

PUBLIC DEFENSE SERVICES COMMISSION

Annual Performance Progress Report (APPR) for Fiscal Year (2014-2015)

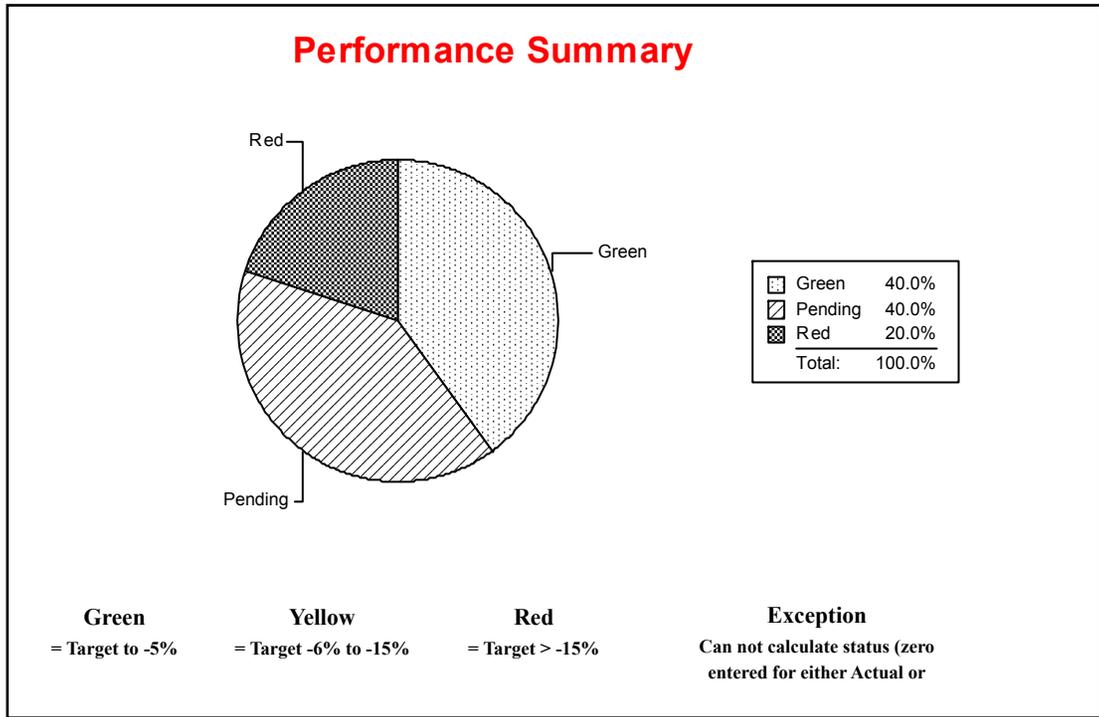
Original Submission Date: 2015

Finalize Date: 9/29/2015

2014-2015 KPM #	2014-2015 Approved Key Performance Measures (KPMs)
1	APPELLATE CASE PROCESSING - Median number of days to file opening brief.
2	CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.
3	BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission.
4	<p>Trial Level Representation: During the term of the OPDS contract, percent of attorneys who obtain at least 12 hours per year of continuing legal education credit in the area(s) of law in which they provide public defense representation. [1]</p> <p>[1] Case types listed in the 2014-2015 Public Defense Legal Services Contract General Terms are: criminal cases, probation violations, contempt cases, civil commitment cases, juvenile cases, and other civil cases. (http://www.oregon.gov/OPDS/docs/CBS/ModelContractTerms/documents/ModKJan2014.pdf)</p>
5	<p>Parent Child Representation Program (PCRP): Percent of PCRP attorneys who report spending 1/3 of their time meeting with court appointed clients in cases which the attorney represents a parent or child with decision-making capacity. [1]</p> <p>[1]For a discussion on determining decision-making capacity, see The Obligations of the Lawyer for Children in Child Protection Proceedings with Action Items and Commentary, Oregon State Bar, Report of the Task Force on Standards of Representation in Juvenile Dependency Cases (2014).</p>

New Delete	Proposed Key Performance Measures (KPM's) for Biennium 2015-2017
	Title: Rationale:

PUBLIC DEFENSE SERVICES COMMISSION		I. EXECUTIVE SUMMARY	
Agency Mission: Ensure the delivery of quality public defense services in Oregon in the most cost-efficient manner possible.			
Contact: Caroline Meyer			Contact Phone: 503-378-2508
Alternate: Angelique Bowers			Alternate Phone: 503-378-2481



1. SCOPE OF REPORT

Key performance measures address all agency programs.

2. THE OREGON CONTEXT

The Public Defense Services Commission is responsible for the provision of legal representation in Oregon state courts to financially eligible individuals who

have a right to counsel under the US Constitution, Oregon's Constitution and Oregon statutes. Legal representation is provided for individuals charged with a crime, for parents and children when the state has alleged abuse and neglect of children, and for people facing involuntary commitment due to mental health concerns. In addition, there is a right to counsel in a number of civil matters that could result in incarceration such as non-payment of child support, contempt of court, and violations of the Family Abuse Prevention Act. Finally, there is a statutory right to counsel for petitioners seeking post-conviction relief.

3. PERFORMANCE SUMMARY

The agency was not able to show improvement in all three Key Performance Measures in 2015. We have described in greater detail below measures that will be taken to improve payment processing and the availability of information, as well as reducing the median filing date of appellate briefs. With these improvements, we would expect to see progress in all three measures in 2016.

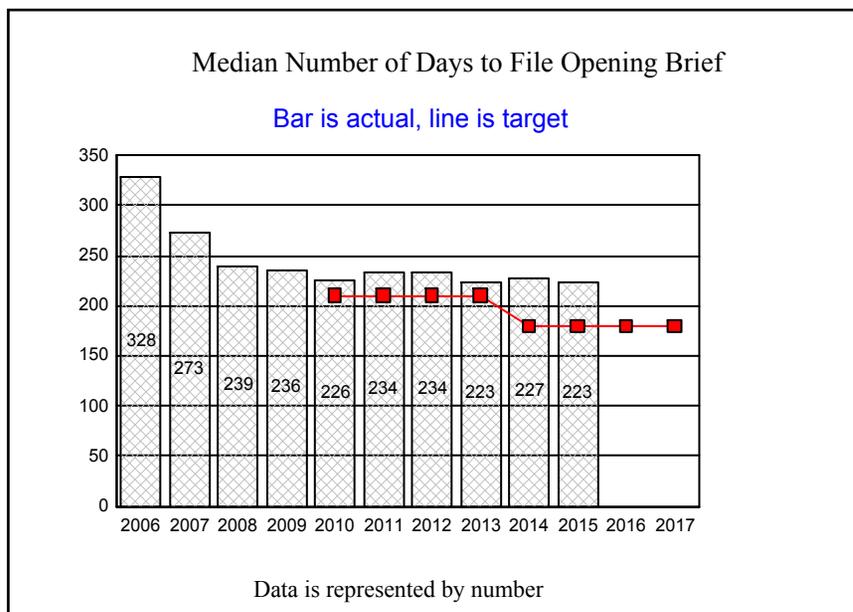
4. CHALLENGES

The primary challenge for the agency is that public defense in Oregon has been chronically underfunded. Prior to fiscal year 2008, the hourly rate for an attorney appointed on a non-Aggravated Murder case was \$40 per hour (the rate established in 1991). Over time, the skills, abilities, and experience-level of the attorneys willing and able to work at that rate has steadily declined. Although the 2007 Legislature provided funding to increase that rate to \$45 per hour, and the 2013 Legislature provided a one dollar increase to \$46, this still represents a decline in real dollars based on the Consumer Price Index increases over this 24-year period. Contractors who are paid a flat rate under a contract are assigning excessively high caseloads to their attorneys in order to cover operating expenses. Contract rates were improved for non-profit public defender offices in the 2014 contracting process, and will be improved for consortium and law firm providers during the 2016 contract cycle, but the rates remain well below what is available to privately funded lawyers. This combination of being either over-worked or under-paid, and in most cases both, prevents attorneys from being able to provide an acceptable level of representation. Another challenge for the agency is that workload is driven by a variety of factors outside the agency's control. The enactment of laws that create new crimes or increase penalties for existing crimes impact the agency's expenditures and workload. Federal requirements have shortened the timelines and increased the complexity of cases involving abuse and neglect of children. Additional funding is needed to allow the agency to execute contracts that provide lawyers with the resources necessary to reduce caseloads and retain talented lawyers.

5. RESOURCES AND EFFICIENCY

The agency's 2013-15 Legislatively Adopted Budget was \$248,747,113. Within existing resources, the agency continues to convert to electronic storage and retrieval of documents; has further automated document production with improvements to the case management database. With the implementation of e-filing, the agency continues to move toward a largely paperless office. In addition to saving paper and file storage costs, it saves attorney and staff time by having files instantly available at the click of a button.

KPM #1	APPELLATE CASE PROCESSING - Median number of days to file opening brief.	2009
Goal	GOAL 1: Reduce delay in processing appeals. GOAL 2: Ensure cost-efficient service delivery.	
Oregon Context	Mission Statement.	
Data Source	Case Management Database Reports.	
Owner	Appellate Division, Ernest G. Lannet, (503) 378-3479	



1. OUR STRATEGY

Our goal is to reduce the delay in the appellate system. Reducing the number of open cases in the pre- briefing stage enables Appellate Division attorneys to address and resolve cases more efficiently, instead of “managing” – without resolving – an excessive caseload.

2. ABOUT THE TARGETS

In 2004 the Criminal Section of the Appellate Division first identified a target date for filing the opening brief, that being 210 days following record settlement. The Oregon Court of Appeals, the Oregon Department of Justice, and the Appellate Division entered into an agreement that set the first due date for the opening and answering briefs 210 days after record settlement (or, for answering briefs, 210 days after the opening brief is filed). In 2009 the Appellate Division ceased measuring its progress by reporting the number of appeals pending (unbriefed) more than 210 days past record settlement (“Appellate Case Backlog”) and began measuring its progress by reporting the median filing date of briefs for each fiscal year (“Appellate Case Processing”). In February 2014, the Legislature approved the Appellate Division’s request to set a new goal of filing the opening brief within 180 days of record settlement. The 180-day target addresses several considerations. First, the agency considers it intolerable that an individual would have to wait more than six months before an appellate attorney was in a position to review a transcript and competently advise the client of the viability of his appellate challenge to his conviction and/or sentence. Second, the Attorney General’s Office consistently files its answering briefs at or near the 210-day brief due date, which means that, until the court and state agree to a more expedited briefing schedule, any reduction in delay must come from the Appellate Division. Third, federal courts have intervened when a state appellate system routinely takes two years to resolve criminal appeals. The 180-day target represents a reasonable attempt to meet various systemic considerations in a criminal justice system that is fair, responsible, and well administered.

3. HOW WE ARE DOING

The agency has made significant progress over the past ten years and appears back on track for further improvements. In 2006, the median number of days to file the opening brief was 328; in 2009 that number was reduced to 230 days. During the next four years, the number fluctuated between a low of 221 (2013) and a high of 231 (2012). In 2014, the number rose to 227 days. In 2015, the number was back down to 223. The fluctuations and latest progress is primarily attributable to two causes. First, appellate practice is a specialty area. It generally takes about three to five years to develop a sound, reliable attorney who can confidently and efficiently manage an appellate caseload. Since 2009, the Criminal Section has hired and trained eighteen (18) new attorneys, while losing ten (10) attorneys who had, on average, more than 12 years of experience (from more than 25 years to 3 years). Currently, fourteen of the thirty-three non-managing attorneys in the Criminal Section (over 40%) have less than 5 years of appellate experience. Second, in 2012 the Criminal Section stopped assigning overflow cases, up to 289 cases per year, to attorneys outside the office and absorbed all work internally, other than conflict cases. Assuming adequate resources, the continued development of attorneys with less than 5 years of appellate experience, and the retention of attorneys with five or more years of experience, the agency anticipates making significant strides toward its 180-day goal by the end of fiscal year 2016.

4. HOW WE COMPARE

Appellate Division attorneys have significant workloads. Nationally, an appellate public defender's workload ranges from 25 to 50 cases annually. For example, Florida and Louisiana set the maximum annual appellate caseload at 50 cases per attorney; Nebraska sets the maximum appellate caseload at 40 cases; and Georgia, Indiana, and Washington set the maximum annual appellate caseload at 25 cases per attorney. US Department of Justice, Compendium of Standards for Indigent Defense Systems, vol. IV, C 1-5 (2000). On average, an Appellate Division attorney in the Criminal Section was assigned 46 cases in the fiscal year ending in 2015, which exceeds most practices.

5. FACTORS AFFECTING RESULTS

The ability to meet and exceed the target correlates positively to the number of experienced attorneys and negatively to the number of cases. The agency does not control the number of referred cases. Attracting, training, and retaining competent attorneys affects progress toward the goal.

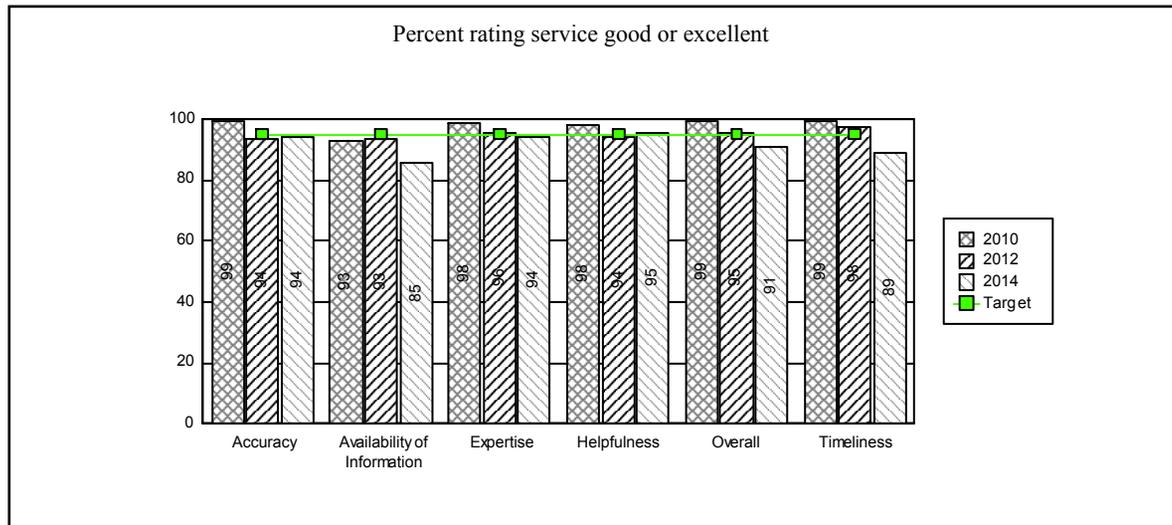
6. WHAT NEEDS TO BE DONE

Approximately forty percent (40%) of the attorney group has less than five years of appellate experience. As the attorneys mature, the office efficiency will improve. Systemically, the agency continues to meet regularly and work cooperatively with the appellate courts and the Attorney General's Office to promote system efficiencies. The agency has made significant progress over the past several years to reduce the median brief filing date for its criminal cases (from 328 days in 2006 to 223 days in 2015), but the agency aspires to reduce that number over the coming fiscal year. Barring significant and unforeseen events, such as a significant increase in caseload, the issuance of milestone Supreme Court decisions that affect hundreds of open cases, or an excessive loss of talented and experienced attorneys, the agency expects to make significant progress in fiscal year 2016 toward its target of filing briefs in criminal cases within 180 days of record settlement.

7. ABOUT THE DATA

The data is derived from the agency's case management database. The strength of the data lies in historical comparison with prior years. The weakness is attributable to the inherent difficulty in quantifying appellate caseloads. The agency continues to refine caseloads based on case type, transcript length, and issues presented.

KPM #2	CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	2007
Goal	To provide greater accountability and results from government by delivering services that satisfy customers .	
Oregon Context	To maintain and improve the following category ratings of agency service: overall quality of services, timeliness, accuracy, helpfulness, expertise and availability of information.	
Data Source	Customer Service Surveys (survey and results stored on SurveyMonkey).	
Owner	Contract Services, Caroline Meyer, (503) 378-2508	



1. OUR STRATEGY

The general strategy is to utilize feedback to address cited problems and improve the general level of service provided by the agency.

2. ABOUT THE TARGETS

Targets for 2014-15 have been set at 95% of respondents rating the agency as good or excellent.

3. HOW WE ARE DOING

The most recent survey was conducted in June 2014. The survey results indicated a high level of customer satisfaction with the agency. The overall service provided by OPDS was rated as good or excellent by more than 90% of the respondents. The standard reporting measure for state agencies groups both “good” and “excellent” into one category. In the categories of helpfulness of OPDS employees, over 95% of respondents rated the agency’s service as “good” or “excellent”. Our lowest rating was in the category of availability of information, where 85% of the respondents rated the agency’s service as “good” or “excellent”.

4. HOW WE COMPARE

Services and customers differ greatly among state agencies, so a direct comparison to other state agencies is not feasible. Similarly, comparisons to public defense systems in other jurisdictions have not been useful due to variations in the survey questions, the survey pool, and the types of services provided. Given the high percentages of positive ratings received by the agency, we would likely compare favorably were such a comparison possible.

5. FACTORS AFFECTING RESULTS

Despite the overwhelmingly positive responses, the ratings in all but one category were somewhat lower in 2014 than in prior surveys. The agency believes the lower ratings are a reflection of some dramatic changes in the office structure that took effect in the spring of 2013. As a result of the retirements of two tenured management level employees, there was a complete reassignment of particular tasks associated with the processing of non-routine expense requests and billings. This change naturally required additional time for training and oversight which translated to slightly increased processing delays. This change also meant that phone calls and other requests for information that had been routed through the same management level employees with years of experience, were now being assigned to other individuals in the office with less experience and authority to respond. The agency believes this resulted in providers feeling that their questions were not always being fully answered and information being less available to them.

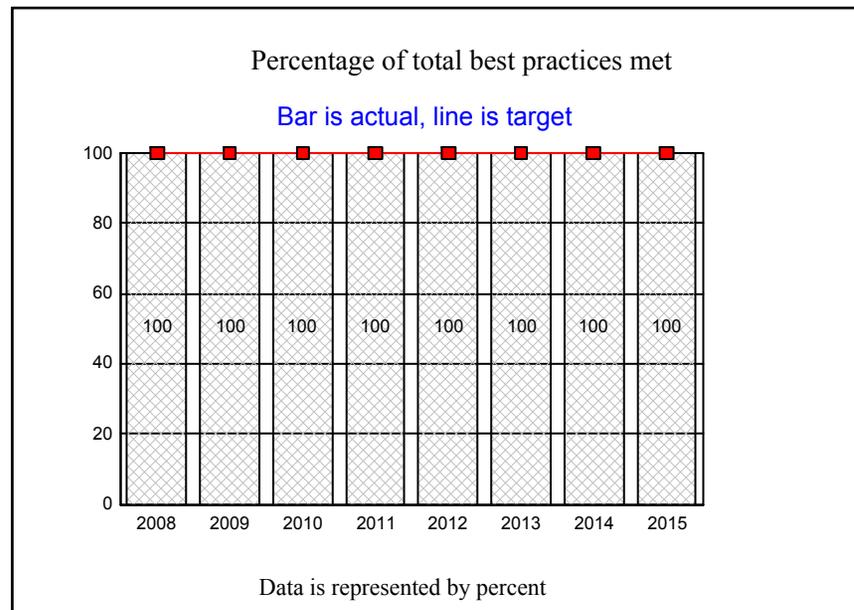
6. WHAT NEEDS TO BE DONE

The agency's rating declined most significantly in the area of availability of information , and timely payment processing. Providers commented that although the agency still processes payments much more quickly and efficiently than other agencies , they saw a noticeable decrease in processing time as a result of the office changes mentioned above . Agency management and staff have met and discussed specific steps that can be taken to ensure information continues to be readily accessible to providers, and payments get processed more timely. We continue to refine these improvements.

7. ABOUT THE DATA

A total of 1,348 contract attorneys, private bar attorneys, and service providers were invited to complete the agency's Customer Service Survey. The survey was administered in June 2014. There was a 25% response rate (342 responses) to the survey. The agency administers the customer service survey every two years to coincide with its two-year contract cycle. The next survey will be conducted in June 2016.

KPM #3	BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission.	2007
Goal	Best practices as a pathway to improved performance and accountability.	
Oregon Context	Required KPM for all Oregon boards and commissions.	
Data Source	Commission agendas and minutes.	
Owner	Office of Public Defense Services, Nancy Cozine, (503) 378-2515.	



1. OUR STRATEGY

The agency's commission currently follows all of the best practices.

2. ABOUT THE TARGETS

The agency anticipates meeting all of the best practices for boards and commissions.

3. HOW WE ARE DOING

The Commission's minutes provided in the materials for its September 18, 2014, meeting included the discussion of the self-assessment confirming that the agency met all of the best practices for boards and commissions. Another self-assessment is on the agenda for the September 17, 2015, meeting.

4. HOW WE COMPARE

The agency assumes that most boards and commissions will be able to implement all best practices.

5. FACTORS AFFECTING RESULTS

There are no factors that would prohibit the agency from meeting all of the best practices.

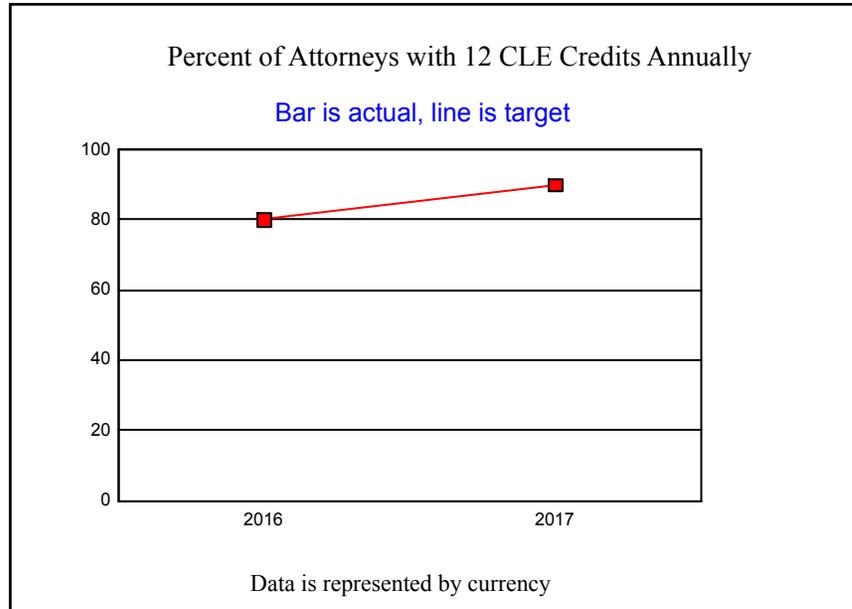
6. WHAT NEEDS TO BE DONE

No change is needed.

7. ABOUT THE DATA

The Commission continues to meet all of the best practices as documented in the Commission meeting minutes.

KPM #4	<p>Trial Level Representation: During the term of the OPDS contract, percent of attorneys who obtain at least 12 hours per year of continuing legal education credit in the area(s) of law in which they provide public defense representation. [1]</p> <p>[1] Case types listed in the 2014-2015 Public Defense Legal Services Contract General Terms are: criminal cases, probation violations, contempt cases, civil commitment cases, juvenile cases, and other civil cases. http://www.oregon.gov/OPDS/docs/CBS/ModelContractTerms/documents/ModKJan2014.pdf</p>	2014
Goal	For all attorneys providing public defense representation to be sufficiently trained in their areas of legal practice .	
Oregon Context	To ensure public defense attorneys under contract with the PDSC receive sufficient training in their areas of public defense practice.	
Data Source	<p>Attorney CLE Compliance Report[1] Contract compliance documentation.</p> <p>[1] Attorneys report CLE credit to OPDS. Attorneys also submit CLE compliance reports to the Oregon State Bar, which are available for auditing purposes.</p>	
Owner	Contract Services, Caroline Meyer (503) 378-2508	



1. OUR STRATEGY

2. ABOUT THE TARGETS

3. HOW WE ARE DOING

4. HOW WE COMPARE

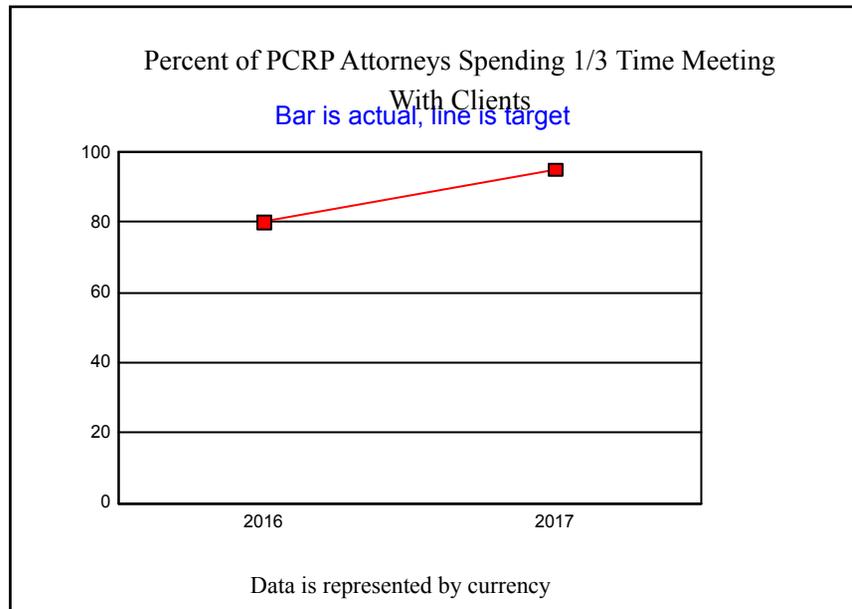
5. FACTORS AFFECTING RESULTS

6. WHAT NEEDS TO BE DONE

7. ABOUT THE DATA

New KPM. Data will be available in 2016.

KPM #5	Parent Child Representation Program (PCRP): Percent of PCRP attorneys who report spending 1/3 of their time meeting with court appointed clients in cases which the attorney represents a parent or child with decision-making capacity. [1] [1]For a discussion on determining decision-making capacity, see The Obligations of the Lawyer for Children in Child Protection Proceedings with Action Items and Commentary, Oregon State Bar, Report of the Task Force on Standards of Representation in Juvenile Dependency Cases (2014).	2014
Goal	To improve the quality of representation of parents, children and youth in juvenile dependency and delinquency cases in the PCRP counties by ensuring attorneys spend sufficient time meeting with their parent clients or child clients with decision-making capacity.	
Oregon Context	The Oregon State Bar standards of representation in both dependency and delinquency cases emphasize the importance of consistent client communication.	
Data Source	Contract compliance documentation, PCRP Monthly Attorney Reports (reports collected and stored at the Office of Public Defense Services)	
Owner	Office of Public Defense Services, Amy Miller (503) 378-3495	



1. OUR STRATEGY

2. ABOUT THE TARGETS

3. HOW WE ARE DOING

4. HOW WE COMPARE

5. FACTORS AFFECTING RESULTS

6. WHAT NEEDS TO BE DONE

7. ABOUT THE DATA

New KPM. Data will be available in 2016.

PUBLIC DEFENSE SERVICES COMMISSION	III. USING PERFORMANCE DATA
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Agency Mission: Ensure the delivery of quality public defense services in Oregon in the most cost-efficient manner possible.

Contact: Caroline Meyer	Contact Phone: 503-378-2508
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The following questions indicate how performance measures and data are used for management and accountability purposes.

<p>1. INCLUSIVITY</p>	<p>* Staff: The agency's Management Team drafted initial performance measures.</p> <p>* Elected Officials: The Joint Legislative Audit Committee and the interim Judiciary Committee assisted the agency in refining and finalizing its performance measures. After five years of data collection, it was apparent that some performance measures were not providing useful information and were eliminated by the Legislature during the 2009 session.</p> <p>* Stakeholders: Input was received from the agency's Public Defense Advisory Group comprised of public defense service providers.</p> <p>* Citizens: The agency developed, discussed and revised its performance measures during two public meetings.</p>
<p>2 MANAGING FOR RESULTS</p>	<p>The agency's lowest customer service rating in 2014 (85% good or excellent) regarding availability of information has caused us to explore ways to improve our website and other improvements in our communication with providers. We are in the process of implementing these improvements and would expect to see a corresponding increase in this rating in the next survey.</p>
<p>3 STAFF TRAINING</p>	<p>The agency has advised staff of the goals outlined in the performance measures and staff is directly involved in the data collection and/or direct daily implementation of the measures. The performance measures serve as important tools for the agency's managers as they identify and develop necessary staff skills as well as determine the best use of overall resources in order to attain the goals enumerated in the measures.</p>
<p>4 COMMUNICATING RESULTS</p>	<p>* Staff: The Annual Performance Progress Reports are available to staff online. The results and future plans are discussed at staff meetings.</p> <p>* Elected Officials: The agency communicates results to the Legislature through the Executive Director's biennial report to the Legislature, and by the inclusion of the APPR in the Agency Request Budget binder.</p>

* **Stakeholders:** Performance results are communicated through the agency's website and DAS's website as well as being provided in the materials distributed at public meetings.

* **Citizens:** Performance results are communicated through the agency's website and DAS's website as well as being provided in the materials distributed at public meetings.