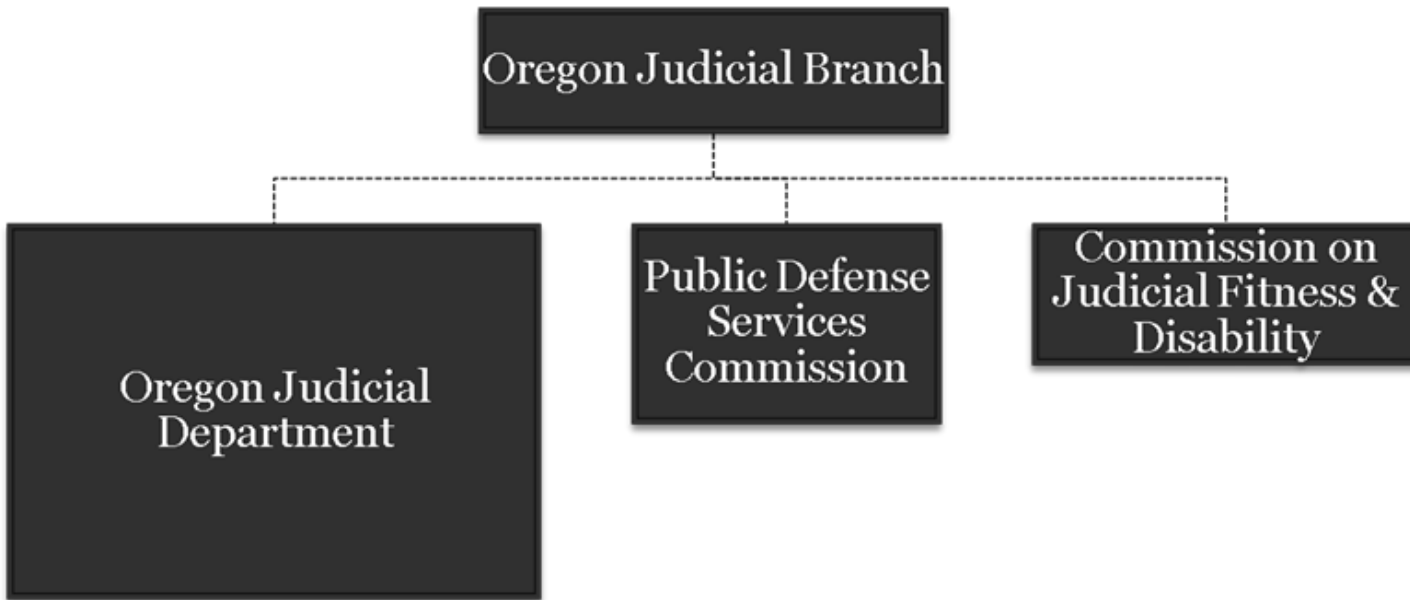


Public Defense Services Commission Judiciary Committee Presentation February 9, 2017

Agenda

- Agency Structure & Responsibilities
- Challenges
- Please contact PDSC (or the Office of Public Defense Services) when...

Public Defense Services Commission



PDSC Obligations

- ORS 151.216 (1) The Public Defense Services Commission shall: (a) 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.

Commission Members

Chief Justice Thomas A. Balmer
Ex-Officio Permanent Member

Per Ramfjord, Chair
Partner, Stoel Rives LLC

John R. Potter, Vice-Chair
Former Executive Director, Oregon Criminal Defense Lawyers Association

Thomas M. Christ
Partner, Cosgrave Vergeer Kester LLP

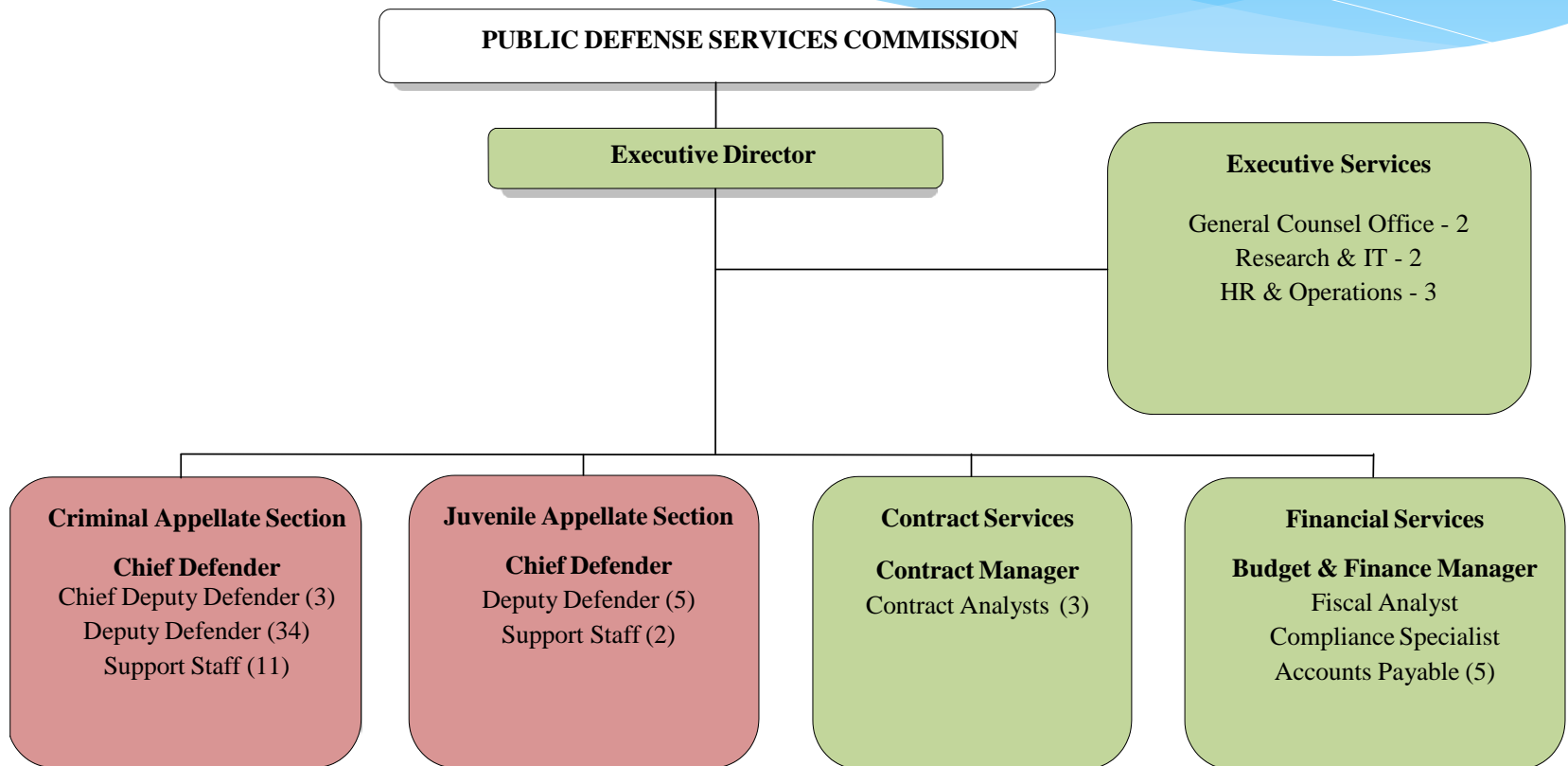
Michael De Muniz
De Muniz Law

Henry H. Lazenby, Jr.
Lazenby & Associates

Janet C. Stevens
Deputy Editor, Bend Bulletin

Hon. Elizabeth Welch
Senior Judge

Office of Public Defense Services



Financial Eligibility Criteria

- Eligibility is determined by the court
- Federal food stamp guidelines (130% of the federal poverty level) serve as the primary determinant of eligibility for state-paid counsel
- If an applicant's income exceeds food stamp guidelines, the court may appoint counsel only if the applicant's available income and assets are insufficient to hire an attorney without creating substantial hardship in providing basic economic necessities to the person or the person's dependent family

Public Defense Case Types

- Criminal proceedings (misdemeanors to death penalty)
- Probation violation and extradition proceedings
- Contempt proceedings (including alleged nonpayment of court-ordered child support and alleged violations of Oregon's Family Abuse Prevention Act)
- Post-conviction relief and habeas corpus proceedings
- Juvenile delinquency proceedings
- Juvenile dependency (child welfare) and termination of parental rights proceedings
- Civil commitment proceedings and Psychiatric Security Review Board proceedings
- Appeals of types listed above and of parole board orders

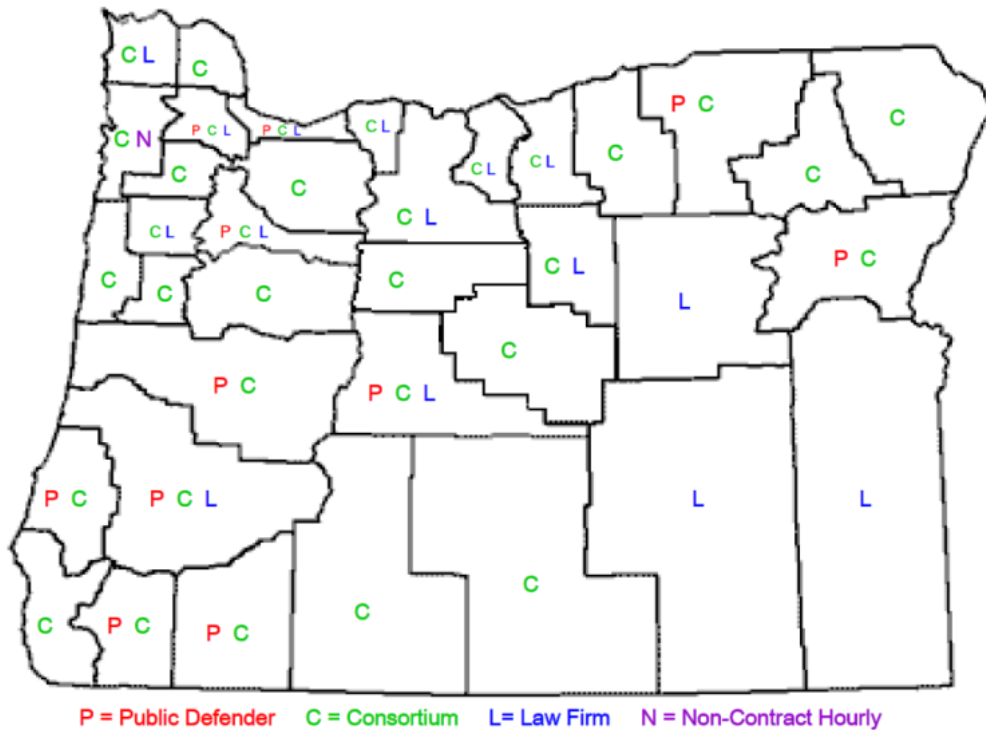
Case Types Not Covered by PDSC

- Municipal court proceedings
- Violations
- Administrative hearings such as DMV hearings, parole hearings and school expulsion hearings
- Civil cases such as landlord-tenant matters and small claims
- Relief from sex offender registration (with limited exception for youth offenders)
- Applying for, or challenges to, restraining orders
- Probate guardianships
- Representation in divorce proceedings

Appellate Division

- OPDS Appellate Division
 - Institutional counterpart to DOJ Appellate
 - Represents individuals in a high-volume practice before the Oregon appellate courts and is asked to appear as *amicus* in cases of systemic importance
 - Works with the appellate courts, DOJ, and the legislature to identify and implement system efficiencies
 - Attorneys evaluate over 3600 case referrals per biennium; file over 2500 notices of appeal per biennium

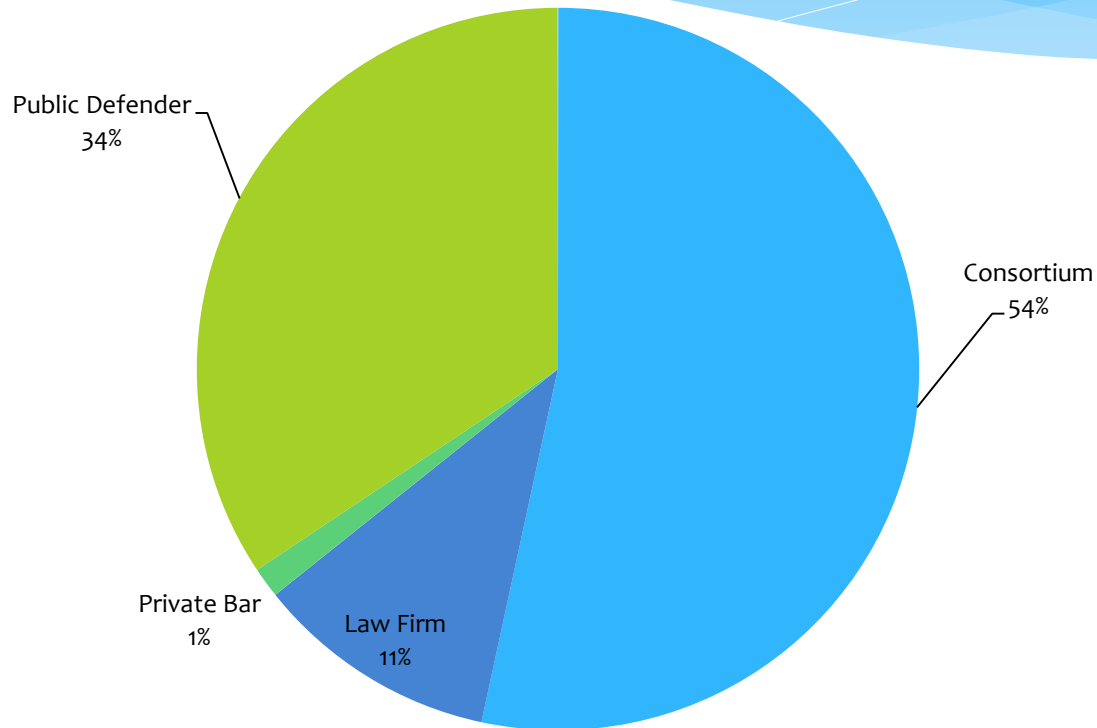
Contract Services



- Providers (independent contractors) selected through RFP
- 2-year contracts
- 112 current contracts (for appellate and trial court representation) statewide

Provider Types

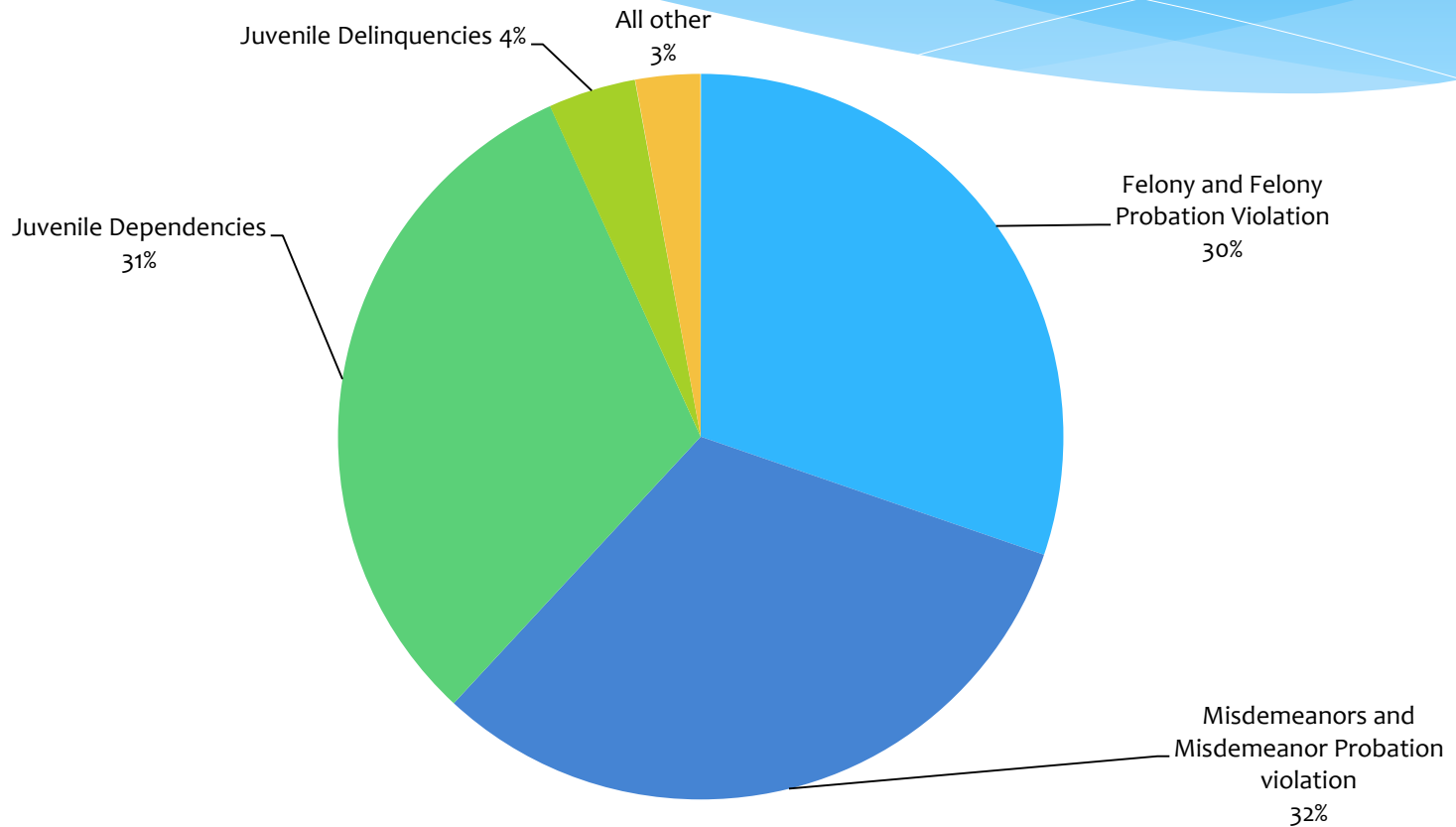
Trial-Level Non-Death Penalty Public Defense Caseload Breakdown by Provider Type



Public Defense Caseload Breakdown by Case Type

Trial-Level Non-Death Penalty Public Defense Caseload

Breakdown by Case Type



Death Penalty

- Contract and hourly providers
 - 29 attorney contracts
 - 20 mitigator contracts
- 69 pending cases
- 19 cases filed per year (average)

Challenges

- Ability to attract and retain talented lawyers and employees at the trial level
 - Low case rates; high student loan debt
 - Ineligibility for loan repayment/forgiveness options
- Large caseloads
- Increasing case complexity

Quality & Caseloads

- 2015 Annual Survey – Providers do good work, but struggle with excessive caseloads
 - Over 40% of responding judges said juvenile dependency lawyers have excessive caseloads
 - Over 55% of responding Oregon judges said criminal caseloads are too high

Recent Workload Standard Studies

- Missouri: 178 misdemeanor cases per year
- Texas: 216 class A misdemeanor cases per year
- Oregon providers report assignment of well over 400 misdemeanor cases per year, often to attorneys who only recently passed the bar exam.

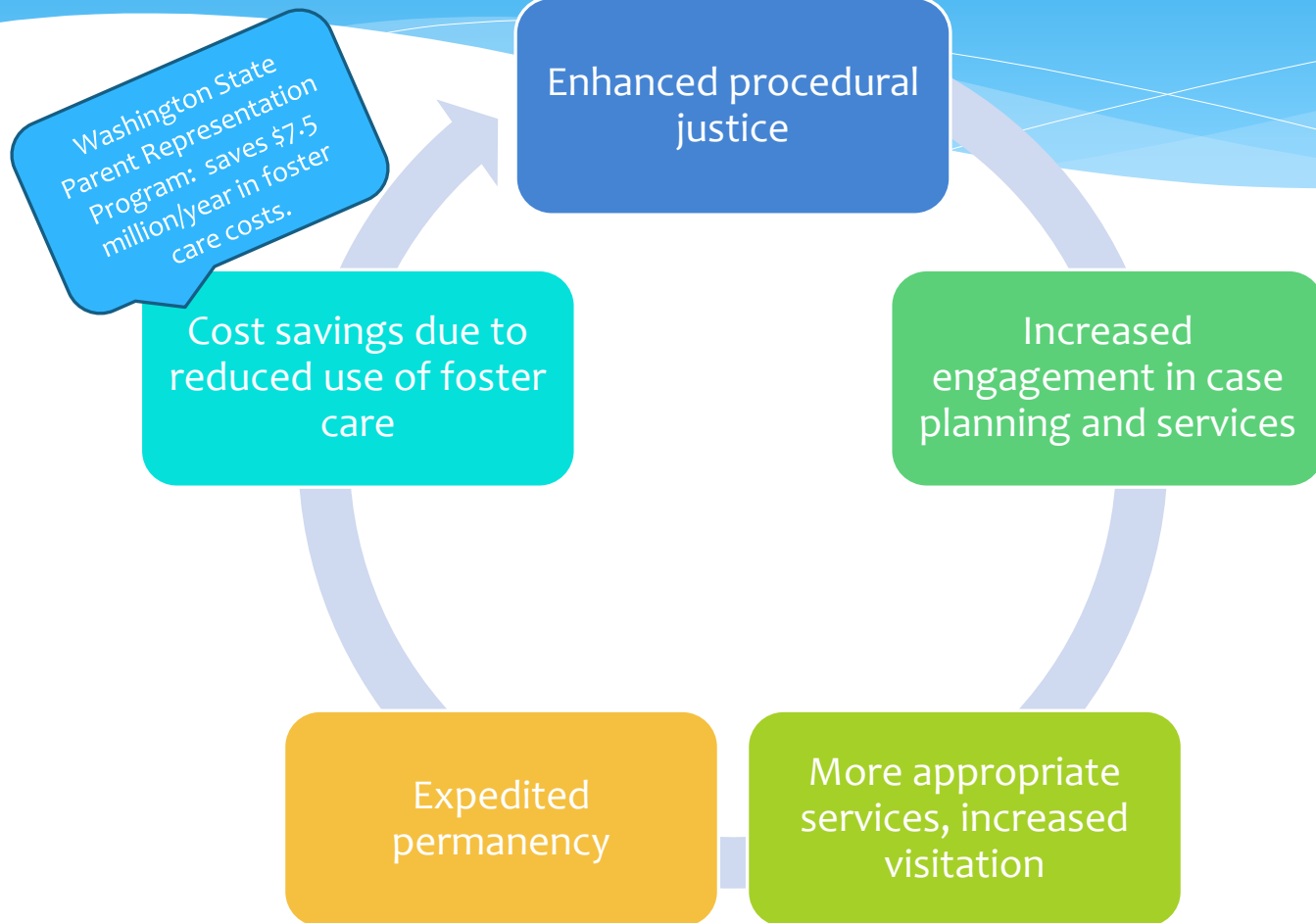
Parent Child Representation Program

- Launched in August 2014 (Linn & Yamhill counties)
 - A response to longstanding deficiencies in juvenile dependency representation and a desire to achieve cost-effective positive outcomes.
 - Self-funded expansion to Columbia County in January 2016.
- Goals
 - Competent and effective legal representation throughout the life of the case.
 - Meaningful representation at all proceedings.
 - Improved outcomes for children and families.

Parent Child Representation Program

- **Workload contract for legal services**
 - Adequate compensation for *in and out-of-court* time allows for quality legal representation in dependency cases. (ABA Center on Children and the Law Parent Attorney Compensation Survey, 2015)
- **Caseload limits**
 - “Mechanisms or models that control attorneys’ caseloads are one of—if not the—most important components of strong models of parent and child representation.” (Oregon Task Force on Dependency Representation Report, 2016)
- **Case managers**
 - Multidisciplinary representation yields the best results for children and families. (Laver, 2013)
- **Evidence based**
 - Children served by Washington’s Parent Representation Program return home one month faster and reach other permanency outcomes one year sooner. (WA Partners for Our Children, 2011)
 - Jurisdictions which want to improve parental representation and potentially shorten the time children are in foster care should consider a program similar to Washington’s PRP. (Fixen, 2011)
- **Accountability**
 - Attorney-manager oversight
 - Performance and training requirements

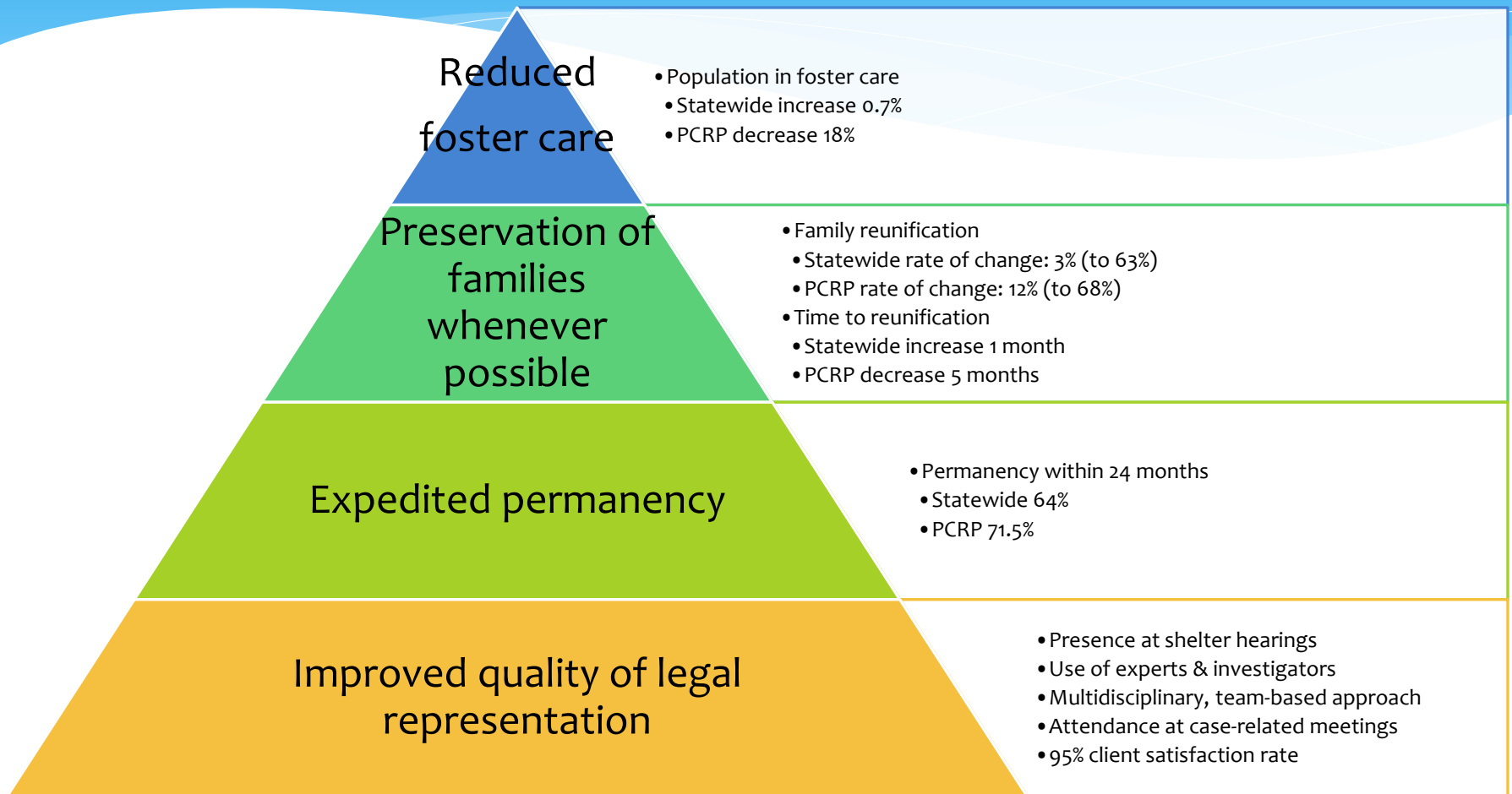
Benefits of competent legal representation for parents, children, and youth



Notable Observations (2015-2016)

full report available at:

http://www.oregon.gov/OPDS/docs/Reports/PCRP_report_PDSC_Jan_2017.pdf



When to Contact OPDS

- Questions about
 - Budget impact of proposed legislation
 - Numbers of public defense cases
 - What public defense looks like in a particular county
 - The impact of a proposed concept on public defense
- Concerns about quality of representation

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