions were included in the category.

C. Civil Case Adjustments

Multiple Parties (5 or more)	Apply a 50% increase.
Class Action	Apply a 30% increase to class action <i>allegations</i> .
Motions (more than 50)	Apply a 10% increase to cases with more than 25 motions . Participants indicated that an adjustment should be made for cases with excessive motion activity, and recommended that the threshold should be 25 motions rather than 50 motions.

D. Case Types

Death Penalty Habeas Corpus	Participants discussed whether this category should be restructured to separate state and federal death penalty habeas cases. Upon hearing from the moderator that it was unclear whether docketed data can make the distinction, and realizing that the number of federal death penalty habeas cases is already quite small, participants determined not to pursue the line of reasoning.
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E. Specific Combinations of Civil Case Types and Events None.

II. Criminal Case Worksheet Remarks and Recommendations

A. Consensus Values (Refer to Attachment B)

B. Event Types

Arrestment or Plea Hearing	The category should be divided into the following: 1) Arrestment Hearing and 2) Plea Hearing. Participants provided estimates for the reorganized categories only. Pleas were specifically defined as including Rule 11 Change of Plea hearings or “Rearraignments”.
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C. Criminal Case Adjustments

Interpreter	Apply an increase of 25% to cases in which there is an interpreter. The adjustment should only apply to events in which the defendant is directly involved (i.e., arrestment, plea hearing, sentencing hearing, other evidentiary hearing).
5 or More Offenses Charged	Apply an increase of 15%. Participants initially recommended an adjustment for multiple counts. Upon hearing from the moderator that it is not possible to obtain this information from data currently reported to the Administrative Office for all cases, they recommended as a surrogate adjustment, multiple offenses charged (5 or more). Data exist to support the surrogate adjustment.
Pro Se Defendants	Apply an increase of 50%.
Classified Information (CIPA)	Questions were raised about the possibility of creating an adjustment for cases that involved CIPA documents. Upon hearing from the moderator that there does not appear to be a way to identify the relevant cases from docketed events, the participants determined not to recommend this adjustment.
Juvenile Cases	Participants considered creating an adjustment for cases with juvenile defendants. Because of questions about how frequently these cases occur and whether they can be consistently identified, participants refrained from making a recommendation.

D. Case Types

Federal Death Penalty Eligible	Cases eligible for the federal death penalty should become a separate case type. Participants provided estimates for the case type events.
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E. Specific Combinations of Criminal Case Types and Events None.

III. General Remarks and Recommendations on the Methodology

A number of the participants indicated that case-related travel should be factored into the case weights. The moderator explained that because case weights were computed and applied nationally they were not the appropriate vehicle for recognizing the burden associated with case-related travel in specific districts. Participants were also reminded that case-related travel is a court characteristic that is specifically addressed as part of the analyses done in conjunction with the biennial judgeship survey.

Copyright and Trademark	60	60	60	720	180		240	180			
Patent	75	75	75	1080	300	900	480	360			
Land Condemnation	30	30	30	480							
Foreclosure	30	30	30	240		225					
Other Property Actions											
ERISA	45	45	45	600							
All Other Labor											
Forfeiture and Penalty											
Freedom of Information Act											
Federal Tax Suits											
Environmental Matters	90	90	90	1080	120	675	240	180			
All Other Actions											

1 The estimates reflect a recommendation to reduce the criterion for applying the adjustment from "more than 50 motions" to "more than 25 motions".

CRIMINAL Case Type	Non-Evidentiary Proceedings					Chambers Activities				Case Adjustments		
	Confer- ence	Motion	Arraign- ment & Plea ¹	Senten- cing	Other Non- Evid Hrng	Suppres- sion	Other Order	Trial Prep	Hearing Prep	Interpreter ²	Multiple Charges (5 or more)	Pro Se
Judge's Consensus Default	30	35	10/35	40	30	120	45	60	30	25%	15%	50%
Murder, Manslaughter	60	60		50				180				
Assault, Kidnapping												
Sexual Offenses				50				240				
Robbery and Burglary												
Larceny and Theft												
Embezzlement, Forgery												
All Fraud												
Alien Smuggling	60	60										
Other Immigration												
Sell or Distribute												
Import / Export												
Manufacture												
Possession												
Continuing Criminal Enterprise	45	45										
Firearms												
All Extortion, Threats, RICO												
Espionage and Terrorism	60	60		50				240	120			
All Other Felonies												
Misdemeanor & Petty	30	25										
TSR/Probation Evidentiary												
TSR/Probation Non-Evidentiary												
Federal Death Penalty Eligible ³	60	90	30/35	50		150	120	3000	75			

¹ The estimates reflect the recommendation to divide the category into: 1) arraignment hearing and 2) plea hearing.

² The interpreter adjustment is recommended to apply to events in which the defendant participates directly (i.e., arraignment, plea, sentencing, and other non-evidentiary hearings).

³ The circuit recommends that Federal Death Penalty cases be treated as a separate case type category.

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Criminal Case Worksheet Charts

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Chart 1. Conference

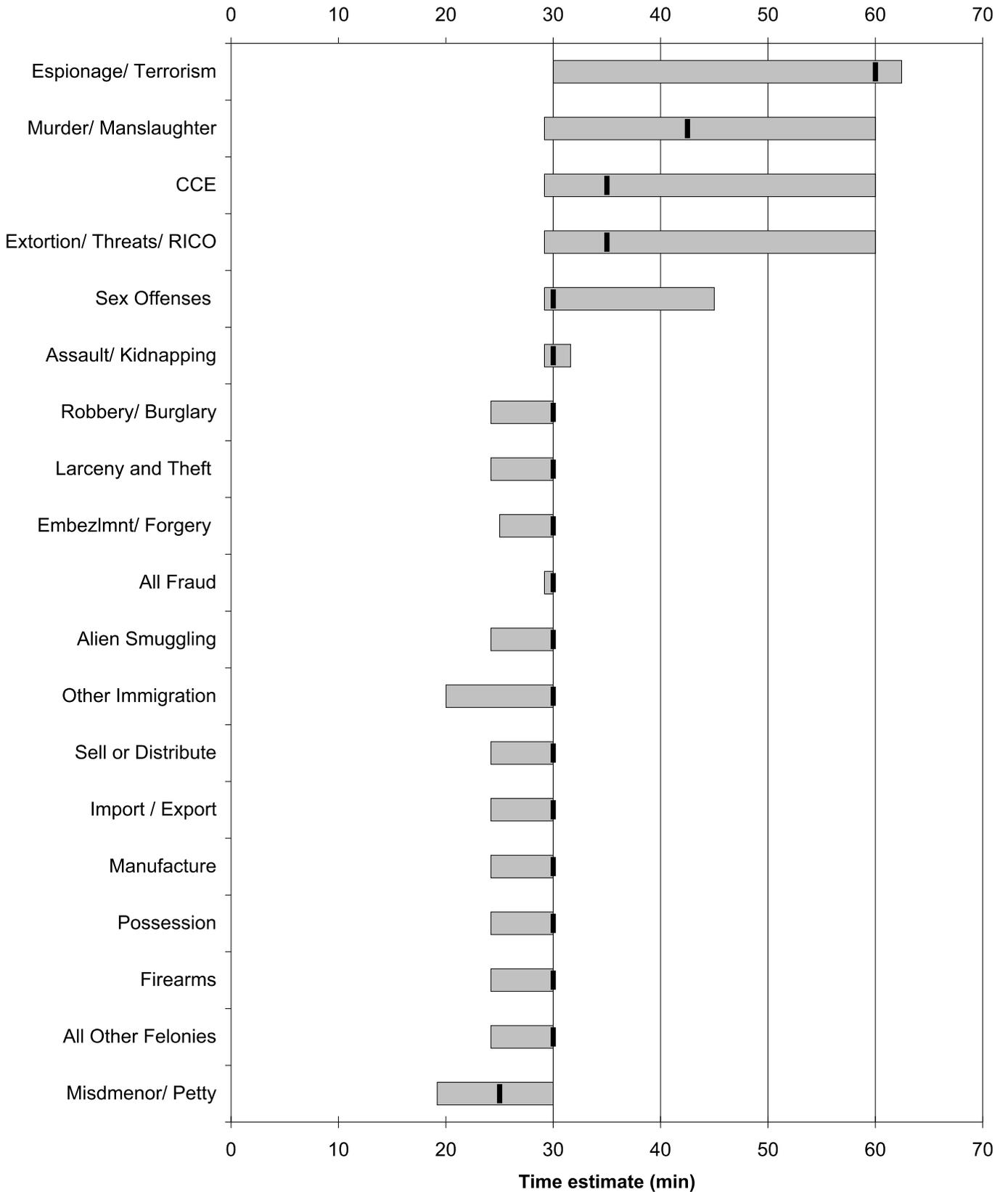


Chart 2. Motion Hearing

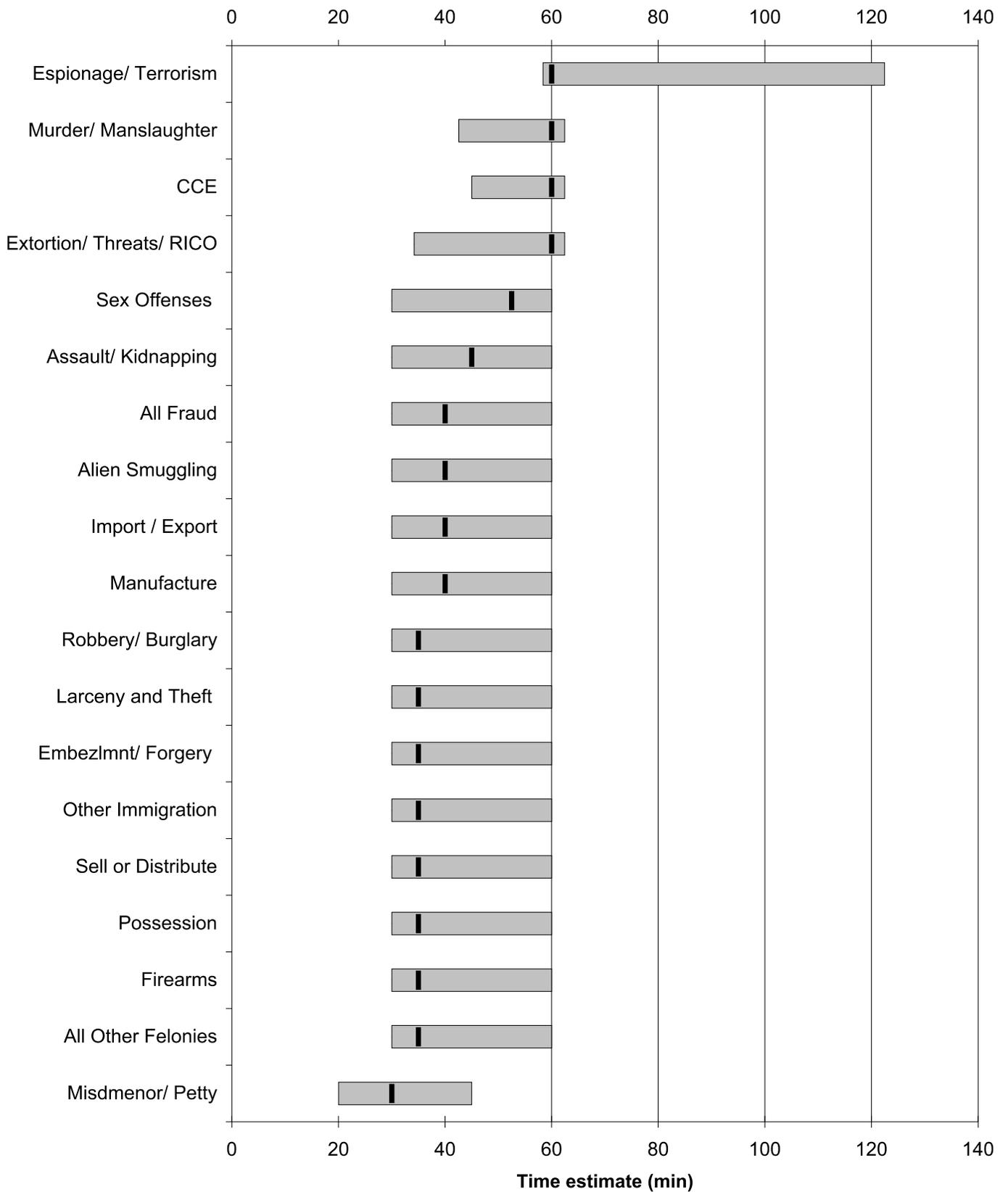
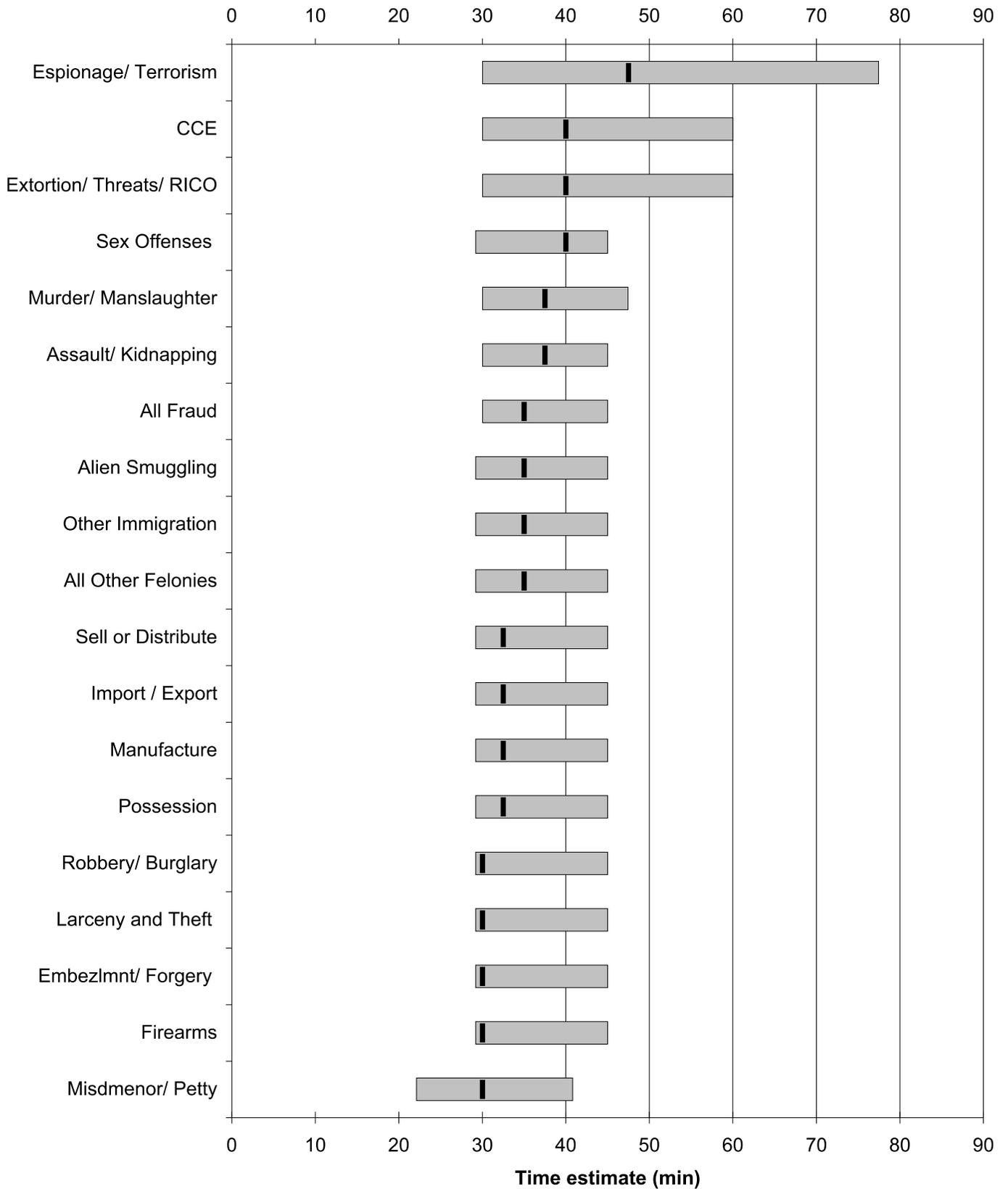


Chart 3. Arraignment & Plea Hearing



CHARTS EXCEPTION REPORT

Event: Arraignment or Plea Hearing

Circuit: Eleventh Circuit

Description: The circuit divided the event into separate arraignment *and* plea hearing categories, but provided estimates also for the original category.

Action: Staff used the estimates corresponding to the original category in the comparison chart.

Chart 4. Sentencing Hearing

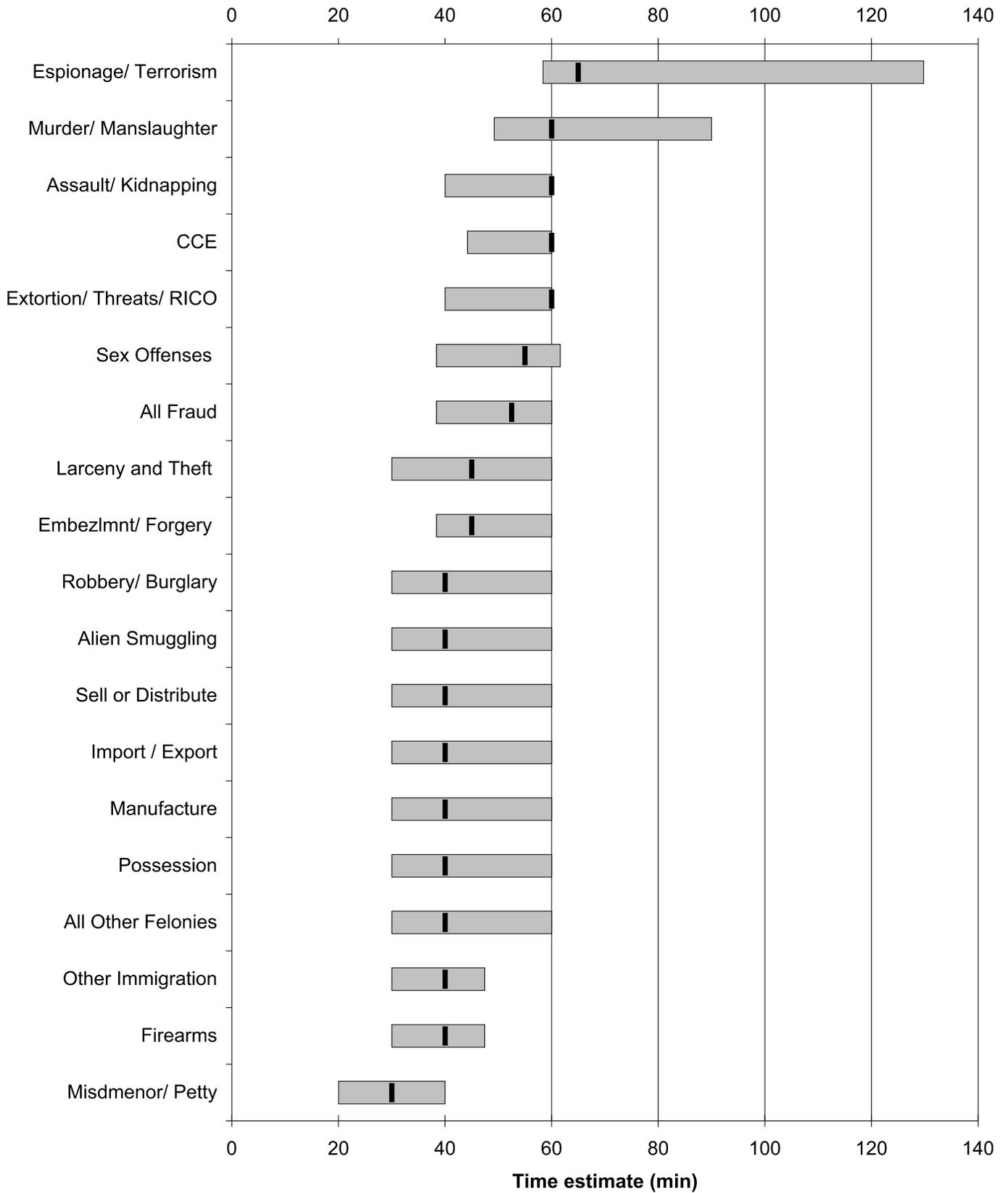


Chart 5. Other Non-Evidentiary Hearing

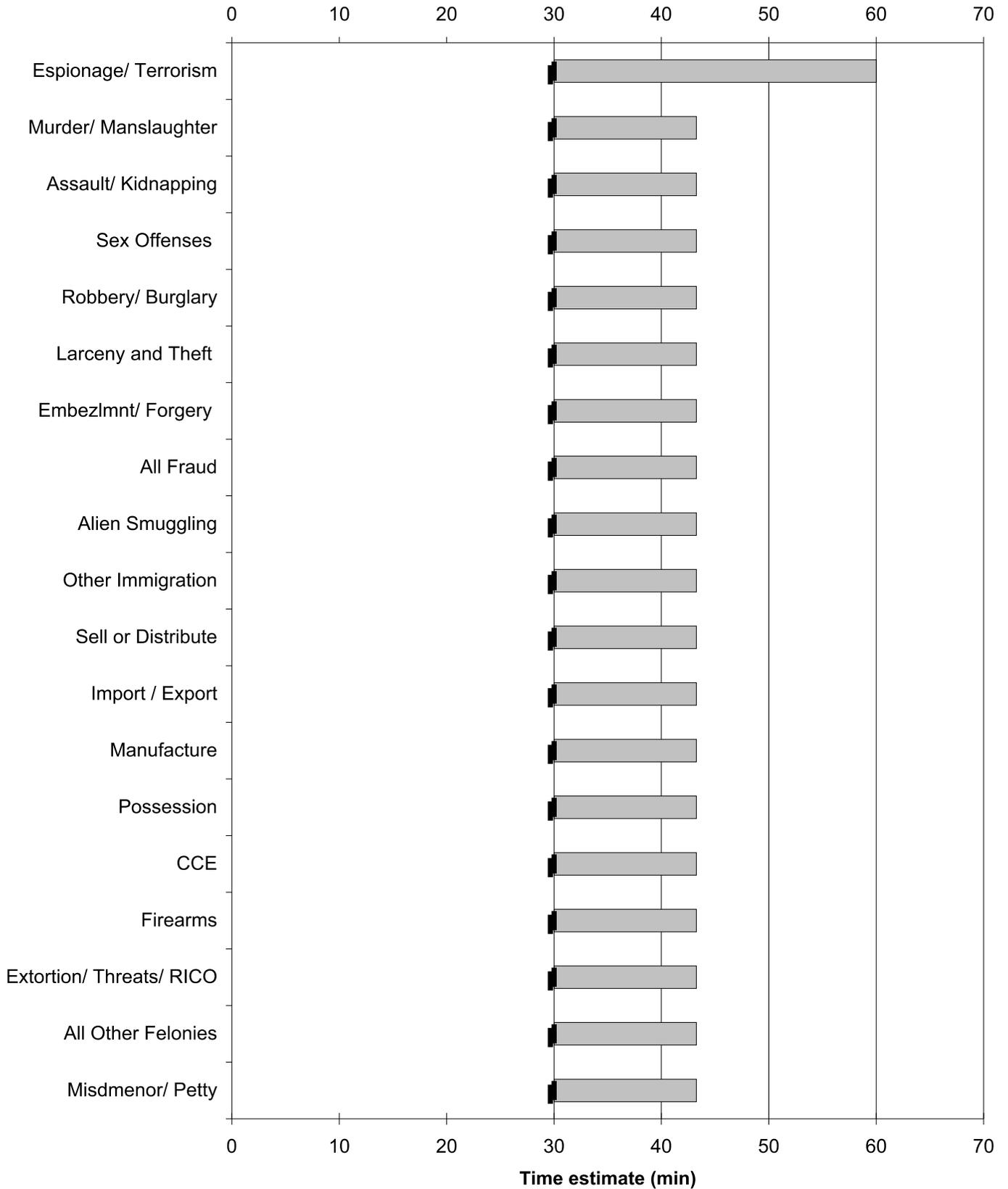


Chart 6. Order on Suppression Motion

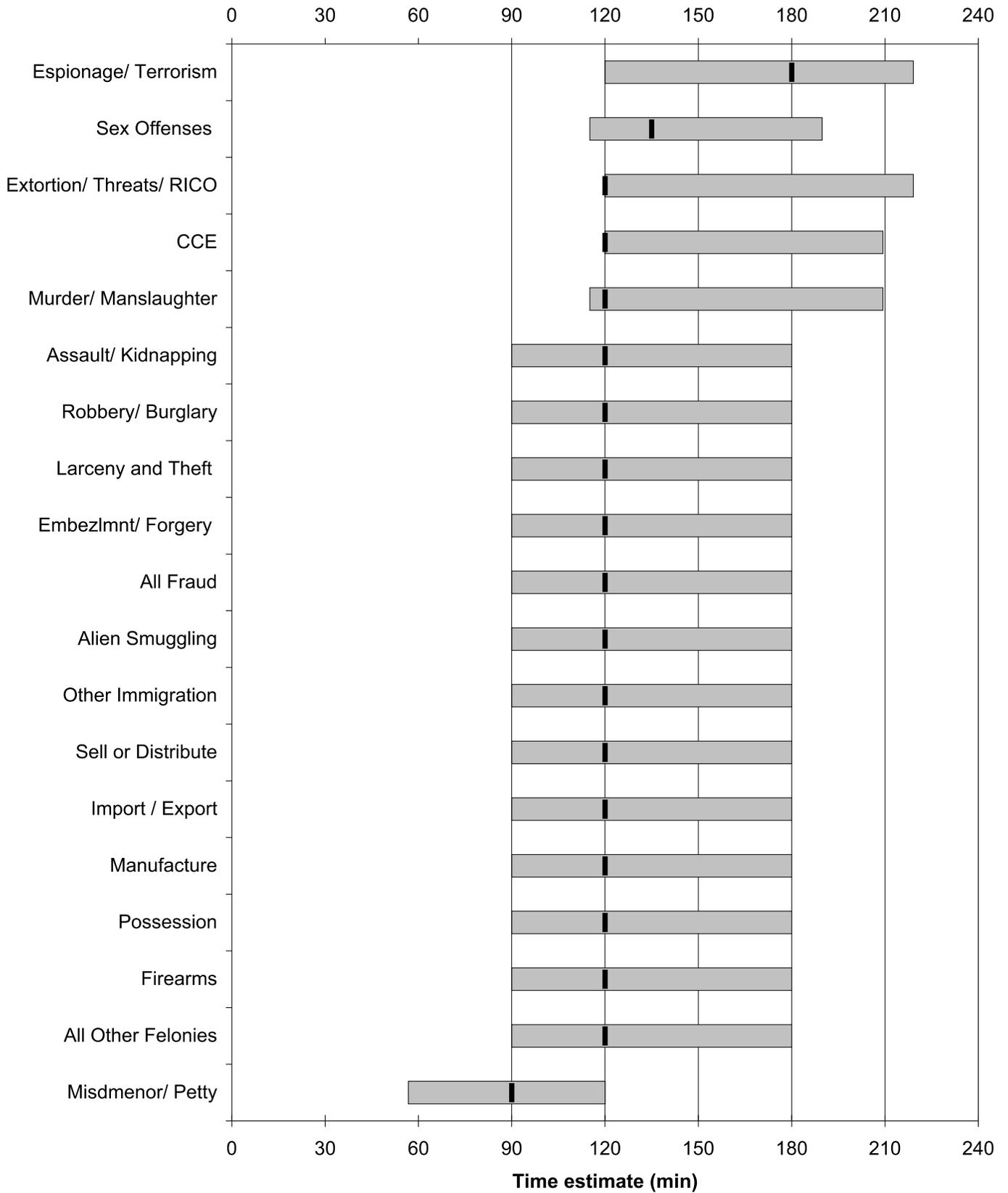
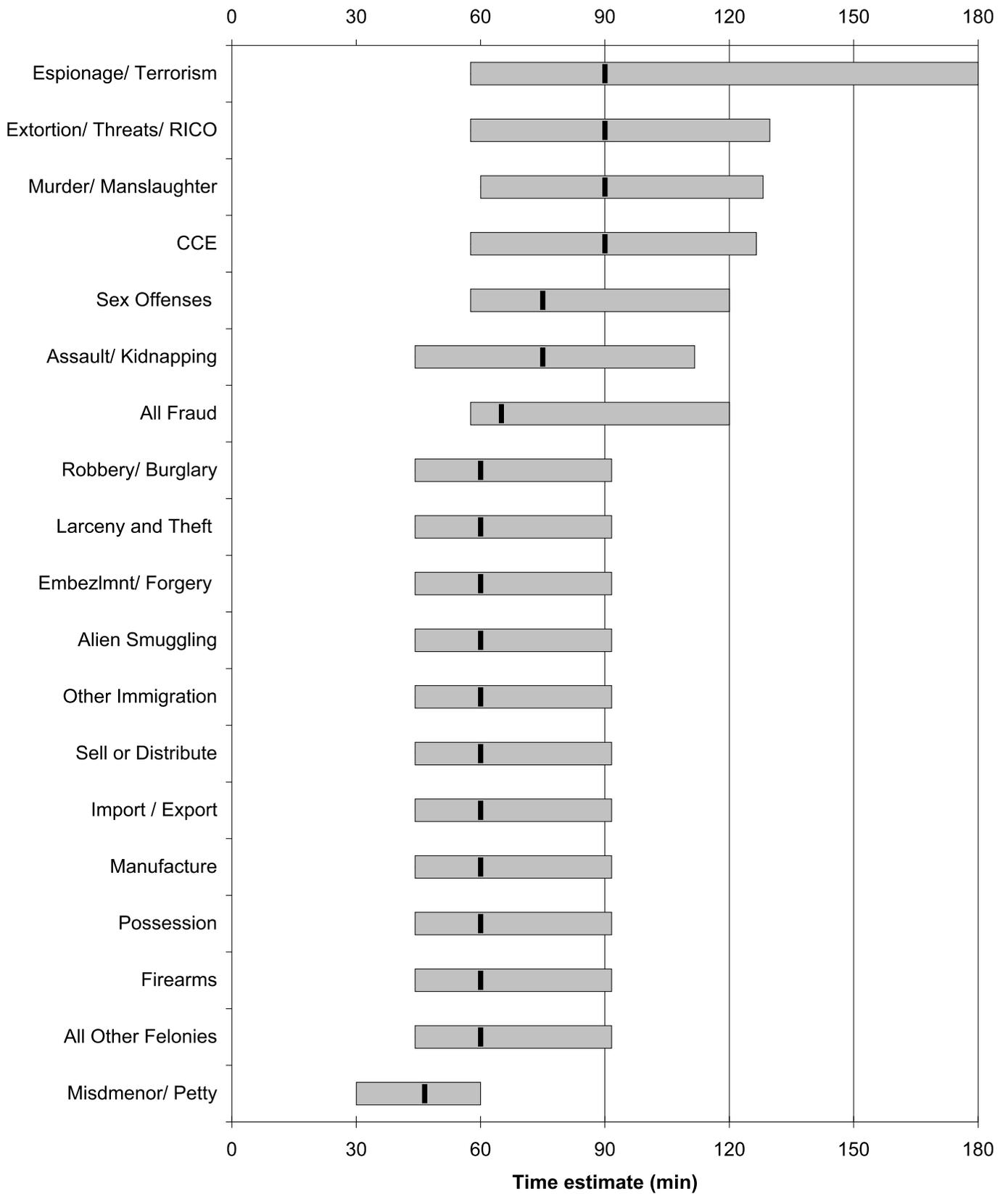


Chart 7. Order on Any Other Enumerated Motion



Original Contents of the *Order on Any Other Enumerated Motion Event*

Enumeration included:

Order on motion to dismiss case	Order on motion to bifurcate
Order on motion to dismiss/speedy trial	Order on motion to sever defendant
Order on motion for speedy trial	Order on motion to disqualify counsel
Order on motion to withdraw as attorney	Order on motion to withdraw plea
Order on discovery motion	Order on motion to modify conditions of release
Order on motion to exclude	Findings of fact
Order on motion for forfeiture of property	Memorandum opinion
Order on motion in limine	Judgment
Order on motion to quash	Order on motion for new trial
Order on motion for a judgment of acquittal (Rule 29)	Order on motion to seal
Order on motion for protective order	Order on motion to reduce sentence
Order on motion for psychological or psychiatric exam	Contempt order
Order on motion for reconsideration	Order adopting report and recommendations
Order on motion for release from custody	Order authorizing payment of CJA voucher
Order on motion to appoint expert	Order on motion for certificate of appealability
	Order on motion for judgment on attorney fees

Question: How should *Order on Any Other Enumerated Motion* be restructured on the criminal worksheet?

Options include:

- separating the motions included in *Order on Any Other Enumerated Motion* into two or more categories and
- limiting the category to orders on motions that place substantial demands on judges' time.

Table 1.

Circuit Recommendations on Restructuring *Order on Any Other Enumerated Motion*

Order on a dispositive/ substantive motion

order on motion to dismiss case
order on motion to dismiss/speedy trial
order on motion for a judgment of acquittal (Rule 29)
order on motion to bifurcate

order on motion to sever defendant
order on motion to disqualify counsel
findings of fact
memorandum opinion

Order on any other enumerated motion

order on motion for speedy trial
order on motion to withdraw as attorney
order on discovery motion
order on motion to exclude
order on motion for forfeiture of property
order on motion in limine
order on motion to quash
order on motion for protective order
order on motion for psychological or psychiatric exam
order on motion for reconsideration
order on motion for release from custody
order on motion to appoint expert
order on motion to withdraw plea

order on motion to modify conditions of release
judgment
order on motion for new trial
order on motion to seal
order on motion to reduce sentence
contempt order
order adopting report and recommendations
order authorizing payment of CJA voucher
order on motion for certificate of appealability
order on motion for judgment on attorney fees

Order on a substantive or otherwise time-consuming motion

order on motion to dismiss case
order on motion to dismiss/speedy trial
order on motion to exclude
order on motion in limine
order on motion for a judgment of acquittal (Rule 29)
order on motion to bifurcate
order on motion to sever defendant

order on motion to disqualify counsel
order on motion to withdraw plea
findings of fact
memorandum opinion
order on motion for new trial
contempt order
order adopting report and recommendations

Order on any other enumerated motion

order on motion for speedy trial
order on motion to withdraw as attorney
order on discovery motion
order on motion for forfeiture of property
order on motion to quash
order on motion for protective order
order on motion for psychological or psychiatric exam
order on motion for reconsideration
order on motion for release from custody
order on motion to appoint expert

order on motion to modify conditions of release
judgment
order on motion to seal
order on motion to reduce sentence
order authorizing payment of CJA voucher
order on motion for certificate of appealability
order on motion for judgment on attorney fees

Order on a dispositive motion

order on motion to dismiss case
order on motion to dismiss/speedy trial
order on motion for speedy trial

order on motion for a judgment of acquittal (Rule 29)
order on motion for new trial

Order on a discovery-related motion

order on discovery motion
order on motion to exclude
order on motion in limine
order on motion to quash
order on motion for protective order

order on motion for psychological or psychiatric exam
order on motion to appoint expert
order on motion to seal

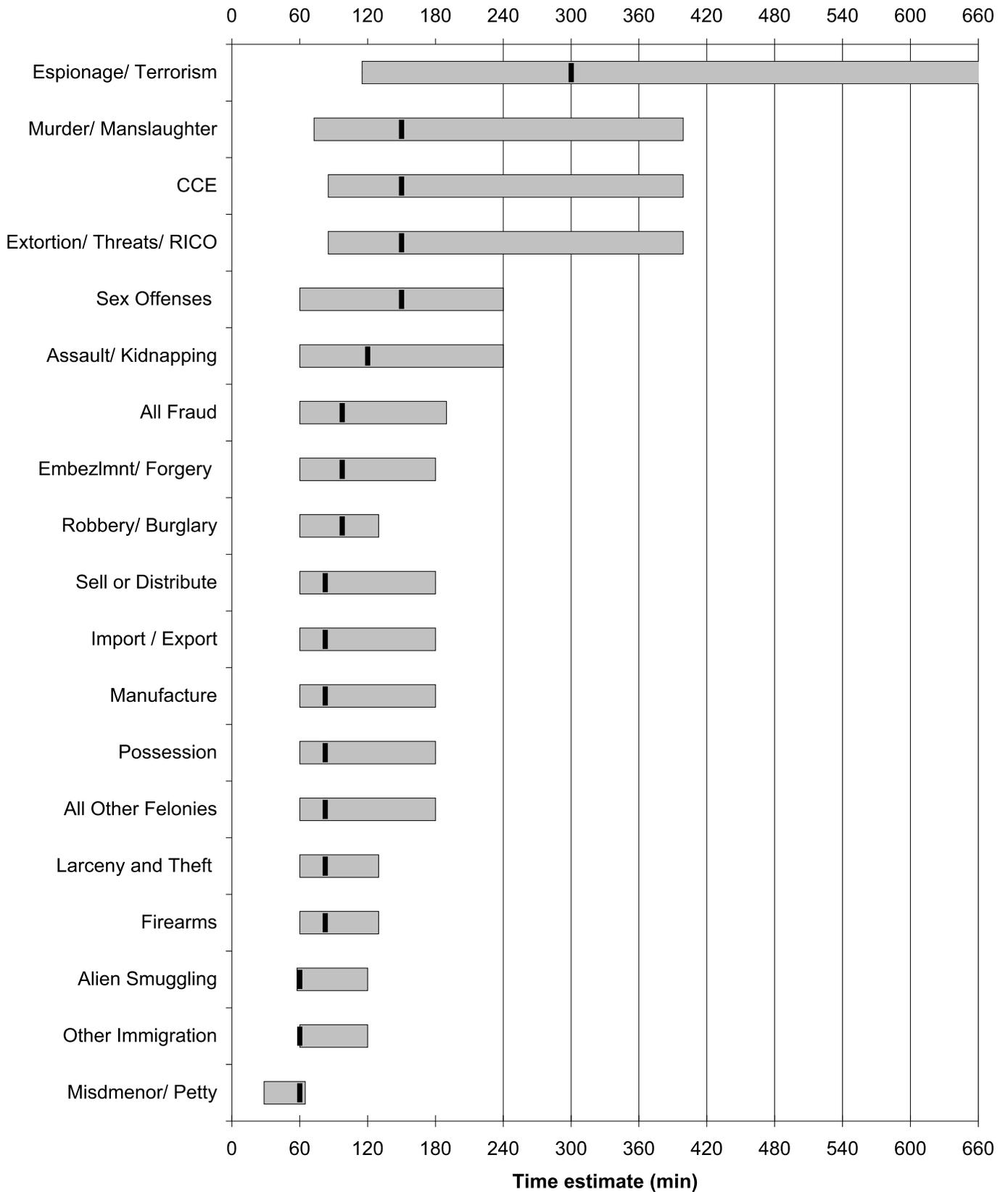
(continued)

Order on any other enumerated motion

order on motion to withdraw as attorney
order on motion for forfeiture of
property
order on motion for reconsideration
order on motion for release from custody
order on motion to bifurcate
order on motion to sever defendant
order on motion to disqualify counsel
order on motion to withdraw plea
order on motion to modify conditions of
release
findings of fact

judgment
order on motion to reduce sentence
contempt order
order adopting report and
recommendations
order authorizing payment of CJA
voucher
order on motion for certificate of
appealability
order on motion for judgment on
attorney fee

Chart 8. Trial Prep



Question: What categories of judge time should be included in the estimates for the *Trial Preparation* event category?

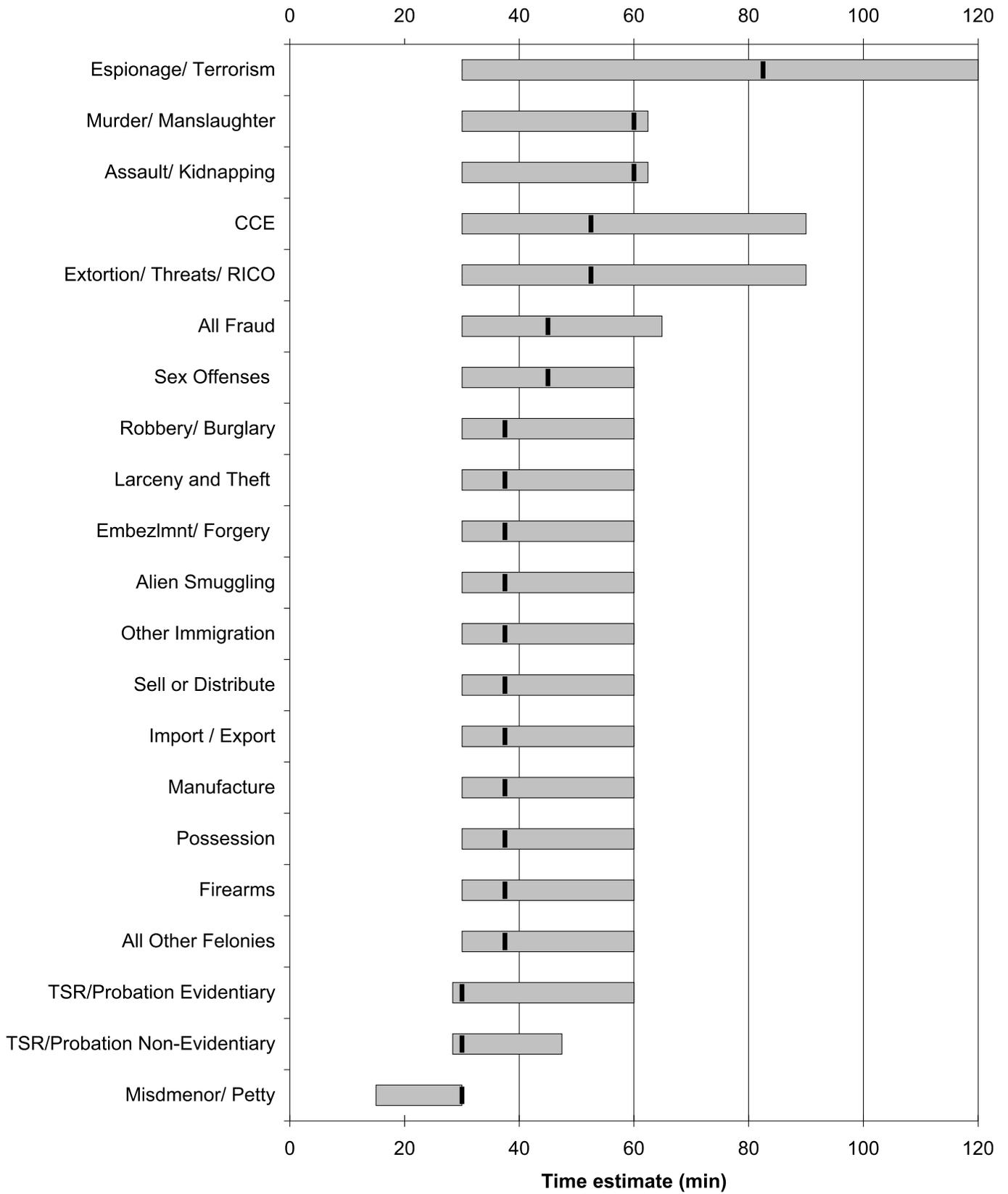
Table.

Time Categories That Circuits Elected to Include in Their Estimates

<p>The estimate should encompass time spent preparing as the trial is ongoing. Participants thought that preparation time is correlated with actual trial time and accordingly, they based their estimates on the data-based trial time averages that appear in the blue columns of the worksheet.</p>
<p>Estimates should encompass not only final review and orientation, but also voir dire preparation, time spent preparing the jury charge, and trial-related time spent outside the courtroom as the trial proceeds. The latter includes, but is not limited to, researching evidentiary issues that arise mid-trial, work on preliminary instructions, special interrogatories, and special verdict forms. The consensus estimates provided by participants include this additional time.</p>
<p>The estimate should encompass time spent preparing pretrial orders, pretrial memos, jury instructions, the verdict sheet, and review of prior rulings. The consensus estimates of the circuit include this additional time.</p>
<p>Estimates should encompass time spent preparing for each trial day. Estimates do not include motions in limine.</p>
<p>Estimates should encompass time spent preparing for voir dire and developing jury instructions. The estimate should additionally include time spent in off-the-record meetings with the trial attorneys and other time expenditure (e.g., conducting mid-trial legal research) that occurs between the start and end of trial. The consensus estimates of the circuit include this additional time.</p>
<p>Estimates should encompass time spent preparing for voir dire and developing jury instructions. The estimate should additionally include time spent on non-motion related general research (i.e., reading the law and reviewing the case), preparation for the final pretrial conference, and time expenditure that occurs between the start and end of trial (e.g., conducting mid-trial legal research). The consensus estimates of the circuit include this additional time.</p>

Question: Should a different estimate be used for *Trial Preparation* when a jury is not involved?

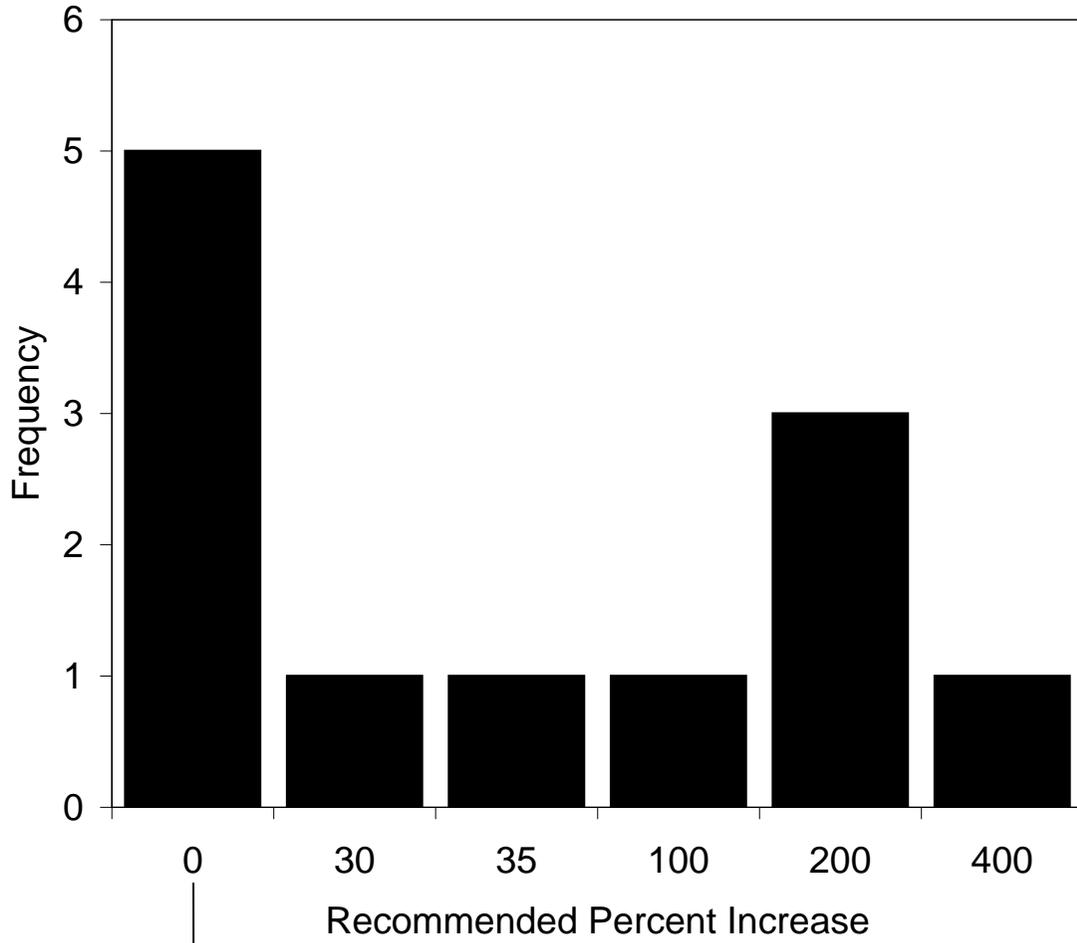
Chart 9. Hearing Prep



Interpreter Case Adjustment

-- no chart --

CHART 10
Federal Death Penalty



0
30
35
100
200
400

Frequency

Recommended Percent Increase

Two circuits discussed death penalty cases as a separate case type; three did not discuss death penalty cases.

Multiple Defendant Case Adjustment

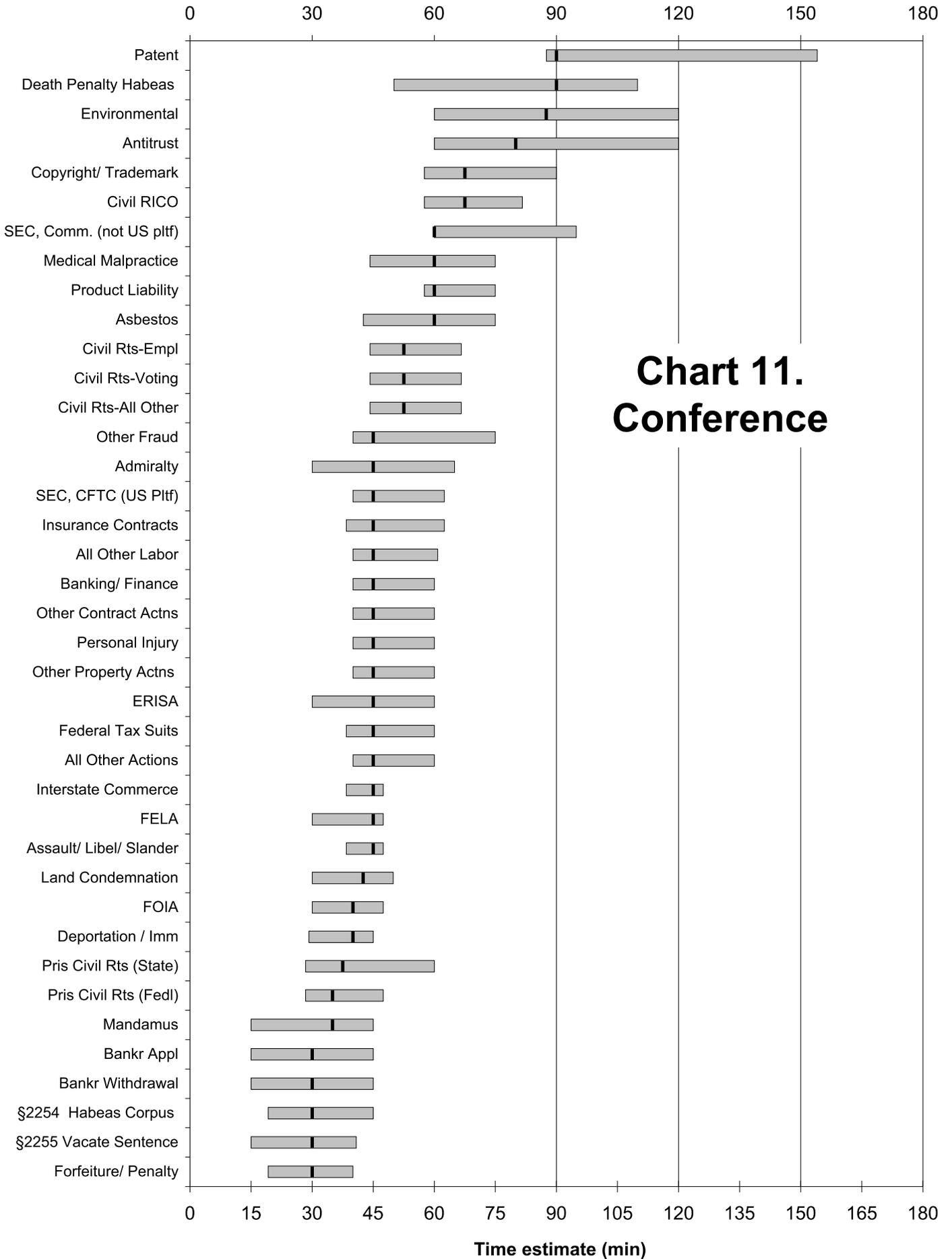
-- no chart --

Civil Case Worksheet Charts

Settlement Conference

-- no chart --

Chart 11. Conference



Original Civil Case Worksheet
Contents of the *Conference* Event

Conference

Included:

Pretrial conferences

Status conferences

Scheduling conferences

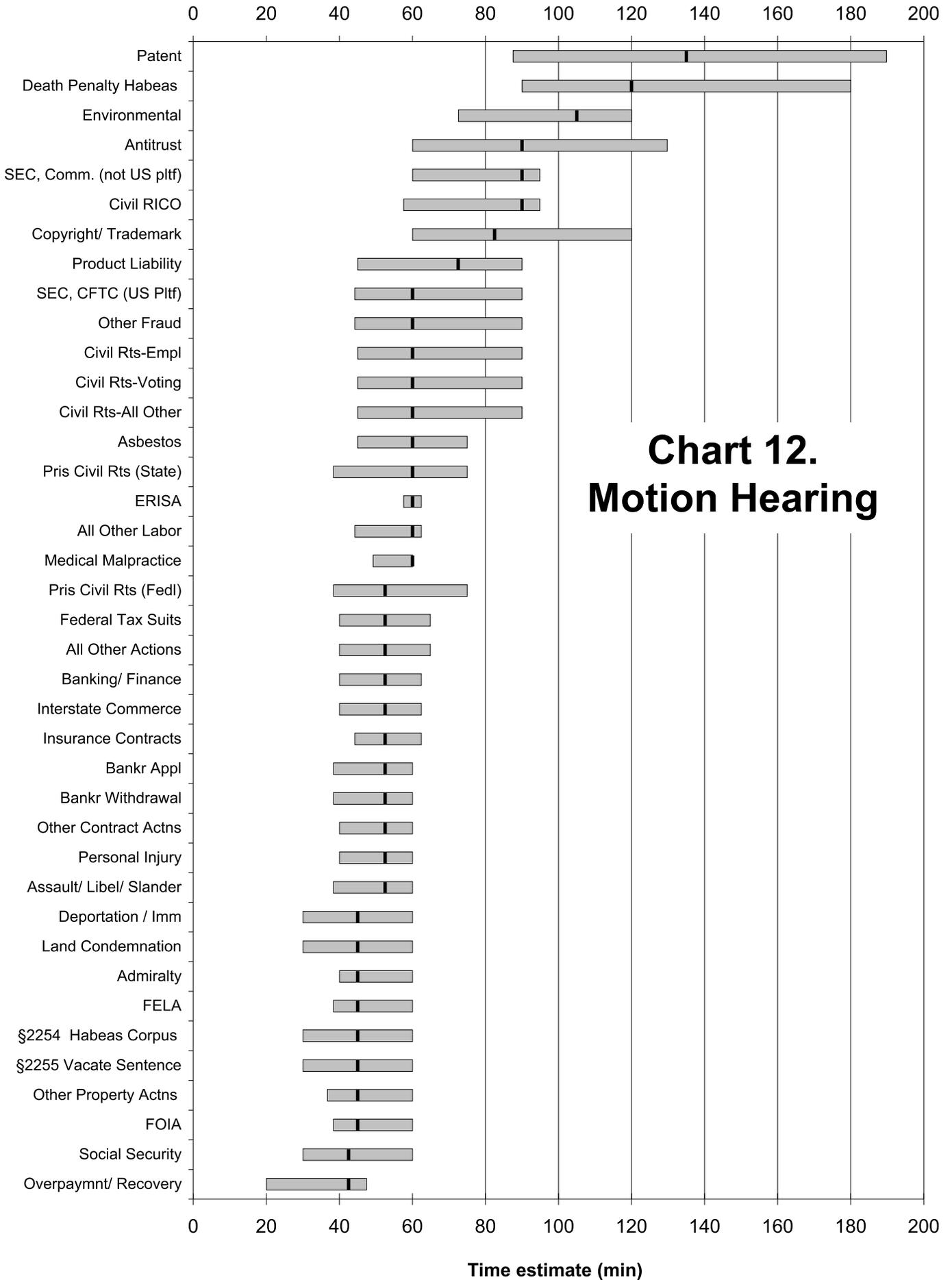
Settlement conferences

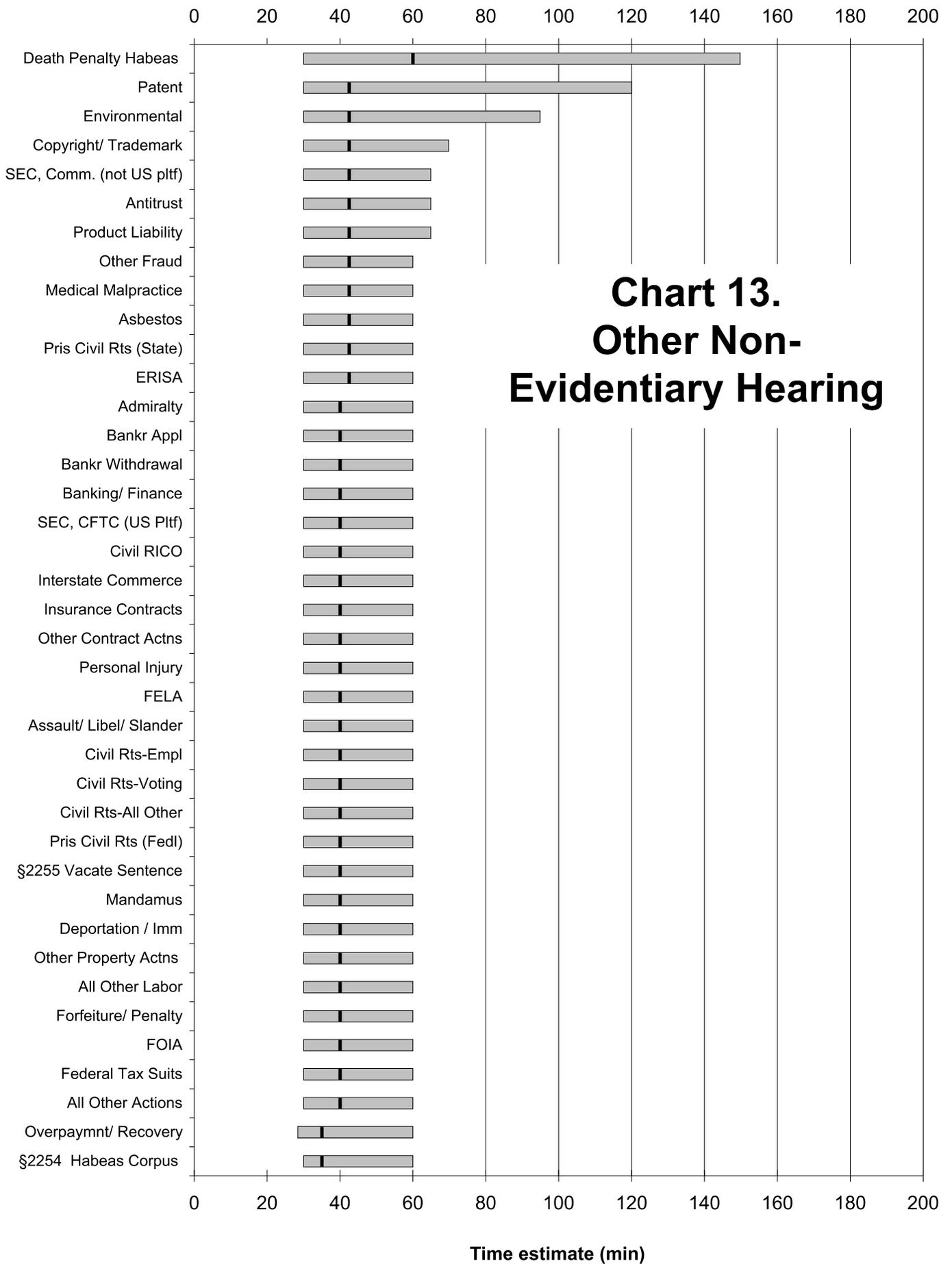
Early neutral evaluation conferences

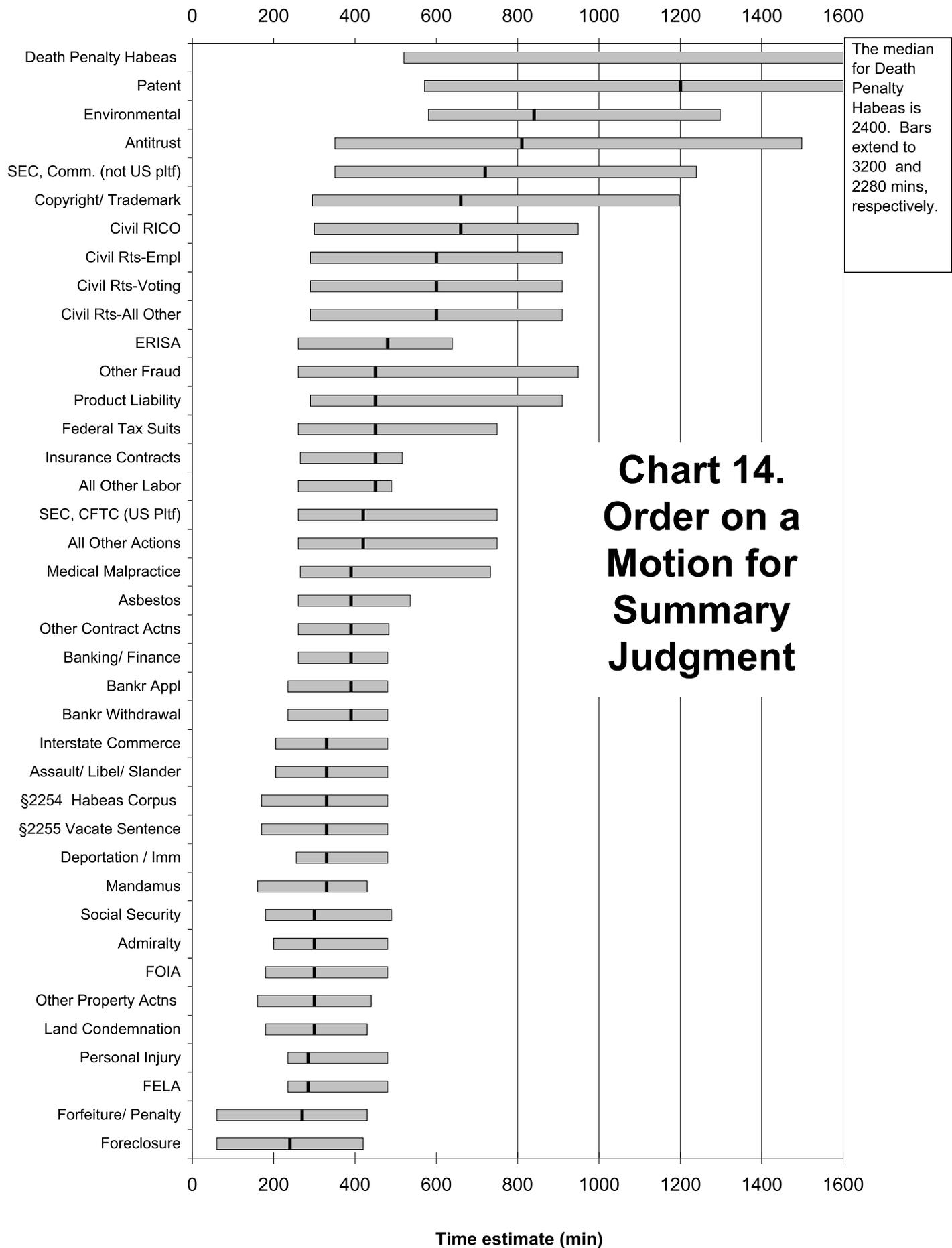
In-chambers conferences

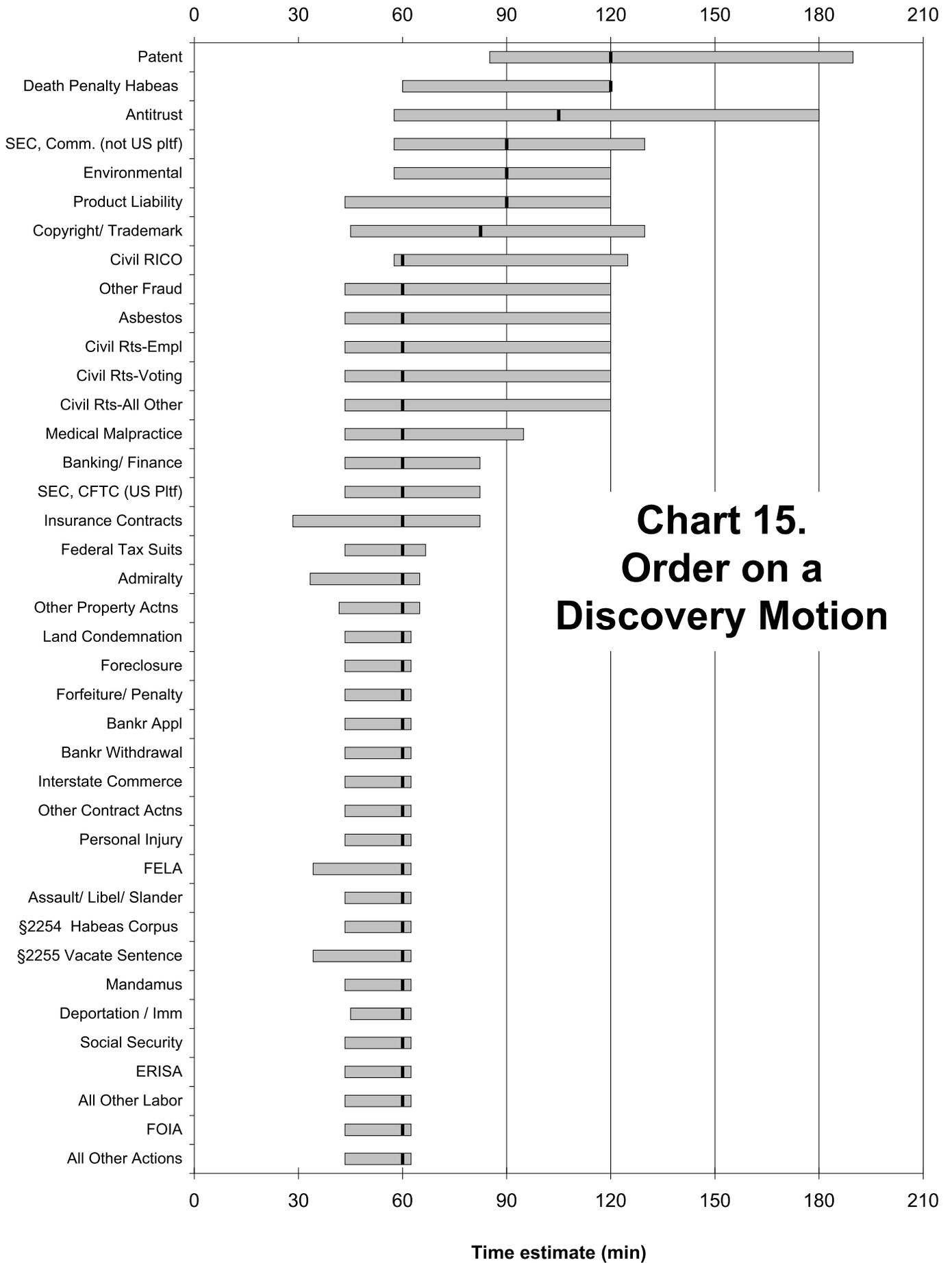
Telephone conferences

Videoconferences







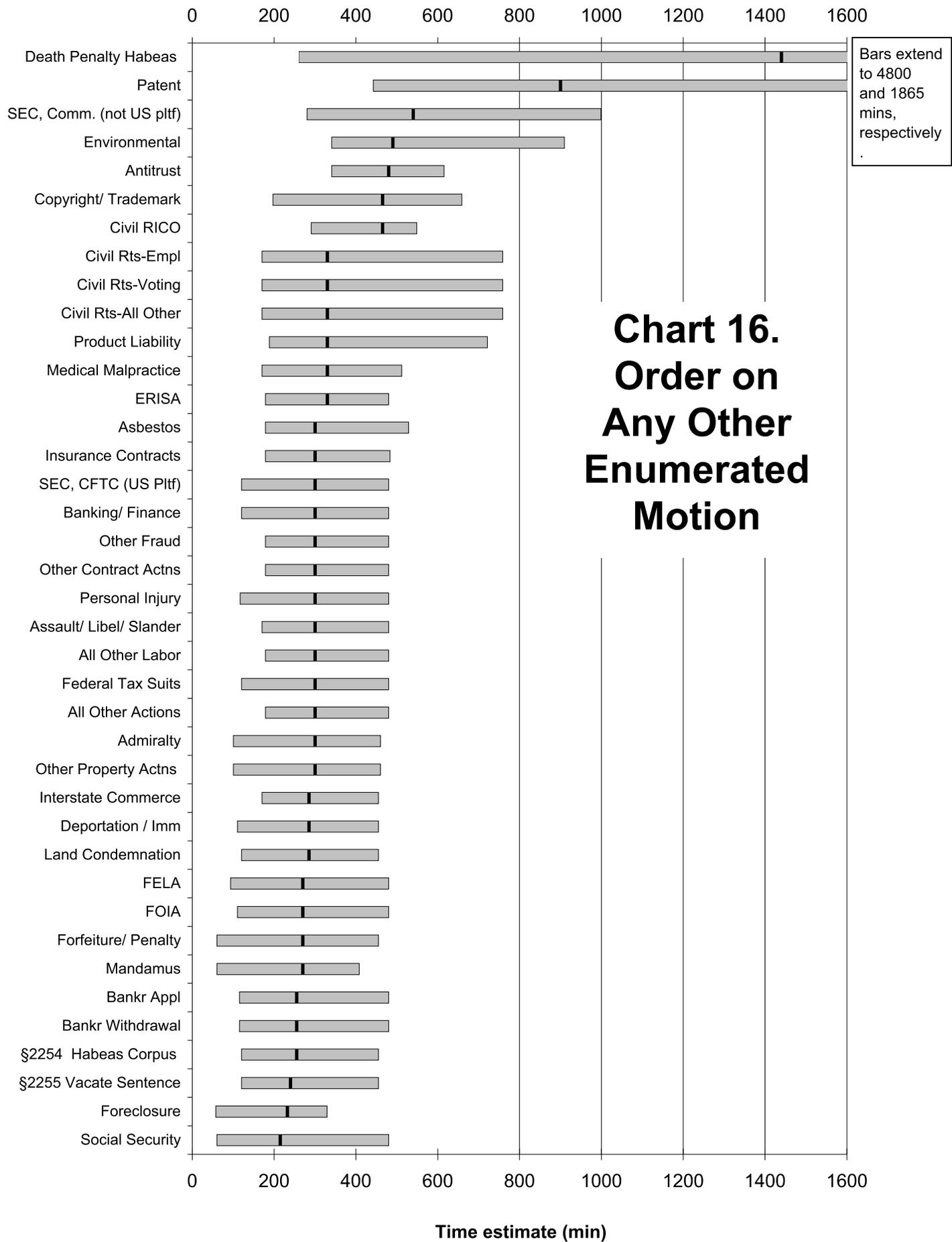


Original Civil Case Worksheet
Contents of the *Order on Discovery Motion* Event

Order on Discovery Motion

Included:

- Order on motion for discovery
- Order on motion for protective order
- Order on motion for sanctions
- Order on motion to compel
- Order on motion to produce
- Order on motion to quash



Original Civil Case Worksheet
Contents of the *Order on Any Other Enumerated Motion* Event

Order on Any Other Enumerated Motion

Enumeration included:

Order on motion to dismiss case
Order on motion to dismiss for lack of jurisdiction
Order on motion for judgment on the pleadings
Order on motion for temporary restraining order
Order on motion for preliminary injunction
Order on motion for permanent injunction
Order on motion to intervene
Order on motion to certify class
Order on motion for declaratory judgment
Order on motion to remand
Order on motion for change of venue
Order referring case to arbitration
Order on motion to withdraw reference
Order on motion for judgment as a matter of law
Order on motion in limine
Findings of fact and conclusions of law
Judgment
Order on motion to vacate/set aside/correct sentence (2255)
Order adopting report and recommendations
Memorandum opinion
Order on motion for reconsideration
Contempt order
Order on motion for new trial
Order on motion for certificate of appealability
Order on motion for judgment on attorney fees

Question: How should *Order on Any Other Enumerated Motion* be restructured on the civil worksheet?

Options include:

- separating the motions included in *Order on Any Other Enumerated Motion* into two or more categories, and
- limiting the category to orders on motions that place substantial demands on judges' time.

Table 2.

Circuit Recommendations on Restructuring *Order on Any Other Enumerated Motion*

Order on a dispositive/ substantive motion

order on motion to dismiss case
order on motion to dismiss for lack of jurisdiction
order on motion for judgment on the pleadings
order on motion for temporary restraining order

order on motion for preliminary injunction
order on motion for permanent injunction
order on motion to intervene
order on motion to certify class findings of fact and conclusions of law

Order on any other enumerated motion

order on motion for declaratory judgment
order on motion to remand
order on motion for change of venue
order referring case to arbitration
order on motion to withdraw reference
order on motion for judgment as a matter of law
order on motion in limine judgment
order on motion to vacate/set

aside/correct sentence (2255)
order adopting report and recommendations
order on motion for reconsideration
contempt order
order on motion for new trial
order on motion for certificate of appealability
order on motion for judgment of attorney fees

Order on a substantive or otherwise time-consuming motion

order on motion to dismiss case
order on motion to dismiss for lack of jurisdiction
order on motion for judgment on the pleadings
order on motion for preliminary injunction

order on motion for permanent injunction
order on motion to certify class
order on motion for declaratory judgment
findings of fact and conclusions of law
memorandum opinion

Order on any other enumerated motion

order on motion for temporary restraining order
order on motion to intervene
order on motion to remand
order on motion for change of venue
order referring case to arbitration
order on motion to withdraw reference
order on motion for judgment as a matter of law
order on motion in limine
judgment

order on motion to vacate/set aside/correct sentence (2255)
order adopting report and recommendations
order on motion for reconsideration
contempt order
order on motion for new trial
order on motion for certificate of appealability
order on motion for judgment of attorney fees

Eliminate Memorandum Opinion

Order on dispositive motion

order on motion to dismiss case
order on motion to dismiss for lack of jurisdiction
order on motion for judgment on the pleadings
order on motion for declaratory judgment

order on motion for judgment as a matter of law
findings of fact and conclusions of law
judgment
order on motion to vacate/set aside/correct sentence (2255)
order on motion for reconsideration
order on motion for new trial

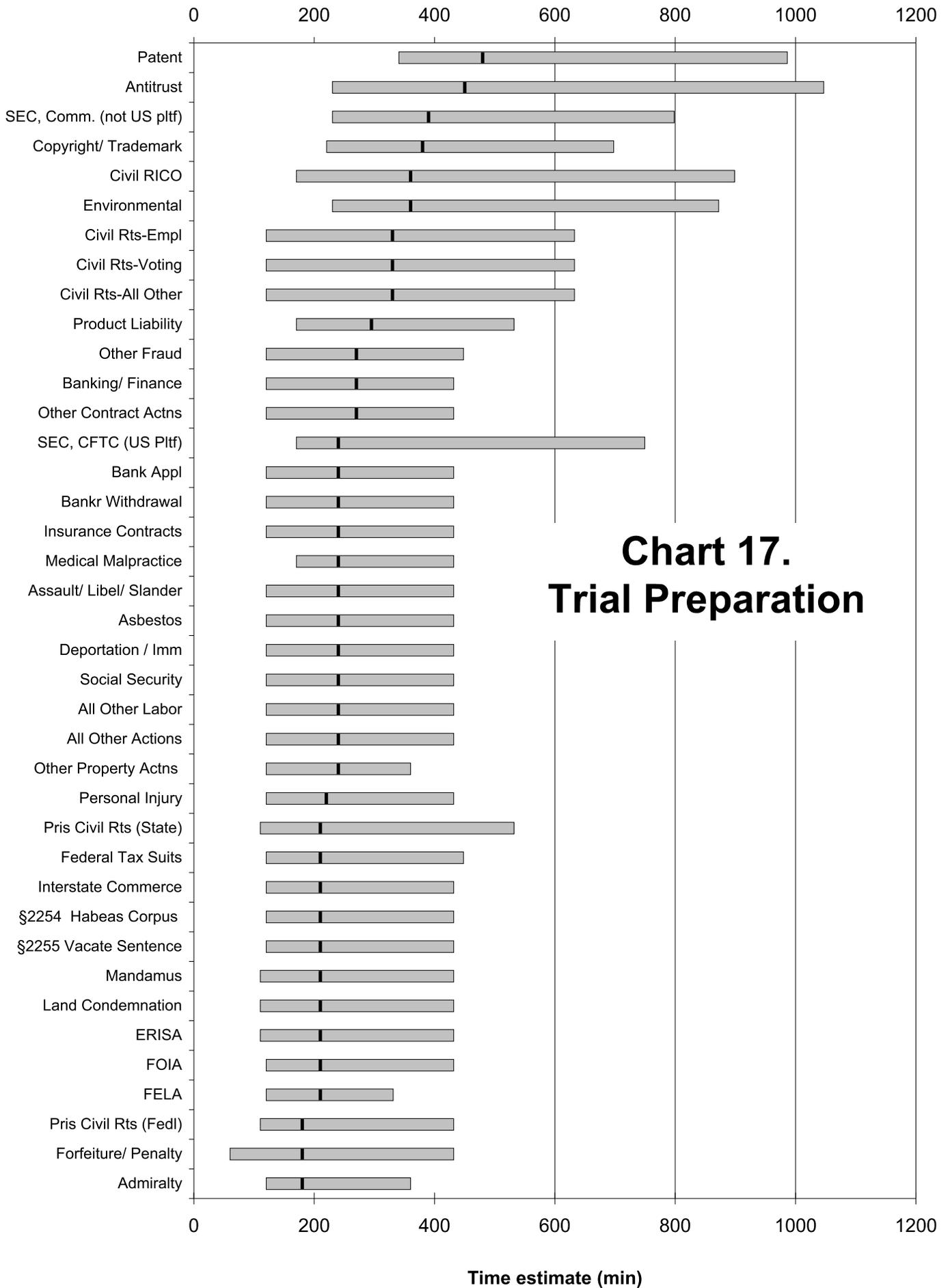
TRO's and injunction

order on motion for temporary restraining order
order on motion for preliminary injunction
order on motion for permanent injunction

Order on any other enumerated motion

order on motion to intervene	order adopting report and recommendations
order on motion to certify class	contempt order
order on motion to remand	order on motion for certificate of appealability
order on motion for change of venue	order on motion for judgment of attorney fees
order referring case to arbitration	
order on motion to withdraw reference	
order on motion in limine	

One circuit recommended that Order on Any Other Enumerated Motion be restructured, but because there was insufficient time in which to settle upon a reorganized approach, the circuit agreed to have the FJC poll participants by email for advice. Those responding to the poll suggested the following: Orders on the three Rule 12 motions should be a separate category or should be included with the event titled Order on Summary Judgment Motion; orders on motions for TRO's or injunctions should be a separate category or included with Order on Summary Judgment Motion; orders on motions to certify class, for declaratory judgment, or to vacate sentence, plus orders providing findings of fact or conclusions of law, are more time-intensive than the remaining motions listed in the category, and given the time required, might be considered for inclusion with the event Order on Summary Judgment Motions; orders on motions to withdraw reference, for reconsideration, and for certificate of appealability are less time-intensive and could be considered for elimination from the category.



Question: What categories of judge time should be included in the estimates for the (civil) *Trial Preparation* event category?

Question: Should a different estimate be used for *Trial Preparation* when a jury is not involved?

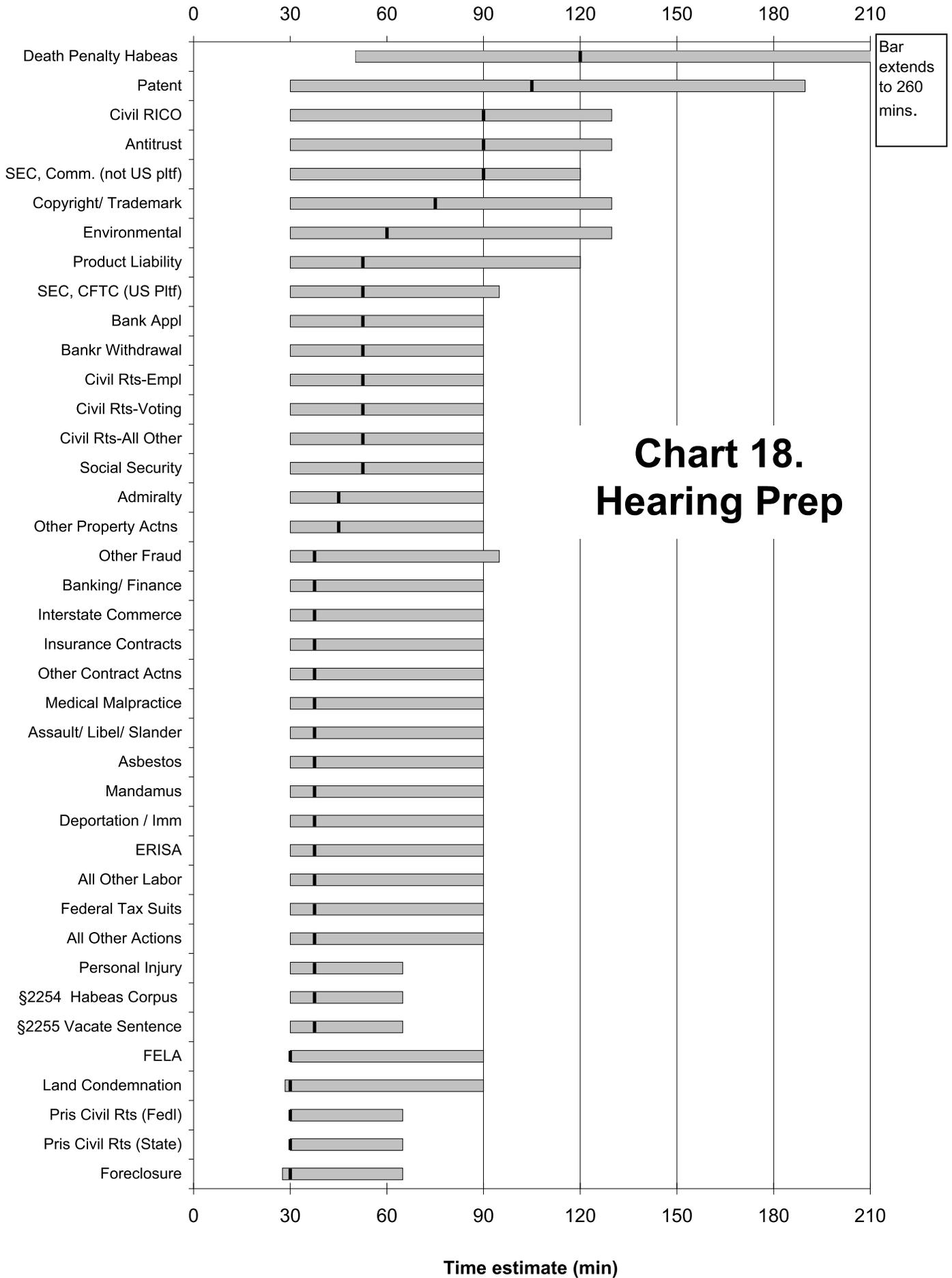


CHART 19
Multiple Parties

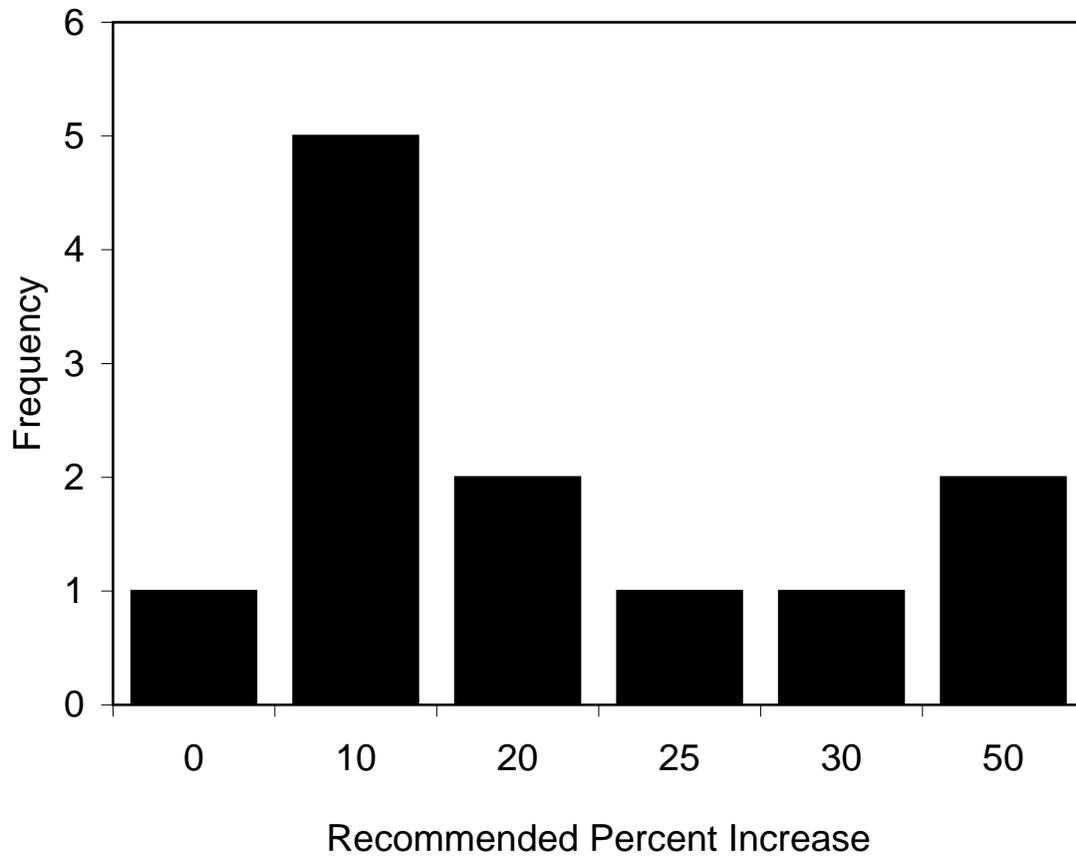
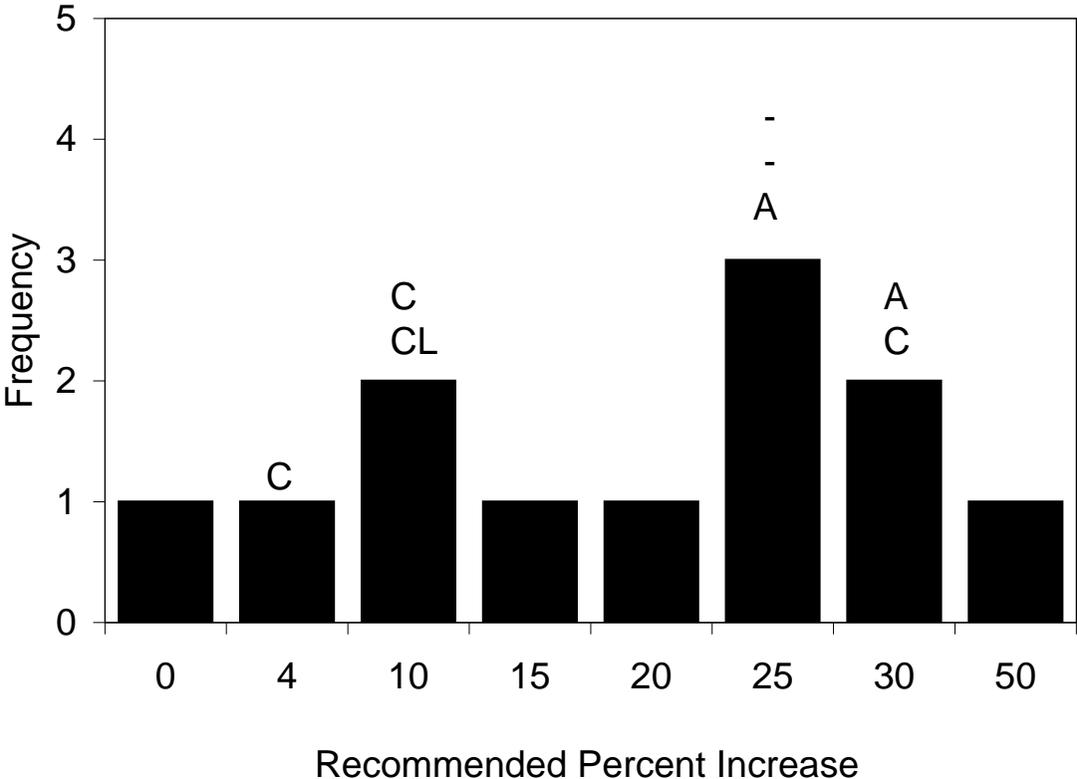


CHART 20
Class Action



C = certified class action
CL = certified lead class action
A = class action allegation

Question: Should the *Class Action* adjustment apply only to class actions that have been certified or to cases where there has been a class action allegation?