

FINAL REPORT

(December 7, 2006)

OPDS's Final Report on Service Delivery in Clatsop County & PDSC's Service Delivery Plan for the County

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. During 2004, 2005 and 2006, the Commission completed investigations of the local public defense systems in Benton, Lane, Lincoln, Linn, Multnomah, Marion, Klamath, Yamhill, Hood River, Wasco, Gilliam and Sherman Counties. It also developed Service Delivery Plans in each of those counties to improve the operation of their public defense systems and the quality of the legal services provided by those systems.

This report includes the results of the Office of Public Defense Services' (OPDS) preliminary investigation into the conditions of Clatsop County's public defense system, and the comments and discussion that occurred during PDSC's public meeting in Clatsop County held on Thursday, September 14, 2006 in the Clatsop County Courthouse in Astoria. The Commission heard from judges, public defense contractors and other justice professionals in Clatsop County regarding the condition of county's public defense system and how the delivery of public defense services in the county could be improved. The final version of this report will contain PDSC's service delivery plan for Clatsop 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 the preliminary

draft of a report such as this, 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 at the conclusion of 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.

A range of strategies to promote quality and cost-efficiency. 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 advises 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 has 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. In 2004, site teams of volunteer public defense managers and lawyers have visited the largest contractors in Deschutes, Clackamas and Washington Counties and prepared reports assessing the quality of their operations and services and recommending changes and improvements. In 2005, the site teams visited contractors in Columbia, Jackson, Klamath, Multnomah and Umatilla Counties and, in 2006, teams have visited the juvenile contractors in Multnomah and Lane Counties and criminal and juvenile contractors in Linn and Lincoln Counties. In accordance with its Strategic Plan for 2003-05, PDSC has also developed a systematic process to address complaints about the behavior and performance of public defense contractors and individual attorneys.

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 has undertaken a statewide initiative to improve juvenile law practice in collaboration with the state courts, including a new Juvenile Law Training Academy for public defense lawyers. In 2006, the Commission has devoted two of its meetings to investigating the condition of juvenile law practice across the state and to develop a statewide Service Delivery Plan for juvenile law representation.

The Commission is also concerned about the “graying” of the public defense bar in Oregon and the potential shortage of new attorneys to replace retiring attorneys in the years ahead. More and more lawyers are spending their entire careers in public defense law practice and many are now approaching retirement. In most areas of the state, no formal process or strategy is in place to ensure that new attorneys will be available to replace retiring attorneys. The Commission has also found that the impact of such shortages is greatest in less populous areas of the state, where fewer lawyers reside and practice, but where the demands for public safety and functional justice systems with the requisite supply of criminal defense and juvenile attorneys are as pressing as in urban areas of the state. As a result, PDSC is exploring ways to attract and train younger lawyers in public defense practice across the state.

“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 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 Contractor Advisory Group and others, is usually in the best position to address performance issues.

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).

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 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 eleven 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 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

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

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 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, but in which they no longer wish to practice law.

³ Id.

In addition to the access to experienced public defense lawyers they offer, 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 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 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 in 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.

OPDS's Preliminary Investigations

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 delivery system begins with its review of an OPDS report like this.

PDSC's investigations of local delivery systems in counties or judicial districts across the state serve two other important functions. First, 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. Second, the history, past practices and rumors in local justice systems can distort perceptions of current realities. PDSC's investigations of public defense delivery systems can correct some of these local misperceptions.

This preliminary draft report provided a framework to guide the Commission's discussions about the condition of the public defense system and services in Clatsop County, and the range of policy options available to the Commission — from concluding that no changes are needed in the county to significantly restructuring the county's delivery system. The preliminary draft was also intended to provide guidance to PDSC's guests and audience members at its September 14th meeting in Astoria, as well as the Commission's contractors, local public officials, county justice professionals and private citizens who were interested in this planning process, about the kind of information that would assist the Commission in improving the delivery of public defense services in Clatsop County.

In the final analysis, the level of engagement and the quality of the input from all of the stakeholders in the judicial district's justice system is probably the single most important factor contributing to the quality of the final version of this report and PDSC's service delivery plan for Clatsop County. Accordingly, OPDS invited written comments from any interested public official or private citizen prior to the Commission's September 14th meeting in Astoria.

A Demographic Snapshot of Clatsop County⁴

⁴ The following information was taken from Clatsop County's official website, [Wikipedia](#) and data compiled by Southern Oregon University's Southern Oregon Regional Services Institute, which is contained in the Institute's [Oregon: A Statistical Overview](#) (May 2002) and [Oregon: A Demographic Profile](#) (May 2003).

Named after the Clatsop Indian Tribe, Clatsop County with a population of 36,000 is located on Oregon's rugged northwest coast. Incorporated cities in the county include Astoria, Cannon Beach, Gearhart, Seaside and Warrenton. The county's principal industries are fishing, lumber, and agriculture. About 30 percent of the land within Clatsop County belongs to the State of Oregon as part of Oregon's state forest system.

The Lewis and Clark Expedition wintered at Fort Clatsop in 1805-06. Astoria, the state's oldest city named after John Jacob Astor, was established as a fur trading post in 1811. On June 22, 1844, Clatsop County was created from the northern and western portions of the original Twality District. Until the creation of Vancouver County, Washington, Clatsop County extended north across the Columbia River. Provisional and territorial legislatures established Clatsop County's present boundaries in 1845 and 1853.

Before 1850, most of Clatsop County's government was located in Lexington, Oregon, a community located where Warrenton is now. As Astoria grew, it became the center of commerce and industry in the county. The county's residents chose Astoria as the county seat in 1854. The Port of Astoria was created in 1914 to support trade and commerce in Clatsop County.

Fort Stevens, located near the peninsula formed by the south shore of the Columbia River and the Pacific Ocean, was the only military installation in the continental United States that was attacked during World War II. A submarine from of the Imperial Japanese Navy fired 17 rounds at Fort Stevens on June 21, 1942 and escaped before the fort's guns could return fire. Damage to the fort was slight (reportedly a baseball backstop was destroyed and a power line severed).

Approximately 13 percent of Clatsop County's residents hold an undergraduate college degree and 6.5 percent have a graduate degree (compared to respective statewide averages of 16.4 percent and 8.7 percent).⁵ Twenty-seven percent of the county's adult population is employed in management or professional positions, compared to the state's average of 33.1 percent. Compared to a statewide average of 26.3 percent, 29 percent of Clatsop County's residents over the age of 25 graduated from high school.

In 2000, Clatsop County had one of the lowest unemployment rates among Oregon's 36 counties at 4 percent. Its per capita annual income was \$19,515, compared to a statewide average of \$20,940. The county had a relatively high poverty rate, however, at 13.2 percent, compared to an 11.6 percent rate in Oregon and a 12.4 percent rate in the United States. The teen pregnancy rate in the county is below average at 15.9 per 1,000 residents, compared with the statewide average of 16.7. Clatsop County's high school dropout rate was Oregon's 14th lowest over the past decade.

⁵ In comparison, the respective numbers in Yamhill County are 13.4 and 7.2 percent and, in Klamath County, they are 10.6 and 5.4 percent.

The diversity of Clatsop County's population is relatively low. Its non-white and Hispanic residents make up 9.2 percent of the county's population, compared to 16.5 percent for Oregon as a whole.

With juveniles (18 years old or younger) making up 24 percent of Clatsop County's total population, its "at risk" population (which tends to commit more criminal and juvenile offenses) equals the state average. Not surprisingly, its "index crime" rate is also equal to Oregon's at 50 index crimes per 1,000 residents (compared to the state's rate of 49.2);⁶ however, its juvenile arrest rate was the ninth highest in the state (at 75.6 per 1,000 residents compared to Oregon's average of 53).

In 2005, the public defense caseload in Clatsop County totaled 2,114 out of 171,850 cases in the state. That amounted to 1.2 percent of Oregon's public defense caseload in 2005.

OPDS's Preliminary Findings in Clatsop County

On August 24 and 25, 2006 John Potter and Peter Ozanne visited Clatsop County on behalf of OPDS to gather preliminary information for PDSC's September 14th meeting in the county. They interviewed both Circuit Court Judges, members of the court's staff, the District Attorney and the Sheriff, representatives of the county's juvenile department, the Citizens Review Board and the local office of the Department of Human Services, and the administrator of one of PDSC's public defense contractors.⁷

Six lawyers in two consortia contract with PDSC to provide public defense services in Clatsop County. Clatsop County Defenders Association (CCDA) is made up of four attorneys including its administrator, Kris Kaino. The second consortium is made up of Dawn McIntosh and Mary Ann Murk. Ms. Murk administers the consortium (the "Murk Consortium"). The public defense attorneys have between nine and 30 years of law practice experience and devote most of their time to public defense practice.

Both consortia pay their members each month based on the percentage of work they perform under the consortia's contracts each month, and the attorneys settle up with their consortia based on value of work at the end of their respective contracts. Kris Kaino assigns arraignment pickup days for both consortia. Based

⁶ For the purposes of this statistic, "index crimes" are those crimes reported by the Oregon State Police as part of its Oregon Uniform Crime Reports, and include murder, rape and other sex offenses, robbery, aggravated assault, burglary, theft, including auto theft, and arson. Oregon: A Statistical Overview at p. 122.

⁷ As of the date of this Preliminary Draft report, OPDS was unable to talk with the administrator of Clatsop County's other public defense contractor or management and staff of the county's community corrections department; however, like all the other persons in Clatsop County interviewed by OPDS, they have been invited to attend and speak at the Commission's September 14, 2006 meeting in Astoria.

upon the experience of OPDS's Contract and Business Services Division (CBS), all the attorneys in both consortia work well together. There are minor variations in contract rates between CCDA and the Murk Consortium; however, both consortia are aware of the differences and apparently prefer this option because of the difference in their mix of cases.

Based upon its two days of in-person interviews and subsequent telephone interviews, OPDS found that virtually all of the justice officials and professionals in Clatsop County are generally quite satisfied with the operation of its public defense system and the quality of legal services delivered by that system. Although assessments of the skills and commitment of among the six lawyers who contract with PDSC varied, four attorneys received numerous compliments for their dedication and advocacy skills and none were considered less than competent.

Both attorneys in the Murk Consortium were singled out for their strong personal commitment and zealous advocacy on behalf of children in juvenile dependency cases. Not surprisingly, they receive most of the court appointments as counsel for children in the county's dependency cases. Most assessments of the performance of CCDA's attorneys in juvenile cases were less complimentary, including impressions that some of the attorneys' apparent commitment to their parent-clients in dependency cases did not equal their commitment to defendants in criminal cases and observations that several CCDA attorneys frequently fail to contact their clients or obtain pretrial discovery prior to their first appearance in delinquency cases. Because the Circuit Court seriously considers the recommendations of Clatsop County's CRB, most attorneys regularly attend the CRB's hearings; however, at least one of CCDA's attorneys apparently fails to attend most CRB hearings involving his clients.

One judge complimented the county's public defense attorneys for their willingness to participate on local policymaking bodies and contribute to court improvement projects.

Neither CCDA nor the Murk Consortium apparently has a board of directors, by-laws or formal quality assurance or disciplinary policies and procedures. Neither consortium's administrator was aware of a reason why Clatsop County has two consortia, other than the State of Oregon's desire in the past to promote competitive bidding among local public defense attorneys. According to the Circuit Court, when the conduct or performance of an individual attorney is called into question, judges take up the matter directly with that attorney. Representatives of other justice agencies in the county were unaware of any means to bring problems or complaints to the attention of the consortia or whether anyone in either consortium was responsible to handle problems and complaints.

During the course of its interviews, OPDS identified five significant concerns

regarding the future of public defense in Clatsop County. First, the Circuit Court, in particular, is deeply concerned about the limited supply of qualified public defense attorneys in the county. Assuming that six defense attorneys can continue to competently handle a caseload generated by a District Attorney's office with six or seven prosecuting attorneys,⁸ both judges in Clatsop County wonder what the court will do when one of those six attorneys leaves public defense practice.⁹ Apparently, no other attorneys in the county have expressed a willingness to engage in public defense practice and, due to the quality of the attorneys from outside Clatsop County who have been willing to take appointments in the past, the judges believe importing attorneys from other counties on a regular basis is not a feasible solution. Indeed, one of the Circuit Court's judges is so concerned about the impending shortage of public defense attorneys in the county that she traveled to the University of Oregon Law School to encourage recent graduates to enter law practice in Clatsop County and take court appointments.

Second, although the demands of public defense caseloads are a concern in most counties of the state, complaints by consortium attorneys and the District Attorney about the demands of Clatsop County's caseload seemed especially emphatic. The focus of these complaints is the speed with which the Circuit Court processes the criminal and juvenile cases on its docket, which the attorneys believe prevents them from properly evaluating, preparing and resolving many of their cases.¹⁰ While those attorneys expressed appreciation for the Circuit Court's efforts to maintain high standards of judicial administration, they feel that the level of Clatsop County's justice resources, including its supply of lawyers, cannot continue to support what they perceive as one of the fastest moving dockets in the state. Nearly all of the justice professionals with whom OPDS spoke also noted that handling of juvenile and criminal caseloads in Clatsop County is further complicated by variations in the practices and procedures in the two departments of the Circuit Court, which are due at least in part to a lack of communication between the county's judges on matters of judicial administration.

Third, another concern expressed to OPDS in Clatsop County, as well as throughout the state, is the rates paid under the county's public defense contracts. In particular, the attorneys and judges in the county reported what they believe is an unjustified variation in the rates attorneys are paid to handle juvenile dependency cases in Clatsop County compared to Multnomah County. The experience of the Juvenile Rights Project (JRP) in Clatsop County was cited

⁸ Clatsop County's District Attorney informed OPDS that his office will receive funding from the county for a seventh attorney in December, but he indicated that the county's commitment for this funding is limited to six months.

⁹ One consortium attorney is currently a candidate in a run-off election for the new Circuit Court Judge in Clatsop County. OPDS understands that other consortium attorneys may be considering retirement or significant changes in their law practice specialties.

¹⁰ Everyone who voiced this concern also expressed hope that the addition of a third judge in the Clatsop County Circuit Court will reduce the pressures of the court's docket.

during one of OPDS's interviews as evidence of this unfair disparity in contract rates. JRP at one time handled a juvenile dependency caseload in Clatsop County under contract with the state. According to the information OPDS gained from this interview, JRP chose not to seek renewal of its contract with the state because it could not afford to operate under the contract rates paid for that work in Clatsop County.

Fourth, OPDS is concerned about (1) an apparent absence of criminal defense attorneys in Clatsop County's early disposition program (EDP), (2) differing perceptions in the county about the reasons for this absence of defense attorneys, including perceptions of PDSC's lack of support for EDPs, and (3) the possibility in light of these perceptions that defense attorneys may be excluded from other specialty court programs in the county such as drug courts. One of the county's judges reported that defense attorneys do not participate in his department's EDP in part because a staff person at OPDS informed him that the agency refuses to provide financial support for the participation of lawyers in EDPs. The county's other judge noted that defense attorneys do not participate in the EDP because they have refused to do so for philosophical reasons. One of the consortium's administrators informed OPDS that defense attorneys feel ethically bound not to participate in Clatsop County's EDP because the District Attorney has refused to provide discovery before the court appearances of defendants who qualify for the EDP. The District Attorney, on the other hand, indicated that police reports are available for review in the courtroom at EDP proceedings and that defendants are given a week to consider the prosecution's settlement offer or consult with an attorney.

OPDS advised all of these individuals of (a) PDSC's support for EDPs, (b) the Commission's development of EDP guidelines in order to ensure the participation of defense attorneys in EDPs that is consistent with their legal and ethical obligations to their clients¹¹ and (c) PDSC's commitment to assist counties like Clatsop County in the development of quality, cost-efficient EDPs. Nevertheless, because the participation of defense attorneys apparently varies in the criminal drug courts administered by the two departments of the Clatsop County Circuit Court, and because the court is currently developing a new juvenile drug court, OPDS is concerned that the county might not avail itself of the Commission's assistance and support for specialty court programs like EDP and drug courts. As a result, Clatsop County may proceed to administer drug courts and continue to administer its EDP without the participation of defense attorneys.

Finally, as noted above, neither CCDA nor the Murk Consortium has adopted the kinds of organizational structures, programs or processes that PDSC generally recommends for consortia. This raises a concern that Clatsop County's public defense delivery system may not have the capacity to meet the future demands of public defense practice in the county.

¹¹ A copy of PDSC's Early Disposition Guidelines is attached in Appendix A.

OPDS's Recommendations for Further Inquiry at
PDSC's September 14, 2006 Meeting in Astoria

In light of the foregoing concerns, OPDS recommends that PDSC focus its inquiries and discussion at the Commission's September 14th meeting in Astoria on the following five topics:

1. The supply of public defense attorneys in Clatsop County. OPDS recommends that PDSC discuss with the judges and lawyers in attendance at the Commission's September 14th meeting feasible options for increasing the supply of qualified public defense attorneys in Clatsop County. For example, in light of efforts by at least one judge in the county to recruit recent law school graduates into public defense practice, the Commission might consider joining forces with Clatsop County and other similarly situated counties to establish formal law school recruitment teams. These teams could appear at Oregon's three law schools during the hiring season for the purpose of encouraging law students to consider public service positions in underserved areas of the state that offer unique opportunities for legal employment and quality of life.
2. The demands of Clatsop County's public defense caseload. With additional analysis and information from CBS's contract staff, such as comparative data on caseloads across the state, PDSC should inquire into whether the rate at which cases on Clatsop County's Circuit Court docket are processed is unusually high. If so, the Commission might also inquire into the prospects for relieving the pressure of the court's docket, such as the pending addition of another judge, and how PDSC and the Commission's contractors in Clatsop County can assist in relieving that pressure.
3. The contract rates for Clatsop County's consortia. With the benefit of further information from CBS on comparative contract rates, the Commission should discuss the experiences and perceptions of judges and lawyers in Clatsop County regarding (a) the unique challenges of public defense practice in the county, (b) how those challenges might compare with the challenges of public defense practice in counties with higher contract rates (such as Multnomah County) and (c) why the contract rates in Clatsop County should be equal or closer to counties with higher rates. If, in the opinion of PDSC, it appears possible that the contract rates in Clatsop County should be raised to match the rates in other counties, or it appears that further study of these rates and the rates in other counties is justified, the Commission should consider directing OPDS to conduct a study of contract rates in furtherance of PDSC's policy to establish more rational and predictable public defense contract rates in

Oregon.¹²

OPDS's study should be designed to determine if more consistent rates can and should eventually be established across the state. Those rates might include standardized base case rates, with permissible limited variations that take into account local circumstances such as prosecutorial charging practices and the nature and extent of judicial proceedings within specific case categories. Depending on OPDS's assessment of the difficulty of this task and the Commission's assessment of its current priorities, the study could be designed as a pilot project affecting the contract rates in a limited number of counties or as a statewide study affecting the contract rates in every county in the state. In either case, the study should be designed to implement new contract rates or a new rate system for implementation in the affected counties during the formation of contracts in 2007.

4. The participation of defense attorneys in Clatsop County's EDP and other specialty court programs. In developing guidelines for the design and operation of EDPs in consultation with the Oregon Criminal Defense Lawyers Association, the Oregon District Attorneys Association and the Chief Justice's Criminal Justice Advisory Committee, PDSC recognized that the interests of individual defendants and the taxpaying public can be served by the expeditious resolution of cases in which prosecutors offer relatively favorable dispositions or the opportunity to participate in rehabilitative corrections programs. The Commission also recognized, however, that EDPs or other specialty court programs, which lack the usual court processes of adjudication in favor of prompt resolutions or therapeutic objectives and which fail to provide access to legal counsel in the courtroom, present the risk that uncounseled defendants, especially with language or educational deficits, will be unable to fully understand the range of legal options available to them or the legal and personal consequences of their legal decisions.¹³ Consequently, PDSC's EDP guidelines were designed to promote the participation of defense counsel in these programs while preserving their advantage in terms of the expeditious resolution of case and cost savings.

OPDS urges the Commission, during the course of its discussions with judges and lawyers in Clatsop County on September 14th, to confirm its

¹² During the course of its discussions and deliberations over the past several years, the Commission has referred to this policy as the pursuit of an "administrative model" with relatively standardized contract rates largely determined in advance by PDSC, as opposed to the pursuit of a "market model" with variable contract rates that depend on the relative knowledge and negotiating skills of the parties and the supply and demand for lawyers in the relevant market (or county).

¹³ The Clatsop County District Attorney did report that the presiding judge in the county's EDP is extraordinarily rigorous in advising uncounseled defendants of their legal rights and accepting waivers of those rights or guilty pleas.

commitment to ensuring the participation of defense attorneys in the development and operation of EDPs and other specialty court programs. PDSC should also offer the assistance of OPDS, its Quality Assurance Task Force and local public defense attorneys to assist the Clatsop County Circuit Court in developing cost-efficient specialty court programs that are consistent with (a) the mission of the county's criminal and juvenile justice systems to ensure due process and promote public safety, (b) the rights of victims and public defense clients in the county and (c) the interests of the taxpaying public.

5. The organizational development of Clatsop County's consortia.

Like some relatively small, well-established consortia in other parts of the state that deliver public defense services to the general satisfaction of local courts, Clatsop County's consortia appear to operate primarily for the purposes of submitting contract proposals to PDSC and administering their contracts in accordance with CBS's contracting policies and procedures. Neither consortium appears to have adopted the organizational components that the Commission has recommended to other consortia in the state, such as a board of directors, a formal organizational structure, a complaint process, an attorney disciplinary process and training, mentoring, recruitment and quality assurance programs. As a result, Clatsop County's delivery system may not be capable of adapting to a future that will inevitably include population and caseload growth, personnel changes on the Circuit Court,¹⁴ in the consortia and in the District Attorney's office,¹⁵ and changes in state and local justice and law enforcement policies.

During PDSC's September 14th meeting, OPDS recommends that the Commission inquire into the feasibility of and support for adopting some or all of the foregoing organizational features of consortia in Clatsop County. In accordance with PDSC's general policy of refraining from imposing organizational structures and processes that are inconsistent with the culture and local practices in a county, the Commission may wish to weigh the advantages of recommending changes in the organization and operation of Clatsop County's consortia against (a) the level of local satisfaction with the consortia's current operations and legal services, (b) the importance of first addressing the other concerns described above and (c) the current demands on the six attorneys who provide public defense services in the county.

The Results of PDSC's September 14, 2006 Meeting in Astoria

¹⁴ Following the results of the November election, Clatsop County will have a third Circuit Court Judge.

¹⁵ Clatsop County will have an additional deputy district attorney in December, which may be a permanent addition to the District Attorney's office depending on a continuation of county funding.

The commission heard testimony from the two circuit court judges for Clatsop County, Judge Phillip Nelson and Judge Paula Brownhill, from the Director of the Clatsop County Juvenile Department, Georgia Gates, from R. Hendricks of the Oregon Youth Authority, and from public defense attorneys Mary Ann Murk, Kris Kaino, Ty Settles, Don Haller and John Orr. Comments were also received from Cora Lane, the Director of Community Corrections, and from Josh Marquis, the District Attorney for Clatsop County. Peter Ozanne and Kathryn Aylward provided additional information.

In general, the witnesses testified that the six consortium attorneys are competent and hardworking. They were particularly praised for their work in juvenile cases – for attending meetings for which they are not directly compensated and for continuing to represent their clients after the initial disposition. It was reported that they appear to be trying the appropriate cases and litigating appropriate motions. They are also actively involved in the local criminal and juvenile justice systems.

Witnesses and commission members also discussed each of the five potential issues identified in the draft report.

The supply of public defense attorneys in Clatsop County.

There is currently, or almost certainly will be in the near future, a need to add new public defense attorneys in Clatsop County and to replace current members as they pursue other professional options. Some witnesses said that the six consortium attorneys are overwhelmed by their caseloads. One of the judges said that more lawyers are needed. One of the consortium administrators said that, while he believes they are able to handle the current workload, in a perfect world where the system was adequately funded they could use one or two more attorneys. In addition, a third judge will be added in January of 2007. While some believe this may lighten the load for the attorneys, others anticipate that it will have the opposite effect.

Attracting new public defense attorneys to the county could be difficult. Some of the obstacles to successful recruitment are case rates¹⁶, which are lower in Clatsop County than in some other counties; high caseloads¹⁷; the rising cost of living in the area; the significant indebtedness of many newly admitted attorneys; the inability, due to time constraints, of current consortium members to mentor new members.

¹⁶ The director of the juvenile department testified that “In order to bring attorneys into this town, you are going to have to pay them.”

¹⁷ Of course, as a number of witnesses testified, if case rates were increased the consortia might then be in a financial position which would allow them to hire additional attorneys and lower their caseloads.

Possible solutions include increased case rates, a loan forgiveness program through the state or federal government, stipends to assist with relocation costs and assistance with recruitment as outlined at page 16 of this report.

The demands of Clatsop County's public defense caseload

Judge Nelson said he wondered how the consortium attorneys could keep up with the caseload. He suspected that they were overwhelmed by the number of cases and appearances. The director of the county juvenile department said that juvenile attorneys are overwhelmed by the demands of juvenile practice.

The recent implementation of an early resolution process may help resolve cases sooner and prevent set-overs. In recent years the number of trials has fallen dramatically. Some witnesses believed that the addition of a third judge might help to slow the pace. The local legal community previously came together to review docketing practices. After approximately a year of discussion the current docketing system was implemented and had positive results.

Possible solutions to the caseload issue include continued coordination among members of the local legal community to reduce unnecessary appearances; increased case rates which would permit the consortia to add new attorneys; the use of trained professional volunteers such as the AmeriCorps attorneys currently placed at the Juvenile Rights Project in Portland; the use, when appropriate of investigators to assist in the observation and assessment of child clients' placements and circumstances.

In addition, in the next biennium there may be supplemental funding available to reduce caseloads, increase compensation and improve representation in juvenile dependency proceedings.¹⁸

The contract rates for Clatsop County's consortia. Judge Nelson told the commission "You need to pay your providers here more money." Judge Brownhill noted the difference in rates for juvenile attorneys in Clatsop County compared with juvenile attorneys in other counties. One consortium attorney testified that he had examined the contracts of other providers in the state and determined that the rates in Clatsop County were among the lowest in the state. Another consortium attorney reported that she was paid \$210 for representing a child client at a dependency hearing. In order to prepare for that hearing it was necessary to spend several hours at meetings and twenty to thirty hours driving to Ontario, Oregon to visit with her client.

Chair Ellis explained that the commission had directed OPDS to address any rate disparities (that were not based on articulable differences in circumstances) as resources permitted, but without reducing the rates of any contractor. He

¹⁸ A bipartisan group of legislators has formed the Dependency Representation Workgroup to explore methods of improving representation in juvenile dependency cases.

acknowledged that the elimination of disparities could not occur immediately.

As suggested above at page 15 of this report, the Commission may wish to weigh the unique challenges of public defense practice in Clatsop County against the challenges of practice in counties with higher rates and determine whether Clatsop rates should be equal or closer to those higher rates. The commission could also direct OPDS, prior to the next contract cycle, to conduct a study of contract rates in furtherance of PDSC's policy to establish more rational and predictable public defense contract rates in Oregon.

The participation of defense attorneys in Clatsop County's EDP and other specialty court programs

Witnesses testified that the county's early disposition program permits defendants charged with relatively minor offenses to resolve their cases at or shortly after arraignment.

Consortium attorneys testified that they had declined to participate in the county's EDP program because they did not believe they would have adequate discovery or time to investigate the case, and because the compensation offered them was inadequate. One attorney was concerned that his reputation among the general public would be negatively affected by involvement in a program that "just moves people in and out." Judge Nelson said that when the program was in the development stage he asked the Indigent Defense Services Division about compensation for the defense attorneys and that he didn't "think there was anybody willing to work for that price."

An experienced Marion County attorney reported that he and other Marion County attorneys had participated in that county's early disposition program from the beginning. He believed the program served a useful purpose for clients charged with minor offenses who wanted to resolve their cases quickly. He attributed the success of the program to the involvement of experienced defense and prosecution attorneys.

Members of the commission noted that an early disposition program could be of benefit to out-of-town weekend visitors without significant criminal records who did not want to return to Clatsop County to contest the charges. Currently, because defense attorneys are not present, these individuals receive no legal representation¹⁹. While the position of the Clatsop consortium attorneys appears to be a principled one, some reconsideration of their position might be in order in view of the experience in Marion and other counties and the importance of providing legal representation to the participants in the program.

Further discussion, including a discussion of the appropriate compensation rate,

¹⁹ A consortium attorney said that one of his clients in a retained case had accepted an EDP offer without realizing that it would result in the loss of his driver's license.

might be productive, particularly if experienced attorneys from jurisdictions such as Marion County were included.

The organizational development of Clatsop County's consortia

Testimony from consortium attorneys as well as OPDS staff clarified that the existence of two separate consortia in Clatsop County was the result of a number of historical events rather than conscious planning. Both consortia operate with a minimum of organizational structure.

While there is general satisfaction with the services provided by both consortia the Commission could nevertheless recommend to both groups consideration of the benefits that might accrue from consolidation of the two consortia and from adoption of some of the organizational components that the Commission has recommended to other consortia in the state. Participation in the consortia workgroup currently being organized by consortia managers would give the Clatsop County organizations an opportunity to discuss these issues with similarly situated contractors.

PDSC's Service Delivery Plan for Clatsop County

PDSC is grateful for the cooperation and hospitality extended to its staff and its members during its visit to Clatsop County and the initial investigations made in preparation for that visit. PDSC expresses its sincere appreciation to all the members of the Clatsop County criminal and juvenile justice communities for their assistance in informing the commission and helping to guide the creation of this service delivery plan for the County.

PDSC incorporates into this service delivery plan as its factual bases for the recommendations that follow: (a) The information that OPDS received during its visit to Clatsop County on August 24 and 25, 2006 and reported to PDSC in the preliminary draft of this report, and (b) the presentations and comments to the commission at its September 14, 2006 meeting, which are summarized above.

Based on these factual bases and the commission's discussions and deliberations during its October 20th meeting, PDSC adopts the following four components of a service delivery plan for Clatsop County.

1. Appropriateness of Contractual Structure. The two-consortia model seems to be working satisfactorily in Clatsop County. Both consortia members and OPDS's contract and business services staff report that the system works effectively; and virtually all of the local justice officials and professionals interviewed express satisfaction with the operation of the defense system and

the quality of defense services provided in the county. No structural changes appear to be needed in Clatsop County.

While neither consortium has a board of directors or formal policies and procedures as outlined in OPDS's developing list of "best practices" (Exhibit A), these practices may be of limited utility in such small organizations. Both consortia are encouraged, however, to be aware of recommended practices and to consider the potential benefits some of those practices might have for them and their members.

2. Caseloads/Compensation/Recruitment. High caseloads, compensation rates that are lower than rates in some areas of the state and difficulty in recruiting new public defense attorneys to the county are interrelated problems that will need to be addressed by PDSC and the Clatsop County consortia working together.

During the current legislative interim a bi-partisan group of Oregon legislators has been examining the relationship between high caseloads, low rates of compensation and the quality of representation in juvenile dependency cases. It is anticipated that this group will propose legislation in the 2007 session to improve quality by, among other things, limiting caseloads and increasing compensation.

If additional funds are available to PDSC for dependency representation in the next contract cycle, OPDS staff and the two Clatsop consortia will need to consider how to use those resources most effectively to address the interrelated caseload, compensation and recruitment issues in the county.

Whether or not additional resources are available for the next contract cycle, PDSC will need to determine how funds that are appropriated will be distributed among its providers. In order to facilitate this discussion OPDS staff will need to develop a method for comparing rates that takes into account the many variables that affect the appropriate values for particular case types from one county to another. If the Commission determines that its goal is consistency of rates, these many variables will have to be articulated and assigned appropriate values.

In 2003 the Commission identified a number of strategies for assisting public defense providers in outlying areas of the state to attract and retain attorneys. These included offering extended contracts with guaranteed caseloads, establishing apprenticeship training programs in larger contract offices for attorneys willing to commit to practicing in underserved areas, offering housing support, technical support and/or capital assistance for attorneys willing to relocate to underserved areas. If caseload and compensation factors indicate that the Clatsop County public defense community needs additional attorneys before the next contracting cycle and that it would be

feasible for both the new attorney(s) and the current consortium attorneys to add a new attorney or attorneys, OPDS should be prepared to assist in the effort by exploring ways of implementing these strategies in such a way that they benefit both the new attorney and the current providers.

In addition, OPDS should establish a law school recruitment team to appear at Oregon's three law schools during the hiring season to encourage students to consider public defense employment opportunities in all parts of the state, including underserved areas. OPDS should work with the Diversity Task Force to coordinate recruitment efforts.

3. Participation in EDP programs. Early Disposition Programs that meet PDSC's standards can be a cost-effective alternative to full prosecution and can provide significant benefits to many defendants. Defendants given the option of participating in these programs are entitled to the assistance of counsel. Indigent defendants in Clatsop County are not being afforded such representation.

OPDS will offer to work with Clatsop County judges, the district attorney and both consortia to identify and address any obstacles (including inadequate discovery) to defender participation in EDP programs in the county. Experienced defense attorneys from counties with effective EDP programs will be invited to participate.

In view of the Commission's mandate to promote quality, cost-effective defense services, OPDS will also initiate a discussion with the Oregon District Attorney's Association about creating statewide standards for EDP programs.

4. Juvenile law practice. Murk Consortium attorneys were reported to be doing superior work on behalf of their child clients in juvenile dependency cases. CCDA, however, like many of PDSC's other contractors who provide legal representation in juvenile cases, apparently needs to improve the quality of its juvenile law practice. Some CCDA attorneys are reported to be inadequately committed to their parent clients and ill prepared for initial hearings in delinquency cases. The Commission recommends that CCDA attorneys review the Oregon Rules of Professional Conduct, PDSC contract requirements, and the revised bar standards²⁰ regarding appropriate representation in these cases. The commission further recommends that OPDS consider sending a Quality Assurance Task Force site team to Clatsop County to examine the quality of representation in juvenile cases. PDSC

²⁰ The General Principles for Counsel in Criminal, Delinquency, Dependency and Civil Commitment Cases, the General Standards for Representation in All Criminal, Delinquency, Dependency, and Civil Commitment Cases, the Specific Standards for Representation in Criminal and Juvenile Delinquency Cases, the Specific Standards for Representation in Juvenile Dependency Cases, and the Specific Standards for Representation in Civil Commitment Proceedings

requests that CCDA report back to the commission no later than October 1, 2007 regarding steps taken to address these issues.