

Public Defense Services Commission

**Budget
Presentation to
the Joint
Committee on
Ways and Means
Public Safety
Subcommittee**

May 5, 2021

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Presentation Introduction

Chief Justice Martha Walters
Oregon Supreme Court

Chair Per Ramfjord
Public Defense Services
Commission

Public Defense Services Commission (PDSC)

Presentation Contents:

- Statutory Mandate and Mission
- Agency Overview
- Current Developments
- Service Areas and KPMs
- Challenges
- Agency Response and Budgeting Issues
- Appendices



Polk County Courthouse

Statutory Mandate and Mission

Statutory Mandate

The Commission shall:

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.

ORS 151.216(1)

Mission & Vision

Mission: The Public Defense Services Commission ensures that eligible individuals have timely access to legal services, consistent with Oregon and national standards of justice.

Vision: The Public Defense Services Commission will maintain a sustainable statewide public defense system that provides quality representation to eligible clients in trial and appellate court proceedings.

Agency Overview

Public Defense Services Commission

Judicial Branch



PDSC

Autonomous seven-member public service commission that directs agency business, such as approving contracts with public defense providers



Office of Public Defense Services

State office that carries out day-to-day operational business of PDSC

Public Defense Services Commission

Housed in the Judicial branch but governed by seven-member commission

- Except for the appointment or removal of commission members, the agency and its employees are not subject to the exercise of administrative authority or supervision by the Judicial Department. ORS 151.123(1).

Commission members are appointed the Chief Justice

- By statute, the commission must include at least one attorney who is engaged in criminal defense representation, one former prosecutor and two non-attorneys.
- Criminal defense lawyers who are funded primarily through the agency not serve on the commission.
- Chief Justice is an ex officio permanent member.
- Members serve four-years terms and may be reappointed.
- The chair and vicechair serve two-year terms and may be reappointed. ORS 151.123(2).

Commission Members

Chief Justice Martha L. Walters

Ex-Officio Permanent Member

Steven Wax

Oregon Innocence Project

Per Ramfjord, Chair

Partner, Stoel Rives LLC

Mark Hardin

Attorney at Law

Hon. Elizabeth Welch, Vice-Chair

Senior Judge

Lisa Ludwig

Ludwig Runstein LLC

Paul Solomon

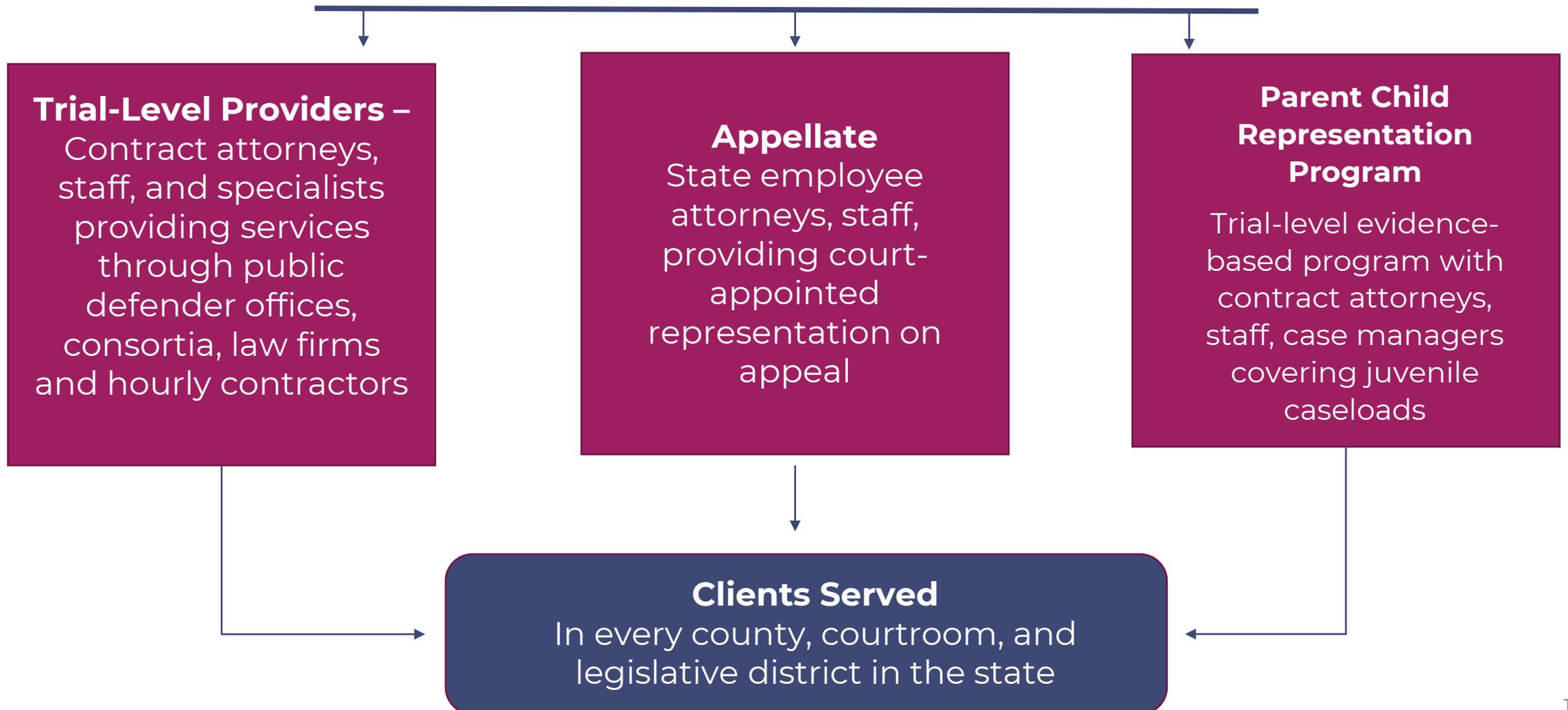
Executive Director, Sponsors, Inc.

Thomas M. Christ

Sussman Shank LLC

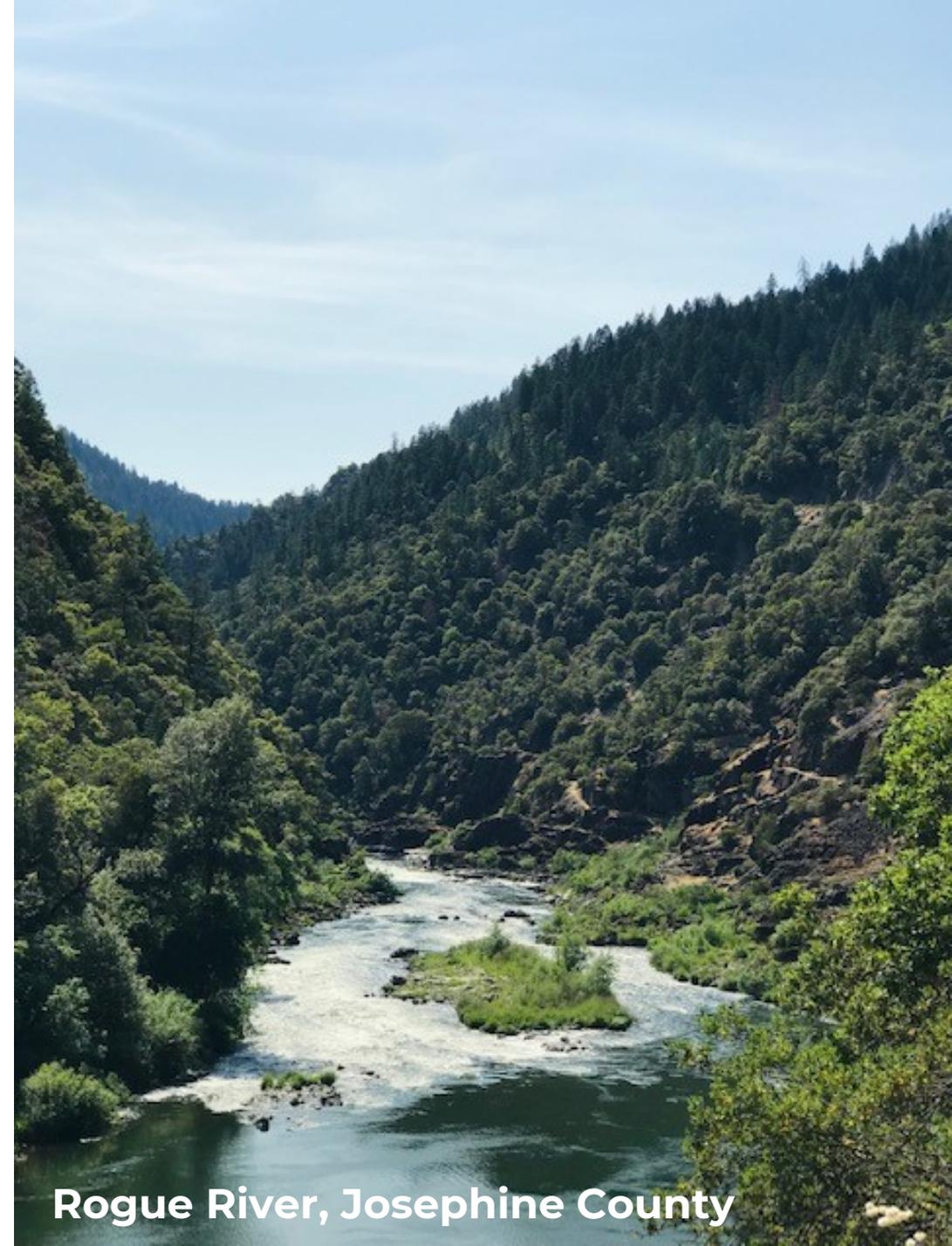
Structure of Public Defense in Oregon

PDSC



Types of Proceedings Funded by PDSC

- Adult criminal misdemeanors and felony charges, and felony sentencing enhancement proceedings
- Probation violations
- Extraditions
- Post-conviction relief (adult criminal)
- Probation violations
- Criminal appeals
- Contempt, violations of court orders (FAPA, child support)
- Juvenile delinquency
- Juvenile delinquency appeals
- Juvenile dependency
- Juvenile dependency appeals
- Post-conviction relief (juvenile delinquency)
- Civil Commitment hearings and appeals, and Psychiatric Security Review Board



Rogue River, Josephine County

Defense Costs Funded by PDSC

In addition to costs for PDSC staff, appellate lawyers and contract providers, includes hard to predict costs for:

- Specialists and experts
 - Interpreters, investigators, mitigators, case managers, subject-matter experts
- Psychological exams
- Polygraphs
- Discovery
- Transcription costs
- Travel expenses for attorneys and experts

What each case requires depends on the unique circumstances, court decisions, and the client's wishes and needs

How Individuals Qualify for Representation

- Eligibility is determined by courts
- 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, court may appoint counsel:
 - If the applicant's available income and assets insufficient to hire attorney without creating substantial hardship in providing basic economic necessities for person or person's dependent family

\$33,480 / year:
the gross income
eligibility level for a
family of four to have
family member qualify
for public defense

Application Contribution Program (ACP)

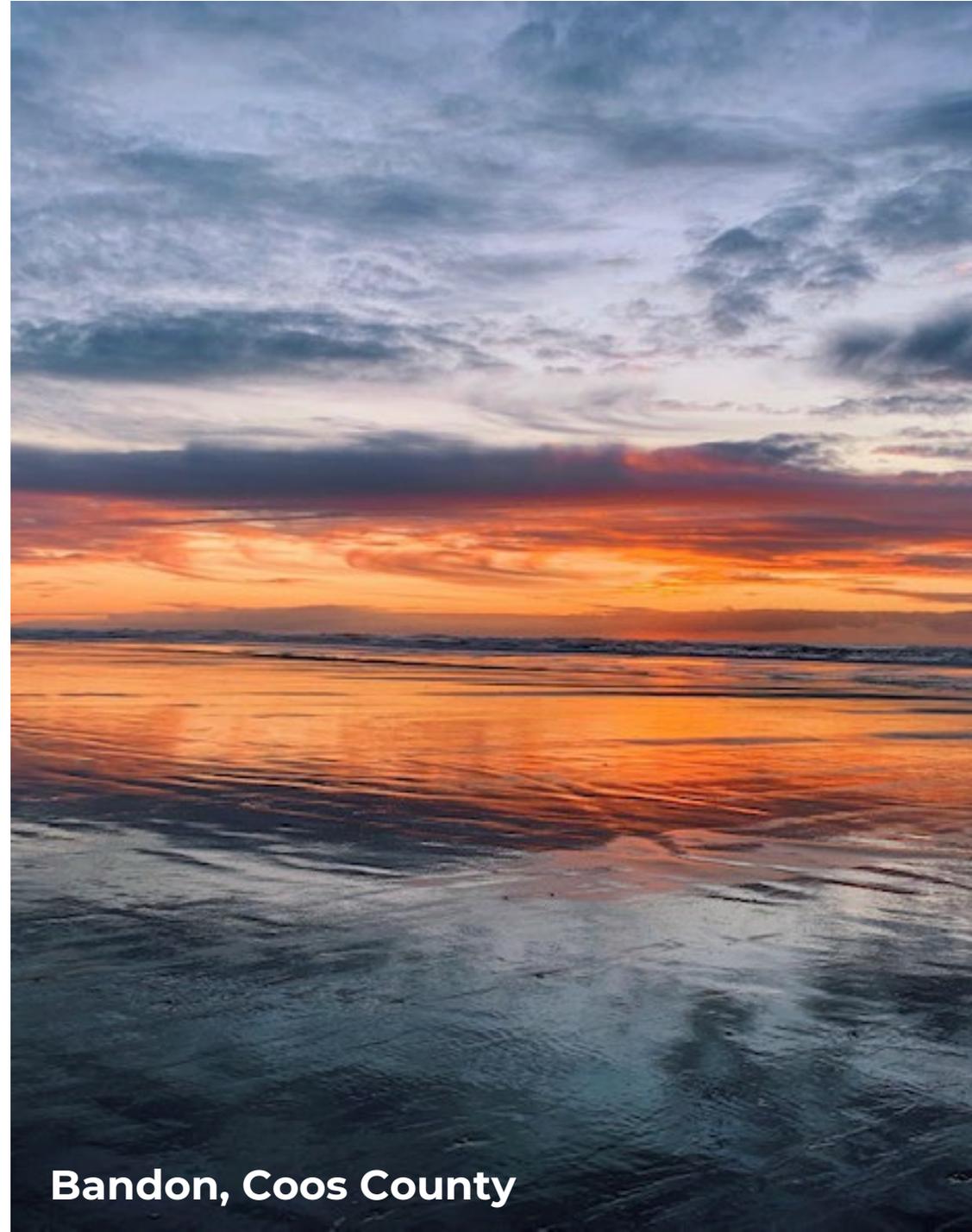
Some defendants are asked to contribute to their representation

- At the time counsel is requested, the court may impose
 - \$20 application fee, or
 - Contribution amount that the court finds the person is able to pay without creating substantial hardship.
- ACP normally generates approximately \$3.5 million per biennium.
- Funds are used for 23 OJD application verification staff and 3 PDSC accounting staff.

Importance of Public Defense

Public defense providers are critical to helping some of Oregon's most vulnerable people navigate during a high-risk time

- Strong public defense:
 - Keeps families together,
 - Prevents the loss of hard-to-find housing everywhere in the state
 - Protects jobs,
 - Finds avenues to life-saving mental health and substance use treatment,
 - Provides pathways out of the justice system for good; and
 - Serves as a foundational check against the power of the state versus its citizens.



Bandon, Coos County

Current Developments

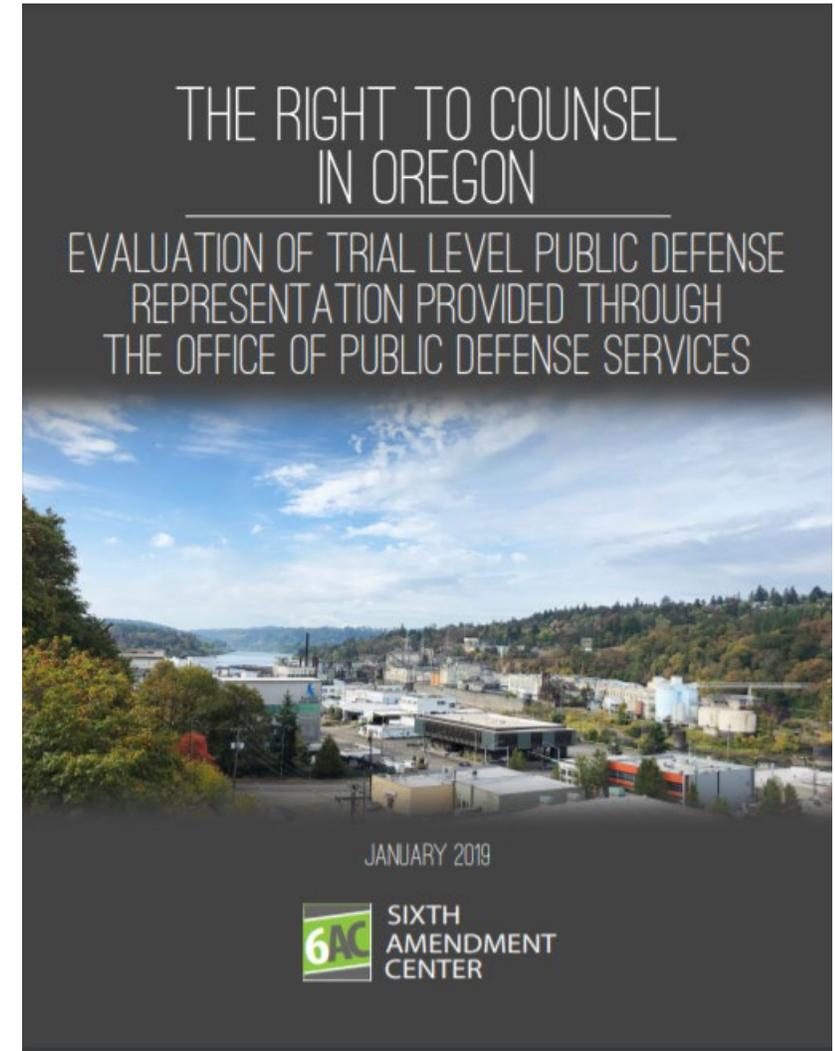
Sixth Amendment Center Report—New Contract Model

Legislatively funded 2019 analysis concluded:

- Oregon's long-standing fixed-fee case-credit contracting model for non-PCRCP trial-level services incentivized providers to handle too many cases too quickly, calling into question the constitutionality of Oregon's public defense system.
- Outdated agency bureaucracy also prevented any meaningful oversight or control of contract providers.

Report recommended:

- Abolish contract model that incentives constitutionally inadequate representation.
- Ensure that providers are compensated for overhead in a manner that allows for proper staffing.
- Add resources and gather information to allow for proper oversight of trial level providers.



Agency Response to Sixth Amendment Center Report

Abolished fixed-fee case-credit contract model in 2020:

Implemented new contract model paying contractors based on a standard caseload, featuring:

- *New urban and non-urban compensation rates*
- *Overhead cost standards and minimum staff-to-attorney ratios*
- *Oregon's first caseload standard, based on national standard*

Complex change due to lack of data on number of cases being handled by individual providers

Next steps:

- *Working to refine caseload standards based on an actuarial, Oregon-based ABA study forthcoming*
- *Working on improvements to contract language and standard terms*
- *Improving data collection and outcome evaluations*
- *Launching robust stakeholder engagement process on public defense modernization*

Details of New Contract Model

New Contracting Model

Factors:

- Urban Rate - \$205,000 - \$211,150
- Non-Urban rate - \$190,000 - \$195,700
- *Rates include attorney salary, staff, and overhead costs*
- Staffing at minimum of 1 to 0.5 attorney to staff ratio
- Investigators standard set at \$75,000 for 1 FTE
- New model does not reduce or eliminate charges for other defense costs, such as case-related or court-mandated expenses

New Caseload Standards:

- Caseloads set at 115% of the national standard, when available

Appointed Cases	Case Type Category
4	Murder
150	Felony
400	Misdemeanors
400	Probation Violations
200	Mental Health Cases
200	Juvenile Delinquency
60	Dependency and Termination of Parental Rights
25	Appeals

Other Developments – Proposed Legislation Affecting PDSC

House Bill (HB) 2003:

- HB 2003 makes modifications to the Public Defense Services Commission’s statutory mandate
- Adds person with lived experience receiving public defense services to the Commission’s required membership
- Establishes requirements for setting caseloads at national and regional best practices
- Codifies requirements that caseloads are reasonable so that providers may spend adequate time getting to know each client and their needs
- Codifies requirements for a more equitable and transparent provider compensation structure
- Requires agency to report to Legislature on progress implementing changes described in bill

81st OREGON LEGISLATIVE ASSEMBLY—2021 Regular Session

House Bill 2003

Sponsored by Representative POWER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Expands membership of Public Defense Services Commission from seven to nine members. Modifies qualifications of members.

Modifies duties of commission. Directs commission to adopt specified policies, including policies concerning compensation, caseloads and oversight. Directs commission to report on implementation of changes to committees of Legislative Assembly related to judiciary on or before February 1, 2022. Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Public Defense Services Commission; creating new provisions; amending ORS 1.009,
3 151.213, 151.216 and 151.225; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 151.213 is amended to read:

6 151.213. (1) The Public Defense Services Commission is established in the judicial branch of state
7 government. Except for the appointment or removal of commission members, the commission and
8 employees of the commission are not subject to the exercise of administrative authority and super-
9 vision by the Chief Justice of the Supreme Court as the administrative head of the Judicial De-
10 partment.

11 (2) The commission consists of [seven] **nine** members appointed by order of the Chief Justice. In
12 addition to the [seven] **nine** appointed members, the Chief Justice serves as a nonvoting, ex officio
13 member. The Chief Justice shall appoint at least [two] **three** persons who are not bar members, at
14 least one person who [is a bar member and who is engaged in criminal defense representation and at
15 least one person who is a former Oregon state prosecutor] **was formerly engaged in the provision**
16 **of public defense services and at least one person who has been formerly represented by a**
17 **public defense provider in this state. All members must have a demonstrated record of**
18 **commitment to public defense.** Except for the Chief Justice or a senior judge under ORS 1.300,
19 a member may not serve concurrently as a judge, a prosecuting attorney or an employee of a law
20 enforcement agency. A person who is primarily engaged in providing public defense services may
21 not serve as a member of the commission.

22 (3) The term of a member is four years beginning on the effective date of the order of the Chief
23 Justice appointing the member. A member is eligible for reappointment if qualified for membership
24 at the time of reappointment. A member may be removed from the commission by order of the Chief
25 Justice. If a vacancy occurs for any cause before the expiration of the term of a member, the Chief
26 Justice shall make an appointment to become immediately effective for the unexpired term.

27 (4) A chairperson and a vice chairperson shall be appointed by order of the Chief Justice every
28 two years with such functions as the commission may determine. A member is eligible for reap-
29 pointment as chairperson or vice chairperson.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [italics and bracketed] is existing law to be omitted.
New sections are in **boldfaced** type.

LC 1617

Other Developments – Proposed Legislation Affecting PDSC Budget

- **HB 3112** (Cannabis Equity Act) - Requires OPDS to file motions for anyone eligible for conviction, charge, or arrest set-aside for any qualifying cannabis offense
- **HB 3366** (Family Treatment Courts) - Requires expansion of PCRCP to counties named in bill to support Family Treatment Court evidence-based practices
- **SB 817** – (Juvenile Fines & Fees) - Eliminates financial eligibility requirements for appointment of counsel in juvenile delinquency

Estimated Fiscal Impact per Next Two Biennia		
Bill	'21-23	'23-25
HB 3112	\$3,024,555	\$1,738,801
HB 3366	\$9,270,705	\$14,300,950
SB 817	\$2,782,603	\$3,109,303
Totals	\$15,077,863	\$19,149,054

Service Areas and Key Performance Measures

Trial-Level Services

Adult criminal, non-PCRCP juvenile, and PCRCP trial-level services provided through 102 contracts for attorney services with staffing and overhead.

- ***Four types of service providers:***
 - Public defender
 - Consortium
 - Law firm
 - Non-contract hourly
- ***Adult criminal and non-PCRCP juvenile providers selected through Requests for Proposals***
 - Two-year contracts
 - All trial-level public defense providers are contractors with the state
 - Urban: ~378 FTE; Non-Urban: ~80

Trial Level Services – Defense Providers

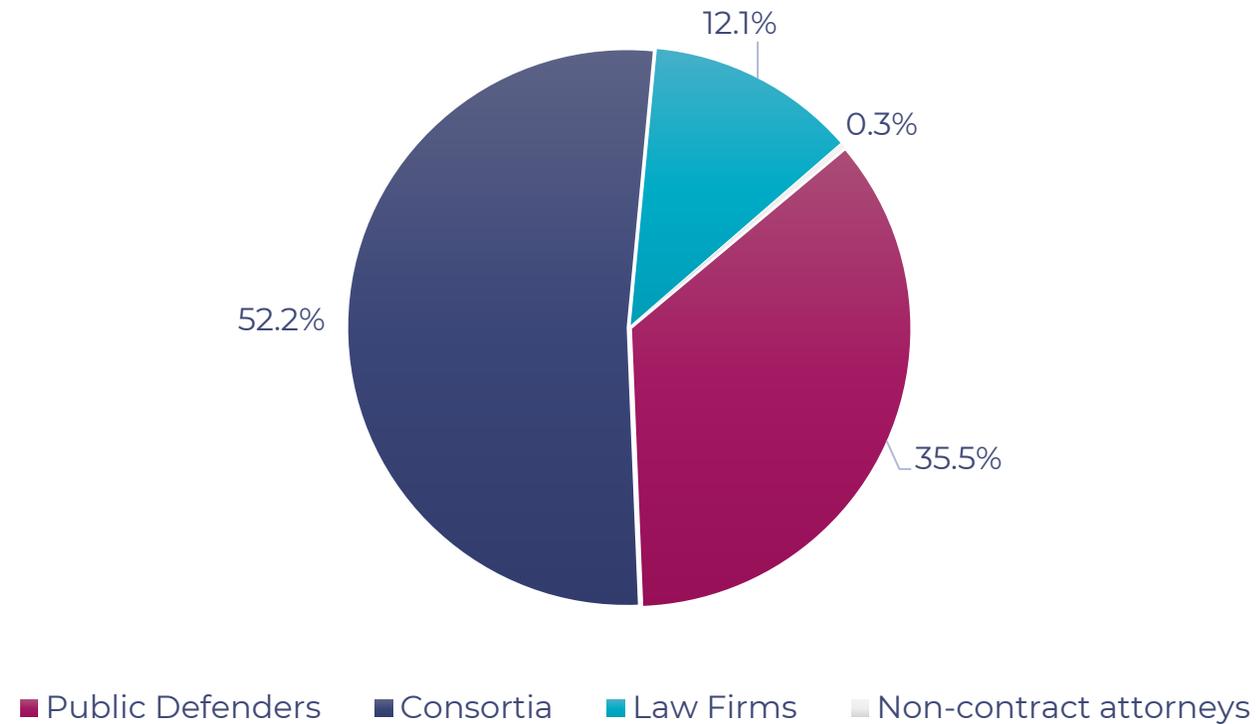
Providers include:

- Attorneys, as independent contractors
- Administrative staff working with attorneys
- Non-attorney experts, as independent contractors, depending on case needs:
 - Interpreters
 - Investigators
 - Mitigators
 - Case managers
 - Transcriptionists
 - Experts as required for various case types (forensics, etc.)

An attorney is just *one* member of who may be part of a legally sufficient representation team

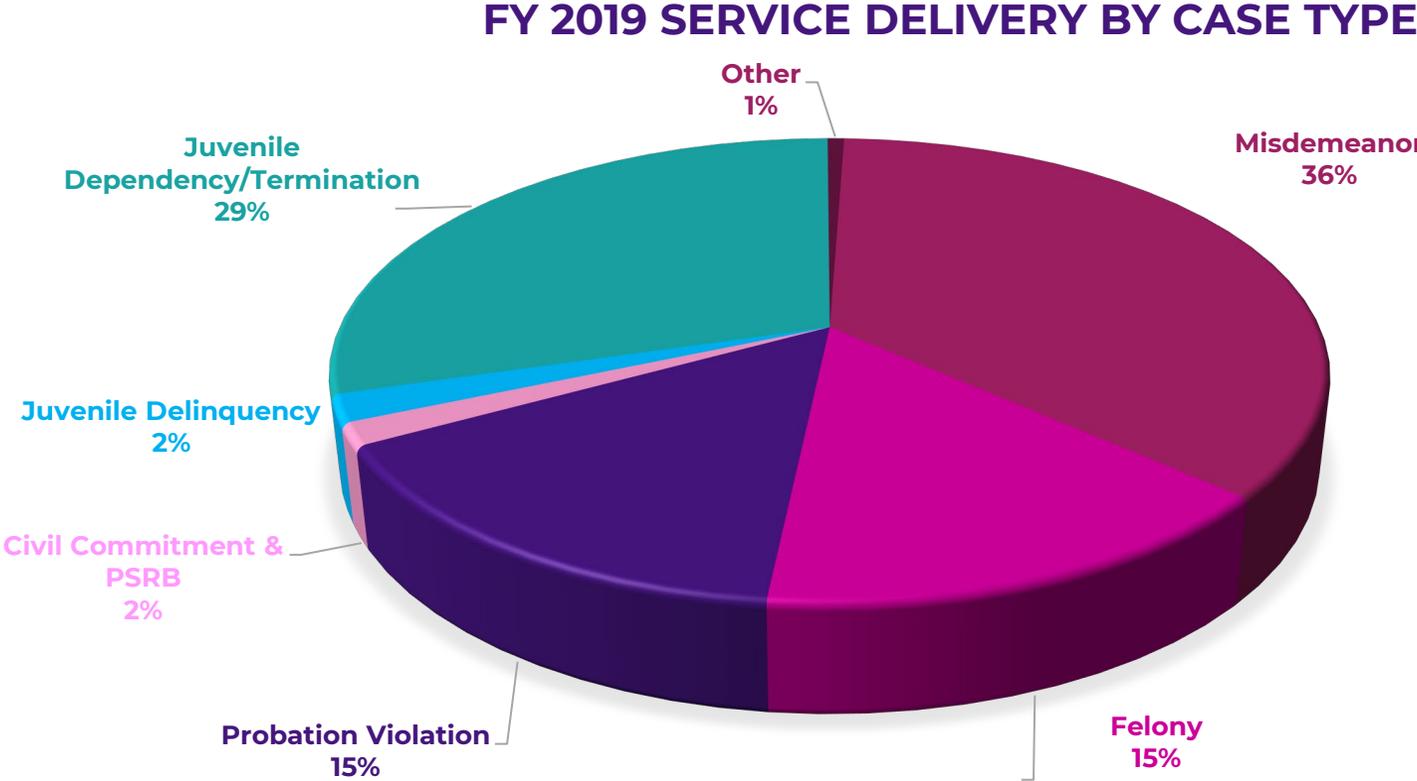
Trial-Level Cases by Attorney-Provider Type

Trial-Level Public Defense Cases by Attorney-Provider Type



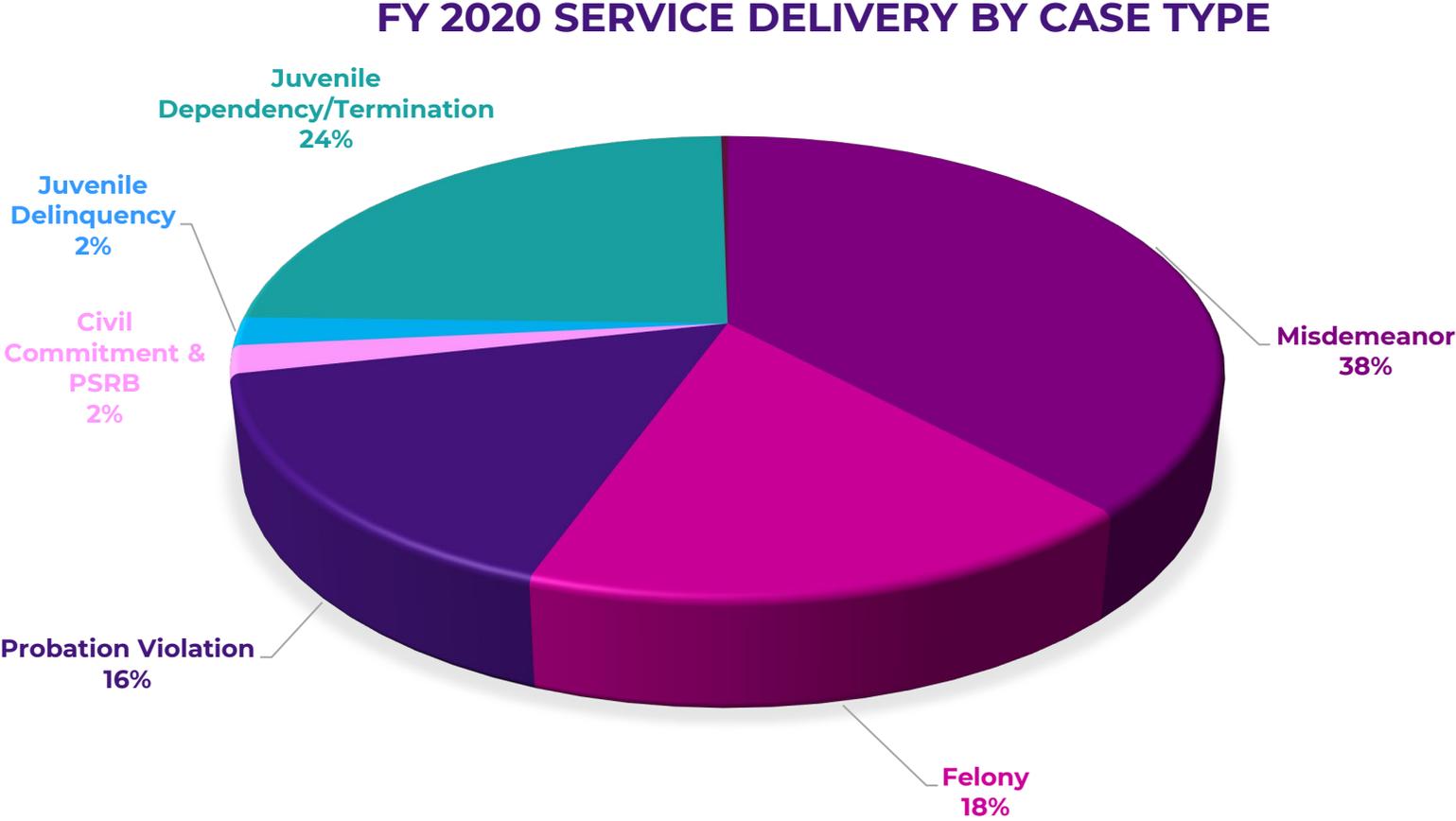
Trial-Level Services by Case Type (FY 2019)

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%



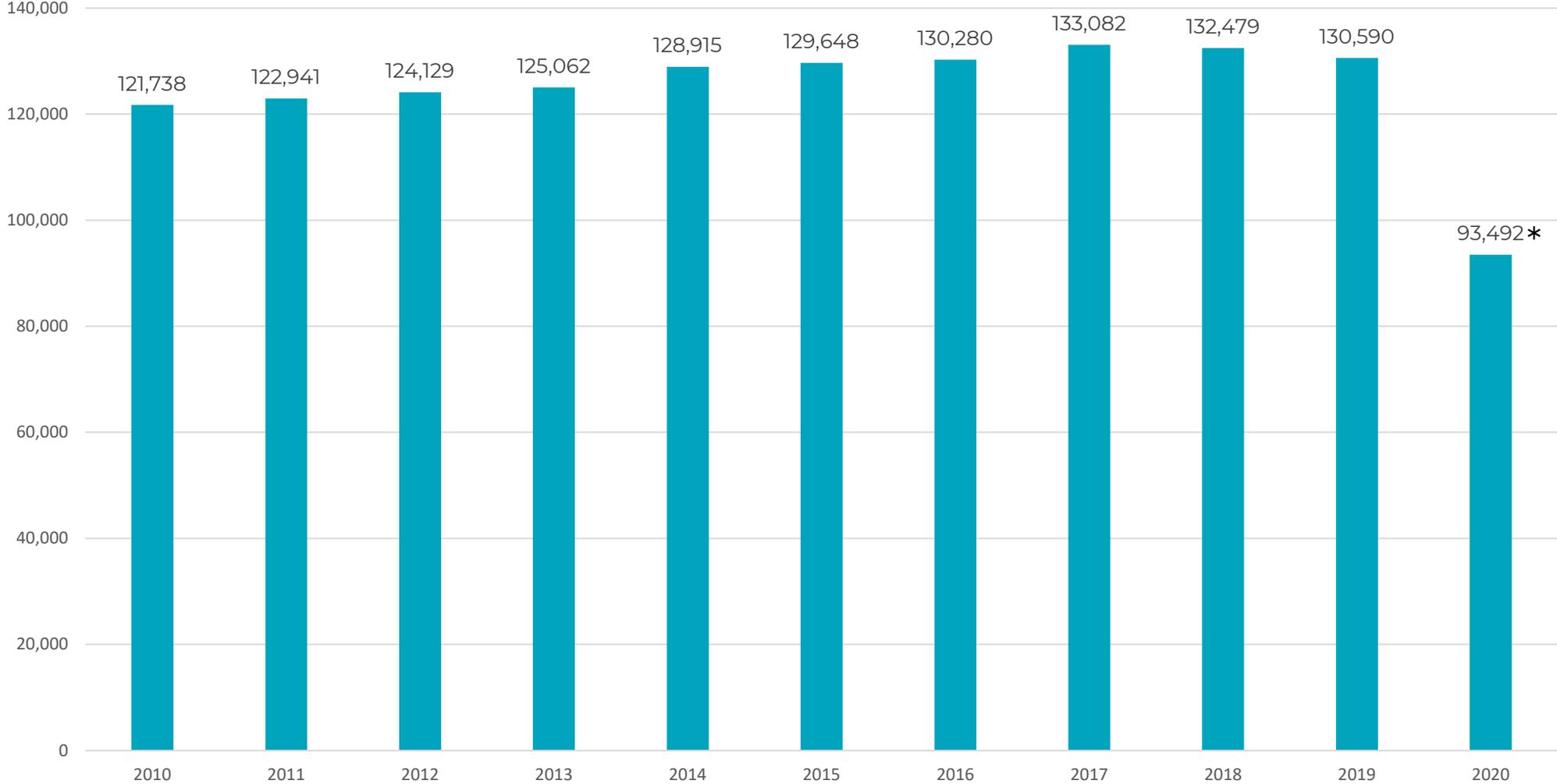
Trial-Level Services by Case Type (FY 2020)

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%



Trial-Level Cases – Historical Data

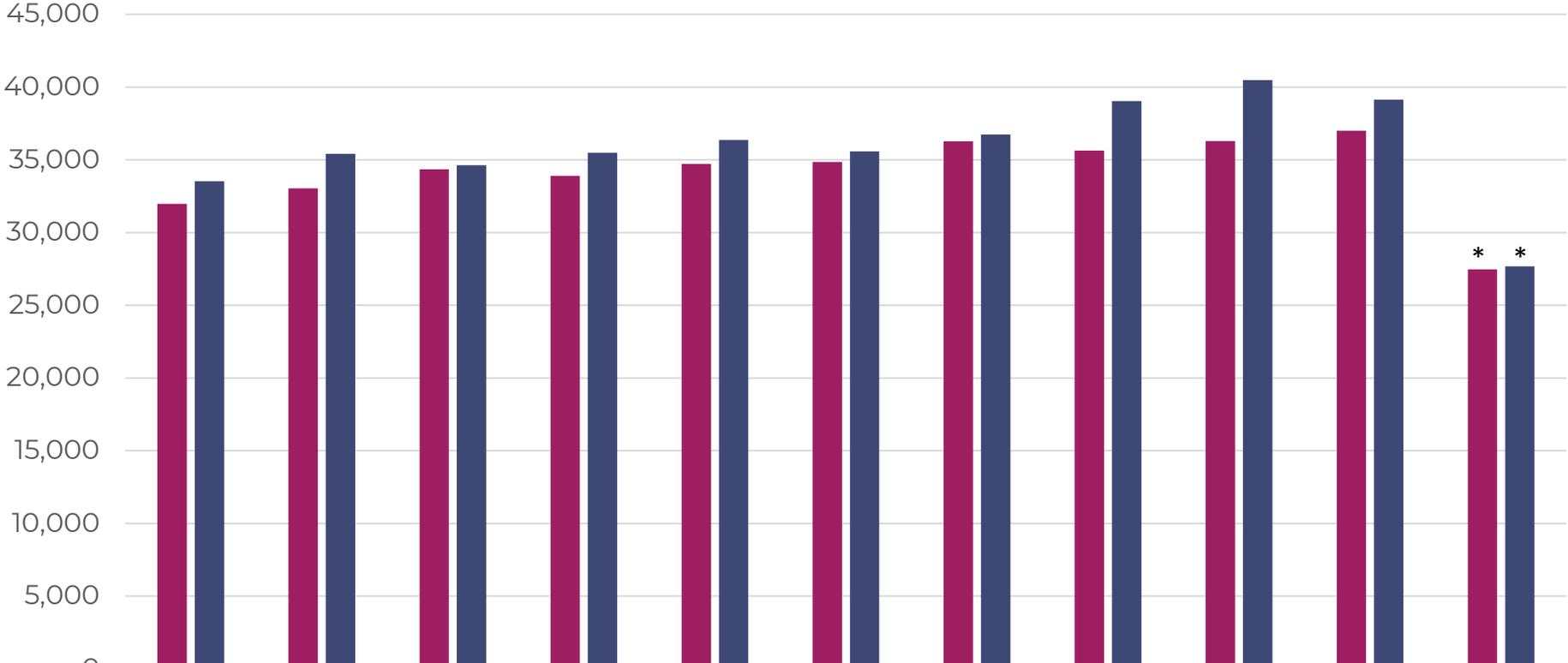
Total Appointed Counsel Cases Reported to OPDS 2010 - 2020



*2020 data artificially low due to COVID-19 case backlogs

Trial-Level Cases – Criminal Data

Felony and Misdemeanor Cases Report Per Year, 2010-2020



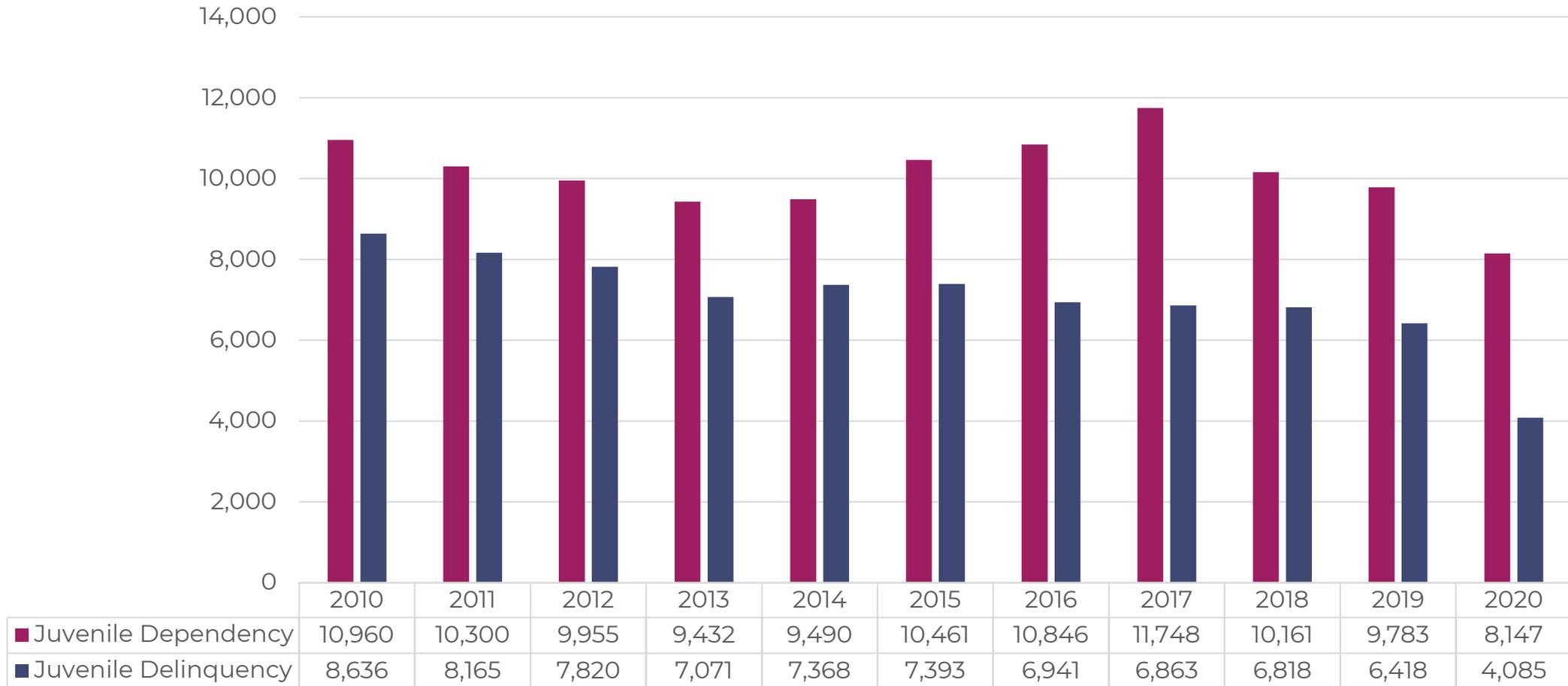
*2020 data
artificially low
due to COVID-19
case backlogs

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
■ Felony	31,974	33,052	34,344	33,913	34,735	34,867	36,277	35,646	36,305	37,001	27,467
■ Misdemeanor	33,538	35,424	34,627	35,489	36,376	35,589	36,754	39,046	40,487	39,137	27,689

■ Felony ■ Misdemeanor

Trial-Level Cases – Juvenile Data

Juvenile Cases Reported by Type, 2010-2020



■ Juvenile Dependency ■ Juvenile Delinquency

Juvenile Model of Representation – Parent Child Representation Program

- Specialized program of trial-level interdisciplinary representation for children and families in dependency and delinquency proceedings.
- In **Benton, Clatsop, Columbia, Coos, Douglas, Lincoln, Linn, Multnomah, Polk,** and **Yamhill** counties.
- Uses client engagement strategies to build trust Case managers support clients non-legal needs, identify barriers, and navigate systems.

Key Benefits of PCRP

Reduced foster care placements

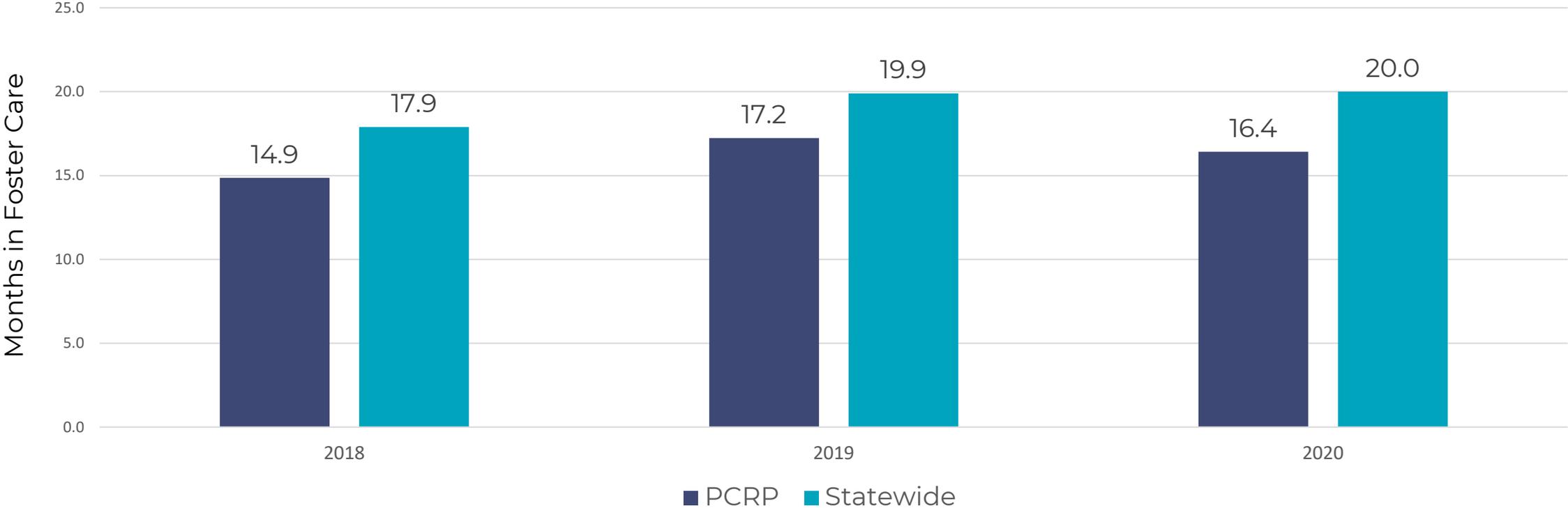
Preservation of families whenever possible

Expedited permanency

Stronger representation quality

PCRP Benefits: Reductions in the Foster Care Length of Stay

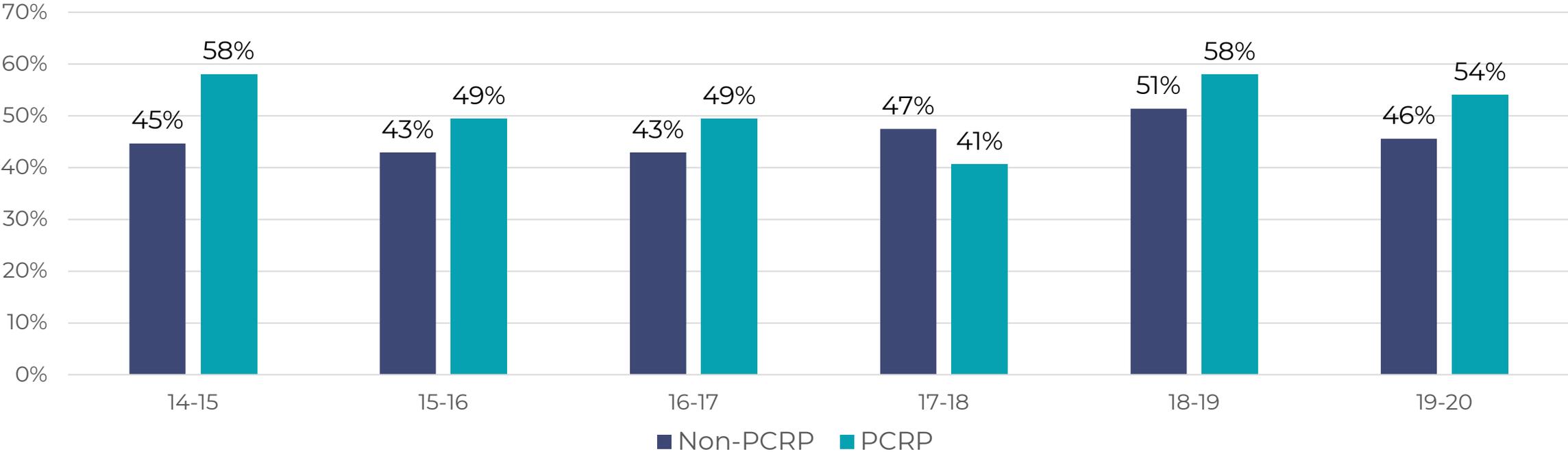
Median Length of Foster Care Stay by Child Exit Year:
PCRP Counties vs Statewide



Takeaway: Children in PCRP counties spent 3.5 fewer months in foster care than other foster children statewide.

PCRCP Benefits: Expediting Permanency for Families

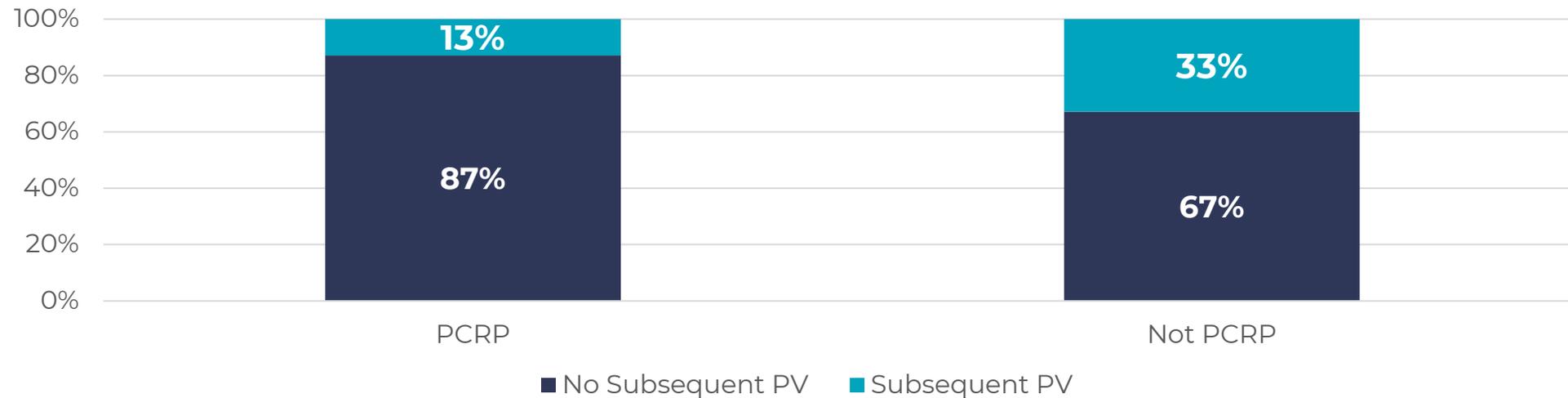
Percentage of Children Achieving Permanency in 12 Months by PCRCP and Non-PCRCP Counties:
October 2014 to September 2020



Takeaway: A child in a PCRCP county was 13% more likely to achieve permanency within 12 months of removal than a child in a non-PCRCP County.

PCRCP Benefits: Reducing Adolescent Contact with Juvenile Delinquency System

2017-2020 Disposed Juvenile Delinquency Cases by Subsequent Probation Violation:
PCRCP Counties and Non-PCRCP Counties
Includes Original Petitions Filed 2017-2020 Only

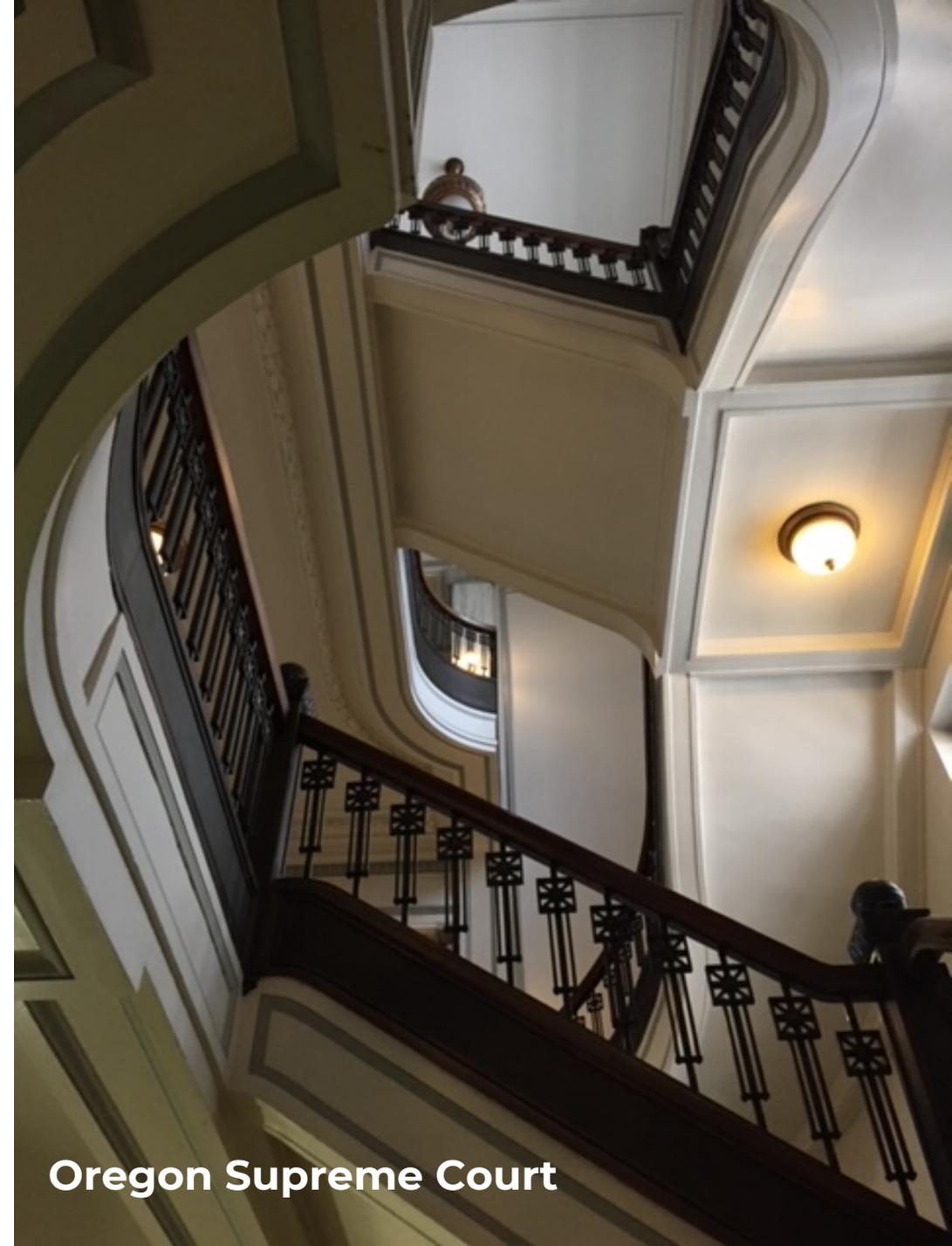


Takeaway: Adjudicated youth in PCRCP counties were 61% less likely to face a probation violation than like youth in non-PCRCP counties.

Appellate Services

PDSC Appellate Division

- Institutional counterpart to DOJ Appellate
- State employees, not contractors
- Represents individuals in a high-volume practice before Oregon Court of Appeals and Oregon Supreme Court 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



Oregon Supreme Court

PDSC Appellate Division – Criminal

Criminal Appellate Section

- Direct representation of criminal defendants in misdemeanor and felony appeals, contempt cases, appeals by crime victims, mandamus actions, and appeals of decisions by the Board of Parole and Post-Prison Supervision
- 38 attorneys
- 10 legal support staff

2019	Briefs Filed	Cases Argued
Criminal Appellate Section	855	213
2020	Briefs Filed	Cases Argued
Criminal Appellate Section	892	162

- *Briefs filed refers to the primary document filed in the Court of Appeals that contains the appellate attorney's legal arguments in the client's case.*
- *Cases argued means select cases for which appellate attorneys requested oral argument before a panel of judges for a subset of cases referred.*

PDSC Appellate Division – Juvenile

Juvenile Appellate Section

- Direct representation to parents in juvenile dependency cases, termination of parental rights cases, and limited delinquency appeals
- 6 attorneys
- 2 administrative staff

2019	Briefs Filed	Cases Argued
Juvenile Appellate Section	120	31
2020	Briefs Filed	Cases Argued
Juvenile Appellate Section	115	30

- *Briefs filed refers to the primary document filed in the Court of Appeals that contains the appellate attorney's legal arguments in the client's case.*
- *Cases argued means select cases for which appellate attorneys requested oral argument before a panel of judges for a subset of cases referred.*

Key Performance Measures

PDSC acknowledges that its Key Performance Measures are outdated and no longer conform with what the agency views as its key metrics for progress.

- PDSC seeks the opportunity to conduct a comprehensive review of the agency's Key Performance Measures, data, and targets, and report back to the Legislature with proposed changes

KPM	Description	2020 Data
Appellate Case Processing	Median number of days to file opening brief—target of 180	217
Customer Service	Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": timeliness, accuracy, availability of information, overall, helpfulness, and expertise—target of 95%.	Timeliness—78.99% Accuracy—88.76% Availability—70.97% Overall—77.89% Helpfulness—88.89% Expertise—85.71%
Best Practices for Commissions	Percentage of total best practices met by Commission—target 100%	100%
Trial-Level Representation	During the term of the OPDS contract, percent of attorneys who obtain at least 12 hours per year of continuing legal education credit in the area(s) of law in which they provide public defense representation—target 90%.	75%
Parent Child Representation Program	Percent of PCRPP 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—target 95%	54%

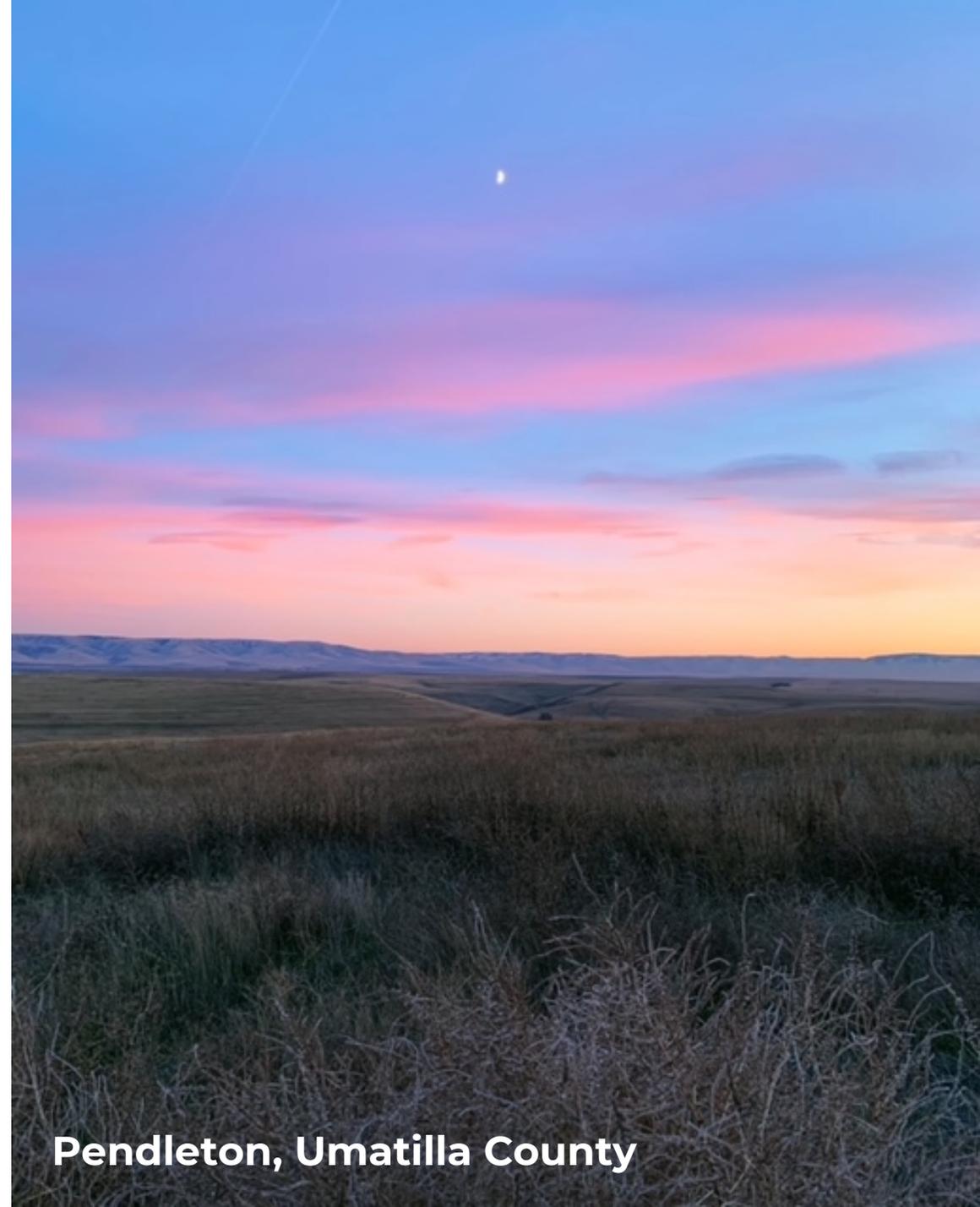
Challenges

Challenges

The PDSC is in a period of transition.

- Legal challenges
- COVID-19 challenges
- Structural challenges
- Financial challenges

These challenges are opportunities for modernizing a system that has long needed it.



Pendleton, Umatilla County

Legal Challenges

Ramos v. Louisiana – invalidating non-unanimous verdicts

- Prompted groundswell of cases on appeal remanded for new trials and petitions for post-conviction relief, both requiring appointed counsel
- Oregon Supreme Court to decide later this year whether *Ramos* will apply retroactively, potentially requiring the re-trial of previously-convicted defendants

Measure 110 – decriminalizing drug possession offenses

- While reducing possession cases in system the impacts are still unclear, making caseload projections tenuous

Juvenile Post-Conviction Relief (PCR):

- Recent Oregon Court of Appeals case clarifies existing statute providing juveniles are entitled to court-appointed counsel in PCR proceedings – new caseload projected to be manageable but will be monitored over time

Covid-19 Challenges

Case backlogs, and time to case resolution up substantially

- Case processing times up 41% over pre-pandemic
- Cases pending times up 45%; felony cases pending up 22%, misdemeanors up 20%

Habeas petitions (resolving allegedly wrongful incarceration)

- During COVID-19 → 545% increase in petitions
- Petitions per calendar year – 2020: 355 vs. 2019: 51; 2018: 59

Decline in ACP funding

- Fewer people are found able to contribute due to the pandemic

Structural Challenges

Statutory/governance review: agency statutes and governance structures need review

Organizational structure: agency's organizational structure is outdated and inadequate to manage the programs and activities of the agency

Managerial oversight of administrative functions: insufficient management, coordination and oversight of the agency's key administrative functions of procurement, human resources, budget, accounting, and information technology

Fiduciary oversight: need for greater fiduciary oversight of the expenditure of state funds

Financial management staffing: agency's current budget & accounting staffing insufficient

Internal auditing needs: agency is in critical need of an internal audit function

Procurement: nexus between procurement and budgeting needs to be tightened

Performance management and quality assurance: agency needs resources to track and analyze caseload data and other information and to provide contractor oversight

Information technology: current base-level services are outsourced, hardware is outdated, and critical need exists for a financial case management application

Financial Challenges

Key financial challenges include:

- ***Shifting contracting models*** from unconstitutional case-credit payment processing model to constitutionally sound, performance and accountability model to
- ***Adequate coordination and analysis*** between contracting and budget impacts
- ***Stabilization of funding*** for the new contract model
- ***Stabilization of PCRFP funding to sustain expansion counties,*** both with General Fund and federal Title IV(e) funding

Current Service Level Budget Issues

PDSC is facing CSL budget issues

- PDSC is in the process of working with the Legislative Fiscal Office to update the agency's 2021-23 current service level budget calculation.
- Ongoing caseload projections uncertainty related to *Ramos* decision and upcoming U.S. Supreme Court retroactivity decision.
- Federal Title IV(e) funding increase must be incorporated into the budget, could result in \$3 million in General Fund savings.
- PDSC is monitoring revenue projections for the Application Contribution Program for a potential short-term revenue shortfall due to the pandemic.

Agency Response and Budgeting Issues

Agency Response to Legal and COVID-19 Challenges

- Contracted with Lewis & Clark law school clinic to handle *Ramos* case assessments to promote efficient management of case review needs
- Contracted with provider to handle bulk of COVID-related habeas efficiently
- Appellate Division worked closely with Department of Justice and Oregon appellate courts during pandemic to identify lead cases and resolve outstanding issues as expeditiously as possible
- Providers using pre-appointment petitions in juvenile proceedings



Crook County Courthouse, Prineville

Agency Response to Structural Issues— Framework

Addressing PDSC's challenges will include:

- Reorganization of the agency's budget structure along lines of business
- Aligning procurement with the biennial budget process.
- Augmentation of operational staffing in key areas of the agency, including agency leadership and financial management
- Adding compliance, audit, quality assurance, and performance management functions to the agency
- Add an in-house information technology services
- Requesting continued funding for a financial and case management information technology application

Timeline For Addressing Structural Issues

Short-term (2021 Session)

- Identify all agency funding needs
- Reorganize of the agency's budget structure
- Align procurement with the biennial budget process.

Intermediate-term (2021-2023 and beyond)

- Host robust stakeholder engagement process on public defense modernization
- Review PDSC governing statute and agency organization and management structure
- Enhance Commission oversight of agency budgeting operations
- Stabilization of new caseload contracting model under 6AC recommendations
- Augment operational staffing in key areas of the agency, such as bringing on a deputy director and internal auditor, and providing targeted quality support and training for providers, as other states have
- Extend OJD's IT contract while agency adds in-house information technology services
- Improve data collection from contract providers
- Request continued funding for a financial and case management information technology application
- Review and revision of Key Performance Measures

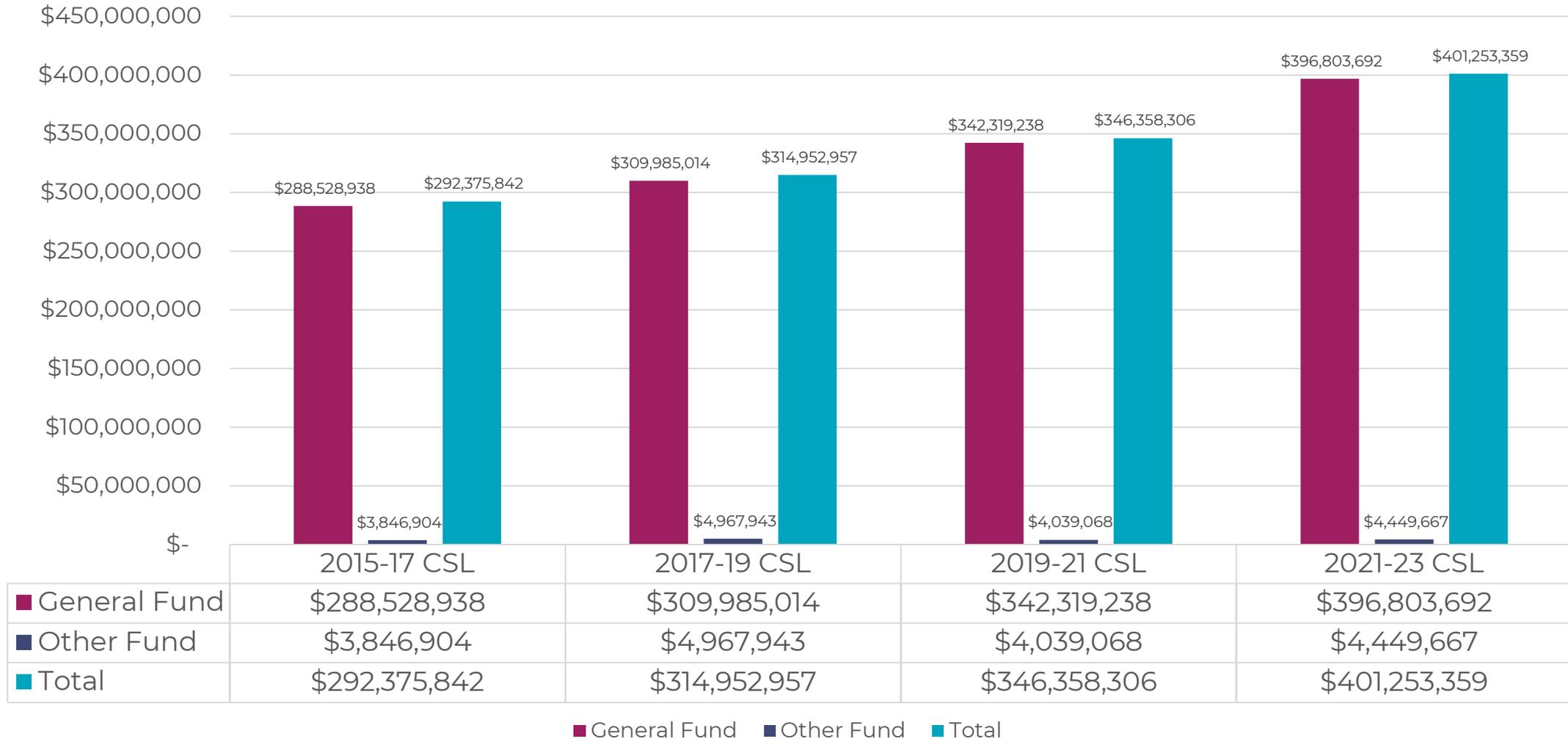
Current Service Level Budget Issues

2021-2023 PDSC CSL calculations are ongoing

- PDSC is in the process of working with the Legislative Fiscal Office to update the agency's 2021-23 current service level budget calculation.
 - Agency calculated CSL at \$401,253,359 for 2021-23 biennium, with 79 positions consisting of 78.8 FTE.
 - Preliminary indications are that the CSL may be under funded by \$25-\$35 million.
- All 2021-23 agency requested Policy Option Packages being revisited

Current Service Level Totals – 2015-2021

PDSC CSL - Past Three Biennia



Current Service Levels By Account – Past Three Biennia

15-17	Funds	FTE	Positions
Appellate Division	\$15,183,755	57.11	58
PSA (trial-level costs)	\$251,082,024		
CBS (agency operations)	\$4,363,116	18.00	18
Total	\$270,628,895	75.11	76
17-19	Funds	FTE	
Appellate Division	\$18,544,890	57.23	58
PSA (trial-level costs)	\$281,663,643		
CBS (agency operations)	\$5,267,876	19.00	19
Total	\$305,476,409	76.23	77
19-21	Funds	FTE	
Appellate Division	\$22,034,633	56.80	57
PSA (trial-level costs)	\$319,632,613		
CBS (agency operations)	\$6,676,822	19	19
Total	\$346,358,306	75.8	76

Questions?

Appendices



Douglas County Courthouse, Roseburg

Improving Equity and Access to Justice

○ **HB 2003**

- HB 2003 adds the client's voice to public defense decision-making

○ **Development of baseline survey of public defense providers**

- Input from provider community to determine equity needs within public defense

○ **Improved data collection practices**

- Contract refinement ongoing to improve data about representation provided

○ **Strategic planning centered on equity and access to justice**

- Agency is developing a comprehensive five-year strategic plan centered on applying equity lens in decision-making and improving stakeholder engagement

COVID Impacts on Providers and Clients

Trial-level public defense providers & clients

- 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
- Some clients still incarcerated, some programs, and visitation suspended

Appellate-level public defense providers

- Continued operation during pandemic by way of remote work, socially distanced work when appropriate, and video court appearances

10 Percent Reduction

Professional Services Account:

- 10 percent reduction = -\$36,088,746 General Fund; \$359,130 Other Fund
- Represents shortfall of three months of public defense work statewide

Appellate Division:

- 10 percent reduction = -\$2,693,532 General Fund
- Requires elimination of 6.5 attorney and 2 staff positions

Contract and Business Services:

- 10 percent reduction = -\$898,092 General Fund; \$85,836 Other Fund
- Requires elimination of 4 staff position

Total reduction contemplated:

- \$39,680,370 General Fund
- \$444,966 Other Fund
- \$40,125,336 decrease, overall

10 Percent Reduction Impacts

Professional Services Account:

- Would result in cessation of payment for appointed counsel and related expenses for last three months of biennium
- Delayed cases may be held in abeyance (increased costs to state/local governments) or dismissed entirely

Appellate Division:

- Average length of time to resolve pending cases would increase
- Oregon appellate courts may order dismissal of pending cases exceeding 350 days from date record settled to filing of opening brief

Contract and Business Services:

- Would result in delayed payment processing to providers

Other Funds Ending Balances

2019-2021 Ending		2021-2023 Ending		Comments
In LAB	Revised	In CSL	Revised	
\$9,000,000	0	\$9,000,000	0	Title IV-E, Application made to relieve GF and Expense OF
\$3,200,000	0	\$3,591,305		Application Contribution Program (ACP) – Pass through back to OJD
\$855,881	(\$6,706)	\$856,426	0	Application Contribution Program (ACP)-Funds 3 positions, the rest is transferred

The ACP deficit shown of \$6,706 is due to fewer individuals being found able to contribute to the costs of their representation during 2020 and COVID-19; this funding may begin to return to normal levels in 2021 and is being monitored.

COVID-19 Relief Funds

- PDSC received \$586,071 for COVID-related expenditures for March 2020 to December 2020 through the Coronavirus Relief Fund (CRF), federal financial assistance established by the CARES Act.
- \$460,732 was for Habeas Corpus-COVID related cases (79%).
- Remaining 21% applied towards paid sick, family, and medical leave (19%) and communications (2%).

Budget Actions '19-21

- April 2020 Emergency Board – \$3.8M allocated to cover positions for increased workload, IT services, and interpreter/investigator rate increases
- August 2020 Special Session – \$7M funds reduction & Title IV(E) General Fund split
- 2021 Regular Session – HB 5042-A budget rebalance – \$7,539,222 funds allocated to PDSC to cover remaining 2019-21 biennial costs