

# **PUBLIC DEFENSE SERVICES COMMISSION**

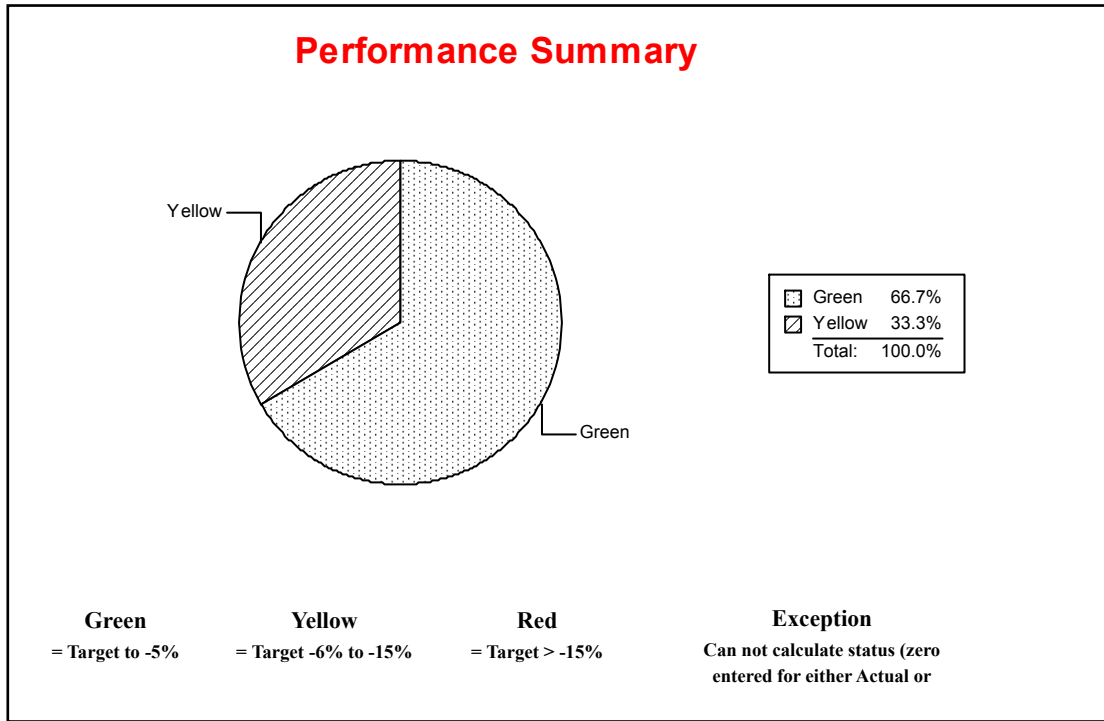
## **Annual Performance Progress Report (APPR) for Fiscal Year (2011-2012)**

Original Submission Date: 8/21/2012

Finalize Date: 8/21/2012

2011-2012 KPM #	2011-2012 Approved Key Performance Measures (KPMs)
1	APPELLATE CASE PROCESSING - Median number of days to file opening brief.
2	CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.
3	BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission.

<b>PUBLIC DEFENSE SERVICES COMMISSION</b>		<b>I. EXECUTIVE SUMMARY</b>	
<b>Agency Mission:</b> Ensure the delivery of quality public defense services in Oregon in the most cost-efficient manner possible.			
<b>Contact:</b> Kathryn Aylward			<b>Contact Phone:</b> 503-378-2481
<b>Alternate:</b> Peter Gartlan			<b>Alternate Phone:</b> 503-378-2371



**1. SCOPE OF REPORT**

Key performance measures address all agency programs.

**2. THE OREGON CONTEXT**

The Public Defense Services Commission is responsible for the provision of legal representation in Oregon state courts to financially eligible individuals who

have a right to counsel under the US Constitution, Oregon's Constitution and Oregon statutes. Legal representation is provided for individuals charged with a crime, for parents and children when the state has alleged abuse and neglect of children, and for people facing involuntary commitment due to mental health concerns. In addition, there is a right to counsel in a number of civil matters that could result in incarceration such as non-payment of child support, contempt of court, and violations of the Family Abuse Prevention Act. Finally, there is a statutory right to counsel for petitioners seeking post-conviction relief.

### **3. PERFORMANCE SUMMARY**

The agency is making progress in all of its Key Performance Measures.

### **4. CHALLENGES**

The primary challenge for the agency is that public defense in Oregon has been chronically underfunded. Prior to fiscal year 2008, the hourly rate for an attorney appointed on a non-Aggravated Murder case was \$40 per hour (the rate established in 1991). Over time, the skills, abilities, and experience-level of the attorneys willing and able to work at that rate had steadily declined. Although the 2007 Legislature provided funding to increase that rate to \$45 per hour, this still represents a decline in real dollars based on Consumer Price Index increases over the 17-year period. Contractors who are paid a flat rate under a contract are assigning excessively high caseloads to their attorneys in order to cover operating expenses. This combination of being either over-worked or under-paid, and in most cases both, prevents attorneys in some cases from being able to provide an acceptable level of representation.

Another challenge for the agency is that workload is driven by a variety of factors outside the agency's control. The enactment of laws that create new crimes or increase penalties for existing crimes impact the agency's expenditures and workload. Federal requirements have shortened the timelines and increased the complexity of cases involving abuse and neglect of children. If additional funding is not provided to address such changes, the quality of representation is further eroded.

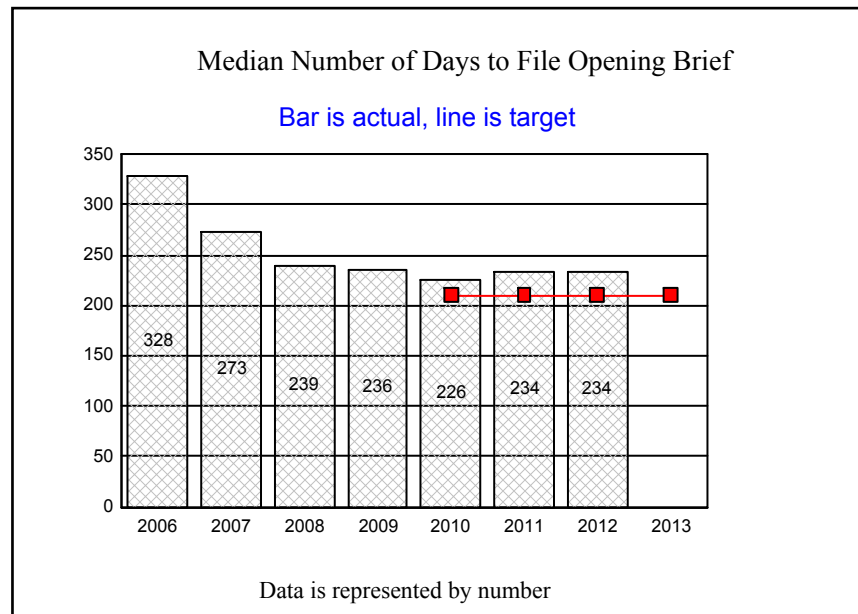
### **5. RESOURCES AND EFFICIENCY**

The agency's 2011-13 Legislatively Adopted Budget was \$223,717,479.

Within existing resources, the agency continues to convert to electronic storage and retrieval of documents; has further automated document production with improvements to the case management database; and has expanded use of email instead of regular mail.

With the implementation of e-filing, the agency continues to move toward a largely paperless office. In addition to saving paper and file storage costs, it saves attorney and staff time by having files instantly available at the click of a button.

<b>KPM #1</b>	APPELLATE CASE PROCESSING - Median number of days to file opening brief.	2009
<b>Goal</b>	GOAL 1: Reduce delay in processing appeals. GOAL 2: Ensure cost-efficient service delivery.	
<b>Oregon Context</b>	Mission Statement.	
<b>Data Source</b>	Case Management Database Reports.	
<b>Owner</b>	Appellate Division, Peter Gartlan, (503) 378-2371.	



**1. OUR STRATEGY**

Our goal is to reduce the delay in the appellate system. Reducing the number of open cases in the pre-briefing stage enables Appellate Division attorneys to address and resolve cases more efficiently, instead of "managing" – without resolving – an excessive caseload.

## 2. ABOUT THE TARGETS

The Appellate Division wants to file the opening brief within 210 days of record settlement. The 210-day target addresses several considerations. First, the agency considers it intolerable that an individual would have to wait more than seven months for an appellate attorney to advise the client concerning the viability of an appellate challenge to his conviction and/or sentence. Second, past budget reductions in the Attorney General's Office caused the Solicitor General to slow its briefing schedule in criminal cases, which causes additional delay in the appellate process and additional delay for the client. Third, federal courts have intervened when a state appellate system routinely takes two years to render decisions in criminal appeals. The 210-day target represents a reasonable attempt to meet various systemic considerations.

## 3. HOW WE ARE DOING

The agency has made significant progress. In 2006, the median number of days to file the opening brief was 328; in 2012 it was 234. The agency anticipates reaching the target by 2014 assuming adequate resources.

## 4. HOW WE COMPARE

Appellate Division attorneys significantly exceed national caseload standards. Nationally, the appellate public defender workload ranges from 25 to 40 cases annually. For example, Georgia, Indiana, and Washington set the maximum annual appellate caseload at 25 cases per attorney; Nebraska sets the maximum annual appellate caseload at 40 cases per year. US Department of Justice, Compendium of Standards for Indigent Defense Systems, vol. IV, C 1-5 (2000). The average annual caseload for an Appellate Division attorney in fiscal year 2012 was 51 case assignments per year, well above recommended standards and actual practices nationwide.

## 5. FACTORS AFFECTING RESULTS

Clearly the ability to meet and exceed the target correlates positively to the number of attorneys and negatively to the number of cases. The agency experienced a significant increase during 2009 and 2010 in the number of appeals being referred to the office. The 2011-13 Legislatively Adopted Budget includes the addition of six attorney positions and one support staff position. These positions are intended to keep pace with new caseload and were not provided based on reducing the time to file an opening brief. If the positions cannot be filled due to reduced funding, then the agency would expect to see an increase in the median number of days to file an opening brief.

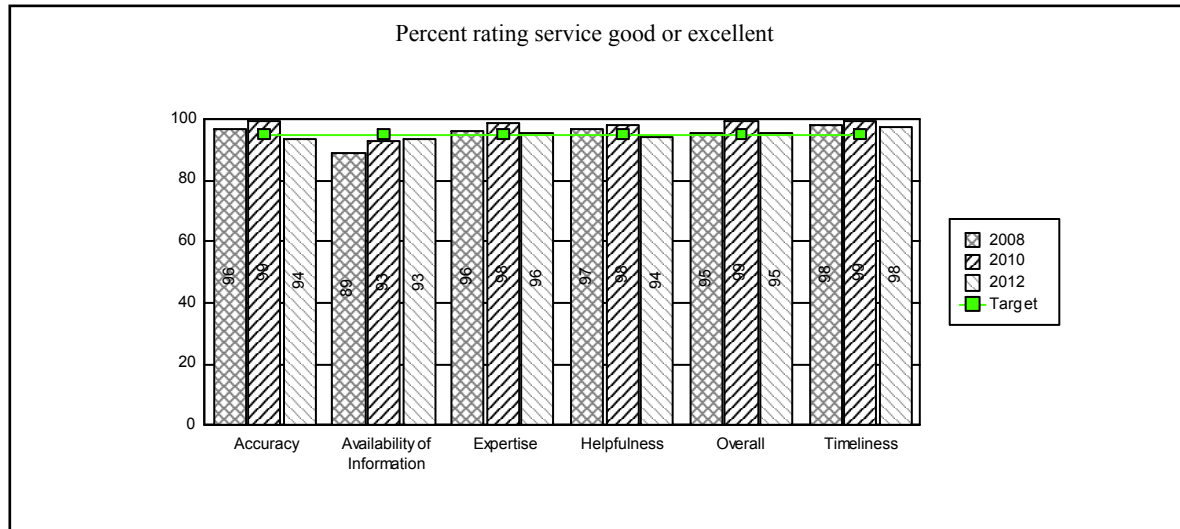
## 6. WHAT NEEDS TO BE DONE

The agency has nearly completed its conversion to a paperless file system which will improve case management, case tracking, and document production. The agency's brief bank is now sufficiently populated to improve research and writing capabilities. The agency continues to work closely with the appellate courts and the Attorney General's Office to identify lead cases with recurring issues for more efficient treatment of categories of cases.

**7. ABOUT THE DATA**

The data is derived from the agency's case management database. The strength of the data lies in historical comparison with prior years. The weakness is attributable to the inherent difficulty in quantifying appellate caseloads. The agency continues to refine caseloads based on case type, transcript length, and issues presented.

<b>KPM #2</b>	CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	2007
<b>Goal</b>	To provide greater accountability and results from government by delivering services that satisfy customers.	
<b>Oregon Context</b>	To maintain and improve the following category ratings of agency service: overall quality of services, timeliness, accuracy, helpfulness, expertise and availability of information.	
<b>Data Source</b>	Customer Service Surveys (survey and results stored on SurveyMonkey).	
<b>Owner</b>	Contract and Business Services Division, Kathryn Aylward, (503) 378-2481.	



1. OUR STRATEGY

The general strategy is to utilize feedback to address cited problems and improve the general level of service provided by the agency.



## 2. ABOUT THE TARGETS

Targets for 2011-13 have been set at 95% of respondents rating the agency as good or excellent.

## 3. HOW WE ARE DOING

The survey results indicate a high level of customer satisfaction with the agency. Service was rated as good or excellent by more than 93% of the respondents in all categories. Although the standard reporting measure for state agencies groups both "good" and "excellent" into one category, the more telling aspect of the agency's results is the percentage of respondents who rated the service as excellent. In the categories of Timeliness and Helpfulness, over 70% of respondents rated the agency's service as excellent.

## 4. HOW WE COMPARE

Services and customers differ greatly among state agencies, so a direct comparison to other state agencies may lack validity. Similarly, comparisons to public defense systems in other jurisdictions would not be useful due to variations in the survey questions, the survey pool, and the types of services provided. Given the high percentages of positive ratings received by the agency, we would likely compare favorably were such a comparison possible.

## 5. FACTORS AFFECTING RESULTS

The ratings are somewhat lower this year than in prior surveys. The agency believes that the lower ratings are a reflection of cost-cutting measures the agency implemented. For example, in order to reduce the costs associated with processing payments, the agency grouped some categories of vendors so that payments were processed for that group one day per week rather than being processed throughout the week as submitted. Although this added an average of three days to the time in which payments were processed, the agency still processes payments within 10 days and did realize a savings as a result of this procedural change.

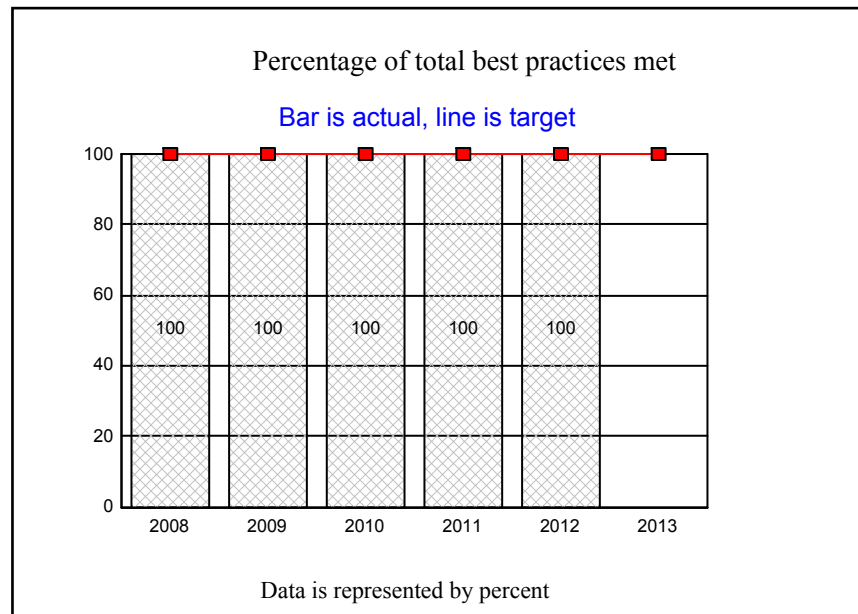
## 6. WHAT NEEDS TO BE DONE

In the 2008 survey, the agency's lowest satisfaction rating (89%) was in the category of Availability of Information. In order to improve this rating, the agency restructured its website so that information is better organized and easier to locate. The agency is pleased that the 2012 survey results show that 93% of the respondents now rate the Availability of Information as good or excellent. The agency will continue to make improvements in this area.

**7. ABOUT THE DATA**

A total of 886 contract attorneys, private bar attorneys, and service providers were invited to complete the agency's Customer Service Survey. The survey was administered in June 2012 as a snapshot for fiscal year 2012. There was a 29% response rate (255 responses) to the survey. The agency administers the customer service survey every two years to coincide with its two-year contract cycle. The next survey will be conducted in June 2014.

<b>KPM #3</b>	BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission.	2007
<b>Goal</b>	Best practices as a pathway to improved performance and accountability.	
<b>Oregon Context</b>	Required KPM for all Oregon boards and commissions.	
<b>Data Source</b>	Commission agendas and minutes.	
<b>Owner</b>	Contract and Business Services Division, Kathryn Aylward, (503) 378-2481.	



**1. OUR STRATEGY**

The agency's commission currently follows all of the best practices.

**2. ABOUT THE TARGETS**

The agency anticipates meeting all of the best practices for boards and commissions.

**3. HOW WE ARE DOING**

The Commission's minutes provided in the materials for its September 2012 meeting included the discussion of the self assessment confirming that the agency met all of the best practices for boards and commissions.

**4. HOW WE COMPARE**

The agency assumes that most boards and commissions will be able to implement all best practices.

**5. FACTORS AFFECTING RESULTS**

There are no factors that would prohibit the agency from meeting all of the best practices.

**6. WHAT NEEDS TO BE DONE**

No change is needed.

**7. ABOUT THE DATA**

The Commission continues to meet all of the best practices as documented in the Commission meeting minutes.

<b>PUBLIC DEFENSE SERVICES COMMISSION</b>	<b>III. USING PERFORMANCE DATA</b>
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**Agency Mission:** Ensure the delivery of quality public defense services in Oregon in the most cost-efficient manner possible.

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**The following questions indicate how performance measures and data are used for management and accountability purposes.**

<b>1. INCLUSIVITY</b>	<p>* <b>Staff:</b> The agency's Management Team drafted initial performance measures.</p> <p>* <b>Elected Officials:</b> The Joint Legislative Audit Committee and the interim Judiciary Committee assisted the agency in refining and finalizing its performance measures. After five years of data collection, it was apparent that some performance measures were not providing useful information and were eliminated by the Legislature during the 2009 session.</p> <p>* <b>Stakeholders:</b> Input was received from the agency's Contractor Advisory Group comprised of public defense service providers.</p> <p>* <b>Citizens:</b> The agency developed, discussed and revised its performance measures during two public meetings.</p>
<b>2 MANAGING FOR RESULTS</b>	<p>The agency's lowest customer service rating in 2008 (89% good or excellent) regarding availability of information caused us to restructure our website so that more information is available and is easier to locate. As a result, the rating for 2012 improved to 93%.</p>
<b>3 STAFF TRAINING</b>	<p>The agency has advised staff of the goals outlined in the performance measures and staff is directly involved in the data collection and/or direct daily implementation of the measures. The performance measures serve as important tools for the agency's managers as they identify and develop necessary staff skills as well as determine the best use of overall resources in order to attain the goals enumerated in the measures.</p>
<b>4 COMMUNICATING RESULTS</b>	<p>* <b>Staff:</b> The Annual Performance Progress Reports are available to staff online. The results and future plans are discussed at staff meetings.</p> <p>* <b>Elected Officials:</b> The agency communicates results to the Legislature through the Executive Director's biennial report to the Legislature, and by the inclusion of the APPR in the Agency Request Budget binder.</p>

\* **Stakeholders:** Performance results are communicated through the agency's website and DAS's website as well as being provided in the materials distributed at public meetings.

\* **Citizens:** Performance results are communicated through the agency's website and DAS's website as well as being provided in the materials distributed at public meetings.

**New hires during 2011-13**

<b>Position #</b>	<b>Hire Date</b>	<b>Classification</b>	<b>Step</b>	<b>Justification</b>
0002237	8/8/2011	Deputy Defender 1	2	NA
0014048	9/1/2011	Deputy Defender 1	1	NA
0002233	9/6/2011	Deputy Defender 1	2	NA
0000229	9/7/2011	Executive Director	8	Negotiated in Executive Session
0014031	11/21/2011	Deputy Defender 1	1	NA
0014047	12/1/2011	Deputy Defender 1	1	NA
0014049	1/3/2012	Deputy Defender 1	1	NA
0013002	1/9/2012	Deputy Defender 1	1	NA
0014050	12/3/2012	Deputy Defender 1	1	NA
0014021	1/7/2013	Deputy Defender 1	1	NA
0014046	4/1/2013	Deputy Defender 1	1	NA





<b>From</b>	WDU D9418 AA Public Defense Analyst	9719693	PF	28	6,012	24.00	144,288	004-01-00-00000	0.00%	-	100.00%	144,288	0.00%	-	0.00%	-
			<b>Total Savings</b>				1,022					1,022				
<b>Reclass ↓</b>																
<b>To</b>	WDU D9425 AA Legal Secretary	0014025	PF	18	3,692	24.00	88,608	001-01-00-00000	100.00%	88,608	0.00%	-	0.00%	-	0.00%	-
<b>From</b>	WDU D9428 AA Paralegal	0014025	PF	21	4,099	24.00	98,376	001-01-00-00000	100.00%	98,376	0.00%	-	0.00%	-	0.00%	-
			<b>Total Savings</b>				9,768			9,768		-		-		-
<b>Total Financing Section</b>										24,578		9,298		-		-
<b>Total Request</b>										24,576		9,243		-		-
<b>Total Financing</b>										24,578		9,298		-		-
<b>Balance from Prior Actions</b>																
<b>Balance for Future Actions</b>										2		55		-		0

# **PUBLIC DEFENSE SERVICES COMMISSION**

## **Description of**

### **Quality Assurance Peer Evaluations**

February 27, 2013

#### **Introduction**

Beginning in 2004, the Office of Public Defense Services (OPDS) has coordinated a unique and cost-effective quality assurance review of public defense providers that has become a key strategy in improving public defense services across the state. With guidance from a volunteer task force of Oregon's recognized leaders in public defense services that advises the OPDS Executive Director, OPDS assembles peer review teams that conduct on-site quality assurance evaluations over the course of several days. Each team makes findings and recommendations when areas for improvement are identified, and also documents local practices and procedures that are working well and can be recommended to other public defense providers. Guided by the information learned from these reviews, OPDS has identified best practices that are recommended to Oregon's public defense providers. The reviews have also identified a number of recurring challenges for public defense providers that are the focus of continuing quality improvement initiatives by OPDS.

A peer review report template, identifying the major areas and topics of inquiry for each evaluation, is attached to this overview.

#### **Overview of the Peer Review process**

As of the end of 2012, OPDS has coordinated peer reviews of 39 public defense providers, who handle much of the statewide adult and juvenile public defense caseload. The reviews each follow a protocol that begins with assembling a volunteer team of experienced public defense attorneys, managers and other providers who are asked to serve by the OPDS Executive Director. The OPDS General Counsel, who serves as staff for each evaluation, works with the provider under review to identify local criminal and/or juvenile justice officials who will be scheduled for interviews during an on-site visit by the peer review team. Prior to the visit, these same officials will be among a larger group who are asked to

complete an online survey regarding the provider's services. Attorneys and staff who work for the provider are also asked to complete a survey regarding their work. The provider administrator answers a standard questionnaire about provider operations prior to the on-site visit.

Every public defense provider that contracts with the Public Defense Services Commission (PDSC) agrees to allow performance evaluations. The PDSC, in turn, agrees to conduct any evaluation in compliance with the American Bar Association's "Standards for the Monitoring and Evaluation of Providers of Legal Services to the Poor" (1991), which are a detailed set of guidelines designed to promote effective reviews by minimizing inconvenience to the provider and prohibiting access to confidential provider records. Each peer review team is advised regarding these guidelines.

Members of the peer review team generally devote two or three days conducting on-site interviews with local officials and providers. Other than reimbursement for travel, lodging and per diem expenses, the busy professionals who comprise these teams volunteer their time for the on-site interviews and for the weeks of work afterward conducting any necessary follow-up interviews and finalizing a written report to the provider. However, these volunteers routinely inform OPDS that their experience on review teams provide them with invaluable information about improvements they can make in their own public defense operations.

The on-site interviews are conducted with the many local officials involved with criminal and juvenile justice, including local judges, court staff, the elected district attorney and senior deputy district attorneys, and representatives of community corrections, jail staff, local law enforcement, assistant attorneys general, the Department of Human Services, the Oregon Youth Authority, the Citizen Review Board, the Court-Appointed Special Advocates program, and local investigators, expert witnesses and private attorneys not associated with the provider. In addition, as many provider attorneys and staff as possible are interviewed, including the administrator and others responsible for provider management, and members of a provider board of directors, where such bodies exist. At the conclusion of each site visit, the teams share any preliminary findings and recommendations with the provider administrator.

## **Evaluation Reports**

Until 2012, peer evaluation reports were considered confidential documents, under the Oregon Public Records Law, ORS 192.502(4), because they were based upon information, not otherwise required by law to be submitted, that was received following assurances that the information will not be disclosed by OPDS to anyone other than the provider administrator,

certain OPDS staff, and a volunteer task force that assists OPDS in assuring quality statewide representation. The protocol has now changed to permit sharing reports with the PDSC and other interested officials.

Before reports are finalized, a draft is provided to the provider administrator for corrections of any misstatements about local justice system procedures and provider operations, and for a substantive response to the findings and recommendations. The substantive response is made a part of the final report, along with the results of the two surveys conducted prior to the on-site visit.

The final reports will identify major demographic and economic trends affecting local public safety operations and describe local justice system practices and provider operations. In many instances, reports commend good work and practices that might be recommended to other public defense providers. Where needed improvements are identified, reports will outline steps to achieving change and offer assistance. Reports frequently make recommendations to OPDS regarding its relationship with a provider. Where appropriate, OPDS staff will work with providers to assist with changes. OPDS will follow-up peer review reports to monitor provider responses to report recommendations.

At least once a year, the OPDS Executive Director or General Counsel reports to the Commission on the overall challenges, accomplishments and best practices identified as a result of the peer evaluation process.

## **Conclusion**

OPDS continues to be informed that no state other than Oregon is known to conduct intensive peer quality assurance evaluations. Relying largely upon volunteers, the effort has proved a cost-effective means of both identifying and promoting local practices that are working well and assisting public defense providers when improvements are necessary. The reviews have also assisted OPDS in identifying recurring challenges that warrant statewide attention.

# Peer Review Report Template

## I. BACKGROUND AND DESIGN OF THE EVALUATION

This introductory section includes information on the background of the peer review process, the goals of the review, the procedures followed for the review, preparations undertaken for the on-site review, and identification of the members of the evaluation team.

## II. COUNTY CRIMINAL AND JUVENILE JUSTICE SYSTEMS

This section includes:

- Descriptions of county demographics, and any major socio-economic trends that may affect criminal and/or juvenile justice planning.
- Descriptions of court, district attorney, jail and other criminal and juvenile justice facilities.
- Descriptions of the composition and structure of the local court system.

### The Criminal Justice System

This section presents a detailed description of local criminal procedure and practice, including possible discussion of:

- Whether a public defense provider is present at the initial appearance of a defendant in a criminal case
- How the court determines whether to provide court-appointed counsel
- How the court and public defense provider identify the name of the attorney to be appointed, and what information or instructions are given the defendant about his or her new attorney
- Whether the court manages cases through a central docketing system or by assigning cases to individual judges
- If known, a breakdown of case types and numbers handled recently by the court
- A discussion of any relevant policies or practices of the DA affecting charging decisions, discovery, plea negotiation and sentencing, etc.
- Whether case status conferences or other formal opportunities for pretrial plea negotiations are conducted, and how

- Whether issues exist in the management of discovery between the parties
- A discussion of early resolution courts or similar specialized courts or docketing procedures
- A discussion of “docket pressures,” including the difficulty of scheduling matters for trial, whether trends can be identified in case filings, any known plans or changes in system management
- A description of pretrial detention practices, the location and capacity of the jail, and any issues concerning access of attorneys to the jail and the provision of suitable space for attorney-client conferences
- A description of how the court schedules and manages pretrial motion practice
- A description of any noteworthy practices and trends in sentencing
- A description of relevant practices and programs of community corrections, including the availability of work-release
- A description of local treatment providers, including the availability of residential treatment programs, mental health treatment for criminal justice clients, and sex offender treatment
- Information concerning how the jurisdiction has accommodated cultural diversity, including provision of interpreters, culturally-appropriate treatment evaluators and providers, and other services
- The existence of regular criminal justice planning involving system stakeholders, including public defense representatives]

## **The Juvenile Delinquency System**

Typical issues discussed in this section include:

- Whether the juvenile department or DA prepare and file delinquency petitions
- The percentage of cases in which counsel is appointed to financially-eligible youth and procedures for obtaining and accepting waivers of the right to counsel by youth
- Whether eligible youth are afforded their statutory right to consult with counsel regarding pre-petition Formal Accountability Agreements
- The authority or role of juvenile court counselors in “handling” delinquency cases, including their involvement in negotiating settlements
- A discussion of available pre-petition diversion programs, teen courts, formal accountability agreements, etc.
- Local practice and decision-making concerning when delinquency petitions are filed
- Post-filing diversion procedures
- The availability of options to avoid (or vacate) adjudication for sex offenses requiring registration

- How prosecutorial decisions are made concerning whether to proceed against youth on Measure 11 charges in criminal court
- Detention practices, including how many and where youth are detained
- Whether youth are shackled in transit to court proceedings and during court
- A discussion of court practice and procedure in appointing counsel to youth
- Whether public defense attorneys are present for the initial hearing in delinquency cases
- Availability of drug courts or other specialize court procedures
- Availability and description of treatment programs, including residential programs, and services available through OYA

### **Dependency cases**

This section addresses such issues as:

- The local process and procedure for dependency cases
- Whether attorneys are present for the initial or shelter hearing
- The court practice in appointing counsel for parents and children, how specific attorneys are assigned to cases, and how appointment information is conveyed to attorneys and clients
- Whether “second shelter hearings” are conducted
- Practice for conducting pretrial settlement conferences
- The frequency of jurisdictional trials, and the handling of disposition
- The extent or duration of DA involvement, including whether the DA participates in post-disposition reviews, permanency hearings and TPR decisions
- The existence of “drug courts” or other special court-sponsored programs
- The availability and involvement of CASAs
- The role of CRB hearings, and attendance of attorneys or their staff
- Issues concerning DHS, the involvement of assistant attorneys general
- Whether juvenile court stakeholders meet regularly, and the participation of public defense providers in those discussions]

### **III. OVERVIEW OF LOCAL PUBLIC DEFENSE PROVIDER UNDER REVIEW**

#### **Structure and membership**

This section describes the structure and organization of the provider under review, including:

- The history of the provider
- The type of cases it contracts to accept
- The existence of boards, by-laws, membership agreements, union contracts and other formal organizational structures
- The number of current attorneys, any divisions or specializations within the group, special qualifications or limitations, typical length of service within the group
- A description of support staff and investigative services within the group or regularly available to it
- The existence of protocols for attorney recruitment, training and mentoring, monitoring and supervision, and for receiving information about and correcting unsatisfactory performance
- Mechanisms for sharing information within the provider, brief or motion banks, access to manuals or other guides to provider protocols, local practice, criminal law and procedure issues
- Requirements for CLE attendance, support for OCDLA programs

#### **Case distribution and payments within the consortium**

This section describes:

- How cases are assigned within the provider
- Whether information is gathered, maintained, and accessible concerning numbers of open public defense cases for each attorney, age of case, and other data concerning workload management
- How information is conveyed to the assigned attorney
- Where and how conflict checks occur, and how cases are handled when conflicts are identified
- With consortia, how compensation is calculated and distributed for members, and whether the provider maintains a reserve fund and when and how that is distributed



## **Community Involvement**

This section addresses:

- Involvement of providers in criminal and juvenile justice planning
- Other known involvement in community, statewide or national organizations
- Whether a Local Public Safety Coordinating Council is active, and provider involvement with it

## **Cultural competence**

This section addresses special needs and concerns for cross-cultural competence, and the capacity of the providers to meet those challenges.

## **IV. RESULTS OF THE EVALUATION**

### **Responses to Questionnaires**

This section summarizes results of surveys conducted in preparation for the review.

### **Information obtained during interviews**

#### Representation in criminal cases

This section sets forth what the team learned about the provider's representation in criminal cases. In addition to other topics that each team may wish to focus on for a particular provider, topics covered may include:

- An overall assessment of the quality of representation, on a scale ranging generally from poor to excellent
- Particular strengths or weaknesses
- Professionalism, collegiality and trust among system players
- Assessments of the experience, knowledge and effectiveness of the provider attorneys
- If performance problems are known, whether and how they are brought to the attention of the provider administrator, whether and how those problems or issues have been resolved

- Whether attorneys appear to be zealous advocates for clients
- Whether attorneys are capable litigators, information about motion practice, trial rates and performance in trial, knowledge of sentencing options
- Information from OPDS summarizing numbers of requests for experts and investigators
- Information from OPDS and other sources concerning trends in assignment of new cases
- If available, data concerning trial rates, outcomes, time to conclusion of case
- Practice with respect to timely client contact
- Whether attorneys appear to be prepared for court, negotiations, other meetings
- Frequency of client requests for new counsel, and how those requests are resolved
- Perceptions concerning manageability of caseload
- Any reported difficulties with contacting attorneys, scheduling matters, receiving answers to telephone and email messages
- Issues concerning the operation of courts, the DA's office, or other factors affecting the provision of quality, cost-effective public defense services]

### Representation in delinquency cases

Topics that might be covered in this section include:

- Whether attorneys are viewed as effective advocates for youth, including whether attorneys interact appropriately with representatives of the juvenile department
- Whether attorneys understand that their role as advocates for the expressed wishes of their clients (no “best interests” representation in delinquency cases)
- Whether attorneys are maintaining appropriate contact with their clients, especially between court hearings and other official proceedings (teams often hear that attorneys only see their delinquency clients in court just prior to hearings)
- Whether attorneys are aware of and litigating legal issues in delinquency cases, such as the competency of youth to understand and waive *Miranda* rights
- Whether attorneys are effective advocates for youth found to be within the jurisdiction of the court, including awareness of available treatment resources for youth
- Whether attorneys appear familiar with available treatment programs and services for youth

## Representation in dependency cases

The topics covered in this section might include:

- Whether attorneys are maintaining appropriate contact with their clients, including whether they are conducting visits to the homes and placements of their children clients
- Information concerning whether attorneys appear to be handling too many cases to provide competent representation to each client
- Whether attorneys understand, with representation of their children clients, the circumstances in which they may advocate for the “best interests” of their clients and when they must advocate for the client’s expressed wishes
- Information concerning the familiarity of attorneys with the requirements of the Indian Child Welfare Act
- Whether attorneys appear to be conducting appropriate investigation and preparation of their cases, including the use of investigators and experts
- Information concerning attorney relations with caseworkers and others from the Department of Human Services, including practices related to attorney review or discovery of DHS files
- Whether attorneys are familiar with relevant information concerning parenting and child development, and are able to use that information to advocate for parents or children
- Information concerning the frequency of cases where jurisdiction, permanency or other matters are contested by attorneys, and whether they are viewed as effective advocates in those proceedings, including the extent to which they seek to enforce applicable provisions of the rules of evidence
- Whether attorneys offer the court plans or options for disposition where the court has found jurisdiction
- Information concerning the involvement of attorneys with their clients between reviews conducted by the court or the Citizens Review Board (CRB)
- Whether attorneys are effective advocates for clients at review hearings, including information concerning whether they seek “no reasonable efforts” findings in appropriate cases
- Information concerning the attendance of attorneys at hearings of the CRB
- Are attorneys familiar with available treatment programs and services for children and families?

## **V. FINDINGS AND RECOMMENDATIONS**

### **Areas identified for commendation**

If appropriate, teams will identify those areas in which the provider is doing especially well or has developed a practice or procedure that might benefit providers in other jurisdictions. This might include observations about the overall quality of representation, if there is a consensus among the site team members that it is very good or better.

### **Areas identified for improvement**

The site team will identify those areas where there is a consensus among members that improvements should be made or considered. A description of the concern might include an explanation of why current practice is thought to be deficient, including, where appropriate, citation to the Oregon Rules of Professional Conduct, the OPDS Best Practices for Oregon Public Defense Providers, performance standards, or other relevant sources.

### **Recommendations**

For each area identified for improvement, there should be a recommendation about how the improvement might be achieved, including referral to specific individuals or resources available to assist. The recommendation may include a section with specific recommendations to OPDS staff to address an issue with the provider. Occasionally, site team members are themselves identified as resources if they have particular expertise that might assist the provider in addressing a specific problem or issue.

## **CONCLUSION**

This section is typically a brief summary of the report.



## Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care

by Mark E. Courtney, PhD., Jennifer L. Hook, PhD., and Matt Orme

Partners for Our Children at the University of Washington

In 2007, the National Council of Juvenile and Family Court Judges (NCJFCJ) conducted a review of research from the prior ten years that involved juvenile dependency court processes or outcome measures in an effort to assess the state of research involving juvenile dependency courts. The review came to the following conclusions:

Juvenile dependency courts play a key role in overseeing the cases of children removed from their home as a result of abuse and neglect. Although many academic journals and publications are devoted to topics in child welfare, research focused on the role of the court in ensuring the safety, permanency and well-being of children in foster care is relatively rare. In particular, little is known about the causal relationship of juvenile court improvements and reforms to the ultimate outcomes for children in the dependency system. A review of published quantitative research related to juvenile dependency courts identified 76 studies published between 1997 and 2007. Of these, one-quarter were from academic journals and three-quarters were from non-peer reviewed publications, usually sponsored by associations or governmental agencies. The authors found much work of value to the dependency courts and other stakeholders...However, some serious deficiencies in dependency court research were also identified. (Summers, Dobbin, & Gatowski, 2008, p. 3).

*Acknowledgements: We would like to acknowledge the contributions to this work of DSHS Children's Administration, the Office of Public Defense and all our colleagues and funders working to achieve better outcomes for children and families.*

The research review identified inadequate methodological rigor, limited research on outcomes of the juvenile dependency court process and child welfare system, and a dearth of research on legal representation as some of the deficiencies of the existing research literature. In particular, research on parental representation is lacking; of the five studies of parental representation reported in the NCJFCJ review, three involved a single program in one state and only two provided any data on outcomes associated with efforts to improve representation (Summers, Dobbin, & Gatowski, 2008).

This study addresses these gaps in knowledge about the functioning of child welfare services and juvenile courts by evaluating the impact of a program of enhanced parental legal representation on the timing of permanency outcomes for children entering court-supervised out-of-home care in Washington State. The study employs methods that are methodologically superior to prior efforts to evaluate parental representation and focuses on key outcomes of the child welfare and dependency court systems. Study findings provide evidence that the availability of adequate parental legal representation speeds reunification with parents, and for those children who do not reunify, it speeds achieving permanency through adoption and guardianship.

### Background: The Parental Representation Program

In 1999, in response to a request from the state legislature, the Washington State Office of Public Defense (OPD) conducted a study of inequalities in attorney funding in dependency and parental rights termination cases (Washington State Office of Public Defense, 1999). The study found severe disparities between state funding for the Attorney General's Office, which initiates and

processes dependency cases on behalf of the state, and funding provided by counties for legal representation of indigent parents involved in these legal proceedings. The study also found wide variation between counties in the compensation provided to attorneys provided to indigent parents. These disparities called into serious question whether parents in Washington were being provided adequate legal representation in processes that have significant consequences for parents and children; state and federal courts have long recognized the crucial importance of these proceedings and the necessity of providing legal representation for the parties.

In 2000, the OPD succeeded in obtaining a legislative appropriation to create a pilot Parent Representation Program (PRP) which was then established in Benton, Franklin, and Pierce counties. The legislature established five program goals to enhance the quality of defense representation in dependency and termination hearings:

1. Reduce the number of continuances requested by attorneys, including those based on their unavailability;
2. Set maximum caseload requirements per full-time attorney (the OPD sets the fulltime maximum caseload at 80 open cases per attorney);
3. Enhance defense attorneys' practice standards, including reasonable time for case preparation and the delivery of adequate client advice;
4. Support the use of investigative and expert services in dependency cases; and
5. Ensure implementation of indigency screenings of parents, guardians, and legal custodians.

Since 2000, the legislature has continued to fund the program, with program expansion in 2005 and 2006 to Clallam, Clark, Cowlitz, Ferry, Grant, Grays Harbor, Kitsap, Kittitas, Pacific, Pend Oreille, Skagit, Snohomish, Spokane, Stevens and Yakima counties. In 2007, with additional funds from the legislature, the OPD expanded the program to Chelan, Jefferson, Klickitat, Mason, Skamania, Thurston and Wahkiakum counties. (See Appendix A for exact implementation dates and Appendix B for program updates since the end of our evaluation period in 2008).

To achieve its goals, the PRP has developed five key program components:

1. *Selection criteria for attorneys.* Program attorneys are identified by OPD through a formal RFP (Request for Proposal) process. In exchange for reasonable compensation and reduced caseloads, attorneys agree to contracts that set out clear professional expectations and practice guidelines.
2. *Training.* Contained in the practice guidelines is the requirement that program attorneys will at-

tend training, both orientation or initial training and ongoing professional development. The topics covered included client communication, standards of representation, use of independent experts and social workers, enforcement of remedial services orders and trial skills. PRP attorneys are also offered the opportunity to attend the statewide Children's Justice Conference each year.

3. *Oversight.* Throughout the contract periods with OPD, PRP assures adherence to program standards through the following oversight mechanisms: the development of a client complaint procedure and creation of an expectation of reviews prior to contract renewal, with the OPD declining to enter into new contracts when attorneys are evaluated as not in compliance with PRP standards.
4. *Resources from social work.* In addition to the use of expert resources (including expert testimony), program attorneys have access to social work staff. Social workers are assigned to attorneys on a ratio of one social worker per four attorneys. While a social worker might have as many as 320 potential clients, in practice PRP attorneys triage cases for social work support as needed to assist parents to become active participants in their case plans. For example, PRP social workers assist parents to work with the department to obtain concrete resources such as bus passes and housing or locate services required in their case plans such as substance abuse treatment or resolve conflict with other professionals.
5. *Periodic surveys of county judicial officers regarding quality and practice standards.* This is part of PRP's ongoing effort to evaluate and improve the program, e.g. providing feedback on judicial officers' perceptions of the program or more specific information regarding the reduction in continuances since the program was established.

What effects might enhanced parental representation be expected to have on the timing of permanency for children entering out-of-home care? In our discussions with various professionals involved in the dependency court process we found a range of opinions on this question. The creators of the PRP believe that enhanced parental representation is likely to improve the prospects for all forms of legal permanency. They argue that adequate parental representation is likely to speed reunification by increasing the likelihood that parents will receive the services they need to be able to safely parent their children. They also believe that parental representation will speed permanency for foster children even in cases where parents will ultimately be unable or unwilling to meet the requirements of the court for family reunification. They argue that in such cases adequate counsel for parents can



increase the likelihood that parents will understand the need for plans for placing their child with a legal guardian or with an adoptive family; through their relationship with their attorney and the PRP social worker, parents will more quickly come to terms with their inability to care for their child and accept that an alternative arrangement is in their child's best interest. Furthermore they suggest that when parents cannot reunify with their children, their PRP attorney is often able to negotiate adoptions with agreements that they can have prescribed contact with the children in the future. They maintain that this works well for birth families where there is a parent-child relationship valued by both the child and parent, but the parent is unable to raise the child on a day to day basis. Such adoptions with contact in conjunction with voluntary relinquishments of parental rights have always been goals for PRP attorneys in appropriate cases.

Of course, some other observers were less confident that enhanced parental representation would improve permanency outcomes. Some public child welfare agency social workers, lawyers from the Attorney General's Office (AGO), and Court-Appointed Special Advocates (CASA) argued that parents' attorneys often engaged in delay tactics and advised parents not to comply with service plans. They believed that this slowed down the dependency court process in general, sometimes contributing to delays in family reunification, and often delaying children's moves into adoptive homes and guardianship arrangements. It should be noted, however, that concerns were expressed based on individual experiences and perspectives and not official Children's Administration (CA) or AGO policy.

Given widely varying opinions regarding the likely impact of enhanced parental representation on the timeliness of legal permanency for children in foster care, evaluation research on parental representation is sorely needed. To our knowledge, the PRP is the only program of parent representation in juvenile dependency proceedings that has been the subject of evaluation research. Prior studies of PRP have concluded that PRP results in more timely action in dependency cases, increases the likelihood of family reunification, and increases the likelihood of case resolution (i.e., reunification or entry of a third-party custody order; a dependency guardianship; or the child becoming legally free for adoption due to termination or relinquishment of parental rights) (Oetjen, 2003; Harper, Brennan, & Szolnoki, 2005; Washington State Office of Public Defense, 2009). However, these findings should be regarded with considerable caution given the methodological limitations of the prior research. First, two of the three studies (Oetjen, 2003; Harper, Brennan, & Szolnoki, 2005) were undertaken relatively early in the life of the program when few counties had actually implemented the PRP,

calling into question whether any impacts of the program observed in this early research hold up as the program is more widely adopted. Second, two of the three studies (Oetjen, 2003; Harper, Brennan, & Szolnoki, 2005) relied solely on comparison of outcomes prior to PRP implementation to outcomes after implementation in the counties that implemented PRP, in other words there was no comparison of outcomes in PRP counties to other counties in the state that may have experienced similar changes in outcomes to those seen in PRP counties. Third, none of the studies attempted to account for *differences between counties* in the characteristics of children entering care or in changes over time in the characteristics of children entering care. In fact, while the studies all provided descriptive data on the characteristics of children served in the PRP counties, none of the studies used statistical controls to take into account how these characteristics might influence the impact of the PRP on case outcomes.

## Research Strategy

Our analyses address the following research question: *Is the presence of the PRP associated with a change in the timing of children's transitions to permanency through reunification with their family, adoption, or legal guardianship?* To answer this question, we followed 12,104 children who entered care for the first time in 2004 to 2007 through the end of 2008 to see whether they experienced one of the study outcomes. This period coincides with the implementation of PRP. In essence, our research design takes advantage of the staggered implementation of PRP across Washington's counties. Our models leverage this variation in implementation by simultaneously comparing across counties with and without PRP and comparing within counties prior and post PRP implementation to isolate an effect associated with PRP. Data come from the Case and Management Information System (CAMIS) provided by the Department of Social and Health Services (DSHS) and from the Administrator of the Courts (AOC). We summarize our research methods here, for full details see Appendix C.

In statistical models we examine the relationships between the characteristics of children and the child welfare system, and the timing of family reunification, adoption, and guardianship. Since the PRP only gets involved with families after a dependency petition is filed in a case, our analysis includes only cases with dependency petitions. To isolate the influence of PRP we control for the child's sex, age at entry, race, year of entry, reasons for removal, presence of siblings in the system, the type of placement, number of moves, and the number of children entering foster care in each county, each year (per 1,000 children).

Whether PRP was operating during a child's stay in out-of-home care is of central interest to the study since it is

intended to measure the influence of PRP on permanency outcomes. We assign PRP status to a child on the day of implementation of PRP in the county with court jurisdiction over the child's case. This means that all cases of children entering care in a PRP county are coded as being subject to the PRP from their first day in care. For cases in which a child was removed from home and subject of a dependency petition in a county that had not yet implemented PRP, but later had PRP implemented while the child was still in care, the child becomes a PRP case on the day of implementation. This way of measuring PRP is most consistent with how the program is implemented.

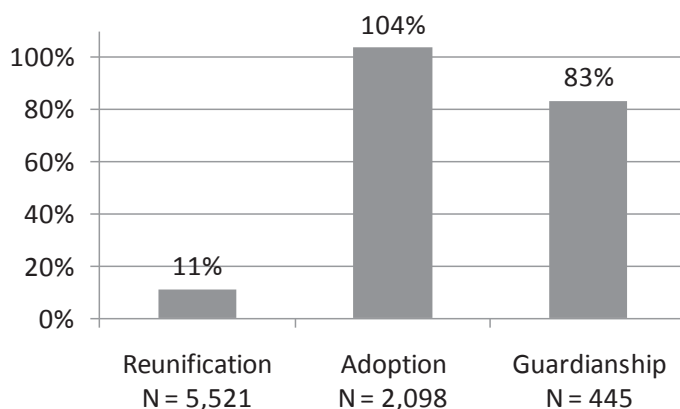
## Findings

Since our interest in this study is on the relationship between the timing of permanency exits and the presence of the PRP, we focus our discussion here on the interpretation of the effects associated with our measure of the presence of the PRP in a county during a child's time in out-of-home care. Figure 1 shows the subhazard ratios (SHR) for PRP. The SHR can be interpreted in the following manner. A SHR close to 1 means that a variable has no effect on the timing of the exit in question, whereas a value greater than 1 means that the variable increases that rate of exit and a value less than one means that the variable decreases that rate of exit. Appendix C shows the full results of the competing risks event history model predicting the timing of family reunification, adoption, and guardianship as well as descriptive statistics pertaining to the covariates used as statistical controls.

Figure 1 shows that, all else being equal, the exit rate to reunification is 11% higher when a child is living in a county where PRP is in operation than when a child lives in a county where PRP is not in operation, a difference that is marginally statistically significant at  $p < .05$  ( $p \approx .051$ ). The positive association between the PRP and permanency is even stronger for the outcomes of adoption and guardianship; in counties where the PRP is present the rate at which children are adopted is 83% higher, and the rate at which child children enter guardianships is 102% higher. Although PRP's impact is greater on adoption and guardianship than on reunification, the decrease in time to reunification affects more children because reunification is the most common outcome for children. Of children achieving permanency during the study period 68% reunified, 26% were adopted, and 6% exited to guardianship. Additionally, reunifications generally happen much more quickly than adoptions or guardianships, so there is less room to decrease days in care. For example, the median length of stay for children exiting to reunification in the 2001 cohort (prior to expansion of PRP) was 244 days, compared to 704 days for guardianship, and 902 days for adoption.

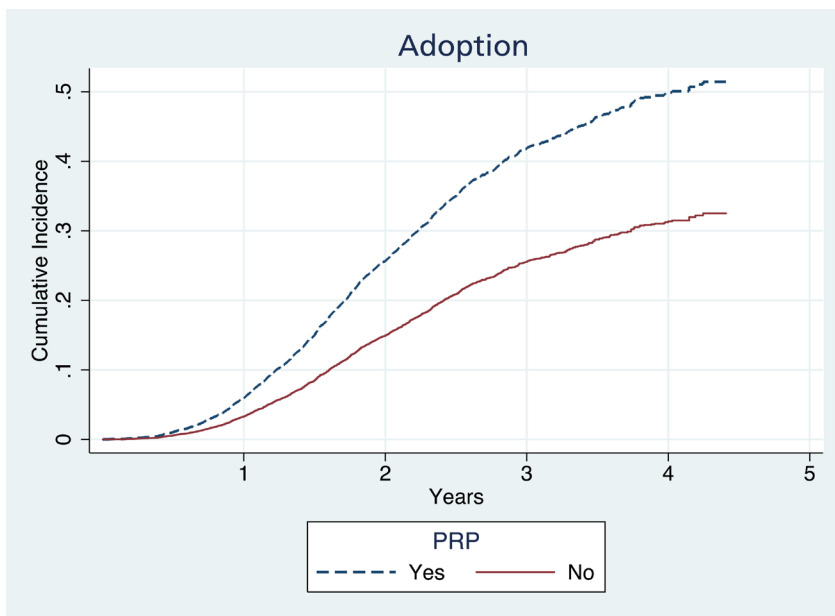
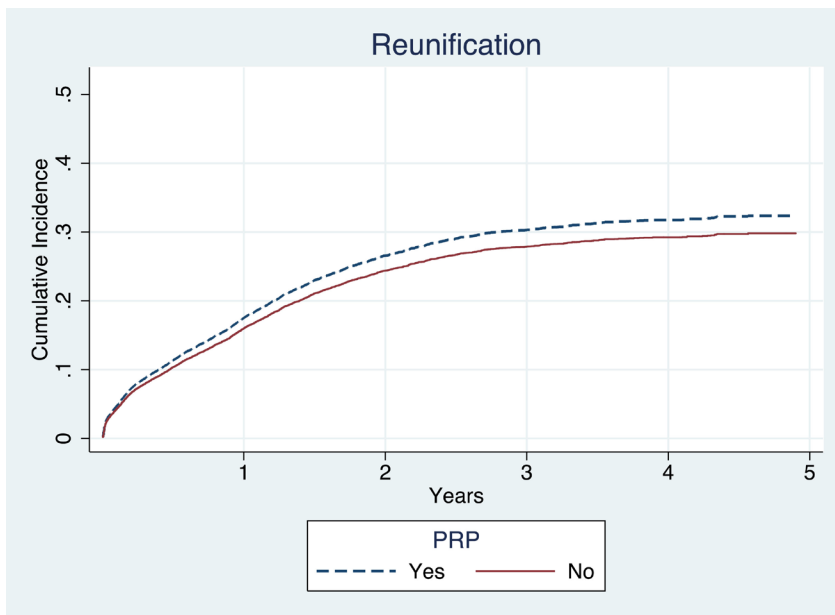
Figures 2 through 4 provide a visual illustration of how the presence of PRP in a county might be expected to influence the speed at which children achieve permanency. It shows the estimated cumulative likelihood of exit to each form of permanency for a specific type of case (here, white females, aged 5 to 8 at entry, removed for neglect, with no siblings in the system, with the average number of moves, entering into care in 2004 in a county with the average flow of children into the system). For different types of cases we would see the same general pattern, but the percent of children eventually exiting to each type of permanency would be different. For example, younger children are more likely to exit to adoption than older children and youth, thus rates of reunification and guardianship would be higher for older children and rates for adoption would be lower. Under the assumption that PRP influences the timing of exits equally for all subgroups of children, the figures give a good sense of the overall impact of the PRP on the cumulative likelihood of each exit. Figures 2 through 4 show that PRP increases the speed to all types of permanency, indicating that it reduces the number of children staying in care for long periods of time. PRP increases the speed at which children reunify, and for those children who cannot be reunified, PRP speeds their permanency to adoption or guardianship. We estimate that if PRP had existed statewide in 2001, the 2001 cohort of children in care would have achieved reunification about a month sooner, and children who could not be reunified would achieve other permanency outcomes about a year sooner.

Figure 1. Percent increase in the speed of reunification, guardianship, and adoption associated with PRP implementation



Note: N is the number of children experiencing each exit type during the study period. The percentage increase shows how much more quickly each type of exit occurred.





Figures 2 – 4 represent the cumulative incidence of exit to each type of permanency for court-involved white females, aged 5 to 8 at entry, removed for neglect, with no siblings in the systems, with the mean number of moves, entering into care in 2004 in a county with the mean flow of children into the system. For different types of cases we would see the same general pattern, but the percent of children eventually exiting to each type of permanency would be different (e.g. reunification and guardianship would be higher for older children whereas adoption would be lower). Under the assumption that PRP influences the timing of exits equally for all subgroups of children, the figures show that PRP increases the speed to all types of permanency, indicating that it reduces the number of children staying in care for long periods of time.

## Limitations

It is important to keep in mind several limitations of this study in interpreting study findings and their implications for child welfare policy and practice. First, our study compares a particular form of enhanced parental representation to “representation as usual” in a single state with a state-administered human services system. Given the lack of available research on the availability and quality of parental representation around the U.S., it is difficult to know whether providing the kind of parental representation and social work support afforded by the PRP would be associated with the same increases in permanency exits observed here. Second, our study does not allow us to “unpack” the PRP to better understand which aspects of the program contribute to the impacts we observe. For example, does the program influence permanency solely through legal representation, solely through social work support of attorneys and parents, or through both? Third, we draw conclusions about the impact of the PRP based on the observed association between the presence or absence of the program in a county and the rate of children’s exits from care, but this association does not necessarily imply causation. For example, the observed relationship between the PRP and the rates of exits to permanency could be the result of other changes in child welfare or court practice that occurred at the same time as PRP implementation. It could also result from changes in the characteristics of the children and families served by counties such that PRP implementation coincides with a change in case mix favoring cases that are easier to move to permanency.

## Conclusion

In spite of these study limitations, we believe that the findings of our evaluation of the impact of enhanced parental legal representation on the timing of permanency outcomes for children in foster care should be taken seriously by policymakers interested in improving the prospects of legal permanency for children who become dependents of juvenile courts. Based on these findings we recommend that Washington extend PRP to all counties. While there are no reliable data on the availability and quality of parents’ counsel in dependency proceedings around the country, anecdotal evidence suggests that the poorly resourced situation that existed in Washington prior to the development of the PRP was not unusual. Jurisdictions with poor parental representation that wish to address that deficiency in their dependency court process, while potentially shortening the time children spend in foster care and the costs associated with additional days

in care, should consider implementing something akin to the PRP. Moreover, while our study cannot identify which aspects of the PRP might be responsible for the observed impact on exit rates, the PRP is a fairly straightforward intervention without lots of moving parts that could be readily replicated in other jurisdictions. Lastly, while we acknowledge that our evaluation design is not experimental in nature, we believe that our ability to take advantage of discontinuities in county-level court practices over a several-year period, owing to the staggered implementation of the PRP, provides a very strong quasi-experimental test of the PRP. Our analysis of child welfare and court data in Washington and our conversations with child welfare system and court personnel in the state did not uncover any evidence that the timing of PRP implementation in counties coincided with other changes at the county level in child welfare practice, court practice, or the characteristics of children and families served.

The findings of the evaluation of the PRP call for more research on parental representation. Jurisdictions should develop programs such as the PRP and other approaches to parental representation and rigorously evaluate their impact. Future evaluation research should seek to better understand which aspects of parental representation efforts influence permanency outcomes for children. Qualitative research that explores the inner workings of parental representation will be helpful in this regard.

If the results of the PRP evaluation are taken at face value they are very impressive indeed and provide support for the arguments of advocates for adequate parental representation in the dependency court process. We find that enhanced parental representation is associated with an increase in the rate of family reunification. This finding might not be considered surprising since most parents involved in dependency proceedings want their children back and the availability of adequate counsel might improve parents’ ability to prevail in court. However, the finding that enhanced parental representation nearly doubled the speed to adoption and doubled the speed to legal guardianship is striking. It calls into question the concerns expressed by some social workers and state’s attorneys about parents’ attorneys delaying the process of moving from a case goal of family reunification to adoption or guardianship. Our findings suggest that, far from serving as an obstacle to adoption and guardianship, the availability of adequate legal counsel might facilitate a parent’s acceptance of the need to find another permanent home for their child if the parent and child cannot reunify.

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## Appendix A. Implementation Dates

County	Start Date
Benton	Jan-00
Franklin	Jan-00
Pierce	Jan-00
Cowlitz	Sep-05
Grays Harbor	Nov-05
Ferry	Dec-05
Stevens	Dec-05
Pend Oreille	Dec-05
Kittitas	Dec-05
Pacific	Dec-05
Skagit	Dec-05
Yakima	Dec-05
Grant	Jan-06
Kitsap	Aug-06
Spokane	Nov-06
Clallam	Dec-06
Wahkiakum	Aug-07
Snohomish	Sep-07
Thurston	Oct-07
Chelan	Nov-07
Clark	Nov-07
Klickitat	Nov-07
Mason	Nov-07
Skamania	Nov-07
Jefferson	Dec-07

## Appendix B. The PRP Today

This study covers the period of the program from 2004 through the end of 2008. We have described the program as it existed during that period; however, since 2009 the program has continued to evolve and mature, in particular the development of additional oversight and more specific expectations of social workers. The program standards were formalized in July 2008. One key goal is to maintain attorney caseloads at less than 80. The PRP is managed by three experienced attorneys and a social services manager, who provide training, support and consultation and oversee compliance with contracts. Current program manuals, including attorney and social worker standards are available at the PRP website: [www.opd.wa.gov/PRP-home.htm](http://www.opd.wa.gov/PRP-home.htm). The program currently exists in 25 of 39 counties in Washington.

## Appendix C. Research Methods and Results

We describe here the research methods used to assess the relationship between implementation of the PRP and the timing of permanency outcomes for children entering out-of-home care and becoming dependents of juvenile courts in Washington. Our analyses address the following research question: *Is the presence of the PRP associated with a change in the timing of children's transitions to permanency through reunification with their family, adoption, or legal guardianship.* To answer this question, we followed 12,104 children who entered care for the first time in 2004 to 2007 through the end of 2008 to see whether they experienced one of the study outcomes. This period coincides with the implementation of PRP. Data come from the Case and Management Information System (CAMIS) provided by the Department of Social and Health Services (DSHS) and from the Administrator of the Courts (AOC).

In event history models for competing risks, we examine the relationships between the characteristics of children and the child welfare system, and the processes of family reunification, adoption, and guardianship. Since the PRP only gets involved with families after a dependency petition is filed in a case, our analysis includes only cases with dependency petitions. We use competing risks models (Fine and Gray 1999), regressing on the subdistribution of the hazard (cumulative incidence function; CIF). The CIF is the probability of failing from a specific event by a certain time. It depends on both the number of people who have experienced a specific event and the number of people who have not experienced any other competing event. The sum of the CIFs provides the overall distribution function (the CIFs sum to 1 - the Kaplan-Meier estimate of survival for failures of any kind). The partial likelihood is calculated similar to Cox proportional hazards models except, 1) the risk set includes those who have not yet experienced an event and those who experienced a competing event. Thus persons who fail from other causes remain in risk set. However, 2) individuals in the risk set who experienced a competing event are weighted. Those who have yet to experience an event are weighted to 1, whereas those who experienced a competing event are weighted to less than or equal to 1. The further away from  $t$  the competing event occurred, the smaller the weight.

We choose this over Cox's semi-parametric proportional hazards model (regressing on the cause-specific hazard) because the Cox model assumes independence of events. The Kaplan-Meier estimator (KM) showing the survival curve overestimates the prevalence of the event because it assumes individuals experiencing other events are censored and could later experience the event of interest. The models we estimate produce subhazard ratios (SHR) instead of hazard ratios (HR); they are interpreted similarly (Fine and Gray, 1999; Pintilie, 2006).

Fixed covariates in our models include the child's sex, age at entry, race, year of entry, reasons for removal, and presence of siblings in the system. Time-varying covariates include the type of placement, number of moves, and the flow of children into the system per thousand (measured in each county, each year), and whether the PRP was operating in the county during a child's out-of-home placement. Because children's outcomes in a county may be correlated (i.e., children share the same court), we use a statistical procedure that corrects for this correlation by adjusting standard errors used for calculating tests of statistical significance (clustering errors .on county)

The time varying covariate that captures PRP operation during a child's stay in out-of-home care is of central interest to the study since it is intended to measure the influence of PRP on permanency outcomes. We operationalized this variable in several ways during the course of our analyses. Conversations with the Director of the Office of Public Defense made us aware of details of the PRP and its implementation that informed our thinking in this regard. PRP is considered to be up and running on the first day of implementation, however, as is the case with many new interventions in complex public systems, upon implementation of the program an initial period of uncertainty and anxiety is experienced by some parties involved, meaning that it can take some time for things to flow smoothly. Thus, PRP program managers told us they believe that, at least in some counties, the program may not be in "full swing" for about nine months to one year. Therefore, in order to take into account the possibility that there is a real lag in the effect of PRP on case outcomes, we estimated predictive models with PRP treated as having been fully implemented on the first date of implementation and also conducted sensitivity analyses with PRP treated as being implemented nine months after the first date of implementation. We found that the effect of PRP is clearer if we measure from the implementation date. Lagging by nine months appears to dilute observed effects of the program since it ends up mixing cases with recent PRP coverage and cases with no PRP coverage into a comparison group.

In our final model, we assign PRP status to a child on the day of implementation of PRP in the county with court jurisdiction over the child's case. This means that all cases of children entering care in a PRP county are coded as being subject to the PRP from their first day in care. For cases in which a child was removed from home and subject of a dependency petition in a county that had not yet implemented PRP, but later had PRP implemented while the child was still in care, we split one line of data into two, creating a time-varying covariate for PRP. The portion of the case prior to implementation is coded to "0" representing no PRP and the portion after implementation is coded to "1" representing PRP. This way of

measuring PRP is most consistent with how the program is implemented. All cases in the county fall under the PRP umbrella from day one. For the purpose of analyzing the sensitivity of our findings to different ways of measuring PRP implementation, we also tried measuring the PRP as having an impact on new cases only. Again, however, this has the problem of mixing older cases now receiving PRP with cases not receiving PRP, diluting any discernable program effect.

OPD marks 2006 as the year the program went to scale (i.e., began to exist as it currently does). We have a rela-

tively short observation window, particularly for counties that implemented in 2007, because we can only follow outcomes through the end of 2008. Many cases are likely to remain open at this time and thus be censored in our event history models, particularly when we lag implementation by nine months. Nevertheless, we find that the effect of PRP is observable even in counties with recent implementation. Pierce County is unlike the other counties because the PRP does not receive all cases; some cases are assigned to defense attorneys assigned at the county level. We therefore omitted Pierce County from our analysis.

Table C1. Children's competing risks of permanency exits

	% or mean (b)	Reunification		Adoption (a)		Guardianship	
		SHR	SE	SHR	SE	SHR	SE
Female	49.8%	1.02	.04	1.09	.03 **	.92	.10
Age (ref: 5-8)							
Infant	31.8%	.69	.04 ***	3.44	.30 ***	.29	.05 ***
1-4	29.1%	.92	.03 **	1.78	.17 ***	.59	.11 **
9-12	11.7%	.96	.05	.52	.05 ***	1.81	.38 **
13-15	7.6%	1.03	.05	.13	.03 ***	2.05	.42 ***
16+	2.2%	.90	.10	.15	.14 *	.53	.29
Race/Ethnicity (ref: White)							
Native Am.	5.7%	1.01	.06	.47	.06 ***	1.62	.34 *
Asian/Pacific	1.5%	1.22	.17	.76	.13	.78	.36
African-Am, non-Hisp	10.4%	.81	.06 **	.72	.19	.70	.13
Hispanic	16.7%	.98	.04	.68	.07 ***	.54	.11 **
Other	5.4%	.95	.08	.80	.11	.90	.22
Unknown	1.1%	1.84	.14 ***	1.31	.36	0.00	0.00 ***
Removal Reason							
Sexual abuse	4.2%	.90	.08	.61	.12 *	1.48	.49
Physical abuse	14.0%	1.28	.09 ***	.72	.08 **	1.10	.15
Neglect	74.2%	.90	.04 *	.93	.08	.96	.12
Parent alcohol	9.3%	.98	.07	.97	.10	1.04	.20
Parent drug	38.4%	.94	.05	.90	.09	1.01	.12
Child alcohol	0.5%	1.01	.13	1.19	.26	.39	.39
Child drug	1.4%	.89	.13	.94	.16	1.05	.33
Child disability	0.4%	.33	.15 *	2.21	.71 *	1.70	.66
Child behavior	2.0%	.96	.12	.40	.23	.92	.38
Death	0.4%	.74	.21	2.51	.92 *	.74	.72
Parent jail	6.7%	1.06	.06	.81	.08 *	.83	.22
Parent disability	9.8%	.82	.05 **	.96	.09	1.51	.34
Abandonment	3.8%	.67	.07 ***	1.62	.18 ***	1.77	.45 *
Housing	3.7%	.86	.08	1.01	.17	.74	.31

Table C1. Children's competing risks of permanency exits (continued)

	% or mean (b)	Reunification		Adoption (a)		Guardianship				
		SHR	SE	SHR	SE	SHR	SE			
Sibling in system										
Not placed same day	18.4%	.82	.04 ***	1.05	.06	.85	.13			
Placed same day	49.8%	1.09	.03 **	.71	.04 ***	.77	.10 *			
Placement type (TV):										
Adoptive home	2.4%	.01	.01 ***	2.57	.57 ***	0.00	0.00 ***			
Congregate care	7.0%	1.76	.42 *	.08	.08 **	0.00	0.00 ***			
Crisis Residential	4.8%	4.83	1.27 ***	0.00	0.00 ***	1.67	1.01			
Detention center	1.9%	3.66	1.56 **	0.00	0.00 ***	0.00	0.00 ***			
Independent Living	0.2%	0.00	0.00 ***	0.00	0.00 ***	0.00	0.00 ***			
Licensed Relative	2.8%	.46	.09 ***	.99	.18	3.63	1.15 ***			
Other	13.9%	1.11	.09	.62	.12 *	3.96	.95 ***			
Respite	6.5%	2.69	.79 ***	1.49	.29 *	4.82	1.88 ***			
Unlicensed Relative	52.4%	1.02	.06	.43	.05 ***	3.17	.48 ***			
Runaway	3.0%	3.74	1.03 ***	0.00	0.00 ***	.46	.49			
# moves (TV)	2.0	.80	.02 ***	.91	.01 ***	.91	.03 *			
Flow/per 1000 (TV)	5.8	1.05	.02 **	.96	.03	.93	.04			
Year 2005	25.8%	.92	.06	.67	.08 ***	.91	.17			
2006	25.4%	.95	.06	.44	.06 ***	.46	.11 ***			
2007	25.5%	1.00	.07	.21	.04 ***	.29	.11 ***			
PRP at event (TV)	49.1%	1.10	.06 *	1.84	.34 ***	2.05	.43 ***			
PRP at event (TV)		B	SE	p	B	SE	p	B	SE	p
		.100	.050	.051	.610	.180	.001	.720	.210	.001
BIC (null model)		99110.58			35772.38			7990.44		
BIC (full model)		97659.21			33725.47			7923.63		
No. of obs		37,224			23,176			37,224		
No. of subjects		12,014			9,478			12,014		
No. failed		5,521			2,098			445		
No. competing		2,545			3,542			7,621		
No. censored		3,948			3,838			3,948		

Notes: \* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$ ; SHR = subhazard ratio; SE = standard error. The reference category is male (50.2%), age 5 to 8 (17.6%), white (59.4%), with no sibling in the child welfare system (31.8%), living in a family foster home (72.5% of children ever experience this placement type), entering care in 2004 (23.3%). (a) Children enter risk of adoption 6 months after placement. (b) Percentages for placement refer to the percent of children ever experiencing this type of placement.