

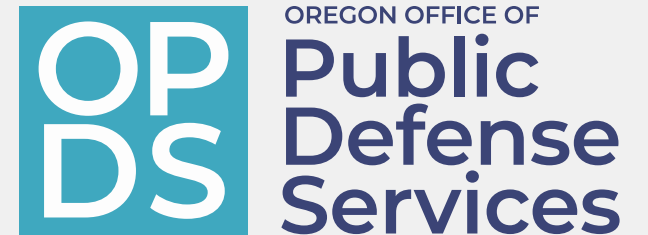
Public Defense Services Commission

**Informational
Presentation to
Senate Committee on
Judiciary and Ballot
Measure 110
Implementation**

January 28, 2021

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Presentation Overview

- Right to Counsel
- Agency Overview
- Agency Divisions
- Current Issues
- Agency Progress, and What's Next

**The Public Defense Services
Commission makes the
right to counsel happen for
Oregonians.**

Right to Counsel in Oregon

Criminal proceedings

- Constitutional right afforded to every financially eligible Oregonian accused of a crime

Juvenile delinquency proceedings

- Constitutional right afforded to youths in juvenile court if the youth were an adult charged with the same offense

Juvenile dependency

- Statutory rights afforded to children and parents in dependency (foster care) proceedings per ORS Chapter 419B

How folks qualify for public defense services

Eligibility standard requires a two-pronged means test:

Step 1:

- Eligibility for food stamps (\$34,060 in 2020)

Step 2:

- If income exceeds food stamp standards, eligible only if available income/assets deemed insufficient to hire an attorney, depending upon the seriousness of the pending case(s)

Why the Right to Counsel Matters

Access to justice for all:

Everyone in Oregon, regardless of income, race, ethnicity, status, or location, deserves equal access to justice. Effectuating the right to counsel is how folks with less means get access justice.

Oregon's public defense providers are key to:

- Keeping families together and housed
- Reducing justice system involvement
- Protecting employment, livelihoods, and futures
- Accessing health care and treatment opportunities

Agency Overview

Public Defense Services Commission

Statutory Mandate

The Public Defense Services Commission is an independent agency, within the judicial branch, responsible for establishing and maintaining 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.

ORS 151.216

Public Defense Services Commission

Mission

The Commission ensures that eligible individuals have **timely access to legal services**, consistent with Oregon and national standards of justice.

Vision

The Commission **envisions a system** that **ensures quality legal representation for every Oregonian** who enters the courtroom, **regardless of identity, income, or status.**

Commission Members

Chief Justice Martha L. Walters
Ex-Officio Permanent Member

Per Ramfjord, Chair
Partner, Stoel Rives LLC

Hon. Elizabeth Welch, Vice-Chair
Senior Judge

Paul Solomon
Executive Director, Sponsors, Inc.

Kristen Bell
University of Oregon

Mark Hardin
Attorney at Law

Lisa Ludwig
Ludwig Runstein LLC

Thomas M. Christ
Sussman Shank LLC

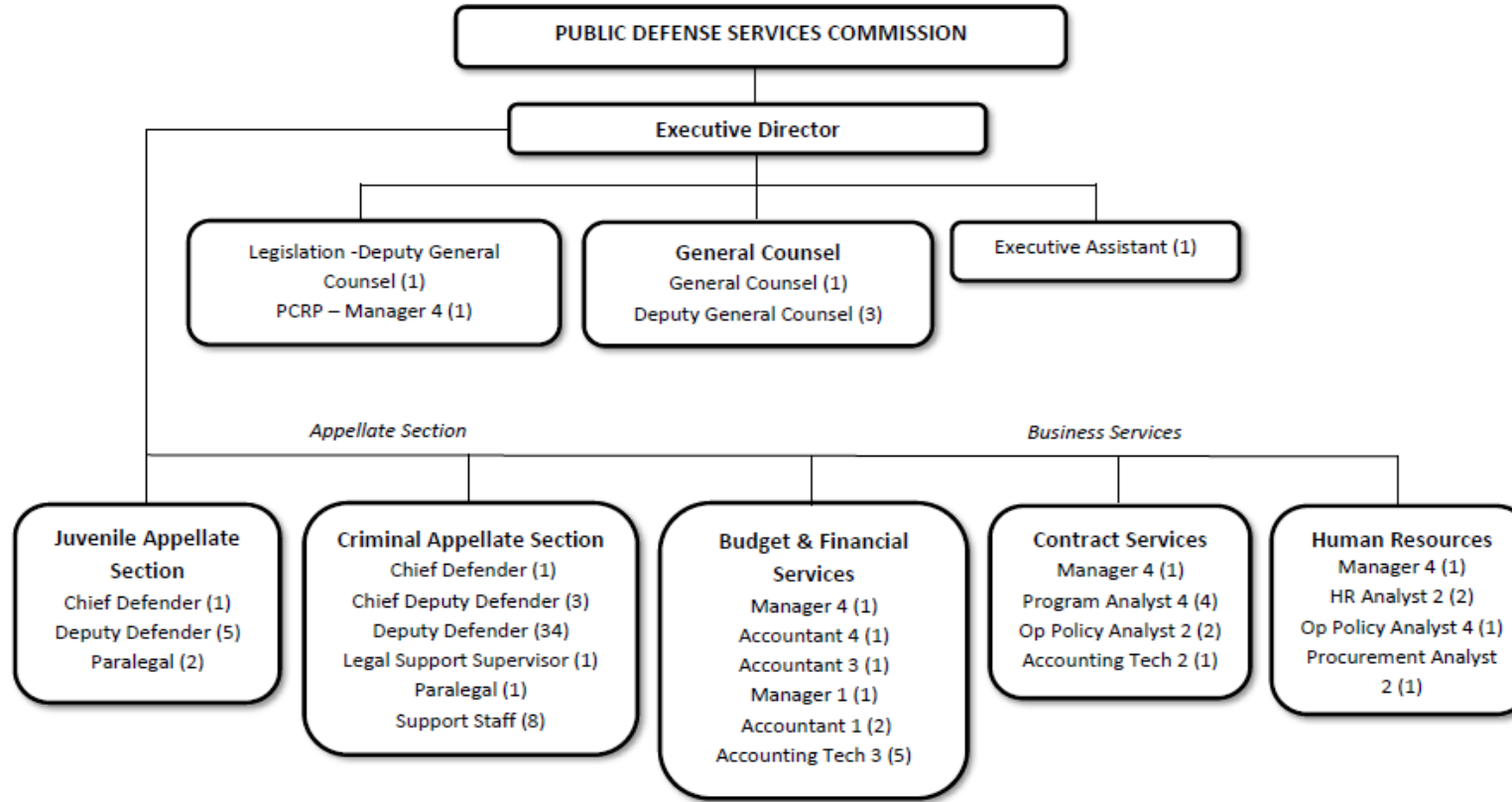
Public Defense Services Commission (PDSC) & the Office of Public Defense Services (OPDS)

Judicial Branch



Agency Organizational Chart

2021-23 ORGANIZATIONAL CHART



2021-23 Agency Requested Budget

*Agency-wide
SS positions
87.80 FTE
Each classification indicates one position, unless
otherwise noted in parentheses.*

Agency Divisions

Agency Divisions

Contract and Business Services: Agency Nuts and Bolts

Professional Services Account: Trial-Level Public Defense

Appellate Division: Appellate-Level Public Defense

Contracts and Business Services

- Executive director directs a 37-person staff
- General counsel team provides oversight and advice
- Contracts team administers 130 contracts
- Parent-Child Representation Program (PCRP) team manages specialized program in 10 counties
- Accounts payable team reviews requests for case-related expenses and processes about 85,000 financial transactions year
- Operations supports the agency in performing all necessary business and contract functions
- IT supports everyone

Trial-Level Public Defense Services

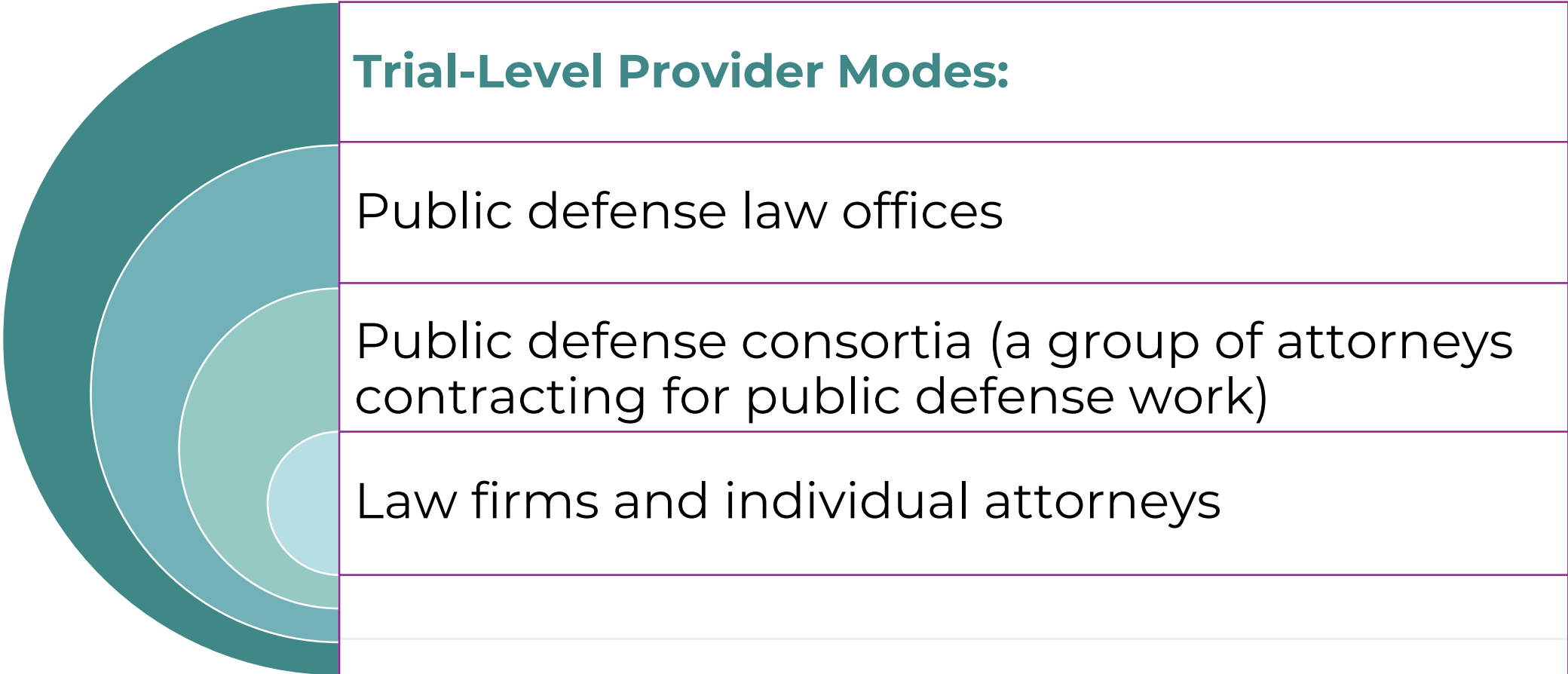
Professional Services Account funds

- Funds at least 534 public defense attorneys and 260 support staff
- Also funds critical professional specialists, such as interpreters, investigators, mitigators, and caseworkers

Public defense providers serve eligible Oregonians in each of the 27 circuit courts, covering all 36 counties.

Trial-Level Public Defense Services

Trial-Level: public defense work in Oregon is provided through contracts administered by OPDS with entities across the state



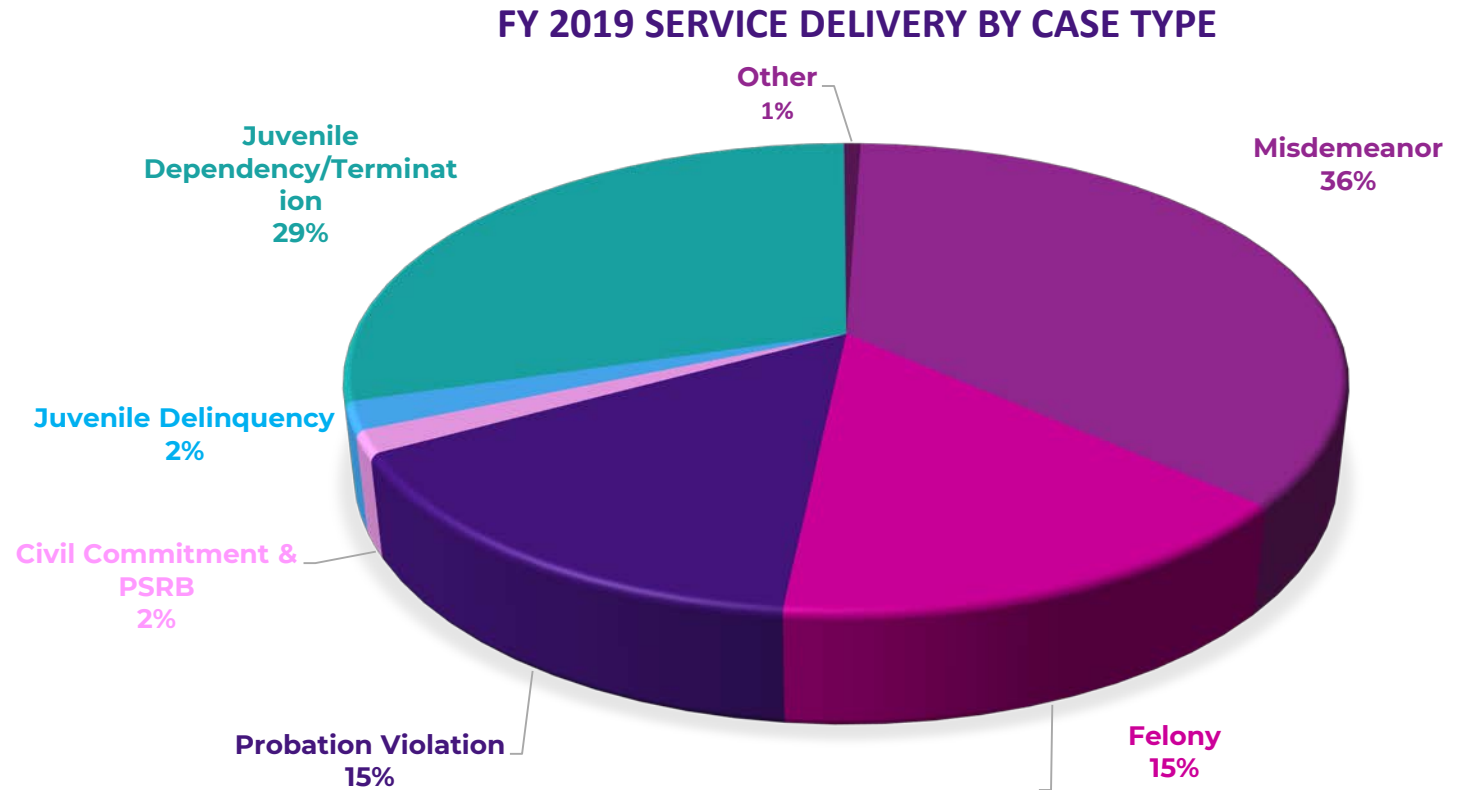
Trial-Level Public Defense Services

Trial-level providers cover proceedings, including:

- Criminal proceedings
- Probation violation and extradition proceedings
- Contempt proceedings
- Nonpayment of court-ordered child support
- Violations of Oregon’s Family Abuse Prevention Act
- Post-conviction relief and Habeas Corpus proceedings
- Juvenile delinquency proceedings
- Juvenile dependency and Termination of Parental Rights
- Civil commitment proceedings and Psychiatric Security Review Board proceedings

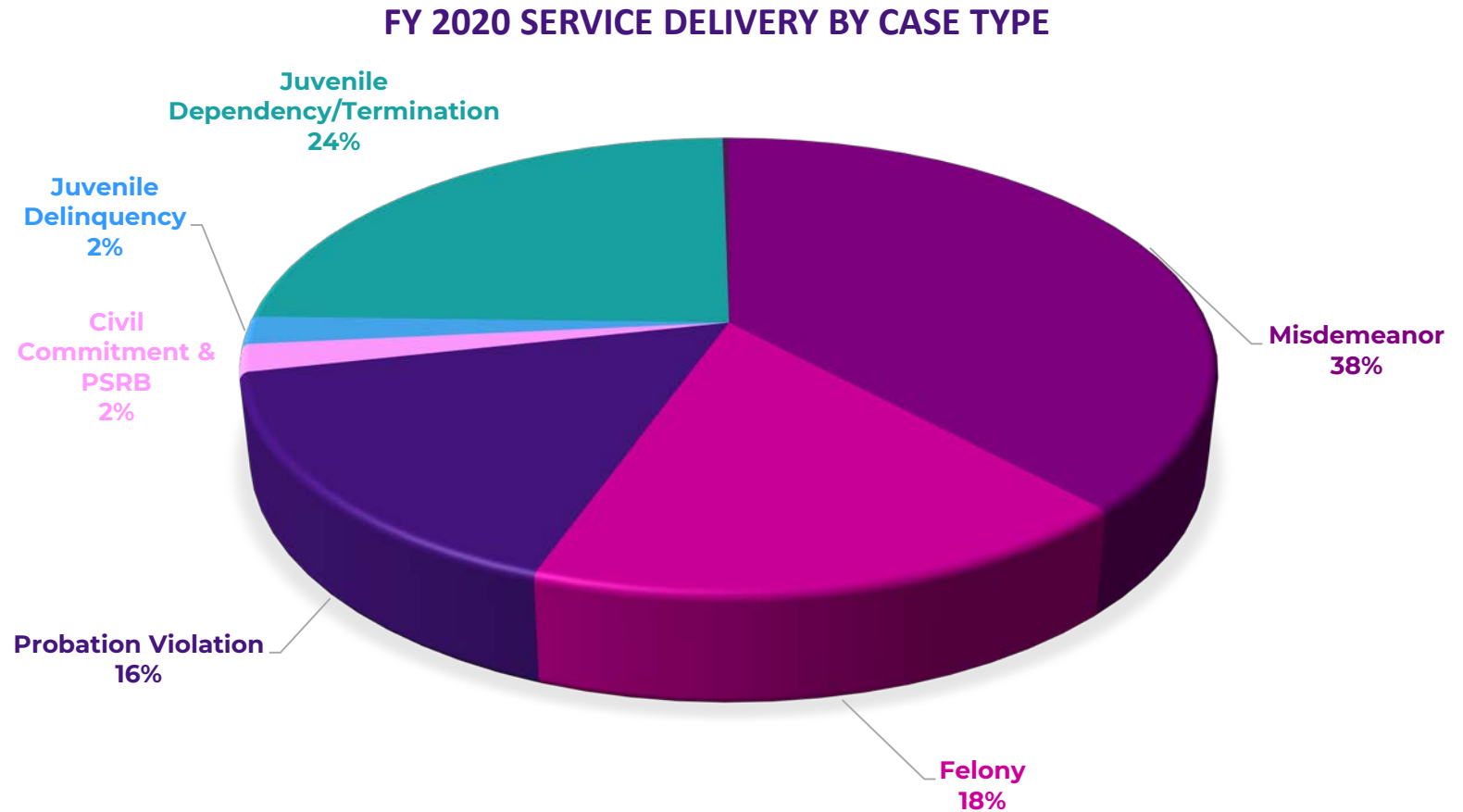
Counsel Provided by Proceeding Type (FY 2019)

Proceeding Type	Representation Percentage
Criminal proceedings – misdemeanors	36%
Criminal proceedings – felonies	15%
Juvenile dependency cases (foster care)	29%
Probation violations & extraditions	15%
Juvenile delinquency & probation violations	2%
Civil commitment, PSRB	2%
Other (contempt, habeas)	1%



Counsel Provided by Proceeding Type (FY 2020)

Proceeding Type	Representation Percentage
Criminal proceedings – misdemeanors	38%
Criminal proceedings – felonies	18%
Juvenile dependency cases (foster care)	24%
Probation violations & extraditions	16%
Juvenile delinquency & probation violations	2%
Civil commitment, PSRB	2%



Parent Child Representation Program

- Interdisciplinary representation services for financially eligible children and families in delinquency and dependency proceedings
- Operating in **Benton, Clatsop, Columbia, Coos, Douglas, Lincoln, Linn, Multnomah, Polk**, and **Yamhill** counties
- Case managers to support clients
- Evidence-based and designed for better outcomes for all parties

Reduced foster care placements

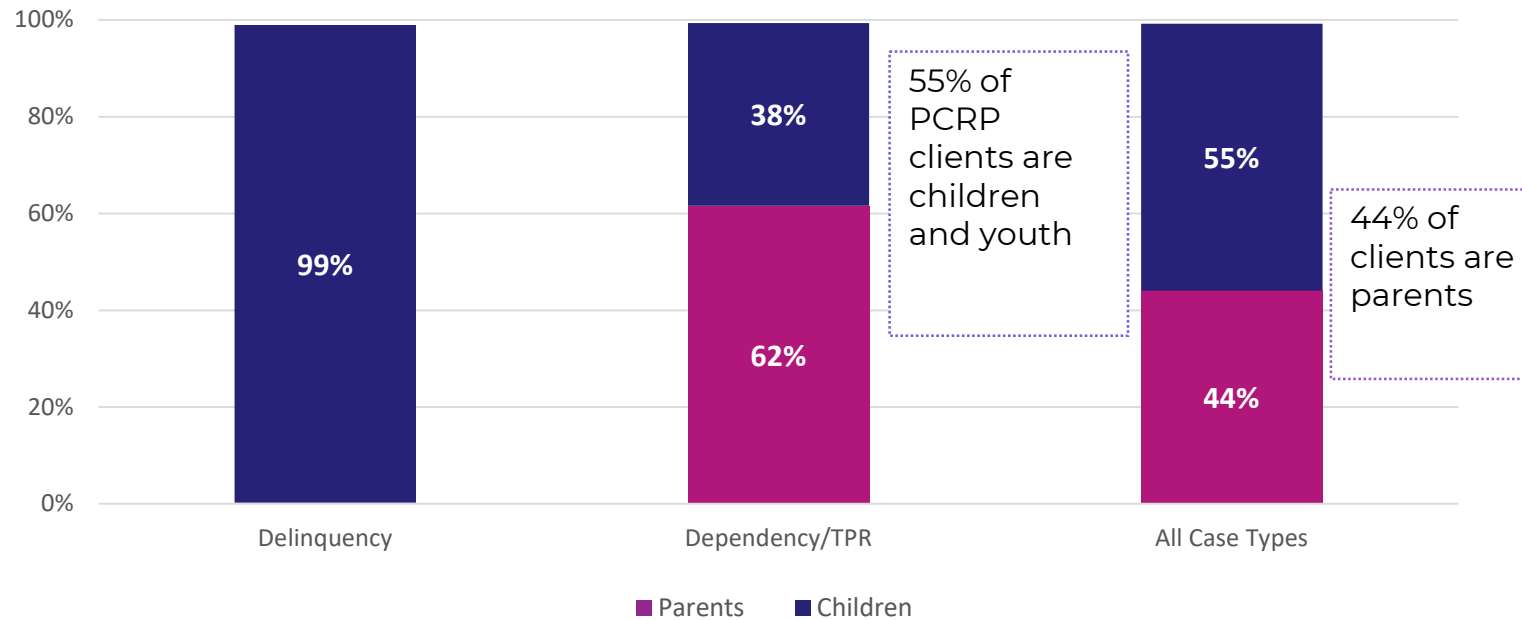
Preservation of families whenever possible

Expedited permanency

Stronger representation quality

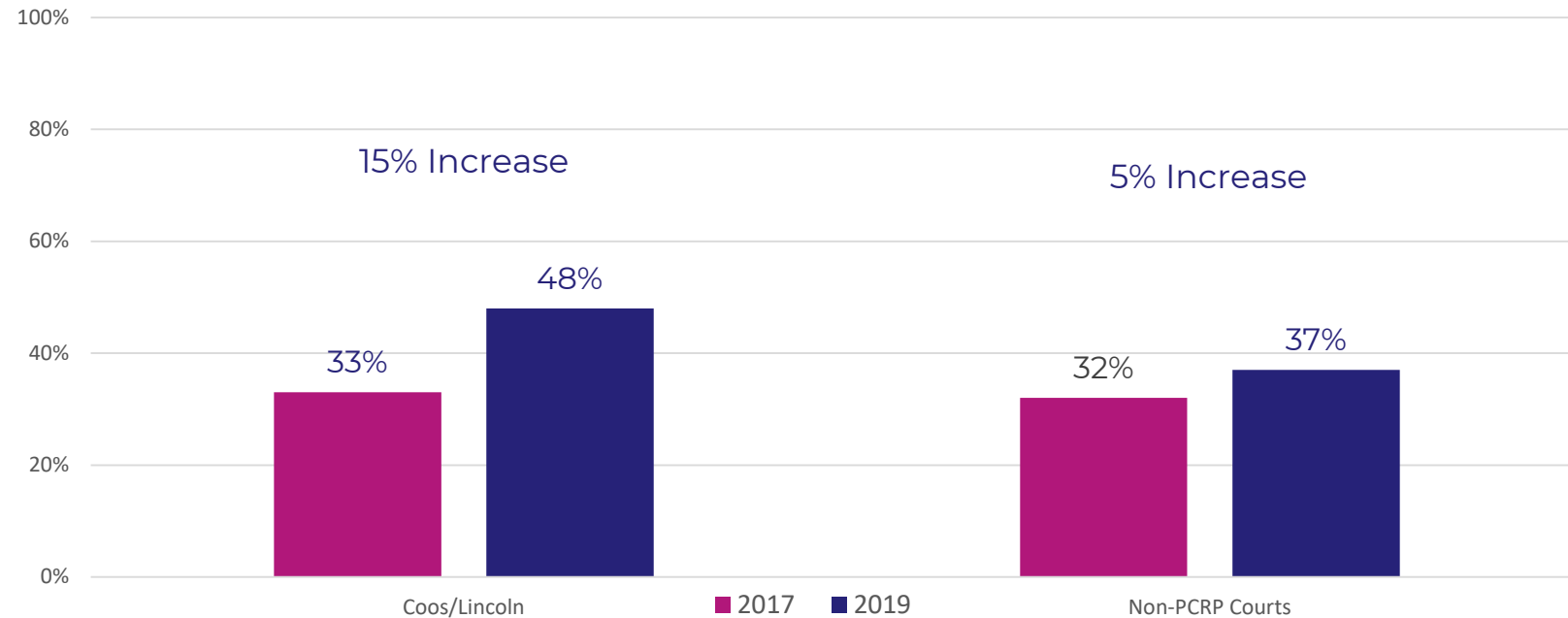
Parent Child Representation Program

2019 & 2020 PCRP Program:
Clients Served by Case Type



Parent Child Representation Program

Dependency Cases Closed within 365 Days:
PCRCP and Non-PCRCP Counties



Takeaway: PCRCP counties saw case resolution increase 3x that of non-PCRCP counties

Appellate Division

- Provides statutorily and constitutionally mandated appellate representation to financially eligible individuals
- Attorneys appear regularly in the Oregon Court of Appeals and the Oregon Supreme Court
- Appellate Division team continues to represent a client before the United States Supreme Court when that court reviews the client's state-court appeal

Appellate Division

Criminal Appellate Section

- Provides appellate representation to criminal defendants in misdemeanor and felony appeals (including capital cases), contempt cases, DNA-related appeals, appeals by crime victims, mandamus actions, and appeals of decisions by the Board of Parole and Post-Prison Supervision

Juvenile Appellate Section

- Provides appellate representation to parents in juvenile dependency cases (including jurisdiction and permanency decisions) and termination of parental rights cases

2019	Cases Referred	Cases Argued
Criminal Appellate Section	1,860	213
Juvenile Appellate Section	330	31
AD Yearly Total	2,190	244
2020	Cases Referred	Cases Argued
Criminal Appellate Section	976	162
Juvenile Appellate Section	290	30
AD Yearly Total	1,266	192

Current Issues

COVID Impacts on Public Defense Services

Trial-level public defense providers

- Local justice system protocols vary
- 70 percent of providers surveyed must have in-person contact with a client, justice system personnel, or both, on a weekly basis
- Case backlog has increased time to case disposition dramatically

Appellate-level public defense providers

- Continued operation during pandemic by way of remote work, socially distanced work when appropriate, and video court appearances
- Filed more than 725 merit briefs in Oregon's appellate courts
- Argued dozens of cases before the Oregon Court of Appeals and 20 cases before the Oregon Supreme Court since the pandemic began

Public Defense System Challenges

Low Pay

- Trial-level providers receive comparatively low compensation, particularly in light of high student loan debt for many

High Caseloads

- Oregon providers carry comparatively high caseloads

Retention

- High turnover due to high caseloads and lower pay rates

Better pay → better provider retention and less turnover

Lower caseloads → stronger client relationships and representation

Stronger client relationships and representation → trust in the system, fair outcomes, less incarceration of our communities

Agency Progress, and What's Next

Agency Progress

2019: Sixth Amendment Center report recommendations

- Legislature funded 2019 analysis concluding Oregon’s long-standing public defense case-credit contracting approach was legally inadequate

2020: PDSC adopted new caseload model and standards

- PDSC moved provider work closer to an appropriate caseload by revising contracting model towards caseload per attorney-provider approach
- Parent-Child Representation Program expanded to Douglas, Benton, Polk, and Clatsop counties
- Commensurate pay for appellate defenders reached
- Increased statewide attorney coverage by 30 providers
- Standardized and increased contract oversight internally
- New contracting model fully underway in 2021

What's Next in Oregon Public Defense

- Continued pursuit of fair pay and reasonable caseloads for public defense provider community
- Data improvements to assess racial and ethnic representation across Oregon's providers and to client demographic data collection
- Pursuit of interdisciplinary and client-centered public defense services for all Oregonians
- Creation of comprehensive training modules for new public defense attorneys

Onward! Questions?