Task Force on Legal Representation in Childhood Dependency
Agency Survey (OPDS)

Below please find below a series of questions designed to gather basic information for the Task Force on Legal Representation in Childhood Dependency. It is likely that you will not have answers to all of the questions at your fingertips and that you may have to use creative methods to provide estimations or best guesses. Where this is necessary please describe the method used to provide answer.

Thank you for taking the time to fill out this survey, actual and accurate information about how much time attorneys and their staff are spending on dependency hearings will help the task force find solutions that meet the real needs of the agencies and offices involved. It will also help us all better serve the families of Oregon.

Total Numbers for 13/15

Description	**Dollars**	**Comments**
Total 1315 trial-level non death penalty expenditures	$208,858,273	Note that attorneys must use funds received to cover not only their own compensation, taxes, insurance, professional dues and memberships, facilities, retirement, etc., but also staff compensation, taxes, and benefits, and other overhead expenses
Total 1315 juvenile dependency trial-level attorney costs[1]	$50,139,886	Note that attorneys must use funds received to cover not only their own compensation, taxes, insurance, professional dues and memberships, facilities, retirement, etc., but also staff compensation, taxes, and benefits, and other overhead expenses
Total 1315 juvenile	$1,707,795	These are typically "non-

[1] Includes contract, hourly and PCRP.

dependency trial-level non-attorney expenses		routine" expenses, like investigation, expert reviews, etc.
Total 1315 juvenile dependency trial-level representation costs	$51,847,682	
% Juvenile Dependency to Total Expenditures	25%	

Total number of open cases carried across the state: The vast majority of legal representation for parents and children is contracted on a per-credit basis. The total number of juvenile dependency case credits handled by attorneys representing parents and children for 2014 are:

- Appointment through disposition, dependency (JDEP/JDEC): 7,535
- Post-dispositional proceeding, dependency (JPDP/JPDC): 39,973
- Termination of parental rights proceeding (JUTP/JUTC): 1,038.

For the PCRP program, attorneys are capped at an open caseload of 80 juvenile cases.

Contract Rates (2016-2017 contract cycle, average)[2]:

- $792 Appointment through disposition, dependency (JDEP/JDEC)
- $339 Post-dispositional proceeding, dependency (JPDP/JPDC)
- $2581 Termination of parental rights proceeding (JUTP/JUTC)

[2] This contract rate is intended to cover all costs of representation (attorney compensation and benefits, staff salary and benefits, and overhead).

Attorney Information

Total Number of Contractors (including a small number of private bar attorneys) who have represented a parent or child client in a juvenile dependency or termination of parental rights proceeding in 2014: 350

Average Dependency Number of Clients per FTE Attorney (Caseload): Due to the current contracting model, OPDS does not have regular and consistent access to this information except for the counties which are part of the PCRP where, consistent with practice standards, the caseload is capped at 80.

However, system stakeholder survey responses and anecdotal information collected through peer and service delivery reviews suggest that high caseloads remain a concern in many jurisdictions, and especially in dependency cases.[3] The issue of high caseloads for public defenders was raised by the Joint Interim Task Force on Juvenile Court Dependency Proceedings during their meetings in 2014. Task Force members discussed the issue of caseloads, noting that in many counties, lawyers representing children and parents have well over 100 cases at any given time. And because there can be multiple children in each case, lawyers representing children can have many more clients than cases.[4]

PDSC is in the preliminary stages of planning for a workload study to determine appropriate, Oregon-specific workload and caseload for attorneys handling public defense cases.

[3] Public Defense Services Commission Retreat Agenda and Objectives, March 20, 2014. http://www.oregon.gov/OPDS/docs/Agendas/03-20-14.pdf

[4] Joint Interim Task Force on Juvenile Court Dependency Proceedings, Final Report, December 3, 2014. https://olis.leg.state.or.us/liz/2013I1/Downloads/CommitteeMeetingDocument/41222 (DRAFT COPY)

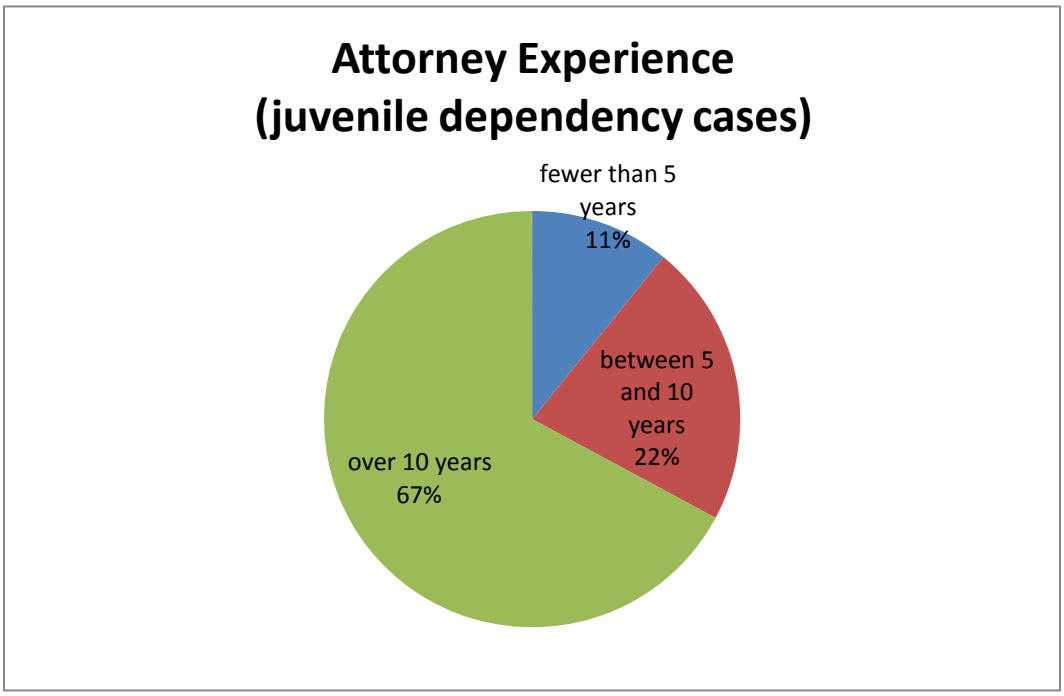
Average FTE Attorney Salary: The entities with whom PDSC contracts to provide public defense representation are independent contractors who are not full time state or county employees and do not receive the corresponding salaries or benefits. However, PDSC does contract with ten public defender offices, each of whom provides a salary and benefits to their employees. For comparison purposes, the high and low salaries of non-management attorneys, as reported to OPDS in 2015, are as follows:

County	Public Defender	PD salary-LOW	PD salary-HIGH
Coos	Southwest Oregon Public Defenders	$43,200	$85,680
Deschutes	Crabtree and Rahmsdorf	$60,000	$117,000
Douglas	Umpqua Valley Public Defender	$45,792	$99,876
Jackson	Southern Oregon Public Defenders	$50,000	$79,000
Josephine	Southern Oregon Public Defenders	$50,000	$90,000
Lane	Public Defender Services of Lane County	$45,000	$95,251
Marion	Public Defender of Marion County	$52,000	$74,387
Multnomah	Youth, Rights and Justice	$51,930	$79,020
Multnomah	Multnomah Defenders, Inc.	$55,589	$96,662
Multnomah	Multnomah Public Defenders	$58,500	$82,315
Umatilla	Intermountain Public Defender	$58,000	$96,000
Washington	Multnomah Public Defenders	$58,500	$82,315

Average FTE Parent Child Representation Program Attorney Salary: The contract rate for the Parent Child Representation Program attorneys contains three components: overhead, staff rate, and attorney rate. Overhead was adjusted based on the cost of living in each county and the attorney rate is modeled on the 2013-2015 personal services costs for the Department of Justice, adjusted for level of experience. The average contract rate for a full-caseload PCRP attorney, staff and overhead is $216,000.

Average Starting Salary: see above section titled Average FTE Attorney Salary

Attorney Experience: For 2014, 350 different attorneys represented parents and children in juvenile dependency and termination of parental rights cases. The number of lawyers who had less than 5 years of experience (as indicated by a bar number between 2010 and 2014) is 38, the number of lawyers who had between 5 and 10 years of experience (as indicated by a bar number between 2005 and 2009) is 77. Over two-thirds (67%) of the attorneys representing parents and children have been an attorney for more than 10 years.



Average Support Staff Salary: Many, but not all, attorneys who represent parents and children have access to clerical, non-paralegal, support staff. OPDS does not regularly track support staff salary.

Please briefly describe how your contract offices receive funding for representation in dependency cases.
PDSC enters into two-year contracts with entities for the provision of public defense services. All contracts for juvenile representation, with the exception of the Parent Child Representation Program, are based on the case credit model. The case credit model has been the primary contracting model since the inception of the Office of Public Defense Services. This model, while not ideal contracting for representation in juvenile dependency cases, serves as the basis for budgeting, forecasting, and contracting. Converting to a different model, such as a workload model, has a significant fiscal impact.

Please describe who provides investigation services for your contract agency/attorneys and how they are funded for these investigation services.
Non-profit public defender offices and some law firms provide investigative services to their attorney employees though staff investigators. Attorneys at non-profit public defender offices follow office protocols to access investigative resources.

Attorneys who are part of a consortium and most law firm attorneys, including those who handle public defense cases on an hourly basis, access investigator funds through the non-routine expense request process. In order to qualify for funding for investigation, the

attorney must submit documentation to OPDS showing that the resource is both necessary and reasonable. OPDS reviews these requests and authorizes them when the necessary and reasonable threshold is met.

Please describe the efforts provided by OPDS to provide quality and uniform training to dependency attorneys.

Juvenile Law Training Academy: The Juvenile Law Training Academy (JLTA) is an annual multidisciplinary conference for juvenile dependency practitioners. The concept of the JLTA began in 2003, when OPDS and representatives of a number of groups concerned about the quality of juvenile dependency representation began meeting to discuss the creation of additional educational opportunities. This group became the "Juvenile Law Training Academy Workgroup." Its principal focus over the years has been to outline a training curriculum for attorneys and to supplement existing training opportunities, but the conference is planned by, and open to prosecutors, caseworkers, court representatives, CASA volunteers, and others involved in juvenile dependency work. The multidisciplinary approach makes this conference a valuable opportunity for everyone in the system to share ideas, challenge assumptions, better understand the roles of each party in the dependency process, and implement improvements at the local level. The 2015 JLTA was the 11th annual training event spearheaded by OPDS and planned by the multidisciplinary workgroup. The conference typically draws over 150 attendees; the 2015 conference had 202 paid attendees and over 200 participants.

Continuing Legal Education Requirements: Each year, there are a number of CLEs and conferences focused on juvenile representation. In light of the training opportunities available, the complexities of juvenile representation, and history of quality concerns, OPDS has included a contract requirement that juvenile providers obtain at least 12 hours of juvenile law CLE credits during the contract period. The list of CLE credits, by practitioner, is included in each contractor's proposal for providing representation services under contract.

Juvenile Law Resource Center: In 2010, PDSC contracted with Youth Rights and Justice to create the Juvenile Law Resource Center to assist attorneys representing parents in juvenile dependency proceedings throughout Oregon. The JLRC provides written resources including case law updates, sample motions, practice guides and issue briefs, and provides case-specific consultation with attorneys. The JLRC also provides hands-on attorney training and assistance to attorneys handling appeals.

Office of General Counsel: The Office of General Counsel regularly serves on planning committees and provides training for practitioners on obligations under Oregon Rules of

Professional Conduct and Oregon State Bar Performance Standards. In addition, Deputy General Counsel provides caselaw, statutory and program updates to attorneys representing parents and children in juvenile dependency proceedings.

Please describe the standards and/or policies and procedures OPDS uses to provide quality and uniform legal representation in dependency cases.

Contract Obligations: In preparation for release of the Request for Proposals for contracts to provide public defense services in 2016-2017, General Counsel directed a comprehensive review of the general terms applicable to most public defense services contracts. The resulting revisions, made after consultation with public defense providers, clarify PDSC requirements, in keeping with state and national performance standards, for representation of public defense clients and for the administration of public defense providers. The revised general terms also enhance the ability of OPDS to gather data from providers to analyze provider caseloads and performance. And, the contract terms require all practitioners obtain 12 hours per calendar year of continuing legal education in the area in which the attorney provides public defense services.

Qualification Standards: Before an attorney can accept public defense cases, the attorney must meet the PDSC qualification standards for court-appointed counsel.[5] There are specific requirements for representation in juvenile dependency and termination of parental rights cases.

Performance Standards: Performance standards for attorneys representing parents and children in dependency proceedings were approved by the Oregon State Bar (OSB) in 1996 and revised in 2006 and 2014. The 2014 revisions include separate standards for lawyers representing parents and lawyers representing children, conform with the Oregon Rules of Professional Conduct, and are consistent with the format and structure of the ABA standards. As in the past, they also provide recommendations for action and considerations of counsel at each stage in a dependency proceeding and serve as serve as best practice guides for attorneys representing parents and children in dependency cases.

Please provide information on the efforts OPDS takes to monitor quality and effectiveness of services.

The Office of General Counsel is responsible for monitoring and ensuring the quality of representation statewide. The mechanisms used are varied, including peer reviews,

[5] The Qualification Standards are posted on the OPDS website, http://www.oregon.gov/OPDS/docs/CBS/AttorneyQualificationStandardsandCertification12-21-13.pdf.

statewide surveys, a complaint program, and service delivery reviews.

Statewide Surveys: In January 2015, OPDS conducted its eighth annual statewide public defense performance survey. The agency asks judges, prosecutors, Citizen Review Board coordinators, and juvenile department directors to evaluate and comment upon the performance of public defense providers in each judicial district. The 2015 survey showed general satisfaction with public defense services, although there was concern that caseloads remain too high in many jurisdictions.[6] Respondents made 150 narrative comments, either complimenting public defense providers or expressing concerns. OPDS was able to follow-up with respondents and providers to address many of the concerns.

Complaint Program: OPDS receives complaints from public defense clients and their families, prosecutors, courts, foster parents, CASAs, and occasionally from legislative staff responding to constituent concerns. Pursuant to the PDSC complaint policy and procedure, OPDS will investigate complaints that raise a facially reasonable concern regarding either the performance of public defense providers or the expenditure of public defense funds. OPDS is able to quickly resolve many concerns by facilitating communication between attorneys and clients. In other instances, OPDS will work with contract administrators to ensure that adequate training, supervision, and oversight protocols are in place that can address concerns about attorney performance. On rare occasions, OPDS will suspend an attorney's eligibility to serve on public defense cases.

Peer Reviews: Peer Reviews are an essential component of OPDS's quality assurance program. These reviews, staffed by teams of volunteer lawyers from around the state and coordinated by General Counsel, include an intensive three-day on-site investigation into the quality of services provided by individual public defense contractors. Peer review reports seek to identify especially meritorious practices that can be recommended to other providers, and to make recommendations for improvement when teams find concerns about performance. Peer review reports may also make recommendations to OPDS and PDSC regarding contract management in particular jurisdictions.

Depending upon the findings and recommendations of peer review reports, various follow-up actions may be required of the provider under review and OPDS. Under current practice, in most instances the PDSC will conduct a service delivery review about a year after a peer review report is finalized. The service delivery review, as described in more detail in the next section, will look at developments since the peer review report, as well as examine other needs and issues in a jurisdiction.

[6] In 2011, 42% of judges reported caseloads to be significantly or somewhat too large. In 2012, this number is 41%, in 2013 43%, in 2014 43%, in 2015 43%.

During the 2013 – 2015 biennium, three peer reviews were completed or started. The Marion County peer review, started in May 2013, continued through the remainder of the year and generated positive changes in the county. In September 2014, General Counsel completed a peer review in Washington County.

Service Delivery Reviews: The service delivery review process includes holding public meetings in various locations in the state, gathering information from judges, prosecutors, other officials and citizens, evaluating the need for changes in the structure and delivery of local public defense services and directing the Commission's management team to implement needed changes.

There are three phases in the process. The Executive Director and other agency representatives perform an initial investigation, using the peer review report as a starting point, if one has been conducted recently. The Commission then meets in the region to hear directly from the stakeholders in the local justice system. The Commission then develops a service delivery plan, which is incorporated into a final report. This report serves as a blueprint for agency staff contracting with providers in the region. All of these reports appear on the agency's website.

In previous biennia, PDSC completed investigations in, and evaluations of, most of Oregon's local public defense systems.[7] It developed service delivery plans to improve the structure and operation of local systems, and to raise the quality of legal services in those jurisdictions. Service delivery reviews have also examined substantive areas of practice, devoting reports to representation in death penalty cases, juvenile representation, post-conviction cases, and management of drug courts.

Deputy General Counsel: In 2014, OPDS created a limited-duration Deputy General Counsel position for the purpose of evaluating and improving the quality of trial level juvenile court practice. The 2015 legislature provided permanent funding for this position. The Deputy General Counsel position serves half-time as the attorney manager for the OPDS Parent Child Representation Program. In addition, Deputy General Counsel coordinates juvenile law improvement efforts including: investigation and resolution of complaints regarding representation in dependency cases, legislative analysis, non-routine expense request review, special projects, consultation with trial attorneys, coordination of juvenile law training, and participation on a variety of system improvement workgroups.

[7] As they are completed these plans are posted on the PDSC website: www.oregon.gov/OPDS/PDSCReports.page.