

REPRESENTATION OF PARENTS & CHILDREN

In Oregon Dependency Cases

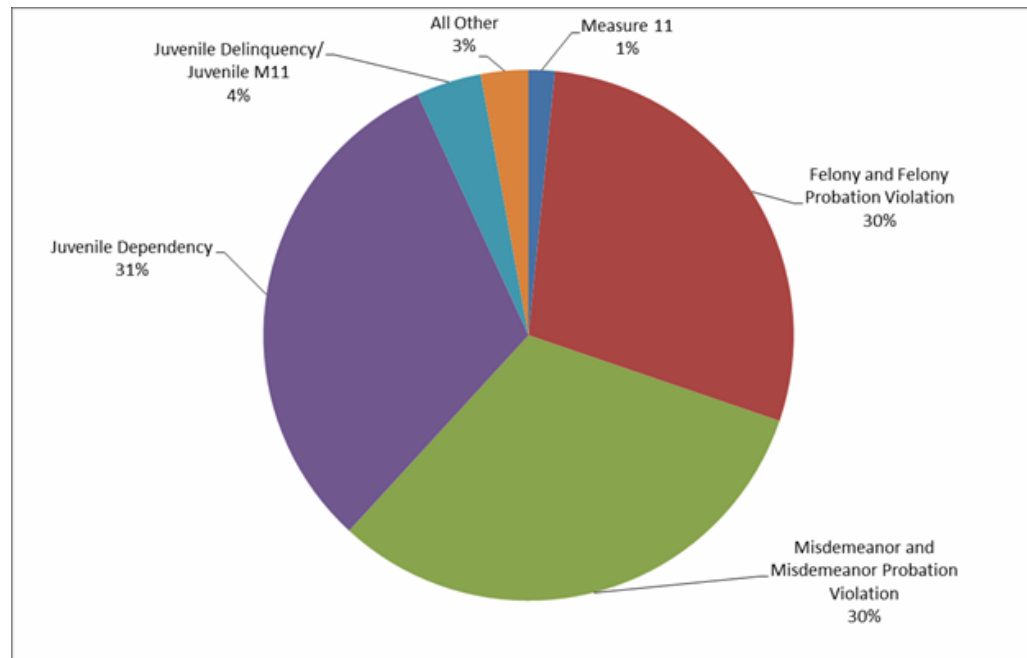
Office of Public Defense Services
Nancy Cozine, Executive Director

PDSC Responsibilities

- ORS 151.216(1) Establish and maintain a public defense system that ensures the provision of public defense services in the most cost efficient manner consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

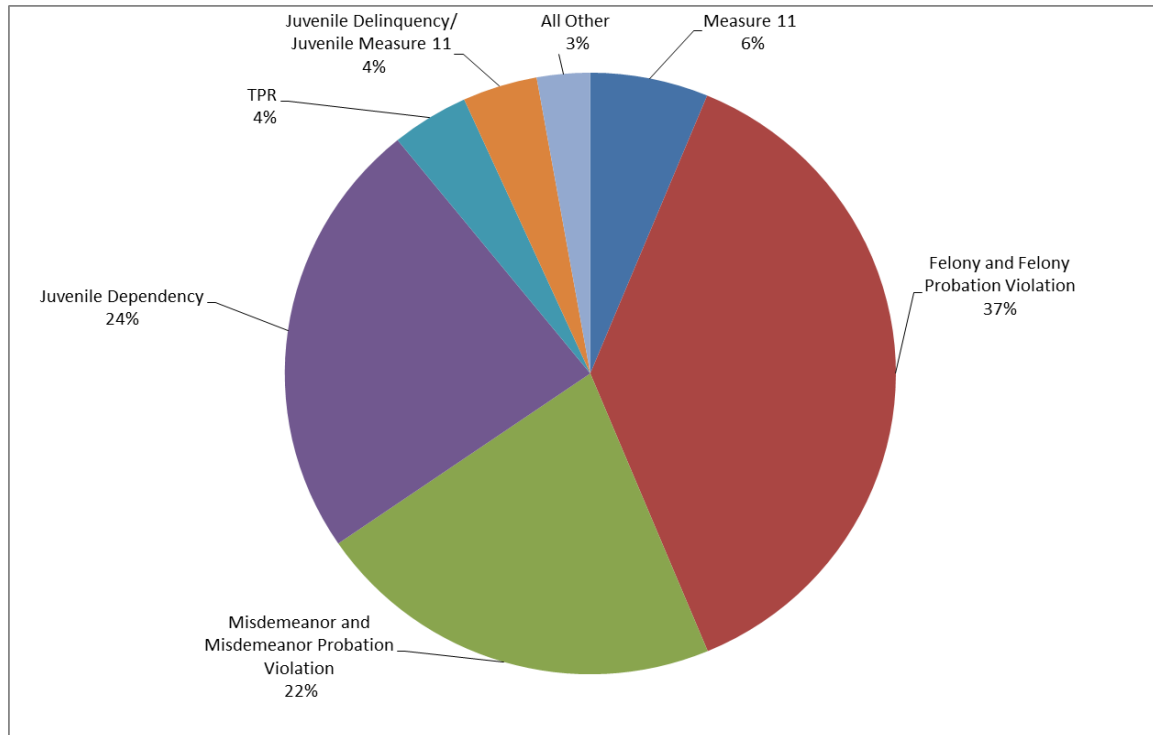
Dependency - Caseload

- Approximately 31% of Oregon's public defense caseload is juvenile dependency



Dependency - Cost

- Juvenile dependency cases consume approximately 28% of the trial-level non-death penalty public defense budget



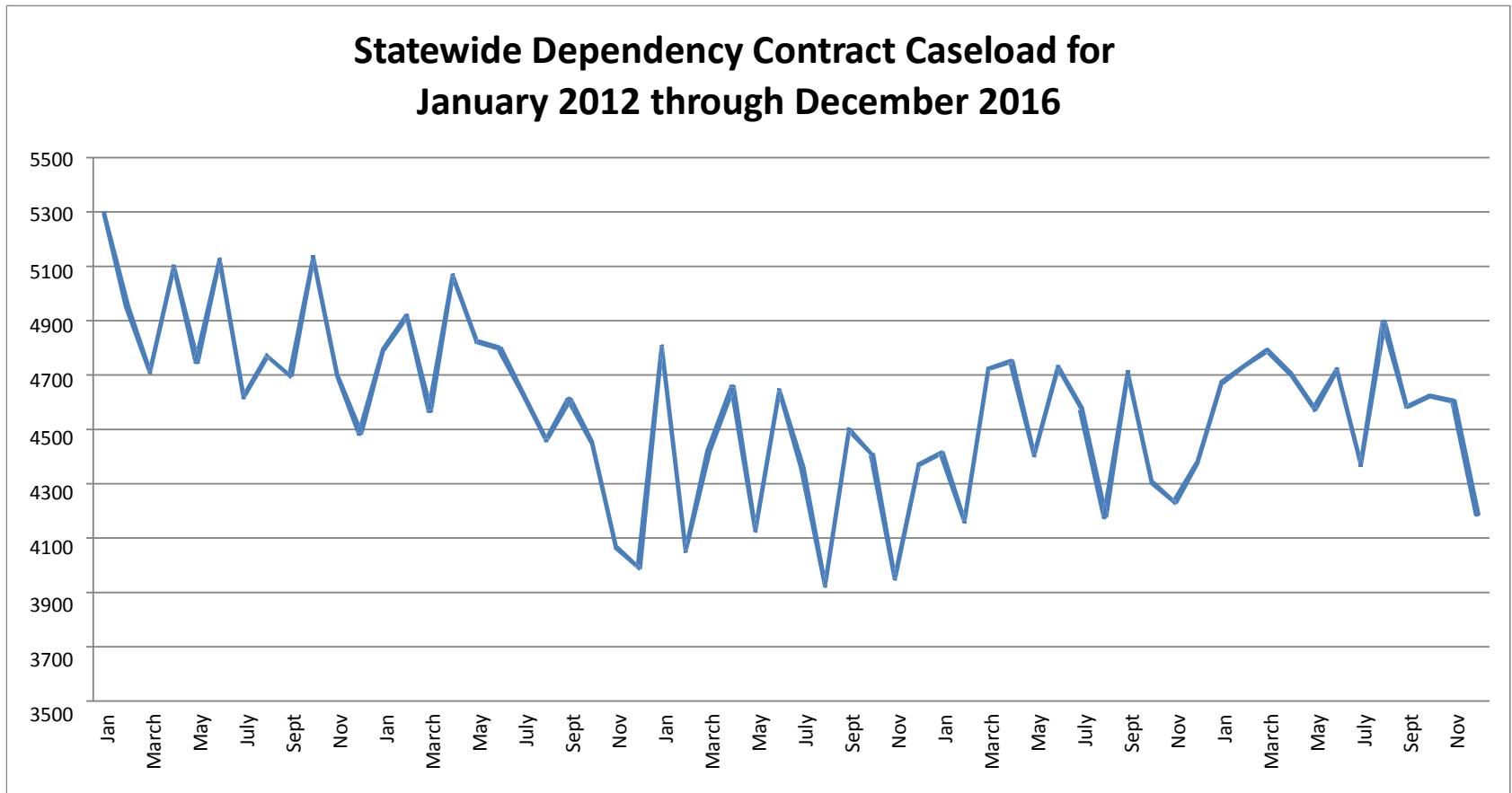
Case Rates

- Per Case Model (used in most Oregon counties)
 - Dependency Contract Rates (2016-2017 contract cycle, average):
 - \$792 Appointment through disposition
 - \$339 Post-dispositional proceeding
 - \$2581 Termination of parental rights proceeding
- Rates must cover all costs of representation (office and overhead expenses, professional licenses and memberships, attorney and staff salary and benefits, etc.)

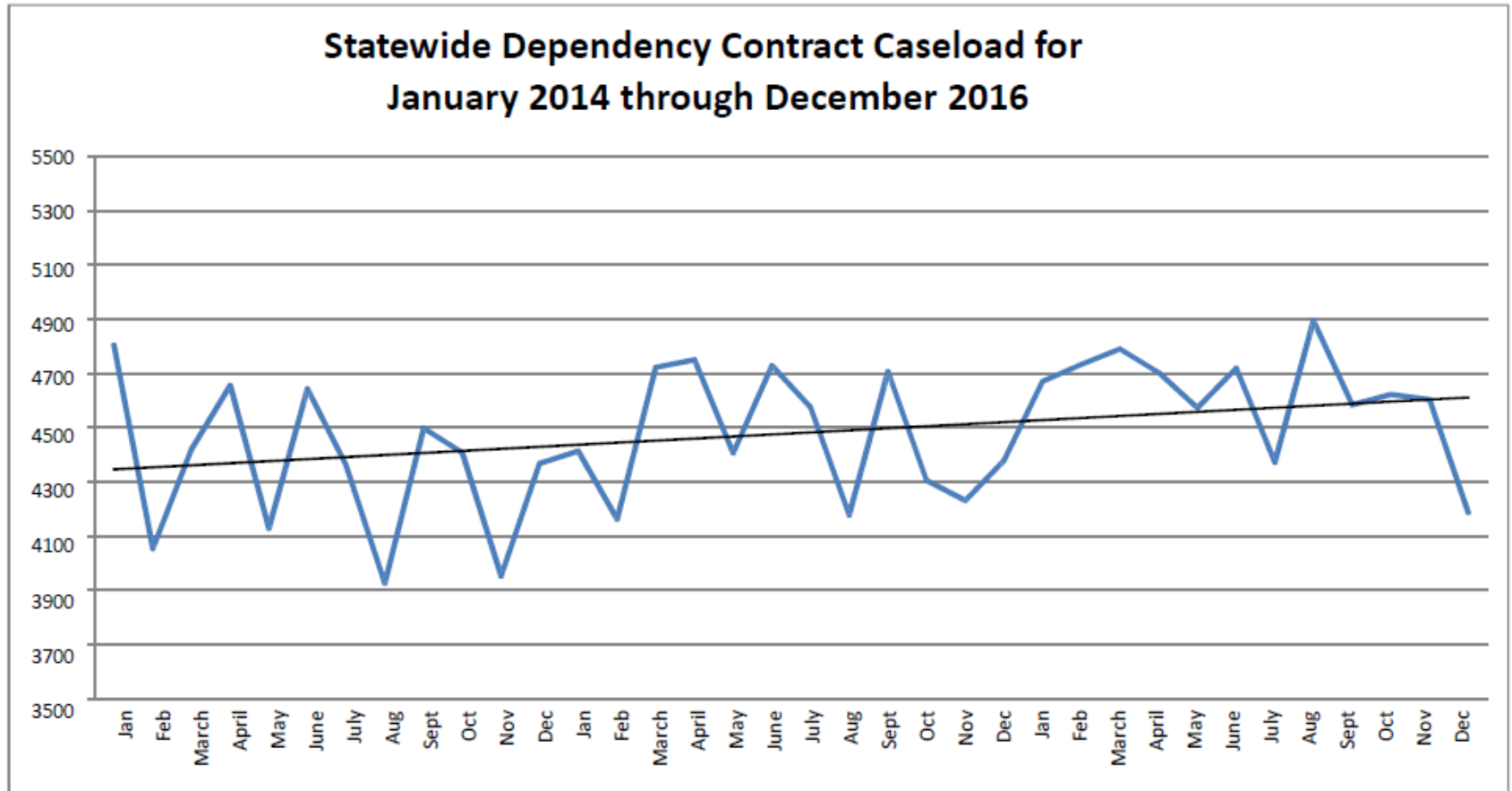
Total Costs

- 2017-19 Current Service Level expenditures for juvenile dependency cases: \$58,701,203
 - Legal representation
 - Necessary and reasonable fees and expenses for investigation and experts (ORS 135.055)

Historical Caseload



Recent Trend



Task Force Recommendations

- After a year-long process and study of six models of representation, the Task Force endorsed expansion of the Parent Child Representation Program (PCRP)
 - Attributes considered
 - **Cost-effective:** Funds are spent to support necessary value-added services that protect the rights of children and parents
 - **Cost-efficient:** Legal services are being provided in a manner that takes advantage of available economies of scale, process efficiencies, and technological advances, in addition to decreasing unnecessary transaction costs
 - **Outcome-oriented:** The model chosen improves outcomes for children and families
 - **Availability:** Attorneys have sufficient time to meet the needs of clients, the court and other stakeholders
 - **Consistency:** All Oregon families receive consistent standards-based, competent legal representation
 - **Manageable caseloads:** Attorneys are not overburdened and have the time and resources to adequately prepare for court and provide strong advocacy in and out-of-court
 - **Continuity:** One lawyer-one client throughout the juvenile court system
 - **Multidisciplinary representation:** All lawyers have access to investigators, experts and teams of practitioners that engage and support parents and children
 - **Duration of representation:** Attorneys are appointed pre-shelter through TPR
 - **Local community connection:** Attorneys are located in the community and have strong working relationships with local court, caseworkers, and service providers

Task Force Recommendations

- Rather than the traditional “per case” model, the PCRCP utilizes a workload model
 - Replaces current outdated contracting model with an evidence-based model that better reflects the complexities of juvenile representation
 - Annual amount to cover all costs of legal representation with sufficient resources to ensure an office location for confidential meetings, adequate staffing and attorney-client contact, time for appropriate research and case preparation, and attendance at all court appearances and out-of-court meetings
 - Caseload limit (allows for some fluctuation in caseload)
 - Case managers (available for about 10% of caseload)
 - Quality assurance and monitored results

Improved Representation

- Quality parent and child representation is correlated with improved outcomes for children and families. An attorney's advocacy for frequent visitation, family involvement, and the right service plans engages parents and steers the case toward timely reunification. More specifically, parent and child representation has been shown to:
 - reduce unnecessary removals
 - decrease time to reunification
 - decrease re-entry post-reunification
 - decrease time to other forms of permanency

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- VIVEK S. SANKARAN, PATRICIA L. RIDEOUT, & MARTHA L. RAIMON, STRANGE BEDFELLOWS: HOW CHILD WELFARE AGENCIES CAN BENEFIT FROM INVESTING IN MULTIDISCIPLINARY REPRESENTATION, available at <http://www.cssp.org/reform/child-welfare/strange-bedfellows-how-child-welfare-agencies-benefit-from-multidisciplinary-parent-representation.pdf>
 - Jillian Cohen & Michelle Cortese, *Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families*, 28 ABA CHILD LAW PRACTICE 1 (May 2009).
 - CENTER ON CHILDREN AND THE LAW, AMERICAN BAR ASSOCIATION, INVESTMENT THAT MAKES SENSE 2-3, available at http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/At-a-glance%20final.authcheckdam.pdf (last visited July 5, 2016) [hereinafter *Investment that Makes Sense*].
 - THE CENTER FOR FAMILY REPRESENTATION, 2013 REPORT TO THE COMMUNITY, available at <https://www.cfrny.org/wp-content/uploads/2013/11/CFR-2013-Report-to-the-Community.pdf> [hereinafter *CFR 2013 Report*]; *Investment that Makes Sense*, *supra* note 6.
 - ANDREW ZINN & JACK SLOWRIVER, EXPEDITING PERMANENCY: LEGAL REPRESENTATION FOR FOSTER CHILDREN IN PALM BEACH COUNTY (2008), available at <http://www.chapinhall.org/research/report/expediting-permanency>.

A Critical Role

- Few legal proceedings immediately affect an individual's rights more than a juvenile dependency case where children are removed from their parents and placed in out-of-home care—an intervention with long-lasting effects on a child's well-being.
- Parents' and children's attorneys serve as guides, translators, voices, and systemic counterbalances.
- Strong advocacy is critically important in the dependency system, where cases are prosecuted inconsistently, and disproportionately impact poor families.

Savings

- According to federal statistics, more than 86,000 children removed across the country in 2009 were later found not to have been maltreated.
- Foster care placement is associated with many poor life outcomes including poverty, homelessness, and increased involvement with the criminal justice system. These costs are difficult to capture.
- States with enhanced parent representation programs have documented savings.
 - Washington (Statewide): \$7.5M
 - New York (Manhattan): \$9M

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- Guggenheim & Sankaran, Representing Parents in Child Welfare Cases, 21 (2015)
 - https://www.oregon.gov/gov/policy/Documents/LRCD/Meeting6_031616/Cost_Benefit_Analysis/Parent_Rep_cost_savings.pdf
 - https://www.casey.org/media/AlumniStudies_NW_Report_FR.pdf
 - http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/At-a-glance%20final.authcheckdam.pdf
 - <https://www.cfrny.org/wp-content/uploads/2013/11/CFR-2013-Report-to-the-Community.pdf>

PCRCP – Linn, Yamhill & Columbia

- Linn & Yamhill – launched in August 2014
 - Reduced Use of Foster Care: Statewide population in foster care increased by 0.7%; PCRCP decreased 18%
 - Preservation of families
 - Reunification rate increased statewide by 3%; PCRCP counties increased by 12%
 - Time to reunification increased statewide by 1 month; PCRCP counties saw a decrease of 5 months
 - Expedited Permanency: Statewide, 64% achieved permanency within 24 months; 71.5% in PCRCP counties
 - Improved Representation: presence at shelter hearings, use of experts and investigators, attendance at case-related meetings, multidisciplinary approach, 95% client satisfaction rate

Task Force Recommendations

- Final Report: endorses statewide expansion of PCRCP
- Full funding for a statewide expansion in the 2017-19 biennium would be \$36,021,077
 - Calculation based on caseload from late 2015
 - Funds three Attorney Managers and legal representation and associated costs necessary to support caseload in all Oregon counties
- OPDS has two policy option packages (POPs) to begin Phase I of a statewide expansion: POP 100 & POP 104

Policy Option Package 100 & 104

- POP 100: \$10.8M
 - PCRCP funding for approximately 1/3 of statewide caseload
 - Cost estimate based on caseloads from late 2015
 - Covers program costs – one attorney manager as well as funding for legal representation and other associated expenses
- POP 104 (portion associated with PCRCP): \$161,322
 - Provides funding for data analyst to evaluate representation in PCRCP and non-PCRCP counties

Roll-Out Plan: statewide

- Phased approach; 3 biennia
 - Each phase = approximately 1/3 of caseload
 - Each phase includes 1 attorney manager
- Phase 1: \$10.8 M
- Phase 2: \$10.8 M*
- Phase 3: \$14.1 M*
- Counties selected based on need, impact and readiness
- Rollout complete January 1, 2022

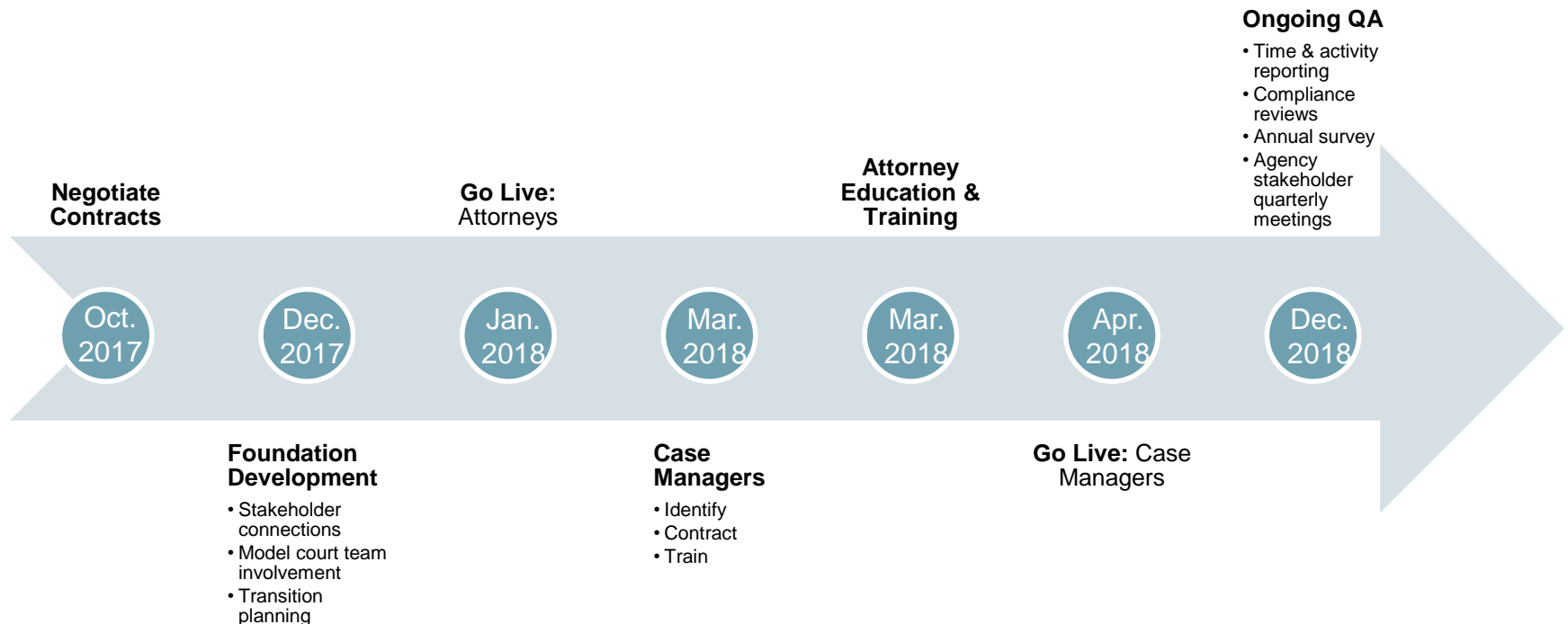
*Note that costs for phase II and III will need to be reassessed if not implemented this biennium

Roll-Out Plan: Phase I

- 1/3 of overall caseload: \$10.8 M
- Effective January 1, 2018
- Scale: 1 large county, 2 medium counties, 1 small county
- Possible counties (annual cost)

| Large (cost > \$3 M) | Medium (cost < \$3 M and > \$1 M) | Small (cost < \$1 M) |
|----------------------|-----------------------------------|----------------------|
| Lane | Jackson | Benton |
| Multnomah | Douglas | Deschutes |
| | Washington | Klamath/Lake |
| | Clackamas | Polk |
| | | Malheur |
| | | Baker |

Timeline: partial roll-out



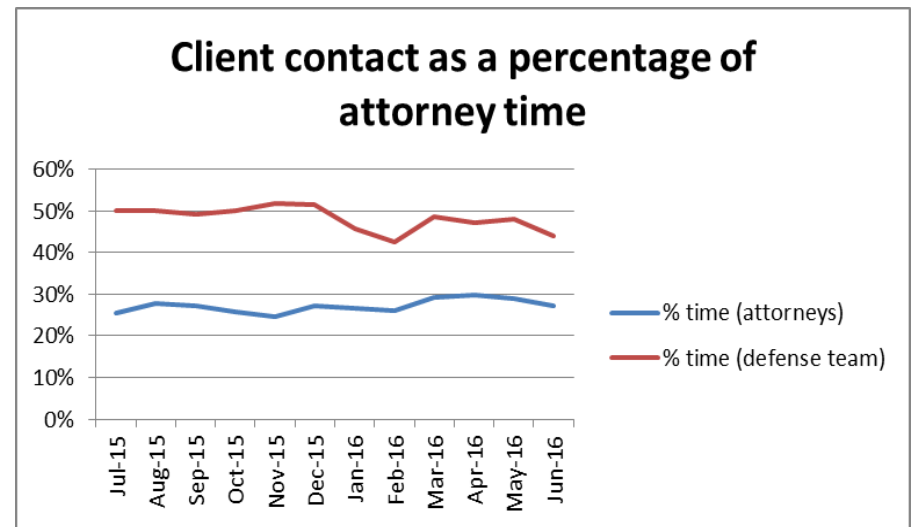
Roll-Up Costs

| | 2017-19 POP Request | 2019-21 Full Implementation |
|---|---------------------|-----------------------------|
| POP 100- Phase 1: approximately 33% of caseload w/ 1 FTE Attorney Manager | \$10,882,496 | \$14,460,624 |
| POP 100- Phase 2: approximately 29% of caseload w/ 1 FTE Attorney Manager | \$10,828,318 | \$14,388,386 |
| POP 100- Phase 3: approximately 38% of caseload w/ 1 FTE Attorney Manager | \$14,148,941 | \$18,815,884 |
| POP 104- Portion of POP pertaining to PCRCP Staffing | \$161,322 | \$179,588 |
| Total Costs | \$36,021,077 | \$47,844,482 |

Key Performance Measure

Percent of PCRCP attorneys who report spending approximately 1/3 of their time meeting with court appointed clients in cases which the attorney represents a parent or child with decision-making capacity.

- 54% of attorneys report spending approximately 1/3 of time with clients.



Quality Assurance

- Attorney Performance

- Monthly time & activity reports: attorneys are expected to spend 1/3 of their time with clients, 1/3 in court and meetings, and 1/3 doing legal research and case preparation
- Measured requirements:
 - Initial client meeting within 72 hours of appointment
 - Use of case managers, experts and investigators when appropriate
 - Representation at all court appearances, attendance at case related meetings
 - Caseload
 - Use of continuances

- Program Performance

- Annual report using indicators recommended by American Bar Association's validated evaluation tool, *Indicators of Success for Parent Representation* (2015)

POP Reduction Options

- Because the PCRPP is a program that requires full county participation, it is scalable on a county-by-county level
- Each Oregon county has a unique mix of factors affecting roll-out costs - current caseload sizes, additional attorneys required to reduce caseloads, system changes necessary to facilitate improved attorney involvement, current DHS outcomes, local court practices, and availability of social work experts in the area. These factors impact the costs per county. A few annual cost examples are:
 - Small county:
 - Polk (2% of open caseload): \$592,000
 - Deschutes (5% of open caseload): \$982,000
 - Medium county:
 - Clackamas (7% of open caseload): \$1.9 M
 - Large county:
 - Multnomah (15% of open caseload): \$3.4 M
 - Average Cost: \$710,000 /county
- OPDS is happy to work with the legislature and system partners to identify an affordable number of counties, or to ensure a rapid and efficient statewide roll-out.

Public Defense Services Commission



Office of Public Defense Services

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