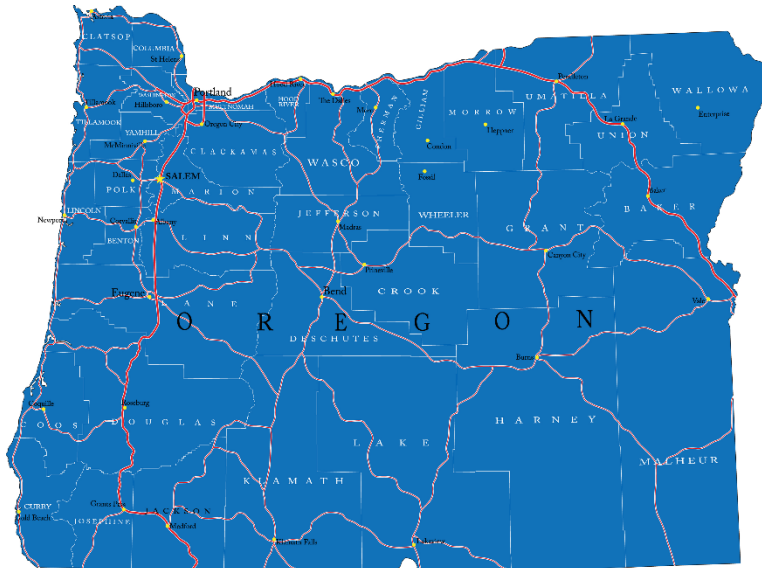


THE OREGON PROJECT

An Analysis of the Oregon Public Defense System
and
Attorney Workload Standards



PREPARED BY:



AMERICAN **BAR** ASSOCIATION
Standing Committee on Legal
Aid and Indigent Defense



MOSS ADAMS

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The American Bar Association Standing Committee on Legal Aid and Indigent Defense (ABA SCLAID) engaged Moss Adams LLP (Moss Adams) to collaboratively conduct an Oregon-specific attorney workload study, utilizing the Delphi method and historical caseloads, for the Oregon public defense system. This study was assisted by the Oregon Office of Public Defense Services (OPDS).

The Oregon Project was conducted under the leadership of Stephen F. Hanlon, J.D., Project Director for ABA SCLAID, Malia N. Brink, J.D., Counsel for Public Defense for ABA SCLAID and Deputy Director for the Public Defender Workload Study Projects, along with Scott Simpson, CPA, Partner at Moss Adams and Moss Adams colleagues Jenna McRae, CPA, Senior Manager and Emily Hayes, CIA, Manager.

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INTRODUCTION

The American Bar Association Standing Committee on Legal Aid and Indigent Defense (ABA SCLCID) and Moss Adams LLP (Moss Adams) conducted this study on behalf of the Oregon Office of Public Defense Services (OPDS) to analyze public defense historical caseloads for the State of Oregon, to calculate the average amount of time public defenders *should* spend on specific case types to meet the minimum standards for representation, and then to compare the two to determine whether a deficiency of resources exists. This study is referred to as the Oregon Project.

The Oregon Project consisted of two main phases: (1) an analysis of the Oregon public defense system's historical staffing and caseloads; and (2) the application of the Delphi method.

The analysis of the public defense system looks at historical caseloads to determine precisely how many cases are being represented by the public defense system. When possible, caseloads are broken down by case type. Similarly, the analysis of attorney time endeavors to quantify time spent by public defense attorneys on client representation. Importantly, this analysis seeks to quantify only case work – leaving out administrative time, travel time, supervisory time, etc. This is best accomplished through timekeeping. Where a system lacks comprehensive, reliable timekeeping data, the analysis instead reviews full time equivalents (FTE) to estimate attorney time spent on casework. Using an FTE analysis, however, usually results in a conservative estimate because, absent data on time needed for work other than client representation, it assumes all attorney time is used for client representation.

The Delphi method is an iterative process used in this study to identify how much time an attorney *should* spend, on average, in providing representation in certain types of criminal and juvenile cases. In determining the amount of time an attorney *should* spend to meet the minimum standards for representation we are guided by the legal standard set out in *Strickland v. Washington*: “reasonably effective assistance of counsel pursuant to prevailing professional norms.”¹ The prevailing professional norms, which anchor the Delphi process, are the Rules of Professional Conduct, the ABA Criminal Justice Standards, and the applicable national and local attorney performance standards.

¹ *Strickland v. Washington*, 466 U.S. 688, 688 (1984).

The Delphi method's structured and reliable technique incorporates the input, feedback, and opinions of highly informed professionals to develop consensus on a specific question. The Oregon Project consisted of two different Delphi panels: Adult Criminal and Juvenile. The Juvenile panel addressed both juvenile delinquency and dependency cases. Participants in each panel were selected based on their substantive expertise and experience in these areas. Participants included public defenders and private defense practitioners. They were then approved by independent Selection Panels, made up of individuals with extensive knowledge of the relevant areas of practice in Oregon.

Each Delphi area was sub-divided into Case Types and Case Tasks, and further divided by Resolution (e.g. plea/otherwise resolve v. go to trial). For each Case Task in each Case Type, participants were surveyed about the amount of time the task takes and the frequency with which it occurs.

The Delphi process in Oregon consisted of two rounds of online surveys, taken independently. The second-round survey was completed only by those who participated in the first round and included a summary of the responses from the first round for second round participants to consider. A third survey was then conducted in a live group setting only by those who had completed the first and second survey rounds. These participants met over a series of days to review the results of the second survey and developed a professional consensus regarding the appropriate amount of time an attorney *should* spend on a series of case tasks for each case type² to provide reasonably effective assistance of counsel pursuant to prevailing professional norms in the State of Oregon.

The result of the Delphi process is the consensus of the expert panel on the Frequency and Time needed to complete each Case Task in compliance with applicable standards, as well as Resolution – the percentage of cases that should plead/otherwise resolve v. go to trial. These consensus decisions are then used to calculate the Delphi result, the time needed for a public defense attorney to provide reasonably effective assistance of counsel to a client in an average case of this Case Type.

These standards, when applied to historical caseloads, are then used to determine the total number of hours of public defense attorney time needed in the jurisdiction. Comparing the hours needed to the hours of attorney time currently available in the jurisdiction's public defense system allows us to determine if the current system has a deficiency or excess of attorney time, and the amount of that deficiency or excess.

² See Appendix D for Case Type and Case Task definitions.

EXECUTIVE SUMMARY

Across the country, criminal courts are failing to meet the promise of equal justice under the law. As these failings are examined, increased attention is being paid to the obligation to provide effective assistance of counsel to all those accused of crimes and facing imprisonment who cannot afford private lawyers. For far too long, public defenders have raised concerns that their caseloads do not permit them to give appropriate time and attention to each client.

Overwhelming caseloads force even excellent public defenders to cut corners.³ They must either triage, focusing on a select group of clients at the expense of the others, or they must spend less time than they should on every client's case. They cannot conduct full investigations, consult experts when appropriate, or adequately prepare motions and arguments. These conditions create a heightened risk of error.

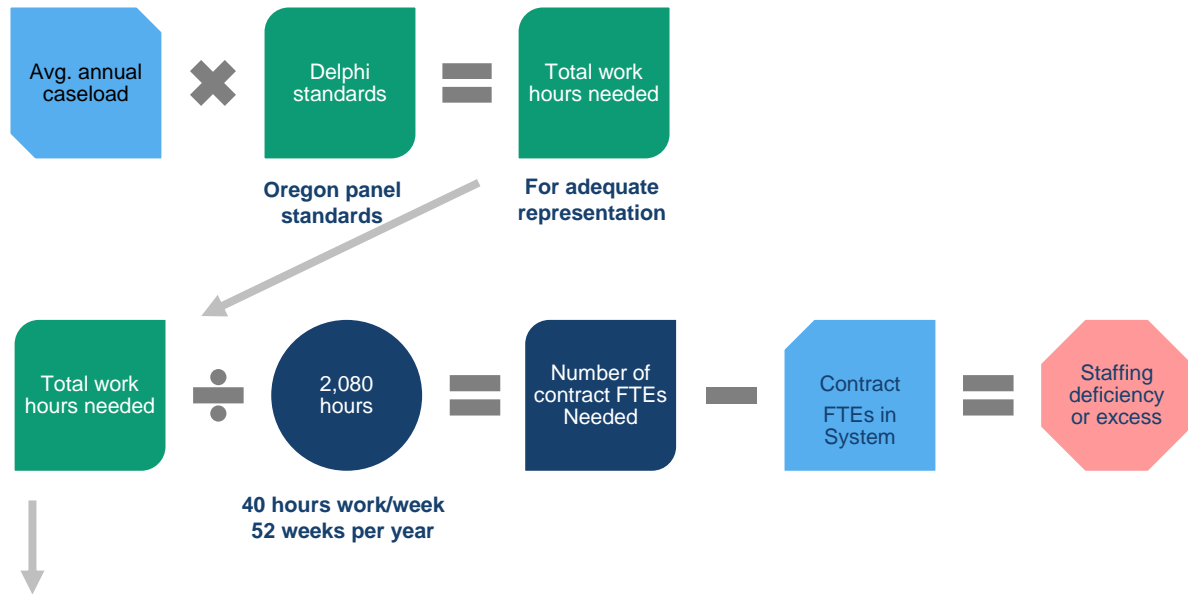


Caseload issues raise critical questions necessary for ensuring an efficient and adequate public defense system, including: How many public defense attorneys does our system need and for which types of cases? Questions about accurately projecting staffing needs have led jurisdictions to put increased emphasis on the importance of reliable data and data analysis.

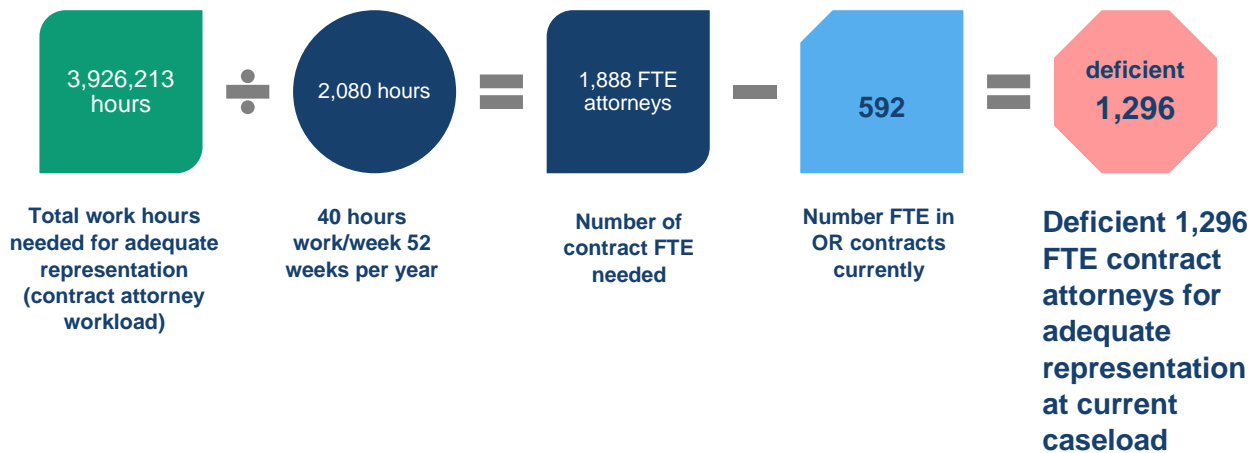
The report of the Oregon Project is the product of more than two years of study and analysis – of Oregon's current staffing and caseloads, as well as applying the Delphi method to arrive at standards reflecting the average amount of time an attorney *should* spend to provide reasonably effective assistance of counsel pursuant to prevailing professional norms. The standards developed by the Oregon Delphi panels were then applied to the historical staffing and caseloads to calculate whether the system has too many (excess) or too few (deficiency) FTE attorneys.

³ Guidelines 1, ABA Eight Guidelines of Public Defense Related to Excessive Workloads (ABA Eight Guidelines) (2009), available at https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_eight_guidelines_of_public_defense.pdf, notes the many adverse impacts of excessive workloads on the ability of attorneys to effectuate core public defense objectives for clients, including establishing a relationship of trust by promptly interviewing and communicating with clients, seeking pretrial release, adequately investigating the case and researching the applicable law, preparing for hearings, etc.

Systemic deficiency



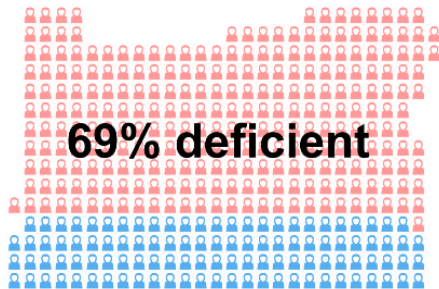
Oregon:



At current caseloads⁴ OPDS has a substantial deficiency of FTE public defense attorneys.

⁴ This deficiency calculation reflects the current caseload for Adult Criminal and Juvenile cases and the contract FTEs handling those cases. It determines the FTEs needed to provide reasonably effective assistance of counsel to clients in Adult Criminal and Juvenile (dependency and delinquency) cases only.

At current caseloads, OPDS simply is unable to adequately represent individuals in adult criminal and juvenile cases



- Based on the Delphi study, OPDS is deficient 1,296 contract attorney FTEs for its adult criminal and juvenile caseloads.
- To provide effective assistance of counsel currently, *all* 592 contract public defense attorneys in Oregon would:
 - Need to spend 6,632 hours per year working on case specific public defense work (26.6 hours per working day⁵ during a calendar year)
 - Represent 156 cases per year, regardless of whether those cases are low-level misdemeanor cases or serious felony cases, equating to just over **13 hours per case**, be it dependency, burglary or homicide.

OPDS needs a centralized data system to capture basic, critical public defense information

There are significant data deficiencies (inconsistency and inaccuracies) in the OPDS Contract Database, and OPDS heavily relies on the Oregon Judicial System court statistics data for basic case information. The OPDS contracting system, which includes over 100 contractors that vary significantly in both size and organizational structure, imposes challenges to building and implementing a unified case management system and other data collection mechanisms. Nonetheless, OPDS should implement systems to reliably collect basic data from all contractors on qualifications, case assignments, caseloads and work completed in public defense cases.⁶



- OPDS should be able to track which individual attorney is assigned to which cases to verify both qualifications and caseloads.⁷

⁵ Working days is defined as 249 days per year (removing weekends and public holidays).

⁶ See NLADA, Basic Data Every Defender Program Needs to Track (2014), available at <https://www.nlada.org/tools-technical-assistance/defender-resources/research/basic-data-toolkit>. This toolkit on data collection for public defense providers identifies information that should be collected and recommends strategies for public defense providers of all types on how best to collect the data.

⁷ Guideline 2 of the ABA Eight Guidelines, *supra* n. 3, provides that a public defense organization should “continuously monitor the workloads of its lawyers to assure that all essential tasks on behalf of clients . . . are performed.”

- OPDS should implement improved monitoring of work completed on public defense cases. This should include timekeeping on all public defense cases to permit improved fiscal and substantive oversight, including auditing and a regular attorney review process. Further, OPDS should have basic information on the private caseload, if any, for each attorney paid under its contracts to fully monitor caseloads.
- OPDS should also adopt standardized case opening and case closing forms (specific to case types) to routinely, centrally and consistently capture important case data. These forms should be integrated into a case management system to allow for aggregation of the data collected.

BACKGROUND

Applicable Standards

The relevant legal rules and standards pertaining to effective assistance of counsel are critical components to understand both attorney workloads and our analysis of caseloads in this study. The duty of the State of Oregon to provide representation in criminal cases for those accused individuals unable to afford counsel derives from the Sixth Amendment to the United States Constitution, as interpreted by the United States Supreme Court, and from Article 1, Section 11 of the Oregon Constitution.

In 1963, the United States Supreme Court held in the Gideon case that defendants charged with a felony in state criminal court are entitled to a lawyer the state's expense if they were unable to afford counsel.⁸ In 1972, the United States Supreme Court extended the right to counsel to misdemeanor cases that could result in a defendant's loss of liberty.⁹

In 1984, the United States Supreme Court held that the Sixth Amendment's requirement of counsel means the right to "reasonably effective assistance of counsel pursuant to prevailing professional norms of practice."¹⁰ In 2010, the Supreme Court noted in *Padilla v. Kentucky*: "We have long recognized that 'prevailing norms of practice as reflected in American Bar Association Standards and the like are guides to determining what is reasonable.' Although they are 'only guides' and not 'inexorable commands,' these standards may be valuable measures of the prevailing professional norms of effective representation[.]"¹¹

Relevant prevailing professional norms in Oregon include:

- Oregon Rules of Professional Conduct
- ABA Criminal Justice Standards for the Defense Function
- IJA-ABA Juvenile Standards
- ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases
- Oregon State Bar Performance Standards for Representation in Criminal, Juvenile Delinquency, and Juvenile Dependency Cases

⁸ *Gideon v. Wainwright*, 372 U.S. 335 (1963).

⁹ *Argersinger v. Hamlin*, 407 U.S. 25 (1972); see also *Alabama v. Shelton*, 535 U.S. 654 (2002).

¹⁰ *Strickland v. Washington*, 466 U.S. 668, 688 (1984).

¹¹ *Padilla v. Kentucky*, 559 U.S. 356, 366-67 (2010) (citations omitted). The Court went on to review the ABA Standards for Criminal Justice.

Oregon Rules of Professional Conduct

All lawyers in Oregon are required to abide by the Oregon Rules of Professional Conduct.¹² The Rules not only address the responsibilities of lawyers in representing a particular client, but also concern when a lawyer is not permitted to represent a client or must withdraw. Pertinent and identical rules in the Oregon Rules of Professional Conduct and the ABA's Model Rules of Professional Conduct¹³ applicable to this study include the following:

- Rule 1.1 Competence: A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.
- Rule 1.3 Diligence: A lawyer shall not neglect a legal matter entrusted to the lawyer.
- Rule 1.7 Conflict of Interest: Current Clients: (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a current conflict of interest. A current conflict of interest exists if . . . there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client[.]
- Rule 1.16 Declining or Terminating Representation: Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional Conduct or other law... Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests...¹⁴

An ABA Ethics Opinion interprets these ethical rules to require public defenders to limit workloads to ensure that they can represent each client with the competence and diligence required.¹⁵

The Rules of Professional Conduct also place responsibility on supervising attorneys to ensure that the rules are followed within their organization.

Rule 5-1: Responsibilities of partners, managers and supervisory lawyers.

¹² Oregon Rules of Professional Conduct, *available at* https://www.osbar.org/_docs/rulesregs/orpc.pdf.

¹³ Oregon first adopted the ABA Model Rules of Professional Conduct in 2005.

¹⁴ Guideline 6 of the ABA Eight Guidelines, *supra* n. 3, provides in pertinent part that in such cases, in addition to moving to withdraw from representation in certain cases, a lawyer should also move to suspend new case assignments and request that charges against those clients the lawyer can no longer represent be dismissed due to the failure of the government to provide effective assistance of counsel as required by federal and state law.

¹⁵ ABA Ethics Committee, Formal Ethics Opinion 06-441, Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseloads Interfere with Competent and Diligent Representation, *available at* https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_ethics_opinion_defender_caseloads_06_441.authcheckdam.pdf.

A lawyer shall be responsible for another lawyer's violation of these Rules of Professional Conduct if: . . . (b) the lawyer is a partner or has comparable managerial authority in the law firm in which the lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at the time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

ABA Criminal Justice Standards for the Defense Function

The ABA Standards for Criminal Justice are the result of a lengthy process that began in 1964, and most recently culminated with the fourth edition of these standards approved and published by the ABA in 2015. The ABA Standards “are the result of the considered judgment of prosecutors, defense lawyers, judges, and academics who have been deeply involved in the process.”¹⁶

The standards cover, among other things:

- Establishing client trust (Standard 4-3.1),
- Advocacy on pretrial detention and conditions of release (Standard 4-3.2),
- Interviewing the client (Standard 4-3.3),
- Duty to keep the client informed (4-3.9),
- Duty to investigate (Standard 4-4.1),
- Court appearances (Standard 4-4.6), and
- Sentencing responsibility (Standard 4-8.3).

Today, most state-level criminal cases are resolved without a trial. In 2012, the United States Supreme Court, in *Missouri v. Frye*, citing to the Department of Justice, Bureau of Justice Statistics, noted that “ninety-four percent of state convictions are the result of guilty pleas.”¹⁷ In that case, the United States Supreme Court quoted with approval the following statement from a Yale Law Journal article: “[P]lea bargaining . . . is not some adjunct to the criminal justice system; it is the criminal justice system.”¹⁸

The ABA Criminal Justice Standard related to the Defense Function, 4-6.1(b), “Duty to Explore Disposition Without Trial (Plea),” provides as follows:

In every criminal matter, defense counsel should consider the individual circumstances of the case and of the client and should not recommend to a client acceptance of a disposition offer unless and until appropriate investigation and study of the matter has been completed.

¹⁶ Martin Marcus, *The Making of the ABA Criminal Justice Standards: Forty Years of Excellence*, 23 CRIM. JUST. 10 (2009), available at https://www.americanbar.org/groups/criminal_justice/standards/.

¹⁷ *Missouri v. Frye*, 132 S.Ct.1399, 1407 (2012).

¹⁸ *Id.* See also R. E. Scott & W. J. Stuntz, *Plea Bargaining as Contract*, 101 YALE L. J. 1909, 1912 (1992).

Such study should include:

- discussion with the client,
- analysis of relevant law,
- analysis of the prosecution's evidence,
- analysis of potential dispositions, and
- analysis of relevant potential consequences.

Defense counsel should advise against a guilty plea at the first appearance, unless, after discussion with the client, a speedy disposition is clearly in the client's best interest.

IJA-ABA Juvenile Standards

In coordination with the Institute of Judicial Administration (IJA), the ABA drafted comprehensive standards for all aspects of juvenile proceedings.¹⁹ Though not exclusively applicable to defense attorneys, these standards contain certain core principles that influence the nature of considerations and arguments to be made by defense counsel. For example, the Standards provide that before a juvenile may accept a plea, it must be determined that the respondent "has the mental capacity to understand his or her legal rights in the adjudication proceeding and the significance of such a plea."²⁰ This Standard requires that before permitting a juvenile to plead, a defense attorney must have conducted a social history review, including understanding the juvenile's school history, as well as any records pertaining to intellectual disability or mental illness.

ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases

The ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases²¹ cover the special nature of abuse and neglect proceedings, as well as the duties of parental counsel. These duties include:

- Meet and communicate regularly with the client well before court proceedings. Counsel the client about all legal matters related to the case, including specific allegations against the client, the service plan, the client's rights in the pending proceeding, any orders entered against the client and the potential consequences of failing to obey court orders or cooperate with service plans.²²
- Conduct a thorough and independent investigation at every stage of the proceeding.²³

¹⁹ IJA-ABA Standards for Juvenile Justice (1996), *available at* https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/JJ/JJ_Standards_Adjudication.pdf.

²⁰ *Id.* at Adjudication, Standard 3.1(A).

²¹ ABA Standards of Practice of Attorneys Representing Parents in Abuse and Neglect Cases (2006), *available at* https://www.americanbar.org/content/dam/aba/administrative/child_law/aba-parent-rep-stds.pdf.

²² *Id.* at Standard 11.

²³ *Id.* at Standard 19.

- Engage in case planning and advocate for appropriate social services using a multidisciplinary approach to representation when available.²⁴

Oregon State Bar Standards

The Oregon State Bar has adopted principles and standards for counsel in criminal, delinquency, dependency and civil commitment cases.²⁵

Standards of Representation in Criminal and Juvenile Delinquency Cases²⁶

These standards cover not only the general role and obligations of defense counsel (Standard 1.1) but provide specific detailed guidance on how to comply with the duties of the defense attorney in every case, including:

- Client contact and communication (Standard 2.2),
- Pretrial release advocacy (Standard 2.3),
- Investigation (Standard 3),
- Discovery (Standard 4.1),
- Motions (Standard 5.1; 5.2 and 5.4),
- Plea exploration and negotiations (Standards 6.1 and 6.2), and
- Sentencing and disposition advocacy (Standards 8.1).

Further, in appropriate cases, the standards require defense counsel to undertake comprehensive trial preparation (Standard 7.1).

Standards of Representation in Juvenile Dependency Cases²⁷

These standards include guidance on how to comply with the duties of the defense attorney in dependency cases. The guidance is separated between attorneys representing children and attorneys representing parents (with the same standard numbers). The standards cover:

- Governing conduct of the case (Standard 4),
- Prepetition (Standard 5),
- Investigation (Standard 6),
- Court preparation (Standard 7), and
- Hearings and post hearings (Standards 8 and 9).

²⁴ *Id.* at Standard 26.

²⁵ Oregon State Bar Standards are *available at* https://www.osbar.org/surveys_research/performancestandard/index.html.

²⁶ Report of the Task Force on Standards of Representation in Criminal and Juvenile Delinquency Cases, *available at* https://www.osbar.org/_docs/resources/juveniletaskforce/JTFR2.pdf.

²⁷ Specific Standards for Representation in Juvenile Dependency Cases, *available at* https://www.osbar.org/_docs/resources/juveniletaskforce/JTFR3.pdf.

Overview of the Oregon Public Defense System

The Oregon Public Defense Services Commission (the Commission) is an independent body that governs the Office of the Public Defense Services (OPDS). The Commission is responsible for establishing and maintaining the public defense system for the Oregon state courts' system for all 27 judicial districts of public defenders in the State of Oregon. The Commission and OPDS were formed in 2001 and began operations in 2003.²⁸

The Commission, through OPDS, provides counsel to individuals in adult criminal, juvenile delinquency, juvenile dependency,²⁹ and civil commitment proceedings at the trial level, as well as in direct appeals from these cases. Historically, OPDS has contracted with providers of different types – public defender offices, law firms, consortia, non-profit organizations and individual attorneys – to provide public defense services. Oregon is the only state that provides trial level counsel primarily through a contracting system.³⁰

Prior to 2020, OPDS used a service delivery model known as the case-credit model for trial level public defense services. The Commission entered into two-year contracts with various entities, including public defender offices, consortia, non-profit organizations, law firms, and individual attorneys (collectively known as contractors). The contractors received funding to cover a projected number of cases over the course of the contract, with differing case or hearing types being worth different case credits, and therefore amounts of money. There were no limits on the number of cases an attorney or contractor could be assigned and OPDS paid contractors based on the projected caseload. At the end of the biennium, contractors and OPDS engaged in a reconciliation process. A contractor could owe OPDS money back on the contract (if the contractor provided legal services for fewer cases than the projected caseload in the contract), or OPDS could owe the contractor money (if the contractor provided legal services in more cases than projected in the contract).

In January 2021, OPDS moved away from the case credit model and implemented a contract model based upon Full Time Equivalent (FTE) attorneys. Upon the execution of the Public Defense Legal Services Contract Terms agreement in 2021, OPDS funded a specific number of

²⁸ See Sixth Amendment Center, *The Right to Counsel in Oregon: Evaluation of Trial Level Public Defense Representation Provided Through the Office of Public Defense Services (6AC Report on Oregon)* (Jan. 2019), at 13-14, *available at* <https://sixthamendment.org/oregon-report/>

²⁹ OPDS is responsible for representation of both children and parents in juvenile dependency proceedings. This arrangement is somewhat unusual and prone to creating administrative challenges, as attorneys from the same organization or law firm generally are prohibited by the Rules of Professional Responsibility from representing two parties in the same case. As a result, a dependency case in which there is one child and two parents may require lawyers from three different contracting entities. For more on models of representation in dependency proceedings and suggestions for best practices, see Mimi Laver and Cathy Krebs, *The Case for a Centralized Office of Legal Representation in Child Welfare Cases*, *ABA Child Law Practice Today* (Dec. 2020), *available at* https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2020/the-case-for-a-centralized-office-for-legal-representation-in-ch/.

³⁰ By contrast, appellate services in Oregon are provided primarily through the Appellate Division of OPDS. Attorneys in this office are full time employees of OPDS. Contract services are used for appeals only when the appellate division is not able to accept a case or client due to conflict or lack of capacity.

FTE attorneys in each contract. Section 4.2 of the Public Defense Legal Services Contract includes various clauses regarding court appointments outside the contract. For example, attorneys funded as a 1.0 FTE are not permitted to accept any other paid legal work, including legal advocacy work and/or act as a municipal or justice court public defense attorney, prosecutor, or judge.³¹

In this new model, there are limits on the number of cases an attorney can be assigned. The Commission established caseload limits based on 115% of the 1973 National Advisory Commission on Criminal Justice Standards and Goals³² (NAC caseload standards): 173 felonies, or 460 misdemeanors, or 230 juvenile cases. OPDS uses these caseload limits to determine how many FTE attorneys are needed. OPDS monitors caseloads throughout the year to determine if more or fewer FTE attorneys are needed in each jurisdiction.

During the last contract cycle, OPDS executed more than 100 contracts with various provider types including public defender offices, consortia, law firms, non-profit organizations and individual attorneys. In total, OPDS contracted for more than 600 FTE attorneys, of whom 592 FTE represent individuals in the adult criminal and juvenile delinquency and dependency cases.³³ Under the FTE model, OPDS pays approximately \$190,000 - \$210,000 per FTE attorney, which is intended to cover not only attorney salary and benefits, but also overhead and support staff costs. OPDS estimates this amount to cover .5 support staff for each 1 FTE attorney.

OPDS does not pay any additional amounts to public defender offices or individual attorneys for administration, supervision or training, regardless of the size of the contractor. Some consortia and law firms receive contract administrative costs, but this cost does not cover attorney supervision or training. Accordingly, a public defender office, consortium or other contractor wishing to provide supervision for its lawyers or a professional training program must pay for these services out of the allotted FTE amount, reducing funds available for attorney salary, overhead and support staff, or raise additional funds to do so.³⁴

³¹ It does allow them to engage in pro bono legal services.

³² National Advisory Commission on Criminal Justice Standards and Goals (1973) at Standard 13.12-Workload of Public Defenders, *available at* <http://www.nlada.org/defender-standards/national-advisory-commission>. The NAC standards provide that an individual defender's annual caseloads should not exceed 150 felonies, 400 misdemeanors (excluding traffic cases), 200 juvenile cases, 200 mental health cases, or 25 appeals, or a proportional combination thereof.

³³ FTE contracted to provide public defense services in appellate, habeas and Psychiatric Security Review Board cases were excluded from this total.

³⁴ The ABA's Ten Principles of a Public Defense Delivery System require both adequate supervision (Principle 10) and appropriate training (Principle 8). ABA Ten Principles of a Public Defense Delivery System (ABA Ten Principles) (2002), *available at* https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_tenprinciplesbooklet.auth_checkdam.pdf.

Contractors report an FTE percentage for each attorney to OPDS. At present, while OPDS can limit case assignments in proportion to the total FTEs reported by a contractor, OPDS cannot verify the accuracy of the reported percentages or effectively monitor the work performed under its contracts. OPDS does not require attorneys providing public defense services to keep and report time spent by case. OPDS also does not require contractors to report information on the private practice caseload or other legal work performed by the attorneys who are providing public defense services under an OPDS contract.

OPDS currently does not collect basic event data on public defense cases. OPDS cannot reliably report which attorney at a contracting entity has which cases to verify qualifications, although this capacity is improving under the new FTE contracting program. Similarly, OPDS does not collect data on case milestones, such as whether the client was released pretrial and conditions of release, whether an investigator was utilized, whether an expert was consulted, whether motions were filed, plea offers received, etc.³⁵

Under both the case credit and FTE contracting models, additional non-contract attorneys, are needed to represent clients who cannot be represented by contractors. Non-contract attorneys are assigned cases when a conflict of interest exists for contractors; when the contractor has met its contractual caseload obligations or limits; or when the existing contractors lack attorneys with the requisite qualifications to handle a particular type of case. These attorneys are compensated at an hourly rate for their legal services.³⁶

For the purposes of this report, public defenders/public defense attorneys include attorneys at public defender offices, consortia, non-profit organizations, law firms with public defense contracts with OPDS, as well as individual attorneys who have public defense contracts with OPDS. Private practice attorneys include those criminal and juvenile attorneys who do some minimal non-contract public defense work.

³⁵ As noted above, such oversight is a critical component of a public defense system, see, e.g., Guideline 2, ABA Eight Guidelines, *supra* n. 3. The ABA Ten Principles of a Public Defense Delivery System similarly provide that all public defense attorneys should be "supervised and systematically reviewed for quality and efficiency according to national and locally adopted standards." Principle 10, ABA Ten Principles, *supra* n. 34.

³⁶ OPDS staff estimate that non-contract attorneys are required in 2-3% of public defense cases in Oregon.

HISTORICAL STAFFING AND CASELOAD ANALYSIS

The historical staffing and caseload analyses are comprehensive reviews of the available current and historical workload of the public defense system in Oregon. They seek to accurately describe the current state of public defense in the jurisdiction and are integral to understand the “world of is”³⁷ to compare it to the requirements generated through the Delphi study.

Historical Staffing

Timekeeping

When attorney time can be captured to a high degree of consistency and quality, timekeeping is the best way to understand how many attorneys are spending how much time on current public defense cases. Though there are significant challenges in instituting timekeeping for a study, if there is not already timekeeping in place, this is the preferable way to gather data as long as the data is entered consistently and with a high degree of detail. In Oregon, timekeeping was not implemented for this study, for a variety of reasons, including the agency’s limited data collection capacity, contracting model, and changes in court behavior arising from COVID-19. Therefore, the alternative FTE method was used for the purposes of this analysis.

FTE Method

An alternative method to timekeeping is to review historical and current personnel employment data for attorneys and convert the attorney personnel to full-time equivalents (FTEs). This allows for a comparison of total attorney time available, based on FTE and caseloads, to total attorney time needed at the system level, based on the Delphi Panel results and caseloads. Calculating FTEs for contract attorneys is inherently complex. Attorneys in contract systems often work less than full-time, engaging in private practice or other legal work. OPDS contracts are with a range of entities, in terms of size and method of operation. Some have employees who spend all their time on public defense work; others have contracts with OPDS and also engage in private practice or other legal work. The percentage of time each attorney at a contracting entity or each individual attorney with a contract devotes to public defense work may vary year to year, or even quarter to quarter. Absent timekeeping or a detailed manner of collecting and verifying information on complete contractor caseloads (including private practice cases), an FTE calculation in contracting systems can only be estimated, and it often relies on self-reported percentages.

OPDS provided a list of the FTEs the agency believes it is funding statewide via contracts as of November 2021. This list included public defenders at public defender offices, attorneys at law firms, non-profit organizations or consortia that have public defense contracts with OPDS, and individual attorneys with contracts with OPDS. The information provided included detailed

³⁷ This stands in contrast to the Delphi study which describes “the world of should.”

information by contractor, such as attorney name, bar number and role, and is based on contract information.

As of November 2021, there were 592 attorney FTEs contracted to provide public defense services in adult criminal or juvenile cases.³⁸ Because this excludes cases represented by non-contractor attorneys, these FTEs are estimated to represent 97-98% of the trial level cases in the public defense system.³⁹

Historical Caseload

Historical case data was obtained primarily from the Oregon Judicial Department's (OJD) case management system, Odyssey, which captures information in the courts at the time of filing, and therefore does not include data on items that happen outside of courts (jails, detention centers) or confidential or sealed cases, which would not be material to this analysis. The datasets provided from OJD included representation status. This report only includes data that was assigned a "Court Appointed" status.⁴⁰

A limited amount of data used in this analysis was from the OPDS Contractor database, which is populated based on monthly reports from contractors based on appointed cases on case number and filing date. Under the case credits model that was in place for calendar years 2017-2019, if contractors failed to report a case, they did not receive credit or paid for that case. For calendar year 2020, contracts were extended for 2 six-month periods, and the credits were removed from the contract. This analysis assumes that contractors continued to report all cases consistent with prior practices. In 2021, under the new FTE model, every case counts towards FTE, which has been monitored since the new contract went into place on January 1, 2021.

This study analyzed all new public defense cases filed from January 1, 2017 through March 31, 2021 (see Exhibit 1). Additionally, the study analyzed Adult Criminal data for all case types except for Probation Violation data from April 1, 2021 through October 10, 2021. Notably, this analysis does not consider the impact of cases that remain open for more than one year, nor the impacts of the COVID-19 pandemic. As of December 31, 2020, based on the total number of active pending adult criminal and juvenile cases, 23.6% and 58.4% of those cases were over 12 months old.⁴¹

³⁸ This study does not endeavor to calculate current appellate caseloads or appellate attorney FTE. Accordingly, FTE assigned to provide appellate public defense services under a contract were excluded from this total.

³⁹ As noted above, non-contract attorneys are utilized when contractors have a conflict of interest, have met caseload obligations under their contract or hit caseload limits, or do not have an attorney with the requisite qualifications to accept a case. Percentage of cases assigned to non-contract attorneys was estimated by OPDS personnel involved in contract oversight.

⁴⁰ Court appointed is the court's designation for any attorney being provided at public expense. It includes both OPDS contract and non-contract attorneys.

⁴¹ Oregon Judicial Department 2020 Circuit Court Case Statistics, Age of Active Pending Caseload as of December 31, 2020, available at <https://www.courts.oregon.gov/about/Documents/2020CasesPendingAndAgeOfActivePendingCases.pdf>

The Oregon Project Historical Staffing and Caseload Analysis

A summary of new public defense cases represented by a court appointed attorney by type is below. See Exhibit 1 for breakout by type and estimated annual caseload.

STATEWIDE CASES REPRESENTED BY COURT APPOINTED ATTORNEYS BY TYPE AND ESTIMATED CASELOAD					
Adult Criminal					
Case Type	2017	2018	2019	2020	Jan 1 - October 10, 2021
Adult Criminal	76,371	76,929	74,573	67,738	44,710
Juvenile					
Case Type	2017	2018	2019	2020	Q1 2021
Dependency	15,429	12,781	12,034	9,076	1,756
Termination of Parental Rights	3,747	3,645	3,367	2,269	882
Delinquency	2,865	3,032	2,857	2,224	350
Total Juvenile	22,041	19,458	18,258	13,569	2,988
GRAND TOTAL	98,412	96,387	92,831	81,307	47,698

Note: Within the table above, as noted in Exhibit 1, the Probation Violation data within the Adult Criminal case type represents the period January 1, 2021 through March 31, 2021 as opposed to October 10.

DELPHI ANALYSIS

The Delphi Method

The workload study applied the Delphi method, an iterative survey process developed by the RAND Corporation and used in a range of industries and professions. Within the legal system, examples of use of the Delphi method can be traced back decades, and the Delphi method is considered an appropriate methodology for a caseload study.⁴² Examples of these uses of Delphi were conducted by both the National Association of Court Management and the National Center for State Courts.⁴³ These efforts were principally focused on assessing judicial and court support staff needs.⁴⁴ Additionally, the Delphi method has been implemented by ABA SCLAID and partner accounting and consulting firms in similar public defense workload studies of public defense systems in other states, including Missouri,⁴⁵ Louisiana,⁴⁶ Colorado,⁴⁷ Rhode Island,⁴⁸ Indiana,⁴⁹ and New Mexico.⁵⁰ An overview of the Delphi method, including use of the method in determining appropriate caseloads for public defense attorneys, is summarized below and further described in Appendix A.⁵¹

⁴² Norman Lefstein, *Securing Reasonable Caseloads: Ethics And Law Of Public Defense 140-51* (ABA 2011), *available at* https://www.americanbar.org/content/dam/aba/publications/books/ls_sclaid_def_securing_reasonable_caseloads_supplement.pdf

⁴³ National Center for State Courts' reports, *available at* <http://www.ncsc.org>.

⁴⁴ Matthew Kleiman, Cythia Lee and Brian Ostrom, *Workload Assessment: A Data-driven Management Tool for the Judicial Branch* (National Center for State Courts 2013).

⁴⁵ RubinBrown on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The Missouri Project, A Study of the Missouri Public Defender System and Attorney Workload Standards (2014)*, *available at* https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_pub_def_mo_workstudies_rept.pdf.

⁴⁶ Postlethwaite & Netterville, APAC on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The Louisiana Project, A Study of the Louisiana Defender System and Attorney Workload Standards (2017)*, *available at* https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_louisiana_project_report.pdf.

⁴⁷ RubinBrown on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The Colorado Project, A Study of the Colorado Public Defender System and Attorney Workload Standards (2017)*, *available at* https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_co_project.pdf.

⁴⁸ Blum, Shapiro & Company, P.C. on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants and The National Association of Criminal Defense Lawyers, *The Rhode Island Project, A Study of the Rhode Island Public Defender System and Attorney Workload Standards (2017)*, *available at* https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_ri_project.pdf.

⁴⁹ Crowe LLP on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The Indiana Project, A Study of the Indiana Public Defense System and Attorney Workload Standards (2020)*, *available at* https://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/ls_sclaid_public_defense_indiana_project_report_july_2020.pdf.

⁵⁰ Moss Adams LLP on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The New Mexico Project, An Analysis of the New Mexico Public Defense System and Attorney Workload Standards (2022)*, *available at* https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-moss-adams-nm-proj.pdf.

⁵¹ See also *Use of the Delphi method in ABA SCLAID Public Defense Workload Studies: A Report on Lessons Learned (2021)*, *available at* https://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/ls-sclaid-indef-delphi-method-lessons.pdf.

The Delphi method's structured and reliable technique incorporates the input, feedback, and opinions of highly informed professionals to develop a reliable consensus on a specific issue. As a methodological strategy, the Delphi method is an iterative process of surveys given to a group of professionals, with structured feedback presented to the experts at set intervals. The surveying practices applied can be either interviews or surveys that focus on fundamental questions of significance to the group participating.

To initiate the Delphi method, a group of experts provides individual, anonymous responses on a given topic based on their expertise and experience. Next, the professionals that responded to the initial survey are provided the same survey with peer response data from the initial round. This iterative process of alternating participants' independent assessments with other anonymous aggregated peer response data enables professional opinions to be converted into objective consensus opinion.

In the Oregon Project, as in prior ABA SCLAIID workload studies, the Delphi method was used to provide a reliable consensus of professional judgment on the time that *should be* required for a public defense attorney in Oregon to provide reasonably effective assistance of counsel pursuant to prevailing professional norms. The Delphi process used in Oregon relied upon the expertise of attorneys from various types of contractors, as well private practice attorneys to develop a reliable consensus professional judgment of the amount of time that attorneys *should* expect to spend on a particular Case Task in particular Case Types considering both the Strickland standard (reasonably effective assistance of counsel) and the applicable ethical and substantive professional standards discussed earlier in this report (prevailing professional norms).

In consultation with OPDS, ABA SCLAIID determined that two separate Delphi panels were needed in Oregon covering the two major areas of practice in which public defense providers are utilized: (1) Adult Criminal; and (2) Juvenile.⁵² These two panels correspond to the areas of specialization most often practiced by defense attorneys in Oregon.⁵³

⁵² The juvenile survey covered both juvenile delinquency and dependency Case Types. The Case Types in dependency in turn covered both parent and child representation. These Case Types were grouped in a single survey and addressed by a single Delphi panel because Oregon juvenile attorneys often represent individuals in both dependency and delinquency cases.

⁵³ Initial workload studies, such as the ones completed in Missouri and Louisiana, utilized a single Delphi panel. In later studies, it was noted that a single Delphi panel did not reflect the specialization that had developed in public defense practice. While the same attorney may represent clients in misdemeanor and felony cases, it is relatively rare that a trial defense attorney also takes cases in juvenile courts. As a result, many juvenile attorneys participating in the single Delphi panel could only answer questions regarding one Case Type, e.g., juvenile delinquency. Additionally, having only one or two Case Types in specialist areas, such as juvenile cases, did not reflect the complexity of these specialty practices. For example, a juvenile defender's caseload may range from status violations to serious assaults and even murder. Over the several ABA SCLAIID public defense workload studies, this recognition resulted in the number of Case Types increasing. For example, in the Colorado workload study, there were 18 Case Types, including three juvenile Case Types. This number of Case Types became difficult to manage. To address this problem, the use of specialty Delphi panels, with separate surveys, was first utilized in Texas and proved not only more manageable, but also more reflective of current public defense practice.

Methodology Framework

The Delphi method, as used in the Oregon Project, was a series of three survey rounds. The first and second rounds were conducted as anonymous online surveys, and the third round was conducted as a live discussion. In responding to the surveys, participants were asked to consider the ABA and OPDS standards and rules⁵⁴ applicable to defense representation, as well as their own expertise and experience in providing defense representation in Oregon. The survey participants, surveys, and results are discussed below.

Survey Participants

The attorneys selected to participate in each of the Delphi panels were initially proposed by OPDS staff, public defenders, private practitioners, and court officers around the state. Consideration was given to geographic diversity within Oregon, as well as including a mix of attorneys from a variety of contractor types, as well as private practice attorneys. If an attorney practiced in both areas of substantive expertise (Adult Criminal and Juvenile), he or she was permitted to serve on both Delphi panels.

Attorneys proposed to participate in each of the Delphi panels were reviewed and approved by independent Selection Panels of highly regarded individuals in the legal community who have extensive practical experience in the area. There was one Selection Panel for each substantive area (Adult Criminal and Juvenile). The Selection Panel members reviewed the list of potential participants and removed any proposed participants they believed lacked the expertise, experience and respect and added participants they considered qualified to participate. Once approved by the relevant Selection Panel, the list of participants on each Delphi panel was finalized.

Case Types and Case Tasks

The first step in developing the survey tool used in the Delphi process was to determine the relevant Case Types and Case Tasks to be surveyed. Case Types and Case Tasks were developed by Consulting Panels of between eight and ten contract attorneys and private practitioners in the state. A Consulting Panel was convened in each of the two Delphi areas: Adult Criminal and Juvenile. The Consulting Panels were asked to break down their practice area into Case Types that they would naturally group together. Then they broke down attorney work in these cases into Case Tasks that fairly encompassed all the work that defense attorneys should perform.

The Consulting Panels defined each Case Type and each Case Task⁵⁵ to ensure that there was minimal overlap and that it was clear where time spent on common tasks should be allocated. The process of identifying Case Types and Case Tasks is crucial as it forms the basis for the subsequent surveys.

⁵⁴ See Background, *supra*.

⁵⁵ See Appendix D for definitions.

The Oregon Project Delphi Analysis

The Delphi panels considered the following Case Types and Case Tasks (see Appendix C for detailed definitions), as determined by the Consulting Panels.

Adult Criminal	
Case Type	Case Task
Low-Level Misdemeanor	Client Communication
Complex Misdemeanor	Client Support Services
Low-Level Felony	Discovery / Case Preparation
Mid-Level Felony	Attorney Investigation / Attorney Interviews
High-Level Felony	Experts
Homicide and Sex Cases	Legal Research, Motions Practice, Other Writing
Probation Violations	Negotiations
	Court Preparation
	Court Time
	Sentencing/Mitigation
	Post Judgment

Juvenile - Dependency	
Case Type	Initial Jurisdiction Case Tasks
Parent Representation	Client Communication
Child Representation	Client Advocacy and Support
	Discovery / Case Analysis
	Experts
	Legal Research, Motions Practice, Other Writing
	Court Preparation
	Court Time
	Appeal Preparation
	Case Tasks Following Initial Disposition on Jurisdiction
	Post-Jurisdiction Client Communication
	Post-Jurisdiction Client Advocacy and Support
	Post-Jurisdiction Hearing Preparation
	Post-Jurisdiction Court Time

Juvenile - Termination of Parental Rights	
Case Type	Case Task
Parent Representation	Client Communication
Child Representation	Client Advocacy and Support
	Discovery / Case Analysis
	Experts
	Legal Research, Motions Practice, Other Writing
	Court Preparation
	Court Time
	Appeal Preparation
	Post-Judgment Work

Juvenile - Delinquency	
Case Type	Case Task
Misdemeanor / Other	Client Communication
Minor Felonies	Parent / Guardian / Custodian Communication
Major Felonies	Client Advocacy and Support
Waiver/Measure 11 Cases	Discovery / Case Analysis
Probation Violation / Contempt	Attorney Investigation / Attorney Interviews
	Experts
	Legal Research, Motions Practice, Other Writing
	Negotiations
	Court Preparation
	Court Time
	Post-Disposition

Delphi Surveys

The surveys were designed by ABA SCLAID and Moss Adams and produced and administered by Moss Adams. For Rounds One and Two, Moss Adams used an online surveying tool. Round Three was conducted virtually by Moss Adams. ABA SCLAID personnel were present throughout the Round Three meetings to provide guidance and clarifications on the professional norms and standards of practice anchoring the Delphi process.

Round 1 Online Surveys

In the Round One survey, participants were directed to consider the following when responding:

- ABA and Oregon State Bar standards for defense representation,
- Oregon Rules of Professional Conduct,
- their expertise and experience in the Oregon defense field.

The participants were initially asked whether they had sufficient experience with a particular Case Type to respond to questions about preparing a defense for an individual charged with a crime of that Case Type. If a participant responded that he/she did not have sufficient experience with a certain Case Type, the survey would automatically redirect to the next Case Type. If the participant had sufficient experience with the Case Type, the survey proceeded to ask the participant the relevant questions for each Case Task for that Case Type.

The surveys were designed to identify the following for each Case Type:

- Resolution Percentage: The percentage of each Case Type that should Plead Guilty/Otherwise Resolve vs. Go to Trial (Resolution Type).
- Frequency: In what percentage cases of that Case Type should each Case Task be performed (disaggregated by Resolution Type).
- Time: In the cases that the Case Task should be performed, how much cumulative time should an attorney spend on each Case Task to perform the task with reasonable

effective assistance of counsel pursuant to professional norms (disaggregated by Resolution Type).

In the context of answering the questions outlined above, participants were also provided the following instructions:

- account for the cumulative time required to complete a Case Task over the life of a case,
- assume adequate investigative, secretarial, and other support services, and
- define the time required for each Case Task in terms of the average or typical case of the Case Type, not the exceptional case.

Round 2 Online Surveys

The Round Two surveys were identical to the Round One surveys, except that the summary statistics of peer responses from the Round One survey were provided for the participants' reference.⁵⁶ Additionally, Round Two was only administered to those who completed the Round One survey.

The data collected from Round One was trimmed to eliminate outliers from both the upper and lower ends of the responses. The trimmed peer range and peer means from Round One were provided in the Round Two survey to assist in informing the participants' responses. Providing anonymous aggregated peer response data enables professional opinions to be converted into objective consensus opinion. The summary statistics provided to Round Two participants were the middle 60% of responses from Round One (the trim percentage was unknown to the participants). The peer mean is a single data point showing the average responses of the peer range.

Round 3 Live Surveys

The meeting of each Delphi panel was the final iteration of the Delphi survey process in this study. In the Round Three live survey, participants were requested to use the following information for guidance:

- ABA and Oregon State Bar standards for defense representation,
- Oregon Rules of Professional Conduct,
- their expertise and experience in the Oregon defense field,
- the summary statistics from peer responses from the Round Two survey, and
- collaboration and discussion with their Delphi panel peer participants.

⁵⁶ See Appendix C for example surveys.

During the live Round Three survey, for each Case Type, Resolution Type, and Case Task the participants were asked to come to a consensus on the Resolution, Time and Frequency discussed above. The Round Three survey was conducted via the Zoom platform, due to the COVID-19 pandemic restrictions. For each Case Task presented, applicable standards and Case Type and Case Task definitions were provided in writing in advance, and the summary statistics for Round Two were discussed during the session.

Anonymous polls were conducted based on an offered value, which generally started with the Round Two trimmed mean for the question.⁵⁷ The poll included responses of “Agree”, “Too High” or “Too Low”. If there was disparity in responses, discussion was held. Participants were encouraged to provide their rationale based on their best professional judgement and experience. As necessary, the relevant standards were revisited and discussed. After discussion, a new value was offered, and a new poll was conducted. This cycle of poll, group discussion, poll, group discussion, continued until a consensus was reached.⁵⁸

Participation Attrition

Because participation in each round requires participation in all previous rounds, attrition occurs throughout the Delphi process. The below chart shows the number of participants in each round for each of the Oregon Delphi panels:

	Adult Criminal	Juvenile
Invited to Participate	143	103
Completed Round 1	65	43
Completed Round 2	46	28
Completed Round 3	30	28

See Appendix D for summary characteristics of the Round Three participants (the Delphi panels).

⁵⁷ While the Round Two peer mean was often the starting point, the group was not constrained in seeking a consensus value. If the group determined, following discussion, that the value should be higher or lower than the Round Two peer range, the consensus of the Round Three group governed.

⁵⁸ Considered a consensus if approximately 66% of polled participants “Agreed” on the presented value.

Survey Results

The consensus results for each Case Task on Time and Frequency were combined to arrive at an expected time, on average, that should be spent on each Case Task. The final expected times were then totaled and allocated to Resolution Type (e.g., plea/otherwise resolve vs. trial) to calculate the final Delphi result for each Case Type. The Delphi result is a measure of the total number of hours, on average, that a typical case of that Case Type should take an attorney providing reasonably effective assistance of counsel pursuant to professional norms.

The Delphi results for each case grouping are presented below. See Exhibits 4.1 and 4.2 for additional detail.

Delphi Panel Results - Adult Criminal	
Case Type	Hours Per Case
Low-Level Misdemeanor	22.26
Complex Misdemeanor	36.98
Low-Level Felony	39.78
Mid-Level Felony	47.73
High-Level Felony	148.95
Homicide and Sex Cases	552.46
Probation Violations	8.33

Delphi Panel Results - Juvenile - Dependency	
Case Type	Hours Per Case
Parent Representation	115.62
Child Representation	117.07

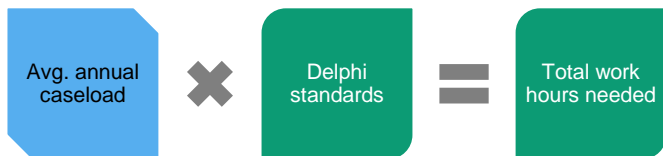
Delphi Panel Results - Juvenile - Termination of Parental Rights	
Case Type	Hours Per Case
Parent Representation	104.92
Child Representation	76.83

Delphi Panel Results - Juvenile - Delinquency	
Case Type	Hours Per Case
Misdemeanor / Other	35.65
Minor Felonies	43.79
Major Felonies	68.50
Waiver/Measure 11 Cases	261.48
Probation Violation / Contempt	14.07

DEFICIENCY ANALYSIS

Adult Criminal and Juvenile

To perform the deficiency analysis, the projected caseload (obtained by analysis of the historical caseloads) is multiplied by the time needed by Case Type (as determined by the Delphi panels), to produce the hours needed annually to provide reasonably effective assistance of counsel pursuant to prevailing professional norms.



The hours needed can then be translated into FTEs and compared to the number of FTEs currently available to calculate whether an attorney staffing deficit or excess exists and the extent of that deficit or excess.



At a consistent annual workload, OPDS is deficient 1,296 contract attorney FTE, for its Adult Criminal and Juvenile caseloads. In other words, OPDS has only 31% of the FTE contract attorneys needed to provide reasonably effective assistance of counsel pursuant to prevailing professional norms in Oregon to its Adult Criminal and Juvenile clients.



The Oregon Project Deficiency Analysis

A Delphi workload analysis of attorney time needed, consisting of an estimate of Oregon’s public defense annual workload multiplied by the Delphi panel’s consensus opinions, is presented in the table below, disaggregated by attorney type for the Adult Criminal and Juvenile defense areas. See Exhibit 2 for detailed calculations of the estimated workload.

DEFICIENCY ANALYSIS		
	[1]	[2]
Area	Estimated Annual Caseload	Total Hours
Adult Criminal	75,588	2,166,606
Juvenile	19,885	1,881,036
Total	95,473	4,047,642
Hours needed by Contract Attorneys [4]		3,926,213
FTEs needed [4]		1,888
Contract Attorney FTEs have [5]		592
Contract Attorney FTE deficiency		1,296
Deficiency %		69%

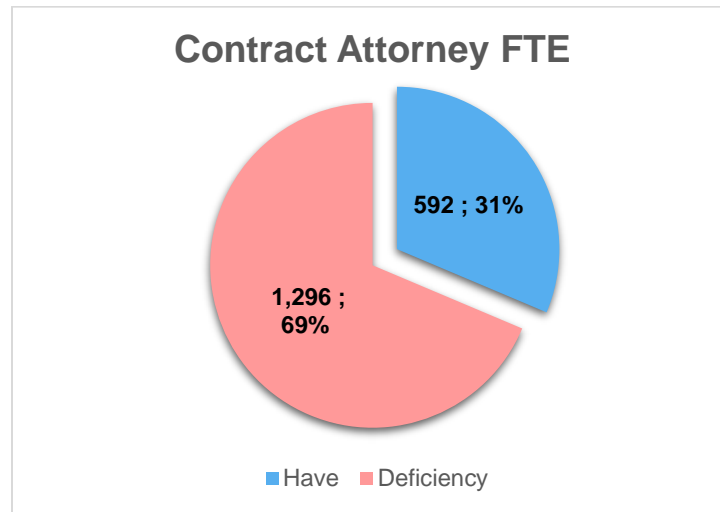
[1] Based on the average opened cases per year for the respective case grouping and attorney type (see Exhibit 1)

[2] Represents the Delphi Panel Results x Estimated Annual Caseload Totals (see Exhibit 2 for detailed calculations)

[3] The caseload data – because it was pulled from the courts – did not exclude cases taken by non-contract attorneys. It included all "court appointments." To address this imbalance, the caseload numbers were reduced by the amount (best estimate) that could be attributed to non-contract attorneys by reducing the total hours needed to provide adequate representation based on current caseloads. We reduced the needed hours by 3% (meaning 97% of the needed hours were estimated to be covered by contract FTEs), because OPDS staff estimated that 2-3% of cases are handled by non-contract attorneys.

[4] Hours divided by 2,080

[5] Total FTE as of November 2021.



For the purposes of this report, 2,080 hours was used to calculate needed FTE (40 hours/week; 52 weeks/year). The hours allotment assumes **all** hours are allocated to client representation, without consideration for administrative tasks, such as general meetings, work-related travel time, or wait time. It also does not reduce time for continuing legal education requirements and other training, nor does it reduce time during the workday to allow for bathroom breaks, lunch breaks, etc. Similarly, analysis assumes that public defense attorneys work every week of the year, without taking any time off for vacation, sick leave etc. The resulting total of 2080 hours per year of case work is very conservative and would, in reality, require time far exceeding eight hours per days and five days per week to accomplish.⁵⁹ Indeed, the total time allotted for case time in ABA Delphi workload studies generally exceeds the billable hours targets of commercial law firms in major urban areas like New York City and Washington, DC.⁶⁰

⁵⁹ See Yale Law School Career Development Office, The Truth About the Billable Hour, *available at* https://law.yale.edu/sites/default/files/area/department/cdo/document/billable_hour.pdf (noting that to “bill” 1,832 hours, you are likely at work for 2,420 hours).

⁶⁰ PracticePanther, a legal time keeping application, notes that “the average number of billable hours required for first-year associates at firms with more than 700 attorneys is 1,930 hours, *available at* <https://www.practicepanther.com/blog/first-year-associates-billable-hours/>. See also Update on Associate Hours Worked, NALP Bulletin, 2016, *available at* <https://www.nalp.org/0516research> (noting that the data from 2014 shows that law firm associates worked, on average, 2,081 hours per year, which was up from an average of 2,067 hours worked in 2013).

DATA LIMITATIONS AND ASSESSMENT OF DATA NEEDS

As noted throughout this report, where confirmable data could not be obtained, the assumptions made were conservative. This section outlines most of these assumptions.

FTE Data Deficiencies

The number of FTE attorneys and percentages utilized in this analysis is taken directly from self-reported data submitted by contractors to OPDS. The process of reporting FTE to OPDS is relatively new, and OPDS has little ability to confirm the percentages provided. In other words, OPDS is not currently equipped to assess whether an attorney reported as a .9 FTE in fact limits their private practice caseload to only .1 FTE. OPDS does not solicit or receive confirmatory information on the private practice caseloads of public defense attorneys, nor does it currently require timekeeping on public defense cases to confirm .9 FTE in time is devoted to those cases.

Additionally, as noted in detail above, the FTE analysis assumes that each FTE attorney can spend 2,080 hours each year on representation of clients. In other words, it assumes that a public defense attorney works 8 hours per day, with no breaks from case work for clients. It does not subtract any hours for administrative work, training, work-related travel time or wait time. It also assumes that an attorney works all 5 days per week, 52 weeks of the year, without subtracting time for holidays, vacation, sick leave, etc. In reality, working 2080 hours on case time would require a public defense attorney to spend considerably more time at work. In essence, this calculation assumes that public defense attorneys are working well-beyond a standard workday.

Caseload Data Deficiencies

The Case Types selected by the Consulting Panel for use in the Adult Criminal survey differentiated cases by sentencing scheme:

- The low-level felony Case Type was defined to include presumptive probation and prison grid felonies that do not trigger mandatory minimum sentences.
- The mid-level felony Case Type was defined to include property and drug felonies that include possible mandatory minimum sentences, Measure 57 cases,⁶¹ and Level 10 drug crimes.

⁶¹ Ballot Measure 57 established mandatory minimum sentences for individuals convicted of certain drug and property crimes under certain circumstances, e.g. repeat offenders. It was approved in 2008. ORS 137.717 (2008).

The Oregon Project

Data Limitations and Assessment of Data Needs

- The high-level felony Case Type was defined to include Measure 11 felonies (excluding homicide cases),⁶² sex cases (excluding sex cases with the potential for 25+ years) and gun minimum cases.
- The homicide and sex cases (25+years) Case Type was defined to include all homicide cases (excluding death penalty cases), Jessica’s law cases,⁶³ 3rd strike sex cases⁶⁴ and Measure 73 sex cases.⁶⁵

Unfortunately, OPDS does not currently collect detailed charging data indicating the sentencing scheme applicable in each case, nor is it available in court data. As a default, cases were categorized in the lowest applicable Case Type. Cases were only reallocated to a higher Case Type when reliable data justified the higher allocation.⁶⁶ For example, cases where the highest charge was a sex crime were categorized as high-level felony cases. Because OPDS lacked data on what portion of these cases were Jessica’s law cases, 3rd strike cases or Measure 73 cases, no sex cases were allocated to the homicide and sex cases (25+ years) Case Type.

This report does not include consideration to any new regulations that would impact the Oregon public defense system, including Senate Bill 578 (2021),⁶⁷ which will require courts to appoint legal counsel for guardianship cases in certain counties beginning in 2022. Inevitably this will increase the public defense workload.

OPDS Should Continue to Improve Data Collection Mechanisms and Oversight

Historically, OPDS has collected and maintained little data on public defense in Oregon and has had little role in overseeing attorneys engaged in public defense work beyond the contracting renewal process. Recently, data collection efforts have expanded. Beginning in 2021, OPDS has endeavored to better understand the attorneys who are taking public defense case work under its contracts and ensure some degree of caseload control. This is a good start, but far from sufficient.

⁶² Ballot Measure 11 originally passed in 1994. It required mandatory minimum prison sentences for 16 offenses. It has since been amended to apply to additional offenses. See Bill Taylor, Background Brief on Measure 11 (May 2004), *available at* https://www.oregonlegislature.gov/citizen_engagement/Reports/2004IG_Measure_11.pdf.

⁶³ Jessica’s law requires the imposition of a 25 year mandatory minimum for a defendant convicted of committing a first-degree sex offense against a child under the age of 12.

⁶⁴ ORS 137.319 (presumptive life sentence for certain sex offenders upon third conviction).

⁶⁵ Ballot measure 73 increased the mandatory minimum prison sentence to 25 years for repeat offenders of any four felony sex crimes. It passed in 2010.

⁶⁶ See Exhibit #3 explaining the use of prosecutorial data to allocate between low-level and complex misdemeanors, as well as identify Measure 57 cases.

⁶⁷ 81st Oregon Legislative Assembly – 2021 Regular Session - Senate Bill 578, *available at* <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB578>

The Oregon Project

Data Limitations and Assessment of Data Needs

OPDS' contract system creates inherent data collection and oversight challenges. OPDS administers more than 100 contracts with providers who differ massively in size and administrative capacity. By contrast, a centralized public defense system in a state like Oregon would likely have, at most, one office in each judicial district (27 offices), and possibly far fewer.

These challenges are not impossible to overcome. The Committee for Public Counsel Services in Massachusetts (CPCS) for example oversees a mixed system of public defender offices and hundreds of individuals who accept public defense appointments. CPCS has extensive oversight mechanisms, as well as robust financial monitoring and auditing.⁶⁸ However, providing adequate substantive and financial oversight in a more decentralized system likely requires more extensive data collection and oversight staffing resources.

OPDS should collect comprehensive data on public defense work from its providers.⁶⁹ Doing so will likely require OPDS to adopt a single, unified case management system for all public defense attorneys. Using a unified case management system would enable OPDS to have accurate and reliable data on public defense cases throughout Oregon.⁷⁰

Timekeeping

As noted above, FTE calculations for contract attorneys are inherently complex. In Oregon, because the contractor may be non-profit public defense offices, law firms, consortium or individual lawyers, gathering accurate FTE data is even more complex. The only way to get accurate, reliable information on public defense work performed across various contracting entities that include full-time public defense attorneys, part-time public defense attorneys and occasional public defense attorneys is to require timekeeping for all attorneys for public defense cases. Oregon should therefore consider implementing timekeeping for all public defense attorneys. If implemented, this should be a contractually required part of onboarding, training and review processes.

Timekeeping need not be complex. Timekeeping categories can and should be streamlined and simple to ensure that each type of lawyer – Adult Criminal and Juvenile – needs to use only a small number of codes to enter time (ideally less than 10). It may be useful to compare timekeeping codes to Case Tasks categories in this report.

⁶⁸ The CPCS assigned counsel manual, *available at* <https://www.publiccounsel.net/assigned-counsel-manual/>, details the qualification, training, performance requirements, billing process and evaluation procedures applicable to individual attorneys representing public defense clients.

⁶⁹ See NLADA, Basic Data Every Defender Program Needs to Track (2014), *available at* <https://www.nlada.org/tools-technical-assistance/defender-resources/research/basic-data-toolkit>. This toolkit on data collection for public defense providers identifies information that should be collected and recommends strategies for public defense providers of all types on how best to collect the data.

⁷⁰ These measures should also apply to non-contract attorneys.

The Oregon Project

Data Limitations and Assessment of Data Needs

Case Opening and Closing Forms

Beyond timekeeping, there is critical information on each accused individual and each case that should be gathered by every public defense organization. These data points include basic demographic data on the client, initial charge(s), pretrial release/detention decisions, motions filed, experts consulted, pleas offered, disposition, and sentencing. These data points are often best gathered through use of standardized case opening and case closing forms, differentiated by type of cases. The forms, which should be part of the case management system, should be entered online and designed to allow the aggregation of entered data.⁷¹ For example, a check box regarding use of expert should allow OPDS to determine the percentage of cases, by case type, in which experts are consulted. Similarly, disposition information would allow OPDS to determine, by Case Type or even charge, the percentage of cases that go to trial, plea or are dismissed.

Use of comprehensive case opening and closing forms could also help to simplify the necessary timekeeping by relocating critical, case-specific information gathering to forms that must be filled out only once, rather than within ongoing timekeeping. For example, rather than have a timekeeping code specific for motions, the timekeeping code can be general, e.g. research/writing, and the case closing form can ask whether motions were filed and have check boxes for types of motions.

Case opening and case closing forms can and should be customized to gather jurisdiction-specific information that drives time. For example, adult criminal defenders in Oregon chose to differentiate cases based on sentencing, indicating that the sentencing nature of the case is an important data point that drives time. For property felonies, those that are subject to Ballot Measure 57 sentencing were placed in a separate Case Type from property felonies not subjected to this sentencing. Accordingly, it is critical for OPDS to know whether Measure 57 sentencing is sought. Such information is impossible to ascertain from initial charging, court data or even simple timekeeping, but can and should be indicated on a case closing form. Similarly, initial domestic violence misdemeanors that are assigned to the Domestic Violence and Multi-Disciplinary Team units should be categorized as Complex Misdemeanors, as opposed to low-level misdemeanors. Case closing forms in Oregon are likely the best place to capture these data points.

⁷¹ Examples of these forms for both juvenile and adult criminal from a public defense program in Los Angeles, California are included in Appendix G. For another example, see CPCS Disposition Form, *available at* https://www.publiccounsel.net/gc/wp-content/uploads/sites/2/sample_dispositional_report_form.pdf.

The Oregon Project

Data Limitations and Assessment of Data Needs

Additional Information on Part-Time Public Defense Contractors or Attorneys

To adequately control workloads and prevent conflicts in accordance with ethical obligations, OPDS should also understand the contract entities and attorneys' practice of law outside of the contract.⁷² Under the FTE contracting model, OPDS now requires contracting entities report what portion of an attorney's workload is public defense cases vs. other work. A contract attorney asserting that he/she is spending 50% of his/her time on public defense work is now limited to receiving assignments equating to 50% of an allowable caseload. However, OPDS does not have an hours expectation that defines full-time, nor, as noted above, does it have any way of verifying either OPDS work or private practice work. OPDS should require contractors to report the nature and amount of other legal work performed by public defense attorneys to assist OPDS in monitoring and verifying overall caseloads. This could be accomplished by requiring contract attorneys/entities to report appearances in private cases in regular reports to OPDS.

Data Assessment Conclusion

At present, OPDS lacks the ability to gather basic data on public defense cases and public defender work in Oregon.⁷³ As a result, the Commission cannot provide appropriate substantive or financial oversight.⁷⁴ These data gaps and resulting lack of oversight were also highlighted in a January 2019 report by the Sixth Amendment Center, *The Right to Counsel in Oregon: Evaluation of Trial Level Public Defense Representation Provided Through the Office of Public Defense Services*.⁷⁵ In part due to this report, the 2021 Public Defense Services Commissions budget bill⁷⁶ included a holdback of funding in the amount of \$100 million. The release of the holdback is contingent upon the Commission's satisfactory progress, as determined by the Legislature and/or the Legislative Emergency Board, in executing Legislative expectations regarding the restructuring, modernization, financial controls, quality management, performance metrics, and governance of the agency.

⁷² ABA Criminal Justice Standards, Providing Defense Services, Standard 5-3.3(b)(vii).

⁷³ Standard 5-3.3 of ABA Criminal Justice Standards on Providing Defense Services (1990), *available at* https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_defsvcs_blk/, enumerates the essential elements of a contract in a public defense contracting system. It provides that contracting entities provide for, among other things, a system of case management and report.

⁷⁴ Standard 5-3.3 of Providing Defense Services further provides that contracts should establish processes for supervision, evaluation, training and professional development, as well as ensure appropriate qualifications for lawyers, limit caseloads, and provide access to support services, including investigative and expert services.

⁷⁵ 6AC Report on Oregon, *supra* n. 28.

⁷⁶ House Bill 5030 (2021) Regular Session details *available at* <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB5030>. Subcommittee recommendation with explanatory notes *available at* <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/CommitteeMeetingDocument/245165>. The recommendation includes, among other things in-sourcing information technology services and directing an independent financial and performance audit of the agency, including reviews of agency operations, procurement, human resources, information technology, accounting, budget, performance management, and auditing.

The Oregon Project

Data Limitations and Assessment of Data Needs

Improving OPDS' data collection and oversight capacity will likely require ongoing financial investment by the Legislature. It also may require structural changes in how the state provides trial level public defense services, etc. At a minimum, OPDS will require additional staffing and resources to establish and administer substantive and financial oversight processes. OPDS should also reconsider staffing administrative and oversight positions for contractors, which could provide a critical layer of substantive oversight and enable greater data collection and financial reporting to OPDS. More broadly, as noted above, the contracting system creates inherent challenges for data collection and oversight. While such challenges can be overcome, the Commission may wish to consider whether alternative delivery structures would permit more efficient oversight.⁷⁷

The Commission and OPDS have already demonstrated an important willingness and capacity to undertake critical review processes and implement improvements despite challenges. It is critical that OPDS continue on this path and receive the necessary support from the Legislature to achieve these ends.

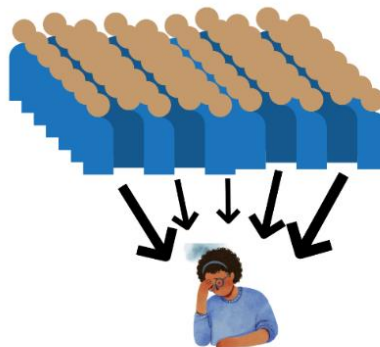
⁷⁷ The ABA Criminal Justice Standards on Providing Defense Services, Standard 5-1.2 provides: "The legal representation plan for each jurisdiction should provide for the services of a full-time defender organization when population and caseload are sufficient to support such an organization."

CONCLUSION

At current caseloads, OPDS has a significant deficiency of FTE attorneys to provide public defense services in Adult Criminal and Juvenile cases. OPDS needs an additional 1,296 full-time attorneys – more than three times its current level – to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment. Limiting caseloads is critical to a functional public defense system. For this reason, ABA policy urges public defense systems to address excessive caseloads. The ABA Ten Principles of a Public Defense Delivery System require caseload limits, and further state that when a caseload “interferes with quality representation or [could] lead to the breach of ethical obligations [,] counsel is obligated to decline appointments.”⁷⁸

This type of public defense attorney deficiency risks costly errors. It also erodes public trust in Oregon’s justice system. And it strains the individuals who are working so hard to keep the system functional despite these deficiencies. Excessive caseloads harm public defense attorneys – psychologically and physically.⁷⁹ When combined with the pandemic and the backlogs it has created, individual attorneys may be close to a breaking point. With so many existing deficiencies, additional staffing issues could jeopardize the public defense system’s basic ability to function.⁸⁰

The single most important conclusion from this report is that Oregon has a massive gulf between the number of cases currently in the public defense system and the number of attorneys available.



⁷⁸ Principle 5, ABA Ten Principles, *supra*, n. 34; see also Guideline 5, ABA Eight Guidelines, *supra* n. 3 (describing steps a public defense organization should take to address excessive workloads).

⁷⁹ See, e.g., Passport Health, How Does Overworking Affect Physical and Mental Health, *available at* <https://www.passporthealthusa.com/employer-solutions/blog/2019-2-overworking-affect-physical-and-mental-health/>.

⁸⁰ This is happening in numerous jurisdictions across the country, including Minnesota. See John Croman, Stressed public defenders ask lawmakers for help, KARE 11 St. Paul (Jan 12, 2022), *available at* <https://www.kare11.com/article/news/politics/stressed-public-defenders-lawmakers-help/89-8122802b-94c3-4401-9dff-21de7f4bc5a6>.

A deficiency in public defense attorney time can be addressed either by adding FTEs or by reducing the public defense caseload.⁸¹ OPDS must consider immediate steps to begin to improve this situation.⁸²

The deficiency quantified in this report was not created overnight; it was built over decades. Similarly, there will not be an immediate, single-source solution to resolve this deficiency. Even if funding and a sufficient number of qualified attorneys were readily available, the Commission and OPDS lack the infrastructure and capacities to triple the number of FTE attorneys for which they contract. But the Commission and OPDS should take immediate steps to begin to address the deficiency – for the clients, whose liberty is at stake, for the public defense attorneys, who for too long have done their very best under unworkable conditions, and for the people of Oregon, who rely on the accuracy of the justice system to ensure public safety.

⁸¹ *Id.* The data gathered in this report can assist OPDS in more accurately assessing the impact of other changes in criminal justice policy on its caseloads and therefore its FTE attorney needs.

⁸² Guideline 5 of the ABA Eight Guidelines, *supra* n. 3, lists steps a public defense organization could take to address excessive workloads including reassigning cases, requesting a stay of further appointments, working with prosecutors to limit new filings, and seeking emergency resources.

Appendices

Delphi Method⁸³

The Delphi method was introduced in 1962 by researchers at the RAND Corporation. The method was described as a “new” research technique utilized by the Air Force in the 1950s to gather expert opinion and generate a reliable consensus.⁸⁴ The Delphi method requires that a succession of surveys be given to a group of experts, with structured feedback presented to the experts at each interval stage. The surveying practices applied by the Delphi method could be interviews or questionnaires that focus on some fundamental question of significance to the group of experts convened for feedback.

The features of this method include “anonymity, iteration, controlled feedback, and the statistical aggregation of group response.”⁸⁵ At the onset of the process, participants in a Delphi group are largely anonymous from one another. The purpose of anonymity is to ensure that solicited experts are not influenced by the responses of other participants and that the ideas presented are judged on their own merit. This technique is believed to be conducive to the exercise of independent thought on the part of participating experts and to aid experts in forming well-thought-out opinions.

The reliance on expert opinion as data is built on the premise that an expert is “able to select the needed items of background information, determine the character and extent of their relevance, and apply these insights to the formulation of the required personal probability judgments.”⁸⁶ Experts typically complete a questionnaire over multiple iterations with the goal of allowing participants to change their opinions and judgments when presented with controlled feedback regarding the opinions and judgments of their fellow participants. This controlled feedback is normally presented as a statistical summation of the group’s responses, e.g., a mean or median. The structured feedback at each successive iteration consists of “available data previously requested by the expert, or of factors and considerations suggested as potentially relevant by one or another respondent.”³⁹

⁸³ This literature review on the Delphi method is derived from *The Missouri Project: A Study of the Missouri Public Defender System and Attorney Workload Standards*, prepared by RubinBrown on behalf of the ABA’s Standing Committee on Legal Aid and Indigent Defendants. The Missouri Project provided a national blueprint for workload studies such as this one. Available at https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_pub_def_mo_workstudies_rept.pdf.

⁸⁴ Norman Dalkey and Olaf Helmer, An Experimental Application of the Delphi Method to the Use of Experts, 1962, available at http://www.rand.org/content/dam/rand/pubs/research_memoranda/2009/RM727.1.pdf.

⁸⁵ Gene Rowe and George Wright, The Delphi Technique as a Forecasting Tool: Issues and Analysis, 15 INT’L J. FORECASTING 35354 (1999) (hereafter Rowe and Wright, *The Delphi Technique*).

⁸⁶ Olaf Helmer and Nicholas Rescer, On the Epistemology of the Inexact Sciences P-1513 42 (The RAND Corporation 1958), available at <http://www.rand.org/content/dam/rand/pubs/papers/2005/P1513.pdf>.

The goal of the feedback at each stage is to assist in limiting mistaken beliefs an expert may have on the question at hand or to increase their awareness of other information they may not have previously considered.⁸⁷

At the conclusion of the final iteration, the final iteration's mean or median response is used as the measure of the group's opinion.⁸⁸ In theory, the number of iterations required of the Delphi method can be unlimited until consensus among participants is achieved, however it has been found that three to four iterations is usually all that is required to reach consensus.⁸⁹

Rowe and Wright systematically reviewed studies that explored the effectiveness of the Delphi method. Their focus was on how well the Delphi method worked in producing a consensus of opinions and judgments and to assess how accurate those opinions and judgments were.

Overall, they found that the majority of these evaluative studies showed support for the Delphi method in reducing variances in opinion and judgment, thus indicating that greater consensus had been achieved. As for the concern over the accuracy of those opinions and judgments, Rowe and Wright again found that the majority of studies provide compelling evidence in support of the Delphi method. Compared to other methodological techniques utilized for similar purposes, the Delphi method was found to "lead to improved judgments over staticized groups and unstructured interacting groups."⁹⁰

Since its introduction, the Delphi method has been employed across a diverse array of industries, such as health care, education, information systems, transportation, and engineering.⁹¹ In addition to its use in forecasting, the Delphi method has been used for "program planning, needs assessment, policy determination, and resource utilization."⁹² Within the legal system, early examples of use of the Delphi method can be traced back a couple of decades. Examples of these attempts were sponsored by both the National Association of Court Management ("NACM") and the National Center for State Courts ("NCSC"). These efforts were principally charged with assessing judicial and court support staff needs.⁹³

⁸⁷ *Id.*

⁸⁸ Rowe and Wright, *The Delphi Technique*, *supra* note 85.

⁸⁹ Chia-Chien Hsu and Brian A. Sandford, *The Delphi Technique: Making Sense of Consensus* (2007) (hereafter Hsu and Sandford, *The Delphi Technique*), available at <https://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1177&context=pape>.

⁹⁰ Rowe and Wright, *The Delphi Technique*, *supra* note 85, at 353-54.

⁹¹ Harold Linstone and Murray Turoff, *The Delphi Method: Techniques and Applications* (2002); Rowe and Wright, *The Delphi Technique*, *supra* note 85, at 353-54.

⁹² Hsu and Sandford, *The Delphi Technique*, *supra* note 89.

⁹³ See, e.g., Victor Flango and Brian Ostrom, *Assessing the Need for Judges and Court Support Staff* (National Center for State Courts 1996).

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Appendix A: The Delphi Method

In seeking to undertake a public defender caseload study in Missouri, ABA SCLAID partnered with RubinBrown to both select a methodology and execute an analysis that would, using data and analytics, result in reliable caseload standards. After an exhaustive literature review, RubinBrown concluded that the Delphi method was a reliable research tool to determine the appropriate workload for a public defender office because it was capable of generating a reliable consensus of expert opinion. The experts in a public defender workload Delphi study are experienced defense attorneys, both private practitioners and public defenders, with in depth knowledge of practice in the jurisdiction. These individuals serve as panelists in the Delphi process.

RubinBrown and ABA SCLAID utilized the Delphi method to complete The Missouri Project, a public defender workload study, which included a National Blueprint for conducting future workload studies.⁹⁴ In these studies, the Delphi process is driven, not by actual time data provided to the Delphi panel participants, but by the Standards applicable to public defense practice discussed above – the ABA Criminal Justice Standards and the state Rules of Professional Responsibility.⁹⁵

⁹⁴ *The Missouri Project*, *supra* note 45.

⁹⁵ These standards are included in the Delphi surveys and are also discussed at length prior to the start of the live meeting of the Delphi panel.

The Oregon Project

Appendix A: The Delphi Methodology

In the years since The Missouri Project, ABA SCLAID has conducted four additional public defender workload studies in collaboration with three additional accounting and consulting firms:

- Louisiana (Postlewaithe and Netterville, APAC)⁹⁶
- Colorado (RubinBrown)⁹⁷
- Rhode Island (Blum Shapiro)⁹⁸
- Indiana (Crowe LLP)⁹⁹
- New Mexico (Moss Adams LLP)¹⁰⁰

In each instance, the accounting and consulting firm reviewed and approved the use of the Delphi process, and conducted their services in accordance with the Standards for Consulting Services, as established by the American Institute of Certified Public Accountants.

In 2020, ABA SCLAID published a report on its use of the Delphi method to conduct public defense workload studies. That report, *Use of the Delphi Method in ABA SCLAID Public Defense Workload Studies: A Report on Lessons Learned*, is available on the ABA SCLAID website.¹⁰¹

⁹⁶ Postlethwaite & Netterville, APAC on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The Louisiana Project, A Study of the Louisiana Defender System and Attorney Workload Standards (2017)*, available at https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_louisiana_project_report.pdf.

⁹⁷ RubinBrown on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The Colorado Project, A Study of the Colorado Public Defender System and Attorney Workload Standards (2017)*, available at https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_co_project.pdf.

⁹⁸ Blum, Shapiro & Company, P.C. on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants and The National Association of Criminal Defense Lawyers, *The Rhode Island Project, A Study of the Rhode Island Public Defender System and Attorney Workload Standards (2017)*, available at https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_ri_project.pdf.

⁹⁹ Crowe LLP on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The Indiana Project, A Study of the Indiana Public Defense System and Attorney Workload Standards (2020)*, available at https://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/ls_sclaid_public_defense_indiana_project_report_july_2020.pdf.

¹⁰⁰ Moss Adams LLP on behalf of ABA's Standing Committee on Legal Aid and Indigent Defendants, *The New Mexico Project, An Analysis of the New Mexico Public Defense System and Attorney Workload Standards (2022)*, available at https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-moss-adams-nm-proj.pdf.

¹⁰¹ Available at https://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/ls-sclaid-indef-delphi-method-lessons.pdf.

Round 1 Survey Example

JUVENILE DEPENDENCY

Juvenile Dependency - Parent Representation

Defined as any case in which you represent a parent in a child welfare proceeding other than Termination of Parental Rights cases, which are their own Case Type

What percentage of **Juvenile Dependency - Parent Representation** cases do you believe **SHOULD** resolve by:
(total must equal 100%)

Admission / Dismissal Prior to Contested Jurisdiction	<input type="text" value="0"/>	%
Contested Jurisdiction / Fact-Finding (Trial)	<input type="text" value="0"/>	%
Total	<input type="text" value="0"/>	%

JUVENILE DEPENDENCY

Juvenile Dependency - Parent Representation

Defined as any case in which you represent a parent in a child welfare proceeding other than Termination of Parental Rights cases, which are their own Case Type

Below, you will be asked to complete two charts about specific tasks in **Juvenile Dependency - Parent Representation** cases. The first chart is about cases that have **ADMISSION / DISMISSAL PRIOR TO CONTESTED JURISDICTION**. The second chart is about cases that have **CONTESTED JURISDICTION / FACT-FINDING (TRIAL)**. For each task, you will be asked:

1. When this task *should be* performed, how much **TIME IS SUFFICIENT** to perform the task with reasonable effectiveness under prevailing professional norms? **AND**
2. In what **PERCENTAGE OF CASES** should these tasks be performed?

Round 1 Survey Example

Juvenile Dependency - Parent Representation - ADMISSION / DISMISSAL PRIOR TO CONTESTED JURISDICTION

	ADMISSION / DISMISSAL	ADMISSION / DISMISSAL			ADMISSION / DISMISSAL
	Time Needed	Minutes	Hours	Days	% Cases Performed
Client Communication	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Client Advocacy and Support	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Discovery/Case Analysis	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Experts	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Legal Research, Motions Practice, Other Writing	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Court Preparation	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Court Time	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Appeal Preparation	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Post-Jurisdiction Client Communication	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Post-Jurisdiction Client Advocacy and Support	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Post-Jurisdiction Hearing Preparation	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Post-Jurisdiction Court Time	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>

Round 1 Survey Example

Juvenile Dependency - Parent Representation - CONTESTED JURISDICTION / FACT-FINDING (TRIAL)

	CONTESTED / TRIAL	CONTESTED / TRIAL			CONTESTED / TRIAL
	Time Needed	Minutes	Hours	Days	% Cases Performed
Client Communication	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Client Advocacy and Support	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Discovery/Case Analysis	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Experts	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Legal Research, Motions Practice, Other Writing	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Court Preparation	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Court Time	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Appeal Preparation	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Post-Jurisdiction Client Communication	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Post-Jurisdiction Client Advocacy and Support	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Post-Jurisdiction Hearing Preparation	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Post-Jurisdiction Court Time	<input type="text"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>

Round 2 Survey Example

Juvenile Dependency - Parent Representation

	<u>Time Needed</u>	Peer Mean	Peer Range	<u>% Cases Performed</u>	Peer Mean	Peer Range
ADMISSION / DISMISSAL PRIOR TO CONTESTED JUDGEMENT						
Client Communication	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Client Advocacy and Support	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Discovery/Case Analysis	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Experts	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Legal Research, Motions Practice, Other Writing	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Court Preparation	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Court Time	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Appeal Preparation	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Post-Jurisdiction Client Communication	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Post-Jurisdiction Client Advocacy and Support	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Post-Jurisdiction Hearing Preparation	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Post-Jurisdiction Court Time	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
CONTESTED JURISDICTION / FACT FINDING (TRIAL)						
Client Communication	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Client Advocacy and Support	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Discovery/Case Analysis	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Experts	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Legal Research, Motions Practice, Other Writing	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Court Preparation	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Court Time	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Appeal Preparation	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Post-Jurisdiction Client Communication	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Post-Jurisdiction Client Advocacy and Support	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%
Post-Jurisdiction Hearing Preparation	<input type="text"/> hrs	XX hrs	XX - XX hrs	<input type="text"/> %	XX%	XX - XX%

The Oregon Project

Appendix C: Case Types and Task Definitions

Case Type Definitions – Adult Criminal

Case Type	Description
Low-Level Misdemeanor	All types of misdemeanors except for misdemeanors related to DUIs, domestic violence, sexual abuse, and animals.
Complex Misdemeanor	Misdemeanors related to DUIs, domestic violence, sexual abuse, and animals (abuse of animals and game violations charged as misdemeanors).
Low-Level Felony	Presumptive probation and prison grid felonies that do not include mandatory minimums.
Mid-Level Felony	Property and drug felonies that include possible mandatory minimum sentences, ballot measure 57 cases, and level 10 drug crimes.
High-Level Felony	Measure 11 felonies (excluding homicide cases), sex cases (excluding sex cases with potential for 25+ years), and gun minimum cases.
Homicide and Sex Cases	All homicide cases (excluding death penalty cases), Jessica's law cases, 3rd strike sex cases and Measure 73 sex cases.
Probation Violations	Probation violation cases.

Case Task Definitions – Adult Criminal

Case Task	Description
Client Communication	All attorney communication with the client (mail, phone, in-person, etc.) as well as communication with client family members related to the criminal case including communications regarding plea and sentencing (Excluding communication of an investigatory nature, which falls under Attorney Investigation/Attorney Interviews and Post-Judgment communication, which falls under Post-Judgment).
Client Support Services	Working with pretrial release services, social services, interpreters, treatment providers or outside agencies on behalf of clients; referrals for legal aid or other services; handling medical/family/other issues affecting client during criminal case; attending other proceedings related to or potentially impacting criminal charges.
Discovery / Case Prep	Ordering, obtaining and litigating discovery. Obtaining documents and materials through records requests, motions, subpoenas and other mechanisms. Reviewing, analyzing or organizing case-related materials/evidence including any digital evidence, social media evidence, jail communications, etc.; working with investigators; writing/editing case related-memos; defense team meetings (except in preparation for Court, which falls under Court Preparation); documenting case file.
Attorney Investigation / Interviews	Case-related investigation activities, including viewing the scene and physical evidence, canvassing for and interviewing witnesses, preparing subpoenas; taking photos/videos, etc. (Note: this is all work conducted by the attorney. Communications with investigators or others related to their interviews/investigations fall under Discovery/Case Preparation).

The Oregon Project
Appendix C: Case Types and Task Definitions

Case Task Definitions – Adult Criminal (continued)

Case Task	Description
Experts	Locating, obtaining funding approval for, corresponding and consulting with and reviewing reports of experts for the defense.
Legal Research, Motions Practice	Researching, drafting, editing, serving and filing of motions, notices, pleadings, briefs, jury instructions, etc. related to pretrial hearings other hearings or trial (except research, writing and motions exclusively related to Discovery, Negotiations or Sentencing/Mitigation which falls under Discovery, Negotiations and Sentencing/Mitigation respectively).
Negotiations	Discussions with a prosecutor in an effort to resolve a case; Preparing for settlement; Preparing any written submission to the prosecutor or settlement judge related to negotiations; attending judicial settlement conference(s).
Court Prep	Preparing for any and all pretrial hearings, other hearings or trial including defense team meetings in preparation for court, time spent prepping for direct exams, cross-exams, voir dire etc., subpoenaing witnesses, preparing materials for courts including exhibits and presentations, preparing witnesses, including expert witnesses, for testimony, moot arguments, and other elements of trials and court hearings (except preparation for hearings exclusively related to Discovery or Sentencing/Mitigation which falls under Discovery and Sentencing/Mitigation respectively).
Court Time	In court at pretrial hearings, other hearings or trial (bench or jury) (except hearings related to Sentencing/Mitigation which falls under Sentencing/Mitigation).
Sentencing / Mitigation	Legal research and writing related to sentencing. Sentencing motions practice. Developing or collecting evidence to be used in sentencing, consulting with witnesses regarding sentencing, preparing for sentencing including review and rebuttal of prosecutorial sentencing materials, preparing for and attending sentencing hearings.
Post Judgment	Work performed post-disposition by the trial defender including litigating restitution, referring the case to OPDS for appeal, preparing file for appeal/transition to appellate attorney, and all appropriate post-sentence motions, e.g. motions to terminate or modify probation, motions for reductions, motions for relief from sex offender registration, motions to reconsider or to correct judgments, expungements, sentencing modifications, troubleshooting lingering case-related matters, and closing the file. Communicating with the client on post-judgment issues. Reviewing collateral consequence notices with client.

The Oregon Project

Appendix C: Case Types and Task Definitions

Case Type Definitions – Juvenile – Dependency

Case Type	Description
Parent Representation	Any case in which you represent a parent in a child welfare proceeding other than a Termination of Parental rights case.
Child Representation	Any case in which you represent a child in a child welfare proceeding other than a Termination of Parental rights case.

Case Task Definitions – Juvenile – Dependency

Case Task	Description
Initial Jurisdiction Case Tasks	
Client Communication	All client communication through initial disposition on jurisdiction (mail, email, phone, in-person, home visit etc.) (does not include Post-Jurisdiction communication, which falls under Post-Jurisdiction).
Client Advocacy and Support	Working with child welfare, treatment providers or outside agencies on behalf of clients; handling medical/mental health/family/educational/other issues affecting client; attending meetings or proceedings related to or potentially impacting the case (excluding Post- Jurisdiction Client Advocacy and Support, which falls under Post-Jurisdiction Client Advocacy and Support).
Discovery / Case Analysis	All discovery and case analysis conducted through initial disposition, except for court prep, including, but not limited to: <ol style="list-style-type: none"> a. Ordering and obtaining discovery materials and other case-related documents, such as medical records, mental health records, criminal records, educational records, treatment records, etc.; b. Talking to service providers, including foster parents; c. Reviewing, analyzing or organizing case-related materials/evidence including DHS materials; d. Working with investigators and social workers; e. Writing/editing case related-memos; f. Negotiations to resolve the petition; g. Attorney conducted investigation, including reviewing photos, videos, physical evidence, and social media; h. Attorney conducted interviews of witnesses; and i. Documenting case file.
Experts	Locating, obtaining funding approval for, corresponding, consulting with and reviewing reports of experts for the defense, and preparing experts for hearings (except Experts exclusively related to Post-Jurisdiction which fall under Post-Jurisdiction).
Legal Research, Motions Practice, Other Writing	Researching, drafting and filing of motions, pleadings, briefs, and pre-jurisdiction report (except research and writing exclusively related to Post-Jurisdiction which fall under Post-Jurisdiction).
Court Preparation	Preparing for all hearings through initial disposition on jurisdiction including preparation for court, time spent prepping for direct exams, cross-exams, arguments etc., subpoenaing witnesses, preparing materials for courts including exhibits and presentations, moot arguments, and other elements of court preparation (excluding preparation for Post-Disposition Hearing, which falls under Post-Disposition).

The Oregon Project

Appendix C: Case Types and Task Definitions

Case Task Definitions – Juvenile – Dependency (continued)

Case Task	Description
Initial Jurisdiction Case Tasks	
Court Time	In court time all hearings through initial disposition on jurisdiction, including shelter hearings, pretrial conferences, status conferences, motions hearings, settlement conferences, jurisdictional hearings and/or disposition.
Appeal Preparation	Filing notice of appeal and appellate referral, filing appropriate motions, preparing the case file for appeal; meeting with appellate attorney; drafting transition memo.
Case Tasks Following Initial Disposition on Jurisdiction	
Post-Jurisdiction Client Communication	All client communication after initial disposition on jurisdiction (mail, email, phone, in-person, home visits etc.).
Post-Jurisdiction Client Advocacy and Support	After initial disposition on jurisdiction: Working with child welfare, treatment providers or outside agencies on behalf of clients; handling medical/mental health/family/ educational/other issues affecting client; attending meetings or proceedings related to or potentially impacting the case.
Post-Jurisdiction Hearing Preparation	After initial disposition on jurisdiction: Obtaining and reviewing provider reports; conducting post jurisdiction discovery; legal research and writing for post-jurisdiction hearings; preparation of post-jurisdiction motions; hiring and consulting with post-jurisdiction experts; preparing for post-jurisdiction hearings.
Post-Jurisdiction Court Time	Attending hearings after initial disposition on jurisdiction, including Citizen Review Board hearings (CRBs).

Case Type Definitions – Juvenile – Termination of Parental Rights

Case Type	Description
Parent Representation	Any Termination of Parental rights case in which you represent a parent in a child welfare proceeding.
Child Representation	Any Termination of Parental rights case in which you represent a child in a child welfare proceeding.

The Oregon Project

Appendix C: Case Types and Task Definitions

Case Task Definitions – Juvenile – Termination of Parental Rights

Case Task	Description
Client Communication	All client communication through initial disposition on jurisdiction (mail, email, phone, in-person, home visit etc.) (does not include Post-Jurisdiction communication, which falls under Post-Jurisdiction).
Client Advocacy and Support	Working with child welfare, treatment providers or outside agencies on behalf of clients; handling medical/mental health/family/educational/other issues affecting client; attending meetings or proceedings related to or potentially impacting the case(excluding Post-Jurisdiction Client Advocacy and Support, which falls under Post-Jurisdiction Client Advocacy and Support).
Discovery / Case Analysis	All discovery and case analysis conducted through initial disposition, except for court prep, including, but not limited to: <ul style="list-style-type: none"> a. Ordering and obtaining discovery materials and other case-related documents, such as medical records, mental health records, criminal records, educational records, treatment records, etc.; b. Talking to service providers, including foster parents; c. Reviewing, analyzing or organizing case-related materials/evidence including DHS materials; d. Working with investigators and social workers; e. Writing/editing case related-memos; f. Negotiations to resolve the petition; g. Attorney conducted investigation, including reviewing photos, videos, physical evidence, and social media; h. Attorney conducted interviews of witnesses; and i. Documenting case file.
Experts	Locating, obtaining funding approval for, corresponding, consulting with and reviewing reports of experts for the defense, and preparing experts for hearings (except Experts exclusively related to Post-Jurisdiction which fall under Post-Jurisdiction).
Legal Research, Motions Practice, Other Writing	Researching, drafting and filing of motions, pleadings, briefs, and pre-jurisdiction report (except research and writing exclusively related to Post-Jurisdiction which fall under Post-Jurisdiction).
Court Preparation	Preparing for all hearings through initial disposition on jurisdiction including preparation for court, time spent prepping for direct exams, cross-exams, arguments etc., subpoenaing witnesses, preparing materials for courts including exhibits and presentations, moot arguments, and other elements of court preparation (excluding preparation for Post-Disposition Hearing, which falls under Post-Disposition).
Court Time	In court time all hearings through initial disposition on jurisdiction, including shelter hearings, pretrial conferences, status conferences, motions hearings, settlement conferences, jurisdictional hearings and/or disposition.

The Oregon Project

Appendix C: Case Types and Task Definitions

Case Task Definitions – Juvenile – Termination of Parental Rights (continued)

Case Task	Description
Appeal Preparation	Filing notice of appeal and appellate referral, filing appropriate motions, preparing the case file for appeal; meeting with appellate attorney; drafting transition memo.
Post-Judgment Work	All work performed post-judgment including client communication, assistance with and consulting about mediation, and troubleshooting lingering case-related matters (except Appeal Preparation, which falls under Appeal Preparation).

Case Type Definitions – Juvenile – Delinquency

Case Type	Description
Misdemeanor / Other	Defined to include violations, but not probation violations, Status Offenses, Expungements, etc.
Minor Felonies	Defined to include Class C felonies other than sex crimes.
Major Felonies	Defined as all other felonies originating in juvenile court in which waiver is not sought.
Waiver / Measure 11 Cases ¹⁰²	Defined as all cases in which waiver is sought and all Measure 11 cases.
Probation Violation / Contempt	Probation violation cases.

Case Task Definitions – Juvenile – Delinquency

Case Task	Description
Client Communication	All client communication (mail, email, phone, in-person, etc.).
Parent / Guardian / Custodian Communication	All communications with the client's parent(s)/ guardian(s)/custodian(s) (except communication of an investigatory nature, which falls under Attorney Investigation/Interviews).
Client Advocacy and Support	Working with social services, treatment providers or outside agencies on behalf of clients; handling medical/mental health/family/educational/other issues affecting client during juvenile delinquency case; attending other meetings or proceedings related to or potentially impacting juvenile delinquency charges (excluding preparation for court hearings, which falls under preparation and excluding post-disposition, which falls under post-disposition).
Discovery / Case Analysis	Ordering and obtaining discovery materials and other case-related documents, including medical records, educational records, treatment records, public records requests and nonparty record production. Reviewing, analyzing or organizing case-related materials/evidence including any court-ordered evaluations, video evidence, social media evidence, etc.; working with investigators; writing/editing case related-memos; defense team meetings related to discovery or case analysis; documenting case file.

¹⁰² In 2019, the Legislature passed a law eliminating the applicability of Measure 11 to juveniles, which ended the automatic transfer of juveniles (ages 15017) charged with certain offenses to adult court.

The Oregon Project
Appendix C: Case Types and Task Definitions

Case Task Definitions – Juvenile – Delinquency (continued)

Case Task	Description
Attorney Investigation / Attorney Interviews	Case-related investigation activities, including social history investigations, viewing the scene and physical evidence, canvassing for and interviewing witnesses, serving subpoenas; taking photos/videos, etc. (Note: this is all work conducted by the attorney. Communications with investigators or others related to their interviews/investigations fall under Discovery/Case Analysis).
Experts	Locating, obtaining funding approval for, corresponding, consulting with and reviewing reports of experts for the defense, and preparing experts for hearings.
Legal Research, Motions Practice, Other Writing	Researching, drafting and filing of motions, pleadings, briefs, etc. related to pretrial, motions, or jurisdiction hearing.
Negotiations	Communications and discussions with prosecutor/Juvenile Department/Oregon Youth Authority in an effort to resolve a case.
Court Preparation	Preparing for any and all pre-jurisdiction, jurisdictional and dispositional hearings including defense team meetings in preparation for court, time spent prepping for direct exams, cross-exams, arguments etc., preparing for rebuttal of prosecutorial materials and addressing restitution, subpoenaing witnesses, preparing materials for courts including exhibits and presentations, moot arguments, and other elements of trials and pre-adjudication hearings.
Court Time	Any and all in court time at hearings or conferences (e.g. Including shelter hearings, detention reviews, review hearings, status conference, motions hearings, settlement conferences, jurisdictional hearings and/or disposition, including restitution hearing).
Post-Disposition	All work performed post-disposition including client communication; client advocacy and support work post-disposition; preparing for and arguing post-disposition hearings, including sex offender registration hearings; preparing file for appeal/transition to appellate attorney; assisting with compliance with conditions; meeting participation; ensuring appropriate release; property returns; petitions for modification; and troubleshooting lingering case-related matters.

The Oregon Project
Appendix D: Delphi Panel Characteristics

Delphi Panel Characteristics

The below charts summarizes the experience of the Round Three participants (the Delphi panels):

Years as Practicing Attorney	Adult Criminal	Juvenile
Less than 5 years	1	3
5 to 15 years	12	6
16 to 25 years	10	12
More than 25 years	7	7

Category	Adult Criminal	Juvenile
Public defender at a non-profit public defender contract office	14	12
Attorney at a law firm or consortium that has a public defense contract with OPDS	10	16
Private practice criminal defense attorney who does some minimal public defense work	6	0

Adult Criminal Case Intake Form – Los Angeles, California County Bar Association

Effective as of 07/27/21

INDIGENT CRIMINAL DEFENSE | LOS ANGELES COUNTY
APPOINTMENT | BAR ASSOCIATION

CLIENT INTAKE SHEET

Attorney Name: _____

Duty Date: _____ / Non-Duty Day Pick-Up Date: _____

Case #: _____ Court: _____ Court Dept #: _____

Client Information

Name: _____ AKA/Booked as: _____

DOB: _____ / Age: ____ Gender: M F Race/ Ethnic Origin Please select: 

Client's Place of Birth (City, Country): _____

Whether or not your client is impacted by US immigration policy, please check this box affirming that you have considered their eligibility for expulsion/citizenship and documented this in their file.

Contact Information

Client Address: _____

Client Phone Number: (____) _____

Name of Family Contact: _____

Please indicate this person's relationship to client: _____

Family Number: (____) _____

Interpreter Required: Yes No Preferred Language: _____

Charging Document

Complaint/Information Status: New PV

Complaint Date: _____, and/or Next Hearing Date: _____

The Oregon Project
Appendix E: Example Opening and Closing Forms

**Adult Criminal Case Intake Form – Los Angeles, California County Bar Association
(continued)**

Next Hearing Type: _____ Filing Date: _____

Case Information

Was this an instance of witness representation? Yes No
If yes, you may skip the Detention Status and Charges sections.

What stage were you appointed? _____

DCFS or Dependency Court/Mental Health Court Involvement? Yes No

If yes,

Name/ Contact of service provider: _____

Name/ Contact of service-related Attorney: _____

Charges (Code Section):	Indicate Felony (F) or Misdemeanor (M):	Enhancements:
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____

Max Exposure: _____

Detention Status

My client is currently detained: Yes No
If no, please enter NA for the following fields.

If Detained After Arraignment: House Arrest (CDP) County Jail: Please select:

Other: _____ Detention Location: _____

Bail Review Date: _____ Preliminary Hearing Date: _____ Other: _____

The Oregon Project
Appendix E: Example Opening and Closing Forms

**Adult Criminal Case Intake Form – Los Angeles, California County Bar Association
(continued)**

Co-Defendant Information

If there was no co-defendant involvement, please enter NA

Names of Co-Defendant(s):	Case Number	Co-Attorneys of Co-Defendants
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Other Open Cases

Charges:

Case Numbers:

Attorney: _____

Probation Officer: _____

Next Court Date: _____

Court/ Judge: _____

Notes

INFORMATION MUST BE SUBMITTED TO OFFICE WITHIN 48 HOURS OF APPOINTMENT

Adult Criminal Case Resolution Form – Los Angeles, California County Bar Association

Effective as of 07/30/21

INDIGENT CRIMINAL DEFENSE APPOINTMENT | LOS ANGELES COUNTY BAR ASSOCIATION

CASE RESOLUTION FORM

Date of Resolution: _____ Attorney Name: _____
Client Name: _____ Case Number: _____
Court: _____ Department: _____
Judicial Officer: _____

Ancillary Resources Used:

ICDA Team: _____ Investigator: _____
Social Worker: _____ Expert Witness: _____
Additional Names: _____

Is this a Prop 57 or a Transfer Case? Yes No

Case Status: Please select:
Result: Please select:
Sustained Max:
Length: _____ Period: Please select:
Client's Location: Please select:
Facility: _____

Adult Criminal Case Resolution Form – Los Angeles, California County Bar Association (continued)

INDIGENT CRIMINAL DEFENSE APPOINTMENT		LOS ANGELES COUNTY BAR ASSOCIATION	
Charges			
1. Count 1:	Charge(s) Sustained:		
_____ Select ▾	_____ Select ▾		
Enhancements: _____	Disposition: Please select:		▾
Notes:	Dispo. Date:		
	Sentence: Please select:		▾
	Sentence Date:		
	Alleged Max:	Period: Please select	▾
2. Count 2:	Charge(s) Sustained:		
_____ Select ▾	_____ Select ▾		
Enhancements: _____	Disposition: Please select:		▾
Notes:	Dispo. Date:		
	Sentence: Please select:		▾
	Sentence Date:		
	Alleged Max:	Period: Please select	▾
3. Count 3:	Charge(s) Sustained:		
_____ Select ▾	_____ Select ▾		
Enhancements: Please select: ▾	Disposition: Please select:		▾
Notes:	Dispo. Date:		
	Sentence: Please select:		▾
	Sentence Date:		
	Alleged Max:	Period: Please select	▾

Adult Criminal Case Resolution Form – Los Angeles, California County Bar Association (continued)

INDIGENT CRIMINAL DEFENSE APPOINTMENT		LOS ANGELES COUNTY BAR ASSOCIATION	
Charges			
4. Count 1:		Charge(s) Sustained:	
_____	Select: ▾	_____	Select: ▾
Enhancements: Please select:	▾	Disposition: Please select:	▾
Notes:		Dispo. Date:	
		Sentence: Please select:	▾
		Sentence Date:	
		Alleged Max: Period: Please select	▾
5. Count 2:		Charge(s) Sustained:	
_____	Select: ▾	_____	Select: ▾
Enhancements: Please select:	▾	Disposition: Please select:	▾
Notes:		Dispo. Date:	
		Sentence: Please select:	▾
		Sentence Date:	
		Alleged Max: Period: Please select	▾
6. Count 3:		Charge(s) Sustained:	
_____	Select: ▾	_____	Select: ▾
Enhancements: Please select:	▾	Disposition: Please select:	▾
Notes:		Dispo. Date:	
		Sentence: Please select:	▾
		Sentence Date:	
		Alleged Max: Period: Please select	▾

Adult Criminal Case Resolution Form – Los Angeles, California County Bar Association (continued)

<p>INDIGENT CRIMINAL DEFENSE APPOINTMENT</p>	<p>LOS ANGELES COUNTY BAR ASSOCIATION</p>																				
<p>Schedule</p> <p>Contested Hearings Conducted:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 40%; text-align: center;">Description</th> <th style="width: 50%; text-align: center;">Date</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1.</td> <td>Please select: <input style="width: 20px;" type="text" value="v"/></td> <td style="text-align: center;">_____</td> </tr> <tr> <td style="text-align: center;">2.</td> <td>Please select: <input style="width: 20px;" type="text" value="v"/></td> <td style="text-align: center;">_____</td> </tr> <tr> <td style="text-align: center;">3.</td> <td>Please select: <input style="width: 20px;" type="text" value="v"/></td> <td style="text-align: center;">_____</td> </tr> <tr> <td style="text-align: center;">4.</td> <td>Please select: <input style="width: 20px;" type="text" value="v"/></td> <td style="text-align: center;">_____</td> </tr> </tbody> </table> <p style="margin-top: 20px;">*Please indicate results or any other notable information in the Notes section below.</p>			Description	Date	1.	Please select: <input style="width: 20px;" type="text" value="v"/>	_____	2.	Please select: <input style="width: 20px;" type="text" value="v"/>	_____	3.	Please select: <input style="width: 20px;" type="text" value="v"/>	_____	4.	Please select: <input style="width: 20px;" type="text" value="v"/>	_____					
	Description	Date																			
1.	Please select: <input style="width: 20px;" type="text" value="v"/>	_____																			
2.	Please select: <input style="width: 20px;" type="text" value="v"/>	_____																			
3.	Please select: <input style="width: 20px;" type="text" value="v"/>	_____																			
4.	Please select: <input style="width: 20px;" type="text" value="v"/>	_____																			
<p>Motions</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 40%; text-align: center;">Types of Motions</th> <th style="width: 20%; text-align: center;">Date</th> <th style="width: 30%; text-align: center;">Ruling</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1.</td> <td>Please select: <input style="width: 20px;" type="text" value="v"/></td> <td></td> <td style="text-align: center;">Please select: <input style="width: 20px;" type="text" value="v"/></td> </tr> <tr> <td style="text-align: center;">2.</td> <td>Please select: <input style="width: 20px;" type="text" value="v"/></td> <td></td> <td style="text-align: center;">Please select: <input style="width: 20px;" type="text" value="v"/></td> </tr> <tr> <td style="text-align: center;">3.</td> <td>Please select: <input style="width: 20px;" type="text" value="v"/></td> <td></td> <td style="text-align: center;">Please select: <input style="width: 20px;" type="text" value="v"/></td> </tr> <tr> <td style="text-align: center;">4.</td> <td>Please select: <input style="width: 20px;" type="text" value="v"/></td> <td></td> <td style="text-align: center;">Please select: <input style="width: 20px;" type="text" value="v"/></td> </tr> </tbody> </table> <p style="margin-top: 20px;">Did you file a notice of appeal?</p> <p style="margin-left: 40px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Contested Issue of Law or Fact </p>			Types of Motions	Date	Ruling	1.	Please select: <input style="width: 20px;" type="text" value="v"/>		Please select: <input style="width: 20px;" type="text" value="v"/>	2.	Please select: <input style="width: 20px;" type="text" value="v"/>		Please select: <input style="width: 20px;" type="text" value="v"/>	3.	Please select: <input style="width: 20px;" type="text" value="v"/>		Please select: <input style="width: 20px;" type="text" value="v"/>	4.	Please select: <input style="width: 20px;" type="text" value="v"/>		Please select: <input style="width: 20px;" type="text" value="v"/>
	Types of Motions	Date	Ruling																		
1.	Please select: <input style="width: 20px;" type="text" value="v"/>		Please select: <input style="width: 20px;" type="text" value="v"/>																		
2.	Please select: <input style="width: 20px;" type="text" value="v"/>		Please select: <input style="width: 20px;" type="text" value="v"/>																		
3.	Please select: <input style="width: 20px;" type="text" value="v"/>		Please select: <input style="width: 20px;" type="text" value="v"/>																		
4.	Please select: <input style="width: 20px;" type="text" value="v"/>		Please select: <input style="width: 20px;" type="text" value="v"/>																		
<p>4</p>																					

Adult Criminal Case Resolution Form – Los Angeles, California County Bar Association (continued)

INDIGENT CRIMINAL DEFENSE | LOS ANGELES COUNTY
APPOINTMENT | BAR ASSOCIATION

Notes

Please indicate any notable effort put into the case, not covered elsewhere on this form:

The Oregon Project
Appendix E: Example Opening and Closing Forms

Juvenile Case Intake Form – Los Angeles, California County Bar Association

Effective as of 09/01/18

INDEPENDENT JUVENILE DEFENDER PROGRAM | LOS ANGELES COUNTY BAR ASSOCIATION

CLIENT INTAKE SHEET

Attorney Name: _____

Duty Date: _____ / Non-Duty Pick-Up Date: _____

Case #: _____ Court: _____ Court Dept. #: _____

<u>EMAIL TO:</u>	North Bethany Judson (213) 896-6472 bjudson@lacba.org	South Tracy Andrade (213) 896-6505 tandrade@lacba.org	East Shanice Hawthorne (213) 833-6706 shawthorne@lacba.org	West Sarah Fiskin (213) 896-6430 sfiskin@lacba.org
------------------	--	---	--	---

Client Information

Name: _____ AKA/Booked as: _____

DOB: _____ / AGE: ____ Gender: M F Race/ Ethnic Origin: Select: ▼

Minor's Place of Birth (City, Country): _____

Whether or not your client is a potential candidate, please check this box affirming that you have considered their eligibility for SIJS and that this is sufficiently documented in their file.

Contact Information

Client Phone Number: (____) _____

Address/ Placement Location: _____

Name of Parent/ Legal Guardian/ DCFS Placement: _____

Please indicate this person's relationship to client: _____

Parent/ Guardian/ Placement Phone Number: (____) _____

Interpreter Required? (Including Parents) : Yes No Preferred Language: _____

Petition Information

Petition Status: New Active Petition Type: Detained Non-Detained

Petition Date: _____ Next Hearing Date: _____ Next Hearing Type: _____

**Juvenile Case Intake Form – Los Angeles, California County Bar Association
(continued)**

Case Information

Was this an instance of witness representation? Yes No
If yes, you may skip the Detention Status and Charges sections.

WIC 450/ AB12/212 appointment? Yes No
If yes, you may skip the Detention Status section.

Were you appointed post-disposition? Yes No

Is this a 601 status offense? Yes No

Is your client facing a transfer motion to adult court? Yes No

Is this a Prop 57 return case? Yes No

Was there any DCFS or Dependency Court Involvement? Yes No

If yes,

Name/ Contact of Social Worker: _____

Name/ Contact of Dependency Court Attorney: _____

Charges (Code Section):	Indicate Felony (F) or Misdemeanor (M):	Enhancements:
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____
_____	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	_____

Max Exposure: _____

Detention Status

My client is currently detained: Yes No
If no, please enter NA for the following fields.

If Detained After Arraignment:

House Arrest (CDP) Juvenile Hall/ Camp Jail Other: _____

Detention Location: _____
Please provide full name.

Dennis "H" Hearing Date: _____ William "M" Hearing Date: _____ Other: _____

Juvenile Case Intake Form – Los Angeles, California County Bar Association
(continued)

Co-Minor Information

If there was no co-minor involvement, please enter NA.

Names of Co-Minor(s):	Case Number:	Co-Attorney for Co-Minors:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Other Open Petitions/ Probation

If there are no other open petitions, please enter NA.

Charges:	Petition Date:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Attorney: _____ Probation Officer: _____
Next Court Date: _____ Court/ Judge: _____

Notes

INFORMATION MUST BE SUBMITTED TO OFFICE WITHIN 48 HOURS OF APPOINTMENT

Juvenile Case Resolution Form – Los Angeles, California County Bar Association

Effective as of 05/01/18

INDEPENDENT JUVENILE DEFENDER PROGRAM | LOS ANGELES COUNTY BAR ASSOCIATION

CASE RESOLUTION FORM

Date of Resolution: _____ Attorney Name: _____

Client Name: _____ Case Number: _____

Court: _____ Department: _____

Judicial Officer: _____ Petition Date: _____

Ancillary Resources Used:

Investigator Social Worker Writ Attorney Resource Attorney

Expert Witnesses Appointed: _____

Charges in Petition: _____ Charges Sustained: _____

MAX: _____ MAX: _____

Basis of Charges Sustained:

Admission

Adjudication

If your client admitted the charges, check this box if you have sufficiently documented your rationale for admission as opposed to adjudicating the matter.

Juvenile Case Resolution Form – Los Angeles, California County Bar Association
(continued)

Disposition at time of Admission/Resolution:

- | | | |
|------------------------------|---|---------------------------------------|
| <input type="checkbox"/> 654 | <input type="checkbox"/> Suitable Placement | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> 725 | <input type="checkbox"/> CCP Term: _____ | <input type="checkbox"/> Transferred |
| <input type="checkbox"/> 790 | <input type="checkbox"/> DJF Term: _____ | Dept: _____ |
| <input type="checkbox"/> HOP | <input type="checkbox"/> Dismissed | Attorney: _____ |

Contested Hearings Conducted:

- William M.
Witnesses Called: _____
- Dennis H.
Witnesses Called: _____
- Motion to Suppress
Witnesses Called: _____
- Adjudication
Witnesses Called: _____
- Disposition
Witnesses Called: _____
- Other: _____

Did you file a notice of appeal?

- Yes No No Contested Issue of Law or Fact

**Juvenile Case Resolution Form – Los Angeles, California County Bar Association
(continued)**

Written Motions Filed

700.1 (WIC analog to PC 1538.5)

Other: _____

Oral Motions Argued

701.1

Other: _____

How many times did you meet with the client outside of court appearances? _____

Please indicate any notable effort put into the case, not covered elsewhere on this form:

Exhibits

Statewide Cases Represented by Court Appointed Attorneys by Type and Estimated Caseload

STATEWIDE CASES REPRESENTED BY COURT APPOINTED ATTORNEYS BY TYPE AND ESTIMATED CASELOAD

Adult Criminal						
Case Type	2017	2018	2019	2020	Jan 1 - October 10, 2021	Estimated Caseload
Low-Level Misdemeanor	26,908	30,604	28,533	24,942	12,398	25,407
Complex Misdemeanor	9,610	10,413	9,328	8,787	5,622	9,083
Low-Level Felony	23,828	19,303	19,461	17,641	10,395	18,738
Mid-Level Felony	2,043	2,002	1,855	1,754	1,238	1,851
High-Level Felony	1,651	1,724	1,571	1,548	1,352	1,649
Homicide and Sex Cases	55	58	55	30	51	53
Probation Violations ¹⁰³	25,227	25,145	24,567	15,092	3,095	18,807
Total Adult Criminal¹⁰³	89,322	89,249	85,370	69,794	34,151	75,588

¹⁰³ Probation Violation Data within the Adult Criminal data above is stated for the period January 1 – March 31, 2021.

The Oregon Project

Exhibit #1

Statewide Cases Represented by Court Appointed Attorneys by Type and Estimated Caseload

STATEWIDE CASES REPRESENTED BY COURT APPOINTED ATTORNEYS BY TYPE AND ESTIMATED CASELOAD

Juvenile						Estimated Caseload
Juvenile - Dependency						
Case Type	2017	2018	2019	2020	Q1 2021	
Parent Representation	10,094	8,380	7,920	5,980	1,148	7,888
Child Representation	5,335	4,401	4,114	3,096	608	4,130
Total Juvenile - Dependency	15,429	12,781	12,034	9,076	1,756	12,018

Juvenile - Termination of Parental Rights						Estimated Caseload
Case Type	2017	2018	2019	2020	Q1 2021	
Parent Representation	2,313	2,268	2,117	1,423	560	2,043
Child Representation	1,434	1,377	1,250	846	322	1,230
Total Juvenile - Termination of Parental Rights	3,747	3,645	3,367	2,269	882	3,273

Juvenile - Delinquency						Estimated Caseload
Case Type	2017	2018	2019	2020	Q1 2021	
Misdemeanor / Other	1,632	1,783	1,641	1,069	159	1,479
Minor Felonies	902	912	884	728	117	834
Major Felonies	175	167	155	118	18	149
Waiver / Measure 11 Cases	144	140	166	306	56	191
Probation Violation / Contempt	2,368	2,443	2,251	1,033	159	1,942
Total Juvenile - Delinquency	5,221	5,445	5,097	3,254	509	4,594

Total Juvenile	24,397	21,871	20,498	14,599	3,147	19,885
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GRAND TOTAL	113,719	111,120	105,868	84,393	37,298	95,473
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For Adult Criminal cases, in comparing the data provided to Published Annual Cases Filed reports, which can be found at <https://www.courts.oregon.gov/about/Pages/reports-measures.aspx>, the data above, excluding Probation Violations / Contempt cases was extracted from files that were within 0.5% and 9% of the total datasets. Certain violation cases, that are classified as felony or misdemeanors in the published reports were excluded from the tables above, as those cases are not eligible for court appointed attorneys. In total, the case counts above are less than referenced published reports.

Sources:

- Adult Criminal Probation Violations: *OPDS Contractor database, populated by monthly reports from Contractors based on appointed cases by case number and filing date.*
- Adult Criminal - All Other Case Types: *Sourced from Oregon Judicial Department dashboard data, based on case filed date for cases and clients represented by court appointed attorneys. This data was pulled through October 10, 2021 for 2021 presented above. See Exhibit 3 for certain allocations of Case Types.*
- Juvenile - Probation Violations: *OPDS Contractor database, populated by monthly reports from Contractors based on appointed cases by case number and filing date. For Parent Child Representation Program counties, the data is sourced from the Oregon Judicial Department Pre-trial dashboard, which are based on disposed date, and represent 29, 48, 79, 66, and 38 cases respectively for the periods presented above from 2017-Q1 2021.*
- Juvenile - All Other Case Types: *Sourced from Oregon Judicial Department dashboard data, based on case filed date for cases and clients represented by court appointed attorneys.*

The Oregon Project
Exhibit #2
Workload Analysis

WORKLOAD ANALYSIS

ADULT CRIMINAL

	[2]	[1]	
Case Type	Delphi Hours Per Case	Estimated Annual Caseload	Total Hours
Low-Level Misdemeanor	22.26	25,407	565,556
Complex Misdemeanor	36.98	9,083	335,887
Low-Level Felony	39.78	18,738	745,378
Mid-Level Felony	47.73	1,851	88,362
High-Level Felony	148.95	1,649	245,587
Homicide and Sex Cases	552.46	53	29,170
Probation Violations	8.33	18,807	156,666
Total Adult Criminal		75,588	2,166,606

JUVENILE

	[3]	[1]	
Case Type	Delphi Hours Per Case	Estimated Annual Caseload	Total Hours
<i>Dependency</i>			
Dependency - Parent Representation	115.62	7,888	911,956
Dependency - Child Representation	117.07	4,130	483,540
<i>Termination of Parental Rights</i>			
TPR - Parent Representation	104.92	2,043	214,309
TPR - Child Representation	76.83	1,230	94,528
<i>Delinquency</i>			
Misdemeanor / Other	35.65	1,479	52,712
Minor Felonies	43.79	834	36,506
Major Felonies	68.50	149	10,202
Waiver / Measure 11 Cases	261.48	191	49,958
Probation Violation / Contempt	14.07	1,942	27,326
Total Juvenile		19,885	1,881,036
GRAND TOTAL		95,473	4,047,642
Hours needed by Contract Attorneys [4]			3,926,213

[1] Based on the average opened cases per year for the respective case grouping and attorney type (see Exhibit 1)

[2] Per the Adult Criminal Delphi panel results (see Exhibit 4.1)

[3] Per the Juvenile Delphi panel results (see Exhibit 4.2)

[4] The caseload data – because it was pulled from the courts – did not exclude cases taken by non-contract attorneys. It included all "court appointments." To address this imbalance, the caseload numbers were reduced by the amount (best estimate) that could be attributed to non-contract attorneys by reducing the total hours needed to provide adequate representation based on current caseloads. We reduced the needed hours by 3% (meaning 97% of the needed hours were estimated to be covered by contract FTEs), because OPDS staff estimated that 2-3% of cases are handled by non-contract attorneys.

The Oregon Project
Exhibit #3
Allocated Cases

ALLOCATIONS

Low-Felony to Mid-Level Felony					
	2017	2018	2019	2020	2021 partial
<i>Initial Property, Person and Motor Vehicle Felonies within Low-Level Felony</i>	6,998	6,841	6,369	6,009	4,246
BM57 Cases allocated to Mid-Level Felony @ 29%	2,029	1,984	1,847	1,743	1,231
Remain within Low-Level Felony	4,969	4,857	4,522	4,266	3,015

Based on information from the Multnomah County District Attorneys office, it was noted that 29% of Multnomah County's property felonies were subject to Ballot Measure 57 (data from September 2017-August 2019).

This Multnomah County rate was applied to the initial property, person, and motor vehicle felony cases within the statewide dataset to the Mid-Level Felony category, where BM57 cases are charged.

Low-Level Misdemeanor to Complex Misdemeanors					
	2017	2018	2019	2020	2021 partial
<i>Initial Domestic Violence Misdemeanors within Low-Level Misdemeanor Category</i>	5,145	5,738	4,833	4,832	3,235
DV and MDT cases allocated to Complex Misdemeanors @ 50%	2,573	2,869	2,417	2,416	1,617
Remain within Low-Level Misdemeanor	2,572	2,869	2,416	2,416	1,618

Based on information from the Multnomah County District Attorneys office, we were provided historical information (based on data from September 2017-August 2019) on issued cases, showing the percentage of all assault IV, harrasment and menacing charges that were assigned to the Domestic Violence and Multi-Disciplinary Team units. Cases assigned to these units should be cateogrizd as Complex Misdemeanors.

The Oregon Project

Exhibit #4.1

Analysis of the Delphi Survey Results – Adult Criminal

Low-Level Misdemeanors

	Frequency	Total
% Should Plea / Otherwise Resolve	69%	8.28
% Should Go To Trial	31%	13.98
Total:		22.26

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	3.20	100%	3.20	6.00	100%	6.00
Client Support Services	1.00	75%	0.75	1.70	75%	1.28
Discovery / Case Prep	1.80	100%	1.80	5.50	100%	5.50
Attorney Investigation / Interviews	1.20	40%	0.48	2.40	84%	2.02
Experts	1.80	24%	0.43	2.70	26%	0.70
Legal Research, Motions Practice	2.10	40%	0.84	4.10	100%	4.10
Negotiations	0.75	100%	0.75	1.00	100%	1.00
Court Prep	1.00	100%	1.00	10.00	100%	10.00
Court Time	1.50	100%	1.50	12.50	100%	12.50
Sentencing / Mitigation	0.75	100%	0.75	1.20	100%	1.20
Post Judgment	0.50	100%	0.50	0.80	100%	0.80
			12.00			45.10

Complex Misdemeanors

	Frequency	Total
% Should Plea / Otherwise Resolve	55%	9.49
% Should Go To Trial	45%	27.49
Total:		36.98

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	3.00	100%	3.00	6.00	100%	6.00
Client Support Services	1.30	75%	0.98	2.00	75%	1.50
Discovery / Case Prep	3.00	100%	3.00	8.00	100%	8.00
Attorney Investigation / Interviews	1.75	50%	0.88	3.00	90%	2.70
Experts	2.50	50%	1.25	3.50	75%	2.63
Legal Research, Motions Practice	2.00	75%	1.50	6.00	100%	6.00
Negotiations	1.00	90%	0.90	1.25	100%	1.25
Court Prep	1.50	100%	1.50	12.00	100%	12.00
Court Time	1.50	100%	1.50	18.00	100%	18.00
Sentencing / Mitigation	2.00	100%	2.00	2.00	100%	2.00
Post Judgment	0.75	100%	0.75	1.00	100%	1.00
			17.26			61.08

The Oregon Project

Exhibit #4.1

Analysis of the Delphi Survey Results – Adult Criminal

Low-Level Felony

	Frequency	Total
% Should Plea / Otherwise Resolve	70%	16.88
% Should Go To Trial	30%	22.90
Total:		39.78

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	4.00	100%	4.00	7.00	100%	7.00
Client Support Services	1.75	75%	1.31	2.50	80%	2.00
Discovery / Case Prep	4.50	100%	4.50	10.00	100%	10.00
Attorney Investigation / Interviews	2.00	80%	1.60	3.50	90%	3.15
Experts	2.50	45%	1.13	3.50	55%	1.93
Legal Research, Motions Practice	4.50	85%	3.83	8.00	100%	8.00
Negotiations	1.50	100%	1.50	1.50	100%	1.50
Court Prep	1.50	100%	1.50	15.00	100%	15.00
Court Time	1.50	100%	1.50	24.00	100%	24.00
Sentencing / Mitigation	2.50	100%	2.50	2.50	100%	2.50
Post Judgment	0.75	100%	0.75	1.25	100%	1.25
			24.12			76.33

Mid-Level Felony

	Frequency	Total
% Should Plea / Otherwise Resolve	80%	28.70
% Should Go To Trial	20%	19.03
Total:		47.73

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	5.00	100%	5.00	9.00	100%	9.00
Client Support Services	2.50	75%	1.88	3.00	80%	2.40
Discovery / Case Prep	8.00	100%	8.00	12.00	100%	12.00
Attorney Investigation / Interviews	3.00	90%	2.70	4.50	100%	4.50
Experts	3.00	60%	1.80	5.00	70%	3.50
Legal Research, Motions Practice	5.00	100%	5.00	13.00	100%	13.00
Negotiations	2.50	100%	2.50	3.00	100%	3.00
Court Prep	2.50	100%	2.50	20.00	100%	20.00
Court Time	3.00	100%	3.00	24.00	100%	24.00
Sentencing / Mitigation	2.50	100%	2.50	2.50	100%	2.50
Post Judgment	1.00	100%	1.00	1.25	100%	1.25
			35.88			95.15

The Oregon Project

Exhibit #4.1

Analysis of the Delphi Survey Results – Adult Criminal

High-Level Felony

	Frequency	Total
% Should Plea / Otherwise Resolve	75%	81.64
% Should Go To Trial	25%	67.31
Total:		148.95

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	14.00	100%	14.00	30.00	100%	30.00
Client Support Services	5.00	95%	4.75	7.00	100%	7.00
Discovery / Case Prep	24.00	100%	24.00	60.00	100%	60.00
Attorney Investigation / Interviews	10.00	100%	10.00	16.00	100%	16.00
Experts	9.00	90%	8.10	15.00	95%	14.25
Legal Research, Motions Practice	22.00	100%	22.00	35.00	100%	35.00
Negotiations	4.00	100%	4.00	6.00	100%	6.00
Court Prep	8.00	100%	8.00	50.00	100%	50.00
Court Time	7.00	100%	7.00	40.00	100%	40.00
Sentencing / Mitigation	5.00	100%	5.00	8.00	100%	8.00
Post Judgment	2.00	100%	2.00	3.00	100%	3.00
			108.85			269.25

Homicide and Sex Cases

	Frequency	Total
% Should Plea / Otherwise Resolve	67%	268.00
% Should Go To Trial	33%	284.46
Total:		552.46

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	60.00	100%	60.00	80.00	100%	80.00
Client Support Services	13.00	100%	13.00	20.00	100%	20.00
Discovery / Case Prep	100.00	100%	100.00	180.00	100%	180.00
Attorney Investigation / Interviews	27.00	100%	27.00	40.00	100%	40.00
Experts	30.00	100%	30.00	45.00	100%	45.00
Legal Research, Motions Practice	80.00	100%	80.00	120.00	100%	120.00
Negotiations	12.00	100%	12.00	16.00	100%	16.00
Court Prep	25.00	100%	25.00	180.00	100%	180.00
Court Time	23.00	100%	23.00	140.00	100%	140.00
Sentencing / Mitigation	25.00	100%	25.00	35.00	100%	35.00
Post Judgment	5.00	100%	5.00	6.00	100%	6.00
			400.00			862.00

The Oregon Project

Exhibit #4.1

Analysis of the Delphi Survey Results – Adult Criminal

Probation Violations

	<u>Frequency</u>	<u>Total</u>
<i>% Should Resolve by Stipulation, Admission or Dismissal, etc.</i>	70%	4.89
<i>% Should Go To Contested Hearing</i>	30%	3.44
Total:		8.33

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
<i>Client Communication</i>	1.40	100%	1.40	1.90	100%	1.90
<i>Client Support Services</i>	0.80	75%	0.60	1.00	90%	0.90
<i>Discovery / Case Prep</i>	1.00	100%	1.00	1.50	100%	1.50
<i>Attorney Investigation / Interviews</i>	0.75	55%	0.41	1.10	75%	0.83
<i>Experts</i>	1.00	13%	0.13	1.00	25%	0.25
<i>Legal Research, Motions Practice</i>	0.75	25%	0.19	1.00	85%	0.85
<i>Negotiations</i>	0.50	100%	0.50	0.75	100%	0.75
<i>Court Prep</i>	0.75	100%	0.75	1.50	100%	1.50
<i>Court Time</i>	0.75	100%	0.75	1.75	100%	1.75
<i>Sentencing / Mitigation</i>	0.75	100%	0.75	0.75	100%	0.75
<i>Post Judgment</i>	0.50	100%	0.50	0.50	100%	0.50
			6.98			11.48

The Oregon Project

Exhibit #4.2

Analysis of the Delphi Survey Results – Juvenile

Juvenile Dependency

Dependency - Parent Representation

	Frequency	Total
% Should Resolve by Admission / Other Resolution	78%	83.98
% Should Go To Contested Hearing / Trial	22%	31.64
Total:		115.62

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	5.50	100%	5.50	9.00	100%	9.00
Client Advocacy and Support	3.50	100%	3.50	5.00	100%	5.00
Discovery / Case Analysis	8.00	100%	8.00	12.50	100%	12.50
Experts	3.50	20%	0.70	6.00	35%	2.10
Legal Research, Motions Practice, Other Writing	2.50	100%	2.50	5.00	100%	5.00
Court Preparation	4.00	100%	4.00	12.00	100%	12.00
Court Time	4.00	100%	4.00	22.00	100%	22.00
Appeal Preparation	0.50	5%	0.03	0.50	40%	0.20
Post-Jurisdiction Client Communication	26.00	99%	25.74	26.00	95%	24.70
Post-Jurisdiction Client Advocacy and Support	24.00	100%	24.00	24.00	95%	22.80
Post-Jurisdiction Hearing Preparation	15.00	99%	14.85	15.00	95%	14.25
Post-Jurisdiction Court Time	15.00	99%	14.85	15.00	95%	14.25
			107.67			143.80

The Oregon Project

Exhibit #4.2

Analysis of the Delphi Survey Results – Juvenile

Dependency - Child Representation

	Frequency	Total
% Should Resolve by Admission / Other Resolution	78%	85.33
% Should Go To Contested Hearing / Trial	22%	31.74
Total:		117.07

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
<i>Client Communication</i>	4.00	100%	4.00	5.00	100%	5.00
<i>Client Advocacy and Support</i>	5.00	100%	5.00	6.50	100%	6.50
<i>Discovery / Case Analysis</i>	8.00	100%	8.00	12.50	100%	12.50
<i>Experts</i>	3.50	20%	0.70	6.00	35%	2.10
<i>Legal Research, Motions Practice, Other Writing</i>	2.50	100%	2.50	5.00	100%	5.00
<i>Court Preparation</i>	3.00	100%	3.00	12.00	100%	12.00
<i>Court Time</i>	4.00	100%	4.00	22.00	100%	22.00
<i>Appeal Preparation</i>	0.50	5%	0.03	1.00	30%	0.30
<i>Post-Jurisdiction Client Communication</i>	26.00	99%	25.74	26.00	95%	24.70
<i>Post-Jurisdiction Client Advocacy and Support</i>	24.00	99%	23.76	24.00	95%	22.80
<i>Post-Jurisdiction Hearing Preparation</i>	15.00	99%	14.85	15.00	95%	14.25
<i>Post-Jurisdiction Court Time</i>	18.00	99%	17.82	18.00	95%	17.10
			109.40			144.25

The Oregon Project

Exhibit #4.2

Analysis of the Delphi Survey Results – Juvenile

Juvenile Termination of Parental Rights

Termination of Parental Rights - Parent Representation

	Frequency	Total
% Should Resolve by Admission / Other Resolution	70%	60.70
% Should Go To Contested Hearing / Trial	30%	44.22
Total:		104.92

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	16.00	100%	16.00	20.00	100%	20.00
Client Advocacy and Support	15.00	100%	15.00	15.00	100%	15.00
Discovery / Case Analysis	25.00	100%	25.00	25.00	100%	25.00
Experts	8.00	90%	7.20	10.00	90%	9.00
Legal Research, Motions Practice, Other Writing	5.00	100%	5.00	10.00	100%	10.00
Court Preparation	12.00	100%	12.00	30.00	100%	30.00
Court Time	4.50	100%	4.50	35.00	100%	35.00
Appeal Preparation	0.50	1%	0.01	1.00	70%	0.70
Post-Judgment Work	2.00	100%	2.00	2.70	100%	2.70
			86.71			147.40

Termination of Parental Rights - Child Representation

	Frequency	Total
% Should Resolve by Admission / Other Resolution	70%	42.92
% Should Go To Contested Hearing / Trial	30%	33.91
Total:		76.83

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	8.00	100%	8.00	9.00	100%	9.00
Client Advocacy and Support	10.00	100%	10.00	12.00	100%	12.00
Discovery / Case Analysis	25.00	100%	25.00	25.00	100%	25.00
Experts	3.00	65%	1.95	4.50	65%	2.93
Legal Research, Motions Practice, Other Writing	2.00	100%	2.00	10.00	100%	10.00
Court Preparation	8.00	100%	8.00	17.00	100%	17.00
Court Time	5.00	100%	5.00	35.00	100%	35.00
Appeal Preparation	0.50	1%	0.01	1.00	30%	0.30
Post-Judgment Work	1.50	90%	1.35	2.00	90%	1.80
			61.31			113.03

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Exhibit #4.2

Analysis of the Delphi Survey Results – Juvenile

Juvenile Delinquency

Misdemeanors

	Frequency	Total
% Should Resolve by Admission / Other Resolution	75%	23.78
% Should Go To Contested Hearing / Trial	25%	11.87
Total:		35.65

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
Client Communication	5.00	100%	5.00	7.00	100%	7.00
Parent / Guardian / Custodian Communication	1.00	90%	0.90	1.30	90%	1.17
Client Advocacy and Support	2.50	100%	2.50	3.00	100%	3.00
Discovery / Case Analysis	5.00	100%	5.00	7.00	100%	7.00
Attorney Investigations / Attorney Interviews	2.00	85%	1.70	3.50	100%	3.50
Experts	4.00	40%	1.60	4.00	45%	1.80
Legal Research, Motions Practice, Other Writing	2.50	100%	2.50	3.50	100%	3.50
Negotiations	2.00	100%	2.00	2.00	100%	2.00
Court Preparation	3.00	100%	3.00	8.00	100%	8.00
Court Time	3.00	100%	3.00	6.00	100%	6.00
Post Disposition	4.50	100%	4.50	4.50	100%	4.50
			31.70			47.47

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Exhibit #4.2

Analysis of the Delphi Survey Results – Juvenile

Minor Felonies

	Frequency	Total
% Should Resolve by Admission / Other Resolution	60%	21.50
% Should Go To Contested Hearing / Trial	40%	22.29
Total:		43.79

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
<i>Client Communication</i>	4.50	100%	4.50	7.00	100%	7.00
<i>Parent / Guardian / Custodian Communication</i>	1.50	93%	1.40	2.50	93%	2.33
<i>Client Advocacy and Support</i>	4.00	100%	4.00	5.00	100%	5.00
<i>Discovery / Case Analysis</i>	5.00	100%	5.00	7.00	100%	7.00
<i>Attorney Investigations / Attorney Interviews</i>	2.70	90%	2.43	4.00	100%	4.00
<i>Experts</i>	4.00	50%	2.00	4.00	60%	2.40
<i>Legal Research, Motions Practice, Other Writing</i>	3.00	100%	3.00	4.00	100%	4.00
<i>Negotiations</i>	2.00	100%	2.00	2.00	100%	2.00
<i>Court Preparation</i>	4.00	100%	4.00	8.00	100%	8.00
<i>Court Time</i>	2.50	100%	2.50	9.00	100%	9.00
<i>Post Disposition</i>	5.00	100%	5.00	5.00	100%	5.00
			35.83			55.73

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Exhibit #4.2

Analysis of the Delphi Survey Results – Juvenile

Major Felonies

	Frequency	Total
<i>% Should Resolve by Admission / Other Resolution</i>	70%	40.13
<i>% Should Go To Contested Hearing / Trial</i>	30%	28.37
Total:		68.50

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
<i>Client Communication</i>	8.00	100%	8.00	12.00	100%	12.00
<i>Parent / Guardian / Custodian Communication</i>	2.50	93%	2.33	3.00	92%	2.76
<i>Client Advocacy and Support</i>	6.00	100%	6.00	7.00	100%	7.00
<i>Discovery / Case Analysis</i>	10.00	100%	10.00	12.00	100%	12.00
<i>Attorney Investigations / Attorney Interviews</i>	4.00	100%	4.00	7.00	100%	7.00
<i>Experts</i>	5.00	70%	3.50	6.00	80%	4.80
<i>Legal Research, Motions Practice, Other Writing</i>	5.00	100%	5.00	7.00	100%	7.00
<i>Negotiations</i>	3.00	100%	3.00	4.00	100%	4.00
<i>Court Preparation</i>	4.50	100%	4.50	16.00	100%	16.00
<i>Court Time</i>	6.00	100%	6.00	16.00	100%	16.00
<i>Post Disposition</i>	5.00	100%	5.00	6.00	100%	6.00
			57.33			94.56

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Analysis of the Delphi Survey Results – Juvenile

Measure 11 / Waiver

	Frequency	Total
<i>% Should Resolve by Admission / Other Resolution</i>	80%	168.08
<i>% Should Go To Contested Hearing / Trial</i>	20%	93.40
Total:		261.48

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
<i>Client Communication</i>	25.00	100%	25.00	45.00	100%	45.00
<i>Parent / Guardian / Custodian Communication</i>	10.00	100%	10.00	15.00	100%	15.00
<i>Client Advocacy and Support</i>	12.00	100%	12.00	20.00	100%	20.00
<i>Discovery / Case Analysis</i>	50.00	100%	50.00	75.00	100%	75.00
<i>Attorney Investigations / Attorney Interviews</i>	12.00	100%	12.00	20.00	100%	20.00
<i>Experts</i>	16.50	100%	16.50	23.00	100%	23.00
<i>Legal Research, Motions Practice, Other Writing</i>	14.00	90%	12.60	30.00	100%	30.00
<i>Negotiations</i>	7.00	100%	7.00	9.00	100%	9.00
<i>Court Preparation</i>	20.00	100%	20.00	135.00	100%	135.00
<i>Court Time</i>	30.00	100%	30.00	80.00	100%	80.00
<i>Post Disposition</i>	15.00	100%	15.00	15.00	100%	15.00
			210.10			467.00

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Exhibit #4.2

Analysis of the Delphi Survey Results – Juvenile

Probation Violation / Contempt

	Frequency	Total
% Should Resolve by Admission / Other Resolution	80%	9.68
% Should Go To Contested Hearing / Trial	20%	4.39
Total:		14.07

	Plea / Otherwise Resolve			Go to Trial		
	Time	Frequency	Total	Time	Frequency	Total
<i>Client Communication</i>	1.60	100%	1.60	2.50	100%	2.50
<i>Parent / Guardian / Custodian Communication</i>	0.60	83%	0.50	0.90	86%	0.77
<i>Client Advocacy and Support</i>	1.40	100%	1.40	1.90	100%	1.90
<i>Discovery / Case Analysis</i>	1.10	100%	1.10	2.20	100%	2.20
<i>Attorney Investigations / Attorney Interviews</i>	1.00	80%	0.80	2.00	100%	2.00
<i>Experts</i>	3.00	20%	0.60	3.00	30%	0.90
<i>Legal Research, Motions Practice, Other Writing</i>	1.10	100%	1.10	1.70	100%	1.70
<i>Negotiations</i>	0.70	100%	0.70	1.00	100%	1.00
<i>Court Preparation</i>	2.00	100%	2.00	4.00	100%	4.00
<i>Court Time</i>	1.10	100%	1.10	3.00	100%	3.00
<i>Post Disposition</i>	1.20	100%	1.20	2.00	100%	2.00
			12.10			21.97