

**Public Defense Services Commission
Service Delivery Plan for Douglas County
Final Report
August 26, 2012**

Introduction

Since developing its first Strategic Plan in December 2003, the Public Defense Services Commission (PDSC) has focused on strategies to accomplish its mission to deliver quality, cost-efficient public defense services in Oregon. Recognizing that increasing the quality of legal services also increases their cost-efficiency by reducing risks of error and the delay and expense associated with remedying errors, the Commission has developed strategies designed to improve the quality of public defense services and the systems across the state for delivering those services. Foremost among those strategies is PDSC's service delivery planning process, which is designed to evaluate and improve the operation of local public defense delivery systems.

The service delivery planning process is a multi-step endeavor, which begins with an investigation of the jurisdiction selected by the PDSC. The investigation is completed by the Office of Public Defense Services (OPDS). The primary objectives of OPDS's investigations of local public defense delivery systems throughout the state are to (1) provide PDSC with an assessment of the strengths and weaknesses of those systems for the purpose of assisting the Commission in its determination of the need to change a system's structure or operation and (2) identify the kinds of changes that may be needed and the challenges the Commission might confront in implementing those changes. PDSC's assessment of the strengths and weaknesses of a local public defense system begins with a review of an OPDS report regarding the initial findings within a particular area.

PDSC's investigations of local delivery systems in counties or judicial districts across the state serve another important function. They provide useful information to public officials and other stakeholders in a local justice system about the condition and effectiveness of that system. The Commission has discovered that "holding a mirror up" to local justice systems for all the community to see can, without any further action by the Commission, create momentum for local reassessments and improvements.

In the final analysis, the level of engagement and the quality of the input from all of the stakeholders in a particular judicial district is the single most important factor contributing to the quality of the final version of OPDS's report to the Commission and its Service Delivery Plan for a particular area.

This report includes the results of OPDS's preliminary investigation into the conditions of the public defense system in Douglas County.

PDSC's service delivery planning process

There are four steps to PDSC's service delivery planning process. First, the Commission has identified regions in the state for the purposes of reviewing local public defense delivery systems and services, and addressing significant issues of quality and cost-efficiency in those systems and services.

Second, starting with preliminary investigations by OPDS and a preliminary draft report, the Commission reviews the condition and operation of local public defense delivery systems and services in each county or region by holding one or more public meetings in that region to provide opportunities for interested parties to present their perspectives and concerns to the Commission.

Third, after considering OPDS's preliminary draft report and public comments during the Commission's meetings in a county or region, PDSC develops a "service delivery plan," which is set forth in the final version of OPDS's report. That plan may confirm the quality and cost-efficiency of the public defense delivery system and services in that region or propose changes to improve the delivery of the region's public defense services. In either event, the Commission's service delivery plans (a) take into account the local conditions, practices and resources unique to the region, (b) outline the structure and objectives of the region's delivery system and the roles and responsibilities of public defense contractors in the region, and (c) when appropriate, propose revisions in the terms and conditions of the region's public defense contracts.

Finally, under the direction of PDSC, contractors subject to the Commission's service delivery plans are urged to implement the strategies or changes proposed in the plans. Periodically, these contractors report back to PDSC on their progress in implementing the Commission's plans and in establishing other best practices in public defense management.

Any service delivery plan that PDSC develops will not be the last word on a local service delivery system, or on the quality and cost-efficiency of the county's public defense services. The limitations of PDSC's budget, the existing personnel, level of resources and unique conditions in each county, the current contractual relationships between PDSC and its contractors, and the wisdom of not trying to do everything at once, place constraints on the Commission's initial planning process in any region. PDSC's service delivery planning process is an ongoing one, calling for the Commission to return to each region of the state over time in order to develop new service delivery plans or revise old ones. The Commission may also return to some counties in the state on an expedited basis in order to address pressing problems in those counties.

Background and context to the service delivery planning process

The 2001 legislation establishing PDSC was based upon an approach to public defense management, widely supported by the state's judges and public defense attorneys, which separates Oregon's public defense function from the state's judicial function. Considered by most commentators and authorities across the country as a "best practice," this approach avoids the inherent conflict in roles when judges serve as neutral arbiters of legal disputes and also select and evaluate the advocates in those disputes. As a result, while judges remain responsible for appointing attorneys to represent eligible clients, the Commission is now responsible for the provision of competent public defense attorneys.

PDSC is committed to undertaking strategies and initiatives to ensure the competency of those attorneys. In the Commission's view, however, ensuring the minimum competency of public defense attorneys is not enough. As stated in its mission statement, PDSC is also dedicated to ensuring the delivery of quality public defense services in the most cost-efficient manner possible. The Commission has undertaken a range of strategies to accomplish this mission.

Service delivery planning is one of the most important strategies PDSC has undertaken to promote quality and cost-efficiency in the delivery of public defense services. However, it is not the only one.

In December 2003, the Commission directed OPDS to form a Contractor Advisory Group, made up of experienced public defense contractors from across the state. That group advised OPDS on the development of standards and methods to ensure the quality and cost-efficiency of the services and operations of public defense contractors, including the establishment of a peer review process and technical assistance projects for contractors and new standards to qualify individual attorneys across the state to provide public defense services.

OPDS also formed a Quality Assurance Task Force of contractors to develop an evaluation or assessment process for all public defense contractors. Beginning with the largest contractors in the state, this process is aimed at improving the internal operations and management practices of those offices and the quality of the legal services they provide. Since 2004 site teams of volunteer public defense managers and lawyers have visited contractors in Benton, Clackamas, Columbia, Crook, Deschutes, Douglas, Jackson, Jefferson, Klamath, Lake, Lane, Lincoln, Linn, Multnomah, Umatilla, Washington and Yamhill counties and prepared reports assessing the quality of their operations and services and recommending changes and improvements. In accordance with its Strategic Plan, PDSC has also developed a systematic process to address complaints about the behavior and performance of public defense contractors and individual attorneys. In 2012, the Contractor Advisory Group and the Quality Assurance Task Force were merged into a new Public Defense Advisory Group.

Numerous Oregon State Bar task forces on public defense have highlighted the unacceptable variations in the quality of public defense services in juvenile cases across the state. Therefore, PDSC undertook a statewide initiative to improve juvenile law practice in collaboration with the state courts, including the creation of a Juvenile Law Training Academy for public defense lawyers. In 2006, the Commission devoted two of its meetings to investigating the condition of juvenile law practice across the state and to developing a statewide Service Delivery Plan for representation in juvenile dependency cases.

Another area of practice in which significant concerns about quality of representation have been raised by the Oregon State Bar and others is post conviction relief cases. In March 2008 PDSC heard from judges, the Department of Justice and a number of attorneys whose practice includes post conviction relief about the need for improvement in the quality of representation being provided by public defense attorneys. A work group was convened by the bar at the request of PDSC to create performance standards for attorneys in these cases. Those standards have now been approved by the bar's Board of Governors and adopted by PDSC as the standards to be observed by court-appointed attorneys. The work group also made additional recommendations to PDSC for improving services in this area of practice. Those recommendations were presented to PDSC at its March 2009 meeting. A service delivery plan for post conviction relief cases was reviewed at the April 16, 2009 and June 18, 2009 PDSC meetings.

In 2007 PDSC undertook to review the delivery of public defense services in death penalty cases. A final plan for providing services in those cases was approved by the Commission in June of 2007.

"Structure" versus "performance" in the delivery of public defense services

Distinguishing between structure and performance in the delivery of public defense services is important in determining the appropriate roles for PDSC and OPDS in the Commission's service delivery planning process. That process is aimed primarily at reviewing and improving the "structure" for delivering public defense services in Oregon by selecting the most effective kinds and combinations of organizations to provide those services. Experienced public defense managers and practitioners, as well as research into "best practices," recognize that careful attention to the structure of service delivery systems contributes significantly to the ultimate quality and effectiveness of public defense services.¹ A public agency like PDSC, whose volunteer members are chosen for their variety and depth of experience and judgment, is best able to address

¹ Debates over the relative effectiveness of the structure of public defender offices versus the structure of private appointment processes have persisted in this country for decades. See, e.g., Spangenberg and Beeman, "Indigent Defense Systems in the United States," 58 Law and Contemporary Problems 31-49 (1995).

systemic, overarching policy issues such as the appropriate structure for public defense delivery systems in Oregon.

Most of PDSC's other strategies to promote quality and cost-efficiency in the delivery of public defense services described above focus on the "performance" of public defense contractors and attorneys in the course of delivering their services. Performance issues will also arise from time to time in the course of the Commission's service delivery planning process. These issues usually involve individual lawyers and contractors and present specific operational and management problems that need to be addressed on an ongoing basis, as opposed to the broad policy issues that can be more effectively addressed through the Commission's deliberative processes. OPDS, with advice and assistance from its Public Defense Advisory Group and others, is usually in the best position to address performance issues.

In light of the distinction between structure and performance in the delivery of public defense services and the relative capacities of PDSC and OPDS to address these issues, this report will generally recommend that, in the course of this service delivery planning process, PDSC should reserve to itself the responsibility of addressing structural issues with policy implications and assign to OPDS the tasks of addressing performance issues with operational implications.

Organizations currently operating within the structure of Oregon's public defense delivery systems

The choice of organizations to deliver public defense services most effectively has been the subject of a decades-old debate between the advocates for "public" defenders and the advocates for "private" defenders. PDSC has repeatedly declared its lack of interest in joining this debate. Instead, the Commission intends to concentrate on a search for the most effective kinds and combinations of organizations in each region of the state from among those types of organizations that have already been established and tested over decades in Oregon.

The Commission also has no interest in developing a one-size-fits-all model or template for organizing the delivery of public defense services in the state. The Commission recognizes that the local organizations currently delivering services in Oregon's counties have emerged out of a unique set of local conditions, resources, policies and practices, and that a viable balance has frequently been achieved among the available options for delivering public defense services.

On the other hand, PDSC is responsible for the wise expenditure of taxpayer dollars available for public defense services in Oregon. Accordingly, the Commission believes that it must engage in meaningful planning, rather than simply issuing requests for proposals (RFPs) and responding to those proposals.

As the largest purchaser and administrator of legal services in the state, the Commission is committed to ensuring that both PDSC and the state's taxpayers are getting quality legal services at a fair price. Therefore, the Commission does not see its role as simply continuing to invest public funds in whatever local public defense delivery system happens to exist in a region but, instead, to seek the most cost-efficient means to provide quality services in each region of the state.

PDSC intends, first, to review the service delivery system in each county and develop service delivery plans with local conditions, resources and practices in mind. Second, in conducting reviews and developing plans that might change a local delivery system, the Commission is prepared to recognize the efficacy of the local organizations that have previously emerged to deliver public defense services in a county and leave that county's organizational structure unchanged. Third, PDSC understands that the quality and cost-efficiency of public defense services depends primarily on the skills and commitment of the attorneys and staff who deliver those services, no matter what the size and shape of their organizations. The organizations that currently deliver public defense services in Oregon include: (a) not-for-profit public defender offices, (b) consortia of individual lawyers or law firms, (c) law firms that are not part of a consortium, (d) individual attorneys under contract, (e) individual attorneys on court-appointment lists and (f) some combination of the above. Finally, in the event PDSC concludes that a change in the structure of a county's or region's delivery system is called for, it will weigh the advantages and disadvantages and the strengths and weaknesses of each of the foregoing organizations in the course of considering any changes.

The following discussion outlines the prominent features of each type of public defense organization in Oregon, along with some of their relative advantages and disadvantages. This discussion is by no means exhaustive. It is intended to highlight the kinds of considerations the Commission is likely to make in reviewing the structure of any local service delivery system.

Over the past two decades, Oregon has increasingly delivered public defense services through a state-funded and state-administered contracting system. As a result, most of the state's public defense attorneys and the offices in which they work operate under contracts with PDSC and have organized themselves in the following ways:

1. Not-for-profit public defender offices. Not-for-profit public defender offices operate in ten counties of the state and provide approximately 35 percent of the state's public defense services. These offices share many of the attributes one normally thinks of as a government-run "public defender office," most notably, an employment relationship between the attorneys and the office.² Attorneys in the not-for-profit public defender offices are

² Spangenberg and Beeman, *supra* note 2, at 36.

full-time specialists in public defense law, who are restricted to practicing in this specialty to the exclusion of any other type of law practice. Although these offices are not government agencies staffed by public employees, they are organized as non-profit corporations overseen by boards of directors with representatives of the community and managed by administrators who serve at the pleasure of their boards.

While some of Oregon's public defender offices operate in the most populous counties of the state, others are located in less populated regions. In either case, PDSC expects the administrator or executive director of these offices to manage their operations and personnel in a professional manner, administer specialized internal training and supervision programs for attorneys and staff, and ensure the delivery of effective legal representation, including representation in specialized justice programs such as Drug Courts and Early Disposition Programs. As a result of the Commission's expectations, as well as the fact that they usually handle the largest caseloads in their counties, public defender offices tend to have more office "infrastructure" than other public defense organizations, including paralegals, investigators, automated office systems and formal personnel, recruitment and management processes.

Because of the professional management structure and staff in most public defender offices, PDSC looks to the administrators of these offices, in particular, to advise and assist the Commission and OPDS. Boards of directors of public defender offices, with management responsibilities and fiduciary duties required by Oregon law, also offer PDSC an effective means to (a) communicate with local communities, (b) enhance the Commission's policy development and administrative processes through the expertise on the boards and (c) ensure the professional quality and cost-efficiency of the services provided by their offices.

Due to the frequency of cases in which public defender offices have conflicts of interest due primarily to cases involving multiple defendants or former clients, no county can operate with a public defender office alone.³ As a result, PDSC expects public defender offices to share their management and law practice expertise and appropriate internal resources, like training and office management systems, with other contractors in their counties.

2. Consortia. A "consortium" refers to a group of attorneys or law firms formed for the purposes of submitting a proposal to OPDS in response to PDSC's RFP and collectively handling a public defense caseload specified by PDSC. The size of consortia in the state varies from a few lawyers or law firms to 50 or more members. The organizational structure of consortia also varies. Some are relatively unstructured groups of

³ Id.

professional peers who seek the advantages of back-up and coverage of cases associated with a group practice, without the disadvantages of interdependencies and conflicts of interest associated with membership in a law firm. Others, usually larger consortia, are more structured organizations with (a) objective entrance requirements for members, (b) a formal administrator who manages the business operations of the consortium and oversees the performance of its lawyers and legal programs, (c) internal training and quality assurance programs, and (d) plans for “succession” in the event that some of the consortium’s lawyers retire or change law practices, such as probationary membership and apprenticeship programs for new attorneys.

Consortia offer the advantage of access to experienced attorneys, who prefer the independence and flexibility associated with practicing law in a consortium and who still wish to continue practicing law under contract with PDSC. Many of these attorneys received their training and gained their experience in public defender or district attorney offices and larger law firms.

In addition to the access to experienced public defense lawyers, consortia offer several administrative advantages to PDSC. If the consortium is reasonably well-organized and managed, PDSC has fewer contractors or attorneys to deal with and, therefore, OPDS can more efficiently administer the many tasks associated with negotiating and administering contracts. Furthermore, because a consortium is not considered a law firm for the purpose of determining conflicts of interest under the Oregon State Bar’s “firm unit” rule, conflict cases can be cost-efficiently distributed internally among consortium members by the consortium’s administrator. Otherwise, OPDS is required to conduct a search for individual attorneys to handle such cases and, frequently, to pay both the original attorney with the conflict and the subsequent attorney for duplicative work on the same case. Finally, if a consortium has a board of directors, particularly with members who possess the same degree of independence and expertise as directors of not-for-profit public defenders, then PDSC can benefit from the same opportunities to communicate with local communities and gain access to additional management expertise.

Some consortia are made up of law firms, as well as individual attorneys. Participation of law firms in a consortium may make it more difficult for the consortium’s administrator to manage and OPDS to monitor the assignment and handling of individual cases and the performance of lawyers in the consortium. These potential difficulties stem from the fact that internal assignments of a law firm’s portion of the consortium’s workload among attorneys in a law firm may not be evident to the consortium’s administrator and OPDS or within their ability to track and influence.

Finally, to the extent that a consortium lacks an internal management structure or programs to monitor and support the performance of its attorneys, PDSC must depend upon other methods to ensure the quality and cost-efficiency of the legal services the consortium delivers. These methods would include (i) external training programs, (ii) professional standards, (iii) support and disciplinary programs of the Oregon State Bar and (iv) a special qualification process to receive court appointments.

3. Law firms. Law firms also handle public defense caseloads across the state directly under contract with PDSC. In contrast to public defender offices and consortia, PDSC may be foreclosed from influencing the internal structure and organization of a law firm, since firms are usually well-established, ongoing operations at the time they submit their proposals in response to RFPs. Furthermore, law firms generally lack features of accountability like a board of directors or the more arms-length relationships that exist among independent consortium members. Thus, PDSC may have to rely on its assessment of the skills and experience of individual law firm members to ensure the delivery of quality, cost-efficient legal services, along with the external methods of training, standards and certification outlined above.

The foregoing observations are not meant to suggest that law firms cannot provide quality, cost-efficient public defense services under contract with PDSC. Those observations simply suggest that PDSC may have less influence on the organization and structure of this type of contractor and, therefore, on the quality and cost-efficiency of its services in comparison with public defender offices or well-organized consortia.

Finally, due to the Oregon State Bar's "firm unit" rule, when one attorney in a law firm has a conflict of interest, all of the attorneys in that firm have a conflict. Thus, unlike consortia, law firms offer no administrative efficiencies to OPDS in handling conflicts of interest.

4. Individual attorneys under contract. Individual attorneys provide a variety of public defense services under contract with PDSC, including in specialty areas of practice like the defense of aggravated murder cases and in geographic areas of the state with a limited supply of qualified attorneys. In light of PDSC's ability to select and evaluate individual attorneys and the one-on-one relationship and direct lines of communications inherent in such an arrangement, the Commission can ensure meaningful administrative oversight, training and quality control through contracts with individual attorneys. Those advantages obviously diminish as the number of attorneys under contract with PDSC and the associated administrative burdens on OPDS increase.

This type of contractor offers an important though limited capacity to handle certain kinds of public defense caseloads or deliver services in particular areas of the state. It offers none of the administrative advantages of economies of scale, centralized administration or ability to handle conflicts of interest associated with other types of organizations.

5. Individual attorneys on court-appointment lists. Individual court-appointed attorneys offer PDSC perhaps the greatest administrative flexibility to cover cases on an emergency basis, or as “overflow” from other types of providers. This organizational structure does not involve a contractual relationship between the attorneys and PDSC. Therefore, the only meaningful assurance of quality and cost-efficiency, albeit a potentially significant one, is a rigorous, carefully administered qualification process for court appointments to verify attorneys’ eligibility for such appointments, including requirements for relevant training and experience.

PDSC’s Preliminary Investigation in Douglas County

In April 2012, Public Defense Services Commissioner John Potter, OPDS Executive Director Nancy Cozine, and OPDS Analyst Billy Strehlow, visited Douglas County and met with the following stakeholders:

- Presiding Judge Garrison, Judge Ambrosini, Judge Burge, Judge Marshall, Judge Poole, and Pro Tem Referee Zuver
- Jessie Larner, Trial Court Administrator
- Rick Wesenberg, District Attorney
- Allen Boice, Adult Parole and Probation Department Director
- Aric Fromdahl, Juvenile Department Director, Robert Solerno, Juvenile Department Manager
- Susan Knight, CASA Director, and Katherine Elisar, CASA Program Manager
- Darline D’Angelo, DHS Office Director for Douglas County, and Lisa Lewis, DHS District Manager for Douglas County
- Jim Arneson, James A. Arneson P.C.
- Dan Bouck, Director, and Carrie Thomson, Office Manager, Umpqua Valley Public Defender (UVPD)

In addition, Nancy Cozine and Billy Strehlow later met in person or over the telephone with:

- Walt Gullett, CRB Coordinator
- Richard Cremer, Richard Cremer P.C.

OPDS's Initial Findings in Douglas County

The Circuit Court

There are five judges in Douglas County: Presiding Judge Garrison, Judge Ambrosini, Judge Burge, Judge Marshall, and Judge Poole. The court also has a Pro Tem Referee, Julie Zuver, who presides over the majority of juvenile delinquency and dependency proceedings, among other matters.

The judges hear a mix of cases, with Judges Burge, Ambrosini, Poole, and Marshall handling the majority of criminal cases. Judge Garrison presides over primarily civil matters. Judge Ambrosini presides over the county's two specialty courts, Drug Court and Domestic Violence Court.

The court does not use a centralized docketing system; each judge's calendar is individually maintained. At the time of the preliminary visit, the county's primary contract provider was filing affidavits in all proceedings assigned to one particular judge. The blanket affidavit is impacting the court system in this small community, which is already stretched due to serious budget constraints. It seems that the parties involved and affected are engaged in a productive discussion, and are open to finding a resolution. The presiding judge and the contract administrator are taking leadership roles in this process.

Douglas County Circuit Court will be transitioning to the new Tyler Odyssey eCourt system at some point in the next few years; they should have a firm installation date by the end of 2012. This system will allow for electronic transfer of court documents, and all system partners will be able to view case files electronically. New physical court files will not be created once the Odyssey program is installed; old files are already being scanned so that they can be stored in the new system. The court will be sharing Tyler Odyssey demonstration videos with court staff and system partners in preparation for the conversion.

County Challenges

Like many Oregon timber counties, Douglas County is struggling to cover its many responsibilities without the resources it once possessed. Everyone interviewed in preparation for the Commission's visit noted the possibility of further cuts to county services, including potential cuts to the district attorney's budget. County representatives noted the dramatic reduction and resulting lack of services available in Douglas County. There are two drug and alcohol treatment providers with long waiting lists, particularly for in-patient treatment beds (clients accepted into drug court are able to enroll immediately). Some in the community expressed concern that the lack of options creates a dynamic where people don't have options, and are required to stay with a provider even if the provider isn't able to help the person make progress (or when a provider

perceives that the person isn't making progress and the person wants the opportunity to achieve success with a different provider). Douglas County does not have a mental health provider for those needing in-patient services, and there are no local treatment providers available to serve individuals with co-occurring disorders.

The county is also challenged by recent turnover in all areas of the justice system. Over the course of the last several years, the county has adapted to a new presiding judge, three new judges, a new pro tem judge, a new district attorney (with a contested race for the position in the May election), a new juvenile director (though the new director was with the agency prior to assuming the director position), and a new adult parole and probation department director. The system also has many new attorneys, both in the District Attorney's office and within public defense. It is reported that everyone is adjusting well, and that the new attorneys are learning, but it is a process.

There was a change in contract providers with the start of 2012. One consortium provider no longer has a contract with OPDS. During interviews, several individuals commented that the Douglas County system would function more smoothly if there were more providers, and noted that there is a shortage of attorneys who have significant experience (specifically felony qualified attorneys, and attorneys with experience handling dependency and delinquency cases). Some system partners were very clear about their desire to have an additional, primary contract provider in Douglas County in order to diversify the work through a broader base of attorneys and to decrease the likelihood of conflicts. OPDS is in the process of building its provider base in Douglas County, and has several new attorneys providing services on an individual case basis.

Collaborative Efforts in Criminal and Juvenile Justice

Douglas County does not have a Criminal Justice Advisory Committee (CJAC), but there is a Local Public Safety Coordinating Council (LPSCC). The LPSCC meets at the call of the chair, which all report to be very infrequent (perhaps once a year) and only when there is a specific matter that requires a meeting. Issues within the criminal justice system tend to be addressed as they arise through individual conversations between those impacted or affected, and everyone reports a general satisfaction with this approach. System partners uniformly describe each other as approachable and open to proposed solutions when problems arise. Pro Tem Referee Julie Zuber does convene regular policy and procedure meetings for stakeholders in the juvenile delinquency and dependency systems; these meetings are generally reported to be helpful and productive.

The drug court in Douglas County is reported to be a tremendous success, and is reported to be a model program that enjoys participation and support from local families and the broader community. Graduation events are celebrated with

pizza (provided by Abby's Pizza) for graduates and their families, and the drug court team. County Commissioners, judges, and other important community figures usually attend graduation ceremonies. The drug court remains open to those who initially fail if they return with a commitment to engage, as the drug court team acknowledges that part of the process is failure, followed by a readiness to engage in services. This policy has yielded tremendously positive results, with wonderful success stories. There have been over 400 graduates, with 50 to 60 participants in the program at any given time. The program is available to those charged with drug offenses, as well as property offenders who are eligible as part of the Measure 57 drug court funding. The success of the program is, in very large part, due to the strong partnerships between the court, District Attorney, defense providers, Adult Corrections and the Department of Corrections, and child welfare.

Procedure in Criminal Cases

Arraignments are held each day; out-of-custody arraignments at 8:30 a.m., and in-custody arraignments (by video) at 1:05 p.m. UVPD has an attorney present in the courtroom at the time of arraignment, and runs a conflict check before court when possible. The defendant is not given the name of the attorney who will handle the case, but is provided with written instructions to contact UVPD to find out which attorney has been assigned to the case. UVPD will then assign a UVPD attorney unless there is a conflict, in which case the client will be provided with an attorney from Arneson, P.C., Cremer, P.C., or an independent provider paid on an hourly basis.

At the time of arraignment, the court sets a status check hearing two to five weeks after the arraignment date. The status check date was originally intended to be the time at which a trial date was selected, but some judges now set a pretrial conference before setting a firm trial date.

When UVPD has a conflict and must assign the case to a different provider, UVPD contacts that provider on the day of arraignment, and that provider initiates contact with the client. For those clients assigned a UVPD lawyer, the office generates a letter, and sends it to the client at the address the client provided on the form submitted to the court requesting court appointed counsel. If the client does not contact UVPD as instructed, no further attempt is made by UVPD to contact the client. When clients call UVPD, an office visit is scheduled two or three weeks after arraignment. Discovery is usually received within two weeks, but sometimes takes up to five weeks, after arraignment. All contract providers indicate that they meet with in-custody clients within 24 hours of arraignment.

Most providers report that attorney caseloads have been high in 2012. This is a result of several factors, including a lack of felony qualified lawyers in the area,

and Douglas County's unknown budget future. If the District Attorney's office must absorb a cut and reduce its staffing, UVPD anticipates fewer cases being filed, and does not want to hire an additional attorney until they have some assurance that case filings will remain consistent. It is also a consequence of not having the MASH Consortium as a contract provider. There are attorneys available for appointment on a case-by-case basis, and these attorneys are reported to be doing good work. It is hoped that the caseload and provider challenges will be resolved over the course of the year.

Defendants convicted of felony crimes are placed on formal probation; defendants convicted of misdemeanor crimes are placed on bench probation. Douglas County Community Corrections is operated by the Department of Corrections, and is entirely state funded. The Adult Parole and Probation Department oversees 1,180 probationers, with 325 in "case bank." Low risk probationers are placed in case bank status based upon a risk determination made by the probation department. The department is currently using the Level of Service/Case Management Inventory (LS/CMI) and the Oregon Case Management System (OCMS) risk assessment tools. The probation department plans to start using the "public safety checklist," a risk analysis tool created by the Oregon Department of Corrections and the Oregon Criminal Justice Commission. Unlike the OCMS, no training is required in order to use the public safety checklist - it is automatically generated through an internet-based system that makes an analysis based upon specific static risk factors (rather than additional dynamic risk factors). The public safety checklist is reported to determine risk of reconviction with a 78% rate of accuracy.⁴

Each probation officer manages approximately 63 active probation cases, which is reported to be a manageable caseload. The probation officers are experienced – the least senior probation officer has been there for six years. The department uses administrative sanctions and probation violation proceedings depending upon the seriousness of the alleged violation, and reports a recidivism rate that is better than the statewide average. Funding for jail beds is limited and the probation department plans to further reduce spending on jail beds. Grant funds are used to supplement funding for treatment beds, but the county no longer receives subsidies that were used to provide mental health treatment and drug and alcohol outpatient treatment. Treatment options remain very scarce. The probation department does offer a cognitive restructuring program.

The district attorney's office and probation department report that they have a good working relationship with the defense bar, and that probation officers work well with all of the PDSC contract providers.

⁴ See *Community Corrections Service Request Implementation of the Public Safety Checklist*, available at: http://www.oregon.gov/DOC/TRANS/CC/popularity_boxes/PSC_Service_Request.pdf

Procedure in Juvenile Cases

Delinquency Cases

When law enforcement officers come into contact with a youth in need of placement, they call the court to get the case scheduled on the court's docket within thirty-six hours. There is a shelter facility with sixteen beds, as well as a thirty-two bed detention facility, which is currently running at a maximum capacity of twenty-four beds. The detention facility is also used to house detained youth from Coos and Curry counties. The Juvenile Department reports that kids are not usually held through disposition; that they use conditional release agreements. They also report that "most cases resolve at the first detention review" hearing.

In-custody shelter hearings are scheduled each day at 1:15 p.m.; out-of-custody hearings are held at 2:00 p.m. each Monday. UVPD is present at the hearings, and attorneys are appointed in most juvenile delinquency cases. Some youth hire attorneys, and others waive their right to counsel. The court reports that it does engage in a colloquy with the youth before accepting the waiver of counsel. The District Attorney has one deputy assigned to represent the state in all juvenile delinquency cases. Formal Accountability Agreements are used in Douglas County, but alternative dispositions are not familiar to juvenile system partners in Douglas County. There has been a significant decline (by almost 50 percent) in juvenile delinquency cases in Douglas County. Shackling is used in Douglas County on a case-by-case basis. The Juvenile Department is reported to assess each case individually, and must articulate to the court a substantial reason for safety concerns. Defense attorneys may contest the court's decision.

Drug and property crimes are reported to be the primary issues for juveniles in Douglas County. There is a residential juvenile treatment program available through ADAPT, as well as a thirty-day detention treatment program. The county also has a sex offender treatment program available through mental health services.

The District Attorney's Office and the Juvenile Department report a positive working relationship with the defense bar and PDSC providers.

Dependency Cases

Dependency shelter hearings are scheduled each day at 1:30 p.m. Attorneys are present to provide representation for parents and children at shelter hearings, but the attorneys do not always have an opportunity to meet with their clients before court. Shelter hearings are usually summary proceedings, but attorneys do sometimes request a contested hearing.

The District Attorney has one deputy district attorney (DDA) assigned to provide representation at the first shelter hearing and at uncontested jurisdictional and permanency hearings. Due to recent budget cuts, the DDA does not participate in dependency review hearings. Most involved in the system report that this has a negative impact on cases, but there seem to be very few options available given the budget situation in Douglas County.

Discovery in dependency cases is provided to attorneys and the state on a disc. DHS is developing a system that will allow discovery to be shared by email. The move to electronic dissemination has allowed discovery to be shared more quickly.

Douglas County DHS and system partners report that Douglas County has the highest number of children in care per capita than any other Oregon county, and that their children are in foster care longer than in other jurisdictions. DHS reports that this is starting to shift, but they also have very low re-abuse rates, and don't want that rate to increase.

DHS reports that primary triggers for DHS involvement are poverty problems and opiate addictions; many newborns are addicted to opiates. Most stakeholders report that today's cases present much more serious situations that are harder to address than those in past years. The county has significant problems getting treatment services for addicted parents. There are no opiate detoxification facilities for adults in Douglas County. Caseworkers try to be creative when locating services for parents, but there are significant limitations.

CASAs are appointed for approximately 55% of the children in the county's dependency system. This is an increase from past years, and is especially notable because the number of children in care has increased dramatically over the last few years.

CRB hearings are used regularly in Douglas County. There are three review boards. Though parties usually have someone from their lawyer's office present, it is rarely the lawyer, though there are a few exceptions.

Finding court docket time for dependency cases can also be a challenge. Strict statutory timelines for criminal cases are reported to cause delays in scheduling of dependency reviews.

Civil Commitment Cases

UVPD provides representation in civil commitment cases. This has become a larger challenge in recent months, as clients are sometimes being sent to facilities in Medford or Portland. There is a new investigator working on civil commitments; it is reported that he is very thorough, and that his work is resulting in an increased number of dismissals.

Public Defense Providers in Douglas County

PDSC contracts with three providers for non-death penalty cases in Douglas County: Umpqua Valley Public Defender, James A. Arneson P.C., and Richard Cremer, P.C. PDSC does not have a provider in Douglas County to provide representation in capital cases.

Umpqua Valley Public Defender is the primary contractor in Douglas County. A private non-profit since the mid-1980's, UVPD was founded in 1972. UVPD has an active board of directors, and a relatively new director, Dan Bouck, who serves at the pleasure of the board. There are ten attorneys handling a mixed caseload, though there are attorneys who specialize in the dependency area. The current contract includes 3,119 cases per year of all case types other than murder. Mr. Bouck hosts a monthly meeting for Douglas County public defense providers.

James A. Arneson, P.C., is a small firm including Mr. Arneson and three associates. Their current contract includes a mixed caseload with a total of 1,008 cases per year.

Richard Cremer, P.C. is also a small firm, with Mr. Cremer and one associate. This firm has a contract for 607 cases per year.

Comments from Douglas County Stakeholders Regarding Providers

Criminal Cases

Contract provider attorneys are described by their system partners as providing zealous representation in criminal cases. Some suggested that the representation provided in Douglas County is superior to what is provided in surrounding counties. Stakeholders report that they have a very positive working relationship with most public defense providers, and that while there are not differences in the quality of representation that are discernible based upon the law firm where the lawyer practices, there is a significant variation in the representation provided by each individual lawyer. Some attorneys are reported to work harder and fight harder for their clients, but no lawyers are described as providing inadequate representation. Attorneys are reported to file more motions in criminal cases than in other case types.

Representation of Parents

Attorneys providing representation to parents are described as providing very strong representation. They usually have someone from their office attend

Family Decision Meetings, Safety Team Meetings, and other events outside of court and CRB hearings. Some attorneys personally attend these meetings.

The DHS office reports frequent attorney contact, almost daily, with questions regarding cases and clients. They report a positive working relationship with PDSC providers. DHS often contacts attorneys by phone, and they usually receive a prompt reply call. While DHS caseworkers and client's attorneys do not always agree, the disagreement is reported to be "valuable" and important to the process.

Attorneys are pursuing contested hearings in dependency cases. Several attorneys, from both UVPD and the Arneson firm, were noted as "leaders" in this area. Cases are also settled, with positive results, out of court. An Assistant Attorney General (AAG) from the Attorney General's Eugene office represents the state in contested hearings. System partners report that motions are rarely filed in dependency cases, and that attorneys are rarely asking the court to make "no reasonable efforts" findings despite the fact that appropriate services are often not available for parents.

Representation of Children

Children in Douglas County are reported to receive zealous representation, with the attorney or a representative from the attorney's office present at most if not all Family Decision Meetings and Safety Team Meetings. Attorneys are described as taking their "responsibilities very seriously." Not only are attorneys held to a high standard by the court, but also by their peers. Tom Bernier, of James A. Arneson, P.C., is described as providing excellent representation and serving as a mentor for newer attorneys in the Roseburg area. Some expressed concern that many attorneys didn't seem to be visiting children in their homes. It was noted that those attorneys who do visit children in their substitute care environment are better able to advocate for the needs of their clients. It was also noted that attorneys who appear at CRB hearings (rather than sending someone from the office) tend to provide better advocacy for their clients. Some attorneys appear at CRB hearings by phone, which is better than not appearing, but is not as effective as appearing in person.

Delinquency Cases

Providers are reported to provide quality representation in juvenile delinquency cases. Attorneys do occasionally file motions in juvenile delinquency cases, but not often. Douglas County does not have experience with motions for alternative disposition in delinquency cases.

OPDS's recommendations for further inquiry at the PDSC Meeting on May 10, 2012

Based on the information provided to OPDS during meetings and telephone conversations with justice system stakeholders, OPDS recommends that the Commission consider the following in developing a service delivery plan for Douglas County.

Structure

Douglas County's current structure no longer includes a consortium provider. Cases with multiple parties needing representation do present a challenge, and though OPDS has worked to build a pool of attorneys who are available for appointment in these situations, it is sometimes necessary to use out-of-county providers. It is anticipated that over time, new conflict attorneys will become regular providers, but the county is still in a transition period. The Commission may wish to ask system participants for their thoughts regarding the current structure, and developments they would like to see in Douglas County's provider base. As part of this conversation, Commission members may wish to ask current providers about attorney caseloads and plans to manage those caseloads through the remainder of the biennium.

Douglas County also struggles with a lack of lawyers who are qualified to handle felony cases, and lawyers with significant experience practicing juvenile law. There are newer attorneys in the county who are developing, but it may be necessary to recruit additional lawyers. The Commission might want to ask providers for their thoughts regarding the need for targeted recruitment efforts.

The system of having UVPD present at arraignments and later assigning specific lawyers is reported to work well, but the Commission may wish to explore whether communication efforts with out-of-custody clients in Douglas County meet contract requirements:

7.1.4.2 Out-of-Custody Interviews

Within 72 hours of the appointment, Contractor shall arrange for contact with out-of-custody clients, including notification of a scheduled interview time or what client must do to schedule an interview time.

It is possible that both the client and the system would benefit from a greater effort on the part of the attorney to make contact with the client, but demands on public defense lawyers' time are already great, and the Commission will want to consider reports that the current system is working. The failure to appear rate in Douglas County is not known at this time.

Juvenile Delinquency Cases

Douglas County is a leader in its commitment to appointing counsel for youth in juvenile delinquency cases, and seems to have a strong commitment to rehabilitation and reduction of recidivism. The Commission may wish to explore the degree to which public defense providers are investigating cases, and pursuing motions challenging the shackling of youth, motions for alternative disposition, and trials in juvenile delinquency cases.

Collaborative Efforts

Douglas County has some very strong collaborative efforts exemplified by its drug court, regular meetings with system partners in juvenile dependency and delinquency proceedings, and regular meetings among members of the defense bar. The Commission might want to explore with Douglas County participants whether they believe there would be value in establishing some form of regular and consistent communication between all system partners in the criminal justice system. Such collaborative conversations could become more critical as Douglas County continues to manage the shrinking budget and resulting lack of resources.

Testimony at May 10, 2012, PDSC Meeting in Roseburg, Oregon

Nancy Cozine provided a brief summary of the Report Regarding Service Delivery in Douglas County.

Richard Cremer, a practitioner in Douglas County for almost 37 years and a former OCDLA president who served on the OCDLA board for almost eight years, began his testimony by describing the impact that reduced drug and alcohol services is having in Douglas County, noting the large number of probation violations involving continued use of substances when abstinence is a condition of probation. Mr. Cremer devotes about 85% of his practice to contract work, and 15% to retained work; 90-95% of his overall caseload is criminal law, everything but murder, and the other portion is domestic relations. He has one associate whose practice is almost 100% contract work - 85 to 90% criminal, and the balance dependency.

Chair Ellis asked about the coordination between the three contract providers, and Mr. Cremer indicated that the current system, with UVPD attending arraignments and assigning cases, is working very well. Commissioner Welch asked about motions for “no reasonable efforts” findings in juvenile dependency cases. Mr. Cremer indicated that his associate does make those motions, and also clarified that his comments about lack of treatment resources were limited to the criminal context. Chair Ellis asked whether there were adequate resources to handle conflict cases in Douglas County. Mr. Cremer said that the elimination of the MASH Consortium did make it more difficult because counsel must sometimes be appointed from outside the county. He also noted that there are three lawyers in Roseburg who have expressed a willingness to accept

appointments on an hourly basis, but one of those lawyers is not very experienced - he has some concern about that, as he is not sure that lawyer would be able to handle serious felony cases, or maybe not even felonies at all. He said that there are another two lawyers who are more experienced, but they are still relatively inexperienced, which also causes some concern. Chair Ellis asked whether Mr. Cremer was concerned about a shortage of felony qualified attorneys, and he indicated that he was, to some extent. Mr. Cremer's suggestion for the Commission was to consider the formation of a new consortium to handle conflict cases. Commissioner Potter asked about regular meetings with the defense bar, and Mr. Cremer explained that there are monthly meetings where they discuss issues of common interest, and there are often speakers from various agencies that are involved in criminal justice. Commissioner Potter asked whether it would be helpful to have regular Criminal Justice Advisory Committee meetings, or something similar, to get members of the criminal justice community together to discuss issues on a regular basis. Mr. Cremer said that he thought it might have value, but that he hadn't given it much thought.

Dan Bouck, the Executive Director of UVPD, started by noting that he had read the report, and that he felt the Sheriff's Office should have been included in the report, as they run the jail. The Chair asked whether there was a problem with access to clients. Mr. Bouck indicated that only four attorneys can visit at one time, but they are usually able to work it out. He went on to note that he is not concerned about eCourt, but would rather see the attention go to fixing OJIN because it is a horribly written program that they need to access constantly, and the data being put into OJIN is not valid. Mr. Bouck went on to explain that he doesn't have any shortage of felony qualified attorneys right at the moment – he has two new attorneys that have been there about six months. They are doing misdemeanor work – and he has one that just started doing felony work. His recent postings have generated a significant amount of interest. He hires people who do not have experience because that allows him to move some of the other people up, and he can “teach [the new attorneys] our way of doing things.” UVPD has pretty good retention – losing about one person per year. They just hired because they expanded the size of the firm's contract - they now handle about 60% of the caseload, an increase from about 225 cases to around 300 cases per month. Mr. Bouck will delay further hires until more is known about cuts to the DA's office. UVPD just lost two attorneys who went into private practice (mentioned earlier by Mr. Cremer), and Mr. Bouck would like to see them be a part of a consortium; he notes that they are both Measure 11 qualified. It is harder for Mr. Bouck to find people who can do dependency work. Mr. Bouck noted that in civil commitments, the pre-commitment investigator is doing a better job, which has reduced filings (as opposed to increasing dismissals), and those that are filed have a more reasonable basis. They are using the civil commitment diversion procedure a bit more often, which is good, but it can be challenging because of the short deadline for submission of signed paperwork. Mr. Bouck explained that the biggest problem in civil commitments is that

following the closure of Mercy Health, clients who aren't in the VA could be anywhere in the state. Typically they are in Medford, although UVPD staff travel as far as Portland to see their clients. Mr. Bouck also explained UVPD's compliance with contacting out of custody clients within 72 hours, and future plans to explore automated electronic reminders for clients. They will hold off on implementing anything until eCourt is installed to ensure that any new UVPD computer systems can interface with the new court system.

Chair Ellis asked about UVPD's board. Mr. Bouck explained that it includes two attorneys who are in private practice, a businessman who just became a minister, and a government employee who helps manage a VA facility. Mr. Bouck inherited all but one of them from Mr. Tower (the former UVPD Director). Mr. Bouck recruited one of the attorneys - he had been in the DA's office and then went into private practice. The Board meets quarterly, and all but one are good about attending regularly. The Board is aware of the affidavit issue. Mr. Bouck provided additional detail regarding the situation, specific concerns, and current attempts to resolve the issues. He noted that the Commission's visit has been very helpful in moving the conversation forward. Chair Ellis asked some additional clarifying questions, and noted that the Commission would like to see the matter addressed, and that it will continue to monitor the situation until it is resolved.

Mr. Bouck provided information regarding UVPD's training and supervision. New attorneys are given new cases, and a more senior attorney is assigned as a mentor. Mr. Bouck and mentors meet with the attorneys every other week, go over specific cases with them, and review what they are doing. In opposite weeks the attorneys all meet as a whole. New attorneys start with the most routine misdemeanor cases and work up to more complex cases. Mr. Bouck meets monthly with more senior attorneys. The day before, he pulls a whole bunch of their files and asks what they are doing in the cases. Mr. Bouck also completes quarterly reviews, where he solicits input from the court, the DAs, and court staff. He ensures that attorneys meet qualifications before handling more serious cases, and noted that different attorneys progress at different paces.

Mr. Bouck explained the case assignment procedure, and noted that he would like to see a new consortium, as it would just be a bit easier in assigning out cases for conflicts. Right now, with three contractors, there are cases with four or five parties, and UVPD must spend a lot of time trying to find someone to take those cases.

Commissioner Potter asked whether there would be value in having something like a Criminal Justice Coordinating Counsel. Mr. Bouck responded that it would be helpful because, though everyone talks now, it is not with everyone in the same room.

Mr. Arneson provided information regarding collaborative efforts headed by the court to bring juvenile dependency and delinquency system partners together for quarterly meetings. He also noted that Mr. Bouck has been good about organizing meetings for the defense bar. Chair Ellis asked about Mr. Arneson's practice of soliciting client feedback. Mr. Arneson indicated that twice a year - April and October - a questionnaire is sent to the client in every case that is closed that month. He explained that he would like to do it more frequently because it really is good feedback for lawyers. The information is generally very, very positive. The feedback also helps them identify any areas of weakness in a lawyer's communication.

Mr. Arneson has four associates, and has had significant turnover recently for a variety of generic reasons. The quality of applicants has been very high, and Mr. Arneson plans to hire two of four very qualified finalists. Mr. Arneson shared that he plans to retire in the three to four year range, and has therefore been clear with candidates that he is looking for people who are interested in putting their roots down in Roseburg and staying with the law firm long term, and hopes that with quality folks in the office at that point, they would be able to negotiate a contract with PDSC.

When asked what PDSC could do better, Mr. Arneson commended the very swift service provided by OPDS, and emphasized the need for increased rates for Measure 11 cases in Douglas County. He explained that in Douglas County, unlike other jurisdictions, the cases typically do not have more than one Measure 11 charge, and are therefore worth only one credit.

Mr. Potter asked whether PDSC should add a consortium in Douglas County. Mr. Arneson guessed that it could make case assignment easier for the PD's office, but noted he had not seen anything either locally, or in his experience as Chair of the Quality Assurance Committee, indicating that consortia are a more effective way of delivering quality services. Chair Ellis echoed Mr. Arneson's observation, noting that effective training and mentoring in a consortium is rare.

Judge Garrison provided an update regarding the affidavit issue, and noted that everyone is committed to doing their best to resolve the situation. Chair Ellis asked what Judge Garrison thought about the current service delivery model in Douglas County. Judge Garrison indicated that the court would like to see more providers, not less, and that his understanding is that there are lawyers willing to enter into contracts with PDSC when that opportunity becomes available.

Chair Ellis inquired of the court's practice regarding waiver of counsel in juvenile cases. Judge Garrison explained that he heard Judge Welch's report at the presiding judges meeting, and that in Douglas County the debate is really eaten up by the practice, where 99% of the cases have appointed counsel. Judge Garrison indicated that for the most part, without exception, competent counsel is appointed in all case types, and that there is a wonderful group of public

defenders that are a part of the community. The public defender's office is energetic and very competent. The same can be said for Mr. Arneson and Mr. Cremer's office; both highly competent attorneys - the best in that regard.

Commissioner Potter asked whether there is a need for quarterly meetings organized of criminal and juvenile law providers and support folks. Judge Garrison said that he is not opposed to the idea, but that no one wants to have a meeting for the sake of having a meeting, offering that perhaps one time per year would be a sufficient schedule. Commissioner Welch asked about the portion of the report indicating that "most cases resolve at the first detention review" hearing. Judge Garrison and others offered the view that kids often want out of custody, and the first detention review hearing is a time that many cases resolve, with credit for time served. Mr. Cremer said this is accurate, but also noted that part of what they do is find acceptable resources for the child to go to while the case is pending.

Jesse Larner, the Trial Court Administrator in Douglas County since 2003, offered information about court staff shortages, explaining that with the last reductions court staff has gone from 50 to 36. She commented that sometimes it is hard to find counsel for civil commitment cases, especially now that individuals are held in facilities outside of Douglas County, and noted the efforts of Billy Strehlow in addressing those situations.

Commission members discussed the lack of a consortium for conflict cases in Douglas County, and the possibility of establishing one. Billy Strehlow explained that OPDS is only using a handful of out-of-county lawyers, and appointing them to multiple cases, so that they can cover more than one case when coming to Douglas County, and estimated that it is only happening five or six times per year. Commissioner Lazenby questioned the need for a consortium if there are so few cases handled by out-of-county lawyers each year. Commissioner Stevens noted the advantage of channelling money into a struggling county if PDSC can use in-county providers. Commissioner Potter noted that if any changes were made, he would want to see the local providers very involved in the process. Chair Ellis noted the cooperative nature of the current providers, and their ability to work together without fighting over the caseload. Kathryn Aylward noted that during the last contract negotiations serious effort and consideration was put into the possible formation of a consortium, but in the end, no one wanted to have the administrative responsibilities. Commission members expressed an interest in letting the current system build for a bit longer, with further consideration in the future.

Developments Since May 10, 2012, PDSC Meeting

The court and public defender office have been engaged in a dialog to address issues that contributed to the public defender office's decision to file a blanket affidavit against one judge. The process has been moving along, and is

expected to resolve in the near future. One positive outgrowth of the process appears to be discussion of regular CJAC meetings to bring the county into compliance with ORS 1.851.

1.851 Local criminal justice advisory councils. (1) The presiding judge of each judicial district shall establish a local criminal justice advisory council, unless one already exists, in each county in the judicial district. Membership of the council shall include, but is not limited to, representatives of the following:

- (a) The presiding judge;
- (b) The district attorney;
- (c) The local correctional administrator;
- (d) Public defense service providers;
- (e) The county bar association;
- (f) Local law enforcement; and
- (g) State law enforcement.

(2) In addition to the persons listed in subsection (1) of this section, the judge may invite the participation of any other persons involved in the criminal justice system whose participation would be of benefit.

(3) The local criminal justice advisory council shall meet regularly to consider and address methods of coordinating court, public defense and related services and resources in the most efficient and cost-effective manner that complies with the constitutional and statutory mandates and responsibilities of all participants.

(4) To assist the council in these efforts, council participants shall provide the council with proposed budget information and caseload and workload projections.

It is hoped that the addition of regular CJAC meetings will provide a regular forum for resolving issues of concern to all entities in the criminal justice system.

Aric Fromdahl, Douglas County Juvenile Department Director, submitted the following clarifications regarding delinquency cases.

Delinquency Cases

When law enforcement officers come into contact with a youth in need of placement, they call the Juvenile Detention Center and request lodging. Arraignments for youth in detention are held each judicial/business day at 1:15 p.m. to ensure that youth are arraigned within 36 hours of lodging. There is a shelter facility with sixteen beds, as well as a thirty-two bed detention facility, which is currently running at a maximum capacity of twenty-four beds. The detention facility is also used to house detained youth from Coos County. The Juvenile Department reports that youth who come into detention on new law violations are not usually held through disposition; that they use conditional release agreements. They also report that “most probation violation cases resolve at the first detention review” hearing.

Detention review hearings are scheduled within 10 days of the in-custody arraignment if the youth is ordered to remain in detention and are held at least every 10 days thereafter that the youth remains in custody; out-of-custody arraignments are held at 2:00 p.m. each Monday while out-of-custody status checks are held at 8:00 a.m. each Wednesday. UVPD is present at all in-custody arraignments, and attorneys are appointed in most juvenile delinquency cases. Some youth hire attorneys and others waive their right to counsel, typically in probation violation cases. The court reports that it does engage in a colloquy with the youth before accepting the waiver of counsel. The District Attorney has one deputy assigned to represent the state in all juvenile delinquency cases. Formal Accountability Agreements are used in Douglas County, but alternative dispositions are not familiar to juvenile system partners in Douglas County. There has been a significant decline (by almost 50 percent) in juvenile delinquency cases in Douglas County. Shackling is used in Douglas County on a case-by-case basis. The Juvenile Department is reported to assess each case individually, and must articulate to the court a substantial reason for safety concerns. Defense attorneys may contest the court's decision.

Drug and property crimes are reported to be the primary issues for juveniles in Douglas County. There is a residential juvenile substance abuse treatment program available through ADAPT. The Juvenile Department operates a Behavioral Rehabilitation Services (BRS) residential treatment program in the shelter, as well as a thirty-day extended detention program and a Youth Care Center program in detention. The county has a community based sex offender treatment program available through Douglas County Mental Health.

The District Attorney's Office and the Juvenile Department report a positive working relationship with the defense bar and PDSC providers.

A Service Delivery Plan for Douglas County

The current service delivery system in Douglas County appears to be working satisfactorily, with a non-profit public defender as the primary provider handling about 60% of the cases, and two law firms handling the majority of the remaining 40%. The county would benefit from having additional contract providers, preferably attorneys who are familiar with, and reside in, the county, to handle conflict cases. The elimination of a consortium provider at the start of 2012 was a necessary change, but one that warrants further examination and consideration. The Commission will let the current structure continue to build and mature, and will continue to evaluate the structure in light of upcoming retirements in the public defense community. The structure and contracting options will be reexamined during the next contract cycle.