Meeting: OPDS Contracting Model Enhancement Workgroup Meeting
Date & Time: July 21, 2021 11:45 AM – 1:00 PM PDT
Address/Platform: Microsoft Teams Meeting
Connection Info: Closed to non-invitees. *Meeting recording can be viewed on OPDS' YouTube site by **clicking here** and on OPDS' website by **clicking here**, and scrolling down to the Latest News section.*

Invitees: Heather Pate, OPDS Contracts Manager; Amy Jackson, OPDS Contracts Analyst; Billy Strehlow, OPDS Contracts Analyst; Caroline Meyer, OPDS Contracts Analyst; David K Orton, OPDS Contracts Analyst; Megan Doak, OPDS Contracts Analyst; Shelley Dillon, OPDS Research Analyst; Keren Farkas, OPDS PCRP Program Manager; Eric Deitrick, OPDS General Counsel; Erica Herb, OPDS General Counsel; Erin Snyder-Severe, OPDS General Counsel; Autumn Shreve, Multnomah Defenders, Inc., Line Attorney; Brook Reinhard, Public Defender Services of Lane County, Inc., Administrator; Bruce Tarbox, Clackamas indigent Defense Corporation, Administrator; Jack Morris, 7th District Consortium, LLC, Administrator; John Hamilton, Jackson Juvenile Consortium, LLC, Administrator; Jon Sarre, Portland Defense Consortium, Administrator; Kris Kaino, Clatsop county Defenders Associates, Administrator; Mark Lang, Justice Alliance of Columbia County, Administrator; Michelle Bartov, Eastern Oregon Defenders, LLC, Administrator; Olcott Thompson, Marion County Associate of Defenders, Administrator; Rebecca Schaleger, Juvenile Advocates of Clackamas, LLC, Administrator; Todd McCann, Juvenile Advocacy Consortium, Line Attorney

---

Agenda		
Item	**Description**	**Owner**
1	Welcome, review ground rules	Billy Strehlow
2	Continue discussion on a supervisor to attorney ratio for consortia	All
3	If we approve a motion for a ratio, then we will start discussion on an investigator to attorney ratio	All
4	If we approve a motion for a ratio, then we will begin a discussion on the presentation of the recommendations to PDSC.	All
5	Check-in regarding timeline	Billy Strehlow
6	Outline next steps/assignments/homework	Billy Strehlow

Next Meeting: Wednesday, August 4, 2021 11:45 AM – 1:00 PM PDT

Attachment 1

Date: July 16, 2021

To: OPDS Contracting Model Enhancement Workgroup

From: Heather Pate, OPDS Contracts Services Manager
Amy Jackson, OPDS Contracts Analyst
Billy Strehlow, OPDS Contracts Analyst
Caroline Meyer, OPDS Contracts Analyst
David K Orton, OPDS Contracts Analyst
Megan Doak, OPDS Contracts Analyst

OPDS Contracting Model Enhancement Workgroup
July 21, 2021 Meeting Agenda & July 7, 2021 Minutes Summary

Thank you for your participation during our last meeting. Your time and effort are greatly appreciated and critical for successful public defense contracting and enhancement. Here is the motion that was passed:

1. For PD offices and private law firms directly contracting with PDSC with at least 3 attorneys, OPDS shall fund supervisors at the rate of .1 supervisor for every 1.0 FTE caseload. The supervisory work of an attorney will not be included in that contractor's FTE caseload total and supervisors may still carry a caseload if they supervise fewer than 10.0 FTE. The sum of supervision responsibilities and caseload shall not exceed 1.0 FTE. (11 Aye, 0 No, 0 Abstain)

There was a question about the Massachusetts model for supervision of non-PD attorneys. Here is an excerpt from our research:

"Private Counsel Division - County Bar programs assign the cases to the individual attorneys. Direct review of contract attorneys is done by private attorneys who have contracts with the county bar program. They have no cases and only supervise the private attorneys who represent indigent clients."

July 21, 2021 Agenda

1. Ground rules
2. Continue discussion on a supervisor to attorney ratio for consortia.
3. If we approve a motion for a ratio, then we will start discussion on an investigator to attorney ratio.
4. If we approve a motion for a ratio, then we will begin a discussion on the presentation of the recommendations to PDSC.
5. Check-in regarding timeline
6. Outline next steps/assignments/homework

Summary of Minutes from July 7, 2021 Meeting

5th Workgroup Meeting Re: Staffing Ratios/Definitions

Date: July 7, 2021

Present: Jon Sarre, Olcott Thompson, Autumn Shreve, Rebecca Schaleger, Mark Lang, Bruce Tarbox, Brook Reinhard, Kris Kaino, Jack Morris, Todd McCann, Michelle Bartov, Alena Haines, David Orton, Billy Strehlow, Amy Jackson, Megan Doak, Caroline Meyer, Erica Herb

---

Billy informed the group that last time they met they had postponed discussion. The postponed discussion was about supervisor ratio and were considering how this would work for a consortium and what would be a minimum number that requires supervision.

Olcott felt that the group needed to break this into two categories supervisor requirements for an office vs. a consortium. In an office you can have people switch in and out of a supervisor role but there are conflict issues with consortiums doing this. Unsure about the conflict issues with a consortium administrator talking to attorneys about case specific issues. There is also an issue that if you use an FTE supervision ratio for consortiums there could be a lot more attorneys in that ratio than an office. Massachusetts has a model where they are using individual attorneys to take all cases and they have separate contracts with supervising attorneys. That makes more sense for consortiums. With that you can tailor the number of people being supervised and they can cross county lines. If we want to have supervisors than OPDS needs to fund more attorneys. That begs the question would it be better for providers to tell OPDS how much money they need and OPDS builds their budget off that or for OPDS to tell providers what the budget is.

Brook agreed with Olcott and doesn't see a problem with a rule that encompasses PD/Law firms and something different for consortiums. The same ratio would work for PD and law offices, but it makes sense with consortium to build in a cost for administration, but administration isn't supervision. Administration is responding to the court and complaints but not monitoring case work. In a PD it's the supervisor's job to make sure they are doing what they are supposed to be doing and the supervisors bar license is on the line. He proposed to adopt a ratio for PD and law offices but have an administration build-in for consortium.

Michelle liked Olcott's idea of a separate supervisor that monitors several consortiums in multiple counties. She doesn't think it makes sense to have a consortium supervisor in each county especially in Eastern Oregon since there aren't many people in each of the Eastern Oregon consortiums. They would be an eastern Oregon supervisor contractor that supervises all the contractors there. If a consortium attorney took on the role it would be hard to a lot part of an FTE to supervision since FTE is needed for cases and it's hard to get attorneys in Eastern Oregon.

Billy asked for clarification that what was suggested is that there wouldn't be a minimum for supervision in each of the smaller groups but instead there would be one person that would supervise a number of entities.

Michelle confirmed that is what she meant.

Mark felt that it's important to be careful about calling someone who is an administrator of a consortium a supervisor. That infers that the administrator has some control over the work product of attorneys in the consortium.

Billy stated that it is our intent that it be two different people.

Kris shared the same concern as Mark that administer shouldn't be synonymous with supervisor. He felt that the supervisor issue is going to get complicated. His consortium is a hybrid with a firm and independent attorneys. He didn't see how it would work well even if you combined the coastal consortiums and had one supervisor. He felt it might work with an independent person acting as supervisor, but he sees that as being an issue and not working very well. He too see's administrator and supervisor as different rolls. He sees a need for people to train new attorneys in smaller counties. That person wouldn't be a supervisor, but a trainer and they should be local. That person will want to be compensated. He felt there were a lot of different entities and some hybrids that need to be taken into account when deciding this.

Jon agreed with Kris, Mark, and Brook that the consortium model isn't set up for supervisors. One of the advantages of a consortium is that they can take conflicts so having a supervisor could be problematic. Billy brough up the scenario where you might have a consortium that is full of solo contracts but another one that is firms. How would you determine the minimum amount of supervision on those situations? If you had a firm with less than 3 people would they need supervision. What if that firm was part of a consortium vs. a standalone? We could have a supervisor ratio for PD but for consortiums with sole providers maybe one person to supervise everyone.

Rebecca agreed with Mark that an administrator shouldn't be considered a supervisor. Many consortium members don't want a boss which is what attracted them to a consortium. We need to have something in place to check on attorneys, but it shouldn't be the administrator. We need to find a way to balance that without making the administrator the boss. One of the problems with hiring someone to supervise outside the county is trust. Her attorneys trust her and consider her a quasi-boss. The court calls her to help manage but she isn't technically the boss. Having someone in the group supervise and train is better than hiring someone from outside because of the trust factor.

Bruce shared that as a contract administer his focus is on contract compliance not managing his member's practice. Administrators end up dealing with client complaints, managing schedules and issues like that. He likes the idea of resource attorneys. The bar has a mentoring program that is valuable for younger attorneys, but new attorneys could benefit from a resource attorney on an OPDS level or a regional level. That would be someone outside their consortium they could bounce ideas off. That could be someone that travels around and share their expertise and experience. Confidentiality issues make it a delicate process to help attorneys on their cases in a Consortium.

Jack stated that he's all for supervision. He feels it will work well in urban areas and PD's office but has a hard time seeing how it will work with consortiums or sole contractors. He noticed that the best practice documents provided to the group were from 10 years ago and were produced by the quality assurance task force. In those documents it states that the credit model is a model for the delivery of quality cost effective defense representation. With a footnote that states there is no inherent issue with quality of representation and a system that relies on contracts and that Oregon was cited as an example of a system that provides quality representation. We are responding to what the recent OPDS company line has been and have lost track of where we are at. We seem to be responding to this idea that everything is bad, and everything is broke and he doesn't see it that way.

Autumn shared that she is in the unique position of only knowing the PD realm. She is familiar with bigger PD firms and has found that some are light on supervision, and some have more than necessary. This just goes to show that there are various ways of doing it even in bigger firms. Her understanding is that in consortiums there is separate funding for administration but not separate funding for PD's. So, in that way we are already treating consortiums and PDs differently. Executive directors and supervision aren't funded in PD office's and the funds for that is coming out of attorney funds. Since they are already separate maybe it needs to stay that way. She too feels that administration and supervision are two very different roles. She would also like to know if there is anything about how much a supervisor is on the hook for other's deeds.

Billy confirmed that John Hamilton is not present and reached out to Todd to make sure he had the opportunity to speak before he started going around again.

Todd felt that everyone has covered the issues well. His consortium has a contract administrator that does the training, contract compliance, case administration, handles HR problems, and is the liaison with the courts but some of that would fit under a supervisor's umbrella. Ratio guidelines would be helpful.

Michelle wanted to respond to Autumn about her comment on administration funding. In Union and Willowa the contract is under the 5 FTE at 4.75 FTE so they don't get any admin funding despite the fact that they are still doing that work. The fact that their contract doesn't get any funding for administration is a pretty big point of contention for them. She also agrees that consortium members don't want a boss and that's important to them.

Billy confirmed that the 5 FTE rule for administration was a hard line in the last contract negotiations.

Bruce mentioned that a good and vigorous consortium board should serve the role as a boss.

Billy asked if there was a motion or requests for additional information.

Olcott stated that he doesn't have a motion. He doesn't have any insight regarding what is best for an office but feels that is where we should be going. He liked the idea of a resource attorney for consortiums. He wanted to reiterate that a contract administrator is different than a supervisor mainly due to conflict issues. If you have a supervisor for a consortium, they could only do that.

Billy asked Caroline to share the supervisor ratio for PCRP.

Caroline shared that PCRP has struggled with supervisor on the consortium side. PD's and firms have supervision built in. She wasn't sure what that was but felt it was a 1:10 ratio for the PD offices in the bigger counties. Something different in small counties. As for firms and consortium, there is just administration for the very reason that it's difficult with conflict issues. However, OPDS has worked with some consortium where they hire new attorneys that aren't qualified and provided OPDS with a very detailed supervision plan to get those attorneys up to speed. She will provide specific percentages in the follow up.

Mark agreed with what Caroline said about administration.

Brook wanted to know if an attorney that supervises would have a caseload. He feels that it's good for them to take cases but that it could also be done on an ad hock basis by co-counseling. With that in mind he made a motion that PD offices and private law firms engaged in indigent defense that OPDS fund one supervisor per 10 attorney positions and that the supervisor and ratio wouldn't include an independent caseload. What is trying to say is that it's okay for an attorney to supervise five attorneys and have a half-time caseload, but a supervisor shouldn't have an independent caseload.

Billy asked if Alena was available.

Alena shared her screen.

Olcott wanted to clarify that Brook is not intending to include private law firms that are part of a consortium but private law firms that are directly funded by OPDS.

Brook agreed that with the friendly amendment to his motion.

Olcott suggested that the word after private law firms it say, "directly contracting with OPDS".

Brook suggested Alena delete the next four words after Olcott's suggested addition.

Billy stated that instead of saying OPDS it should say PDSC. He mentioned that what we had was a little messy and asked if Brook wanted to clean it up.

Brook suggested that it say "that supervisor would not be calculated as a separate attorney for that law firms FTE.

Olcott asked Brook if he wanted to change the word firms to contractors.

Brook agreed with Olcott's suggestion.

Caroline suggested it would be clearer if it said a full-time supervisor would not carry a caseload.

Autumn felt that sounds like a mandate that they wouldn't't' be allowed to have a caseload vs. a goal.

Caroline shared that the point was to differentiate that a full-time supervisor wouldn't carry a caseload where a part-time one might. Somehow, we want to memorialize that.

Brook suggested saying "that attorneys' supervisory responsibilities wouldn't not be calculated in that contractors FTE calculation."

David suggested that it state "the sum of supervisor responsibilities and caseload shall not exceed 1 FTE."

Autumn felt that change conflicted with the last sentence.

Olcott felt the last sentence needed to stay.

Caroline suggested adding a sentence that says "offices with less than 10 attorneys would have prorated supervision".

David suggested that it say supervision doesn't have to be parsed out as a full-time position so caseload would be commiserate with supervision.

Mark wanted clarification if it was 10 full-time attorneys or 10 part-time attorneys or a combination?

Billy responded to Mark that everything is based on FTE.

Mark suggested the definition reflect that.

Autumn wanted to make sure that the definition is worded so FTE associated with supervision isn't something that has to be supported by caseload. We need to say this is a separate position that doesn't need to be supported by caseload.

Caroline shared that in the matrix for PCRP there is a separate line for workload and administration. It has FTE but it's clear they are two separate things even though they are both separated by FTE.

Autumn stated that she felt that was fine as long as they are not the same thing.

Olcott suggested that he word "that" be removed from the definition after PDSC and the word "shall" be added after OPDS.

Brook suggested a friendly amendment that describes both concepts that supervisory work isn't included in FTE total, but supervisors can carry a caseload.

Caroline suggested changing the last sentence to "attorneys can have both supervision and caseload responsibilities, but the sum cannot exceed 1 FTE."

Brook suggested a modified definition. "For PD offices and private law firms directly contracting with PDSC, OPDS shall fund supervisors at the rate of 1 supervisor for every 10 FTE. The supervisory work of an attorney would not be included in that contractors FTE total and supervisors could still carry a caseload if they supervised fewer than 10 FTE. The sum of supervision and caseload shall not exceed 1 FTE."

David suggested to the group that I may make sense to anchor the ratio to 1 FTE. So, the definition would say 0.1 supervisor to one attorney. His thinking was that this would help with smaller groups.

Brook stated that he wasn't opposed to David's suggestion.

Olcott suggested the definition say, "will not be included" instead of "would not be included."

David suggested changing the word "could" to "may."

Caroline was getting hung up on it saying it wouldn't be included in contractors FTE total. She felt it needed to say caseload total.

Olcott suggested "FTE attorney total."

Caroline pointed out that they are still an attorney if they are acting as a supervisor. She felt it needed to say something about caseload.

Brook wanted to know if it say's caseload does that factor in the attorneys who are doing treatment court? If that is the case, he has no problem adding the word caseload before FTE.

Billy felt that caseload would include clients in a specialty court.

Brook asked that "caseload" be added before total.

Autumn suggested adding "part there of" after the first sentence.

Brook thought that might work but suggested if that change was going to be made maybe we should use David's language about 0.1 supervision to one attorney.

Billy felt that the 0.1 to 1 made for easy math.
Olcott agreed with Billy.

Brook agreed as well.

Jack wanted to know if he's a sole attorney in a firm does he get funds to supervise himself?

Billy said no.

Brook suggested changing the word "attorney" to "caseload" at the end of the first sentence.

Billy and Olcott agreed.

Amy asked what the threshold is for PCRP.

Caroline informed the group that supervision is not based on FTE but the number of attorneys in a firm. If there are less than 3 there is no carveout for supervision.

Brooked asked if the intention is that they have to have supervision if they have three+ attorneys or that OPDS would fund supervision in those instances.

Caroline stated that it's basically a requirement, but they haven't received any pushback on it.

Brook suggested changing the definition to state "for PD offices and private law firms that directly contract with PDSC with at least three attorneys."

Billy informed the group that what PCRP is doing doesn't need to drive this definition.

Caroline stated that we want to have continuity with PCRP and this could drive the PCRP contract.

Michelle liked the additional language since there are several attorneys in eastern Oregon with less than three attorneys.

Olcott felt there should be a minimum and 3 makes sense on a gut level.

Caroline shared that is how PCRP got to it too.

Olcott pointed out that this could be revisited if need be.

Billy agreed with Olcott.

Jack wanted clarification that what we are trying to do is draw a bright line between supervision and administration. One has nothing to do with the other. So future contracts would have a line item for supervision, administration, and FTE.

Caroline shared that there is no administration in PD or Firm but a line for supervision in the PCRP contracts.

Jack so this would just be a change of terminology for his firm.

David shared that administration is a separate topic that we are going to take up at another time.

Jack stated that is what he's asking. Is supervision and administration separate.

Billy shared that we are thinking administration and supervision would be two different things in a consortium and potentially in PD's and law firms too. This definition doesn't preclude one or the other.

Brook clarified that his proposed definition was for supervision in PD's and law firms and was not intended to address administration in PD's, law firms or consortiums. He could see all three of those needing administration.

Billy agreed with Brook and felt there was costs associated with administration in all those things.

Olcott seconded Brooks motion as it has been modified.

Billy asked if there was any discussion and then called role for a vote.

Autumn aye.

Brook aye.

Bruce aye.

Jack to the extent that the intent of this motion is to provide funds for supervisor duties I vote aye.

Jon aye.

Kris aye.

Mark aye.

Michelle aye.

Olcott aye.

Rebecca aye.

Todd aye.

Billy stated voting was done since John Hamilton was not present and proceeded to discuss the investigator to attorney ratio.

Kris wanted to know if the group was going to discuss supervision with consortium and consortiums that have law firms in them.

Billy agreed the group could talk about that.

Kris felt the topic was left unresolved. His group is a consortium of six people with a law firm within that. He always thought that bigger contracts got paid to do the administration but what about the smaller consortiums. He wanted to know if the group was going to do that or are, they moving on?

Billy stated that we would discuss that. He hadn't heard a lot of support for supervision in consortiums because there were conflict concerns. He agreed that it's something we will continue to look at because it's best practice to have supervision built in. He shared that OPDS is also going to have an auditing entity that could be auditing entities contract compliance so that may require us to revisit this. As we bring this recommendation to the commission they may ask about supervision in consortiums.

Kris asked if at this point, we are thinking consortium and consortiums with law firms would stay as they are with an administrator but not supervising attorneys at this point?

Billy agreed with Kris.

Bruce asked about the earlier discussion about resource attorneys. An auditing role may be good but what we want to look at is why is this person pleading out all their cases. A resource attorney could look at that in a deeper way than an administrator. I think it's important a consortium have that available to them. He didn't feel the group should abandon the notion of a resource attorney.

Jon stated that he's been thinking about the resource attorney idea. The tricky thing is that there is so much disparity between one county and another. It would be important to know how the rules work in that county. A supervisor or resource attorney should be able to say here is what you need to know vs asking why you are pleading out all your cases. It would be more of a mentor role.

Brook strongly supported what Bruce is talking about. If it's not supervision it should be a resource attorney. He felt that it's not accurate to call that an administrative function. OPDS should find a way to pay for those things separately. If we are going to continue to have a hybrid model of PD, Firm, Consortium then we need to fix that. Administrator funding should be across the board.

Olcott asked that someone provide research on the Massachusetts model.

Billy suggested Erica may have that. He motioned to postpone.

Brook seconded the motion.

Timeline

The workgroup will convene every other Wednesday, from 11:45 AM – 1:00 PM, beginning May 12, 2021 and concluding July 21, 2021. Below is a timeline and general outline of workgroup meetings. As the first meeting draws near, members will receive a detailed agenda, survey results, and any relevant research that has been compiled to that date.

DATE	TIME	TOPICS
May 12, 2021	11:00 AM – 12:30 PM	Introductions, Review Goals & Deliverables
		Homework: Review & Contemplate Data
May 26, 2021	11:00 AM – 12:30 PM	Summary of Data for Definition of "Staff" and Staff-to-Attorney/Supervisor-to-Attorney Ratios
		Homework: Contemplate Vulnerabilities & Risks
June 9, 2021	11:00 AM – 12:30 PM	Discuss Vulnerabilities & Risks, Collaborate on First Draft of Policies Defining "Staff" and Staff-to-Attorney/Supervisor-to-Attorney Ratios
		Homework: Contemplate Fiscal Impact & Budget-Drivers of Drafted Policies
June 23, 2021	11:00 AM – 12:30 PM	Discuss how Policies will Drive Budget, Collaborate on Second Draft of Policies Defining "Staff" and Staff-to-Attorney/Supervisor-to-Attorney Ratios
		Homework: Contemplate How to Measure Success
July 7, 2021	11:00 AM – 12:30 PM	Discuss how to Measure Success, Collaborate on Third Draft of Policies Defining "Staff" and Staff-to-Attorney/Supervisor-to-Attorney Ratios
		Homework: Contemplate How to Best Present Policies to PDSC
July 21, 2021	11:00 AM – 12:30 PM	Discuss Presentation of Policies Defining "Staff" and Staff-to-Attorney/Supervisor-to-Attorney Ratios to PDSC, Finalize Recommendations

OREGON OFFICE OF Public Defense Services

Participant Responsibilities

For meetings and discussions to be as productive as possible, all participants are asked to embrace the following responsibilities:

(1) Attend All Meetings or Make Accommodations for a Well-Qualified Substitution

(2) Review Materials Prior-To Meetings

(3) Be Prepared for Engaged Discussions

(4) Practice Active Listening & Respectful Dialogue

(5) Support Research and Outreach Between Meetings, as Needed or Requested

(6) Champion Workgroup Efforts Broadly to Other Providers

Conclusion

Thank you again for your participation and interest in refining and improving public defense in Oregon. With your efforts, OPDS and the provider community will be able to deliver sustainable, progressive, and efficient public defense, solidifying Oregon as the standard by which all other public defense agencies are measured.

Attachment 2

Date: June 9, 2021

To: OPDS Contracting Model Enhancement Workgroup

From: Heather Pate, OPDS Contracts Manager
Amy Jackson, OPDS Contracts Analyst
Billy Strehlow, OPDS Contracts Analyst
Caroline Meyer, OPDS Contracts Analyst
David K Orton, OPDS Contracts Analyst
Megan Doak, OPDS Contracts Analyst

OPDS Contracting Model Enhancement Workgroup Research Summary

Definition of Staff

Administrative Assistant

OPDS - Appellate

A Legal Assistant in the Criminal Appellate Section supports several attorneys who provide appellate representation to clients primarily in criminal cases and parole cases by performing complex administrative clerical work including preparation of legal documents, calendaring, and records maintenance, and coordination communications with parties.

OPDS – PCRP

Typical PCRP staff duties include, without limitation, answering client phone calls, taking detailed messages for attorney, answering non-legal questions such as, “when is my next court date?”, scheduling client appointments, reconciling attorney’s calendar, downloading and processing DHS discovery, receiving and responding to court notices of shelter care hearings, completing initial conflict checks, creating a new file and case entry in case management and/or time tracking system, notifying attorney of all upcoming court appearances, attending client meetings and court appearances with attorney, assisting with motions and other legal documents, creating trial notebooks, finalize attorney's monthly time tracking report, corresponding with OPDS regarding time tracking questions and concerns, closing cases upon dismissal, sending final documents with closing letter to clients, completing client satisfaction survey.

Duties can include the preparation of legal documents, calendaring, records maintenance, researching legal information, docketing, office management, and coordination with parties of their legal representation.

1. Administrative Office Duties

Maintain calendars of court or hearing dates, document due dates, filing requirements, court appearances, travel, meetings and related activities. Make travel arrangements and complete necessary forms. Initiate and compose correspondence. Maintain time sheets. Prepare statistical reports. Coordinate and take testimony transcription at trials or administrative hearings. Answer, screen, and route phone calls. Provide information with explanation of applicable process. Maintain a case management system to track legal cases.

Review, prioritize, and distribute incoming mail. Respond orally or in writing to items not requiring legal professional's review or resolution. Calendar or docket case information. Key, proofread and correct draft documents using appropriate format. Schedule and maintain deposition calendars. Coordinate witness and attorney travel arrangements. Schedule court-reporting services.

2. Legal Documents and Correspondence

Transcribe legal documents and correspondence. Determine needed court jurisdiction and format. Type, proofread, and correct draft document. Submit draft for review by legal professional. Prepare final document with revisions and exhibits. Prepare certificates of service, summons, subpoenas, and brief covers. Review document for proper citations. Track flows of and process legal documents before, during, and after the court or hearing date. Apply court rules and regulations to assist attorneys in filing documents. Review documents for accuracy and completeness.

3. Trial or Hearing Preparation and Monitoring

Plan, schedule, and initiate court filing and notices. Examine documents to verify legal steps, deadlines, and due process requirements. Advise legal professional of items needing attention. Establish and maintain a calendaring or docket system to track trial and hearing events.

Coordinate witness appearance. Inform witnesses of new issues as directed by legal professional. Support legal professionals with file information, scheduling and rescheduling. Coordinate and set up expert witness scheduling and payment system. Prepare trial or hearing notebooks, or hearing and mediation files. Open, process and close case files according to established procedures. Obtain missing information from parties to the legal action. Coordinate scheduling of teleconferences for pre- and post-hearing conferences, and mediations.

Read orders to decide case process, correct information, and follow-up when needed.

NAPD Policy Statement on Public Defense Staffing (May 2020), 10

"When lawyers have assistants who can answer phone calls, schedule meetings, and locate and arrange court appearances for witnesses, obtain documents, take photographs, and prepare and file pleadings, the lawyers are less likely to need continuances.

https://www.publicdefenders.us/files/NAPD_Policy%20Statement%20on%20Public%20Defense%20Staffing.pdf

Effectively Staffing Your Law Firm, ABA 2017 (2nd Edition), 62

"Legal secretaries have traditionally performed clerical and administrative tasks under the supervision of lawyers, including word processing; dictation; distributing information through mail, telephone, and e-mail; court filings; arranging and scheduling meetings and appointments; and organizing and maintaining computer and paper files, and they are also typically the first person prospective clients speak to and meet."

MDI – Office Assistant

The Admin Assistant supports the Trial Assistant team, as well as the Operations Manager, in a variety of tasks required for a successful non-profit public defense firm. For trial support, assignments may include opening and closing case files, processing discovery, occasional client interaction, redacting documents, and managing off-site files. The Admin Assistant also contributes to the basic operational needs of an office, such as ordering supplies, supporting reception, making court deliveries, processing mail, and helping with the logistics of busy workplace.

ADMINISTRATIVE/OPERATIONAL SUPPORT (40%)

- Office supply inventory
- Troubleshooting printer/copier issues
- Processing incoming/outgoing mail
- Reception shifts for breaks and occasional longer term coverage.

LEGAL SUPPORT (45%)

- Manage in house clothing bank for clients
- Docket Coverage
  - Occasional early start to distribute docket information.
- Court Forms Inventory and Orders
- Managing off site files, media files, and other requests
- Trial Assistant direct support: closing and opening files, redacting, processing discovery materials, etc.

COURIER (15%)

- Daily Court Run
- Responding to time sensitive errands between MDI office and downtown Courthouse.
- Occasional trips to Dry Cleaners, Post Office, Bank, or to purchase office supplies

MPD – Office Assistant

The Office Assistant position provides general office administrative support to the defense team. There are three weekly job rotations: reception, file room and general office/court run. The work performed requires a general knowledge of the organization's operations.

• Greet employees, clients and visitors in a professional, friendly and hospitable manner.
• Take accurate messages and relay them on a timely basis.
• Monitor and/or update phone presence/DND as needed.
• Assist employees in troubleshooting phone issues.
• Immediately notify supervisors, administrative staff and the defense team of employee's unscheduled absences from work.
• Access case management software to look up names for accurate routing of calls or clients.
• Assist in implementing office security and safety procedures; monitor security cameras and report unusual situations to appropriate staff; write incident reports, if necessary.
• Responsible for the receipt, logging and distribution of legal documents and inter-office courier.
• Manage the filing and archival systems for closed client files.
• Maintain office equipment, copiers, printers, scanners and fax (i.e. fill copiers and printers with paper, troubleshoot paper jams, change toner cartridges)
• Organize and deliver documents (i.e. to the Courthouse, Justice Center and/or jail facilities).
• Daily date stamp and distribute incoming mail and court documents.
• Maintain professional appearance of reception counter, office lobby and interview areas.
• Manage the filing system including file closed case files, maintain file room, handle warehousing and return of stored files, maintain and develop new filing systems, file preparation.
• Create file destruction lists using defined retention schedule.
• Assist with physical and electronic in-house telephone moves and phone mail profile maintenance.
• Perform daily security check and office lockup procedure.
• Handle emergency situations including: receive calls related to elevator emergencies and take appropriate action based on policy; initiate fire and evacuation procedures per policy; assess any problem situations in the lobby and seek assistance based on policy.
• Perform various clerical duties such as processing mail, typing, e-mail, word-processing, photocopying, scanning, faxing, burn CDs, print color photos, collating digital file transfer or drop box using discovery portal.
• Assist in the ordering, receiving, stocking and distribution of office supplies, as needed.

MPD – Legal Secretary

POSITION SUMMARY

The Legal Secretary position performs a variety of confidential legal clerical work in support of the defense team. The work performed requires a general knowledge of the organization's operations.

ESSENTIAL FUNCTIONS

The essential duties of this position include, but are not limited to, the following elements which require the Legal Secretary to:

• Type, format, proofread, and produce final copy of a wide variety of reports, legal documents, letters, memoranda, templates, spreadsheets, and statistical charts.

• Type from rough draft, verbal instruction, or transcribe live dictation, phone recordings, text messages from mobile devices or other machine recordings.
• Review drafts for punctuation, spelling, and grammar; make or suggest corrections to drafts; independently compose letters, memoranda, or basic reports from general instructions or information related to assigned responsibilities; and arrange for, upload or distribute copies of material.
• Prepare accurate, timely transcription of extensive handwritten and dictated materials, including major investigation reports, lengthy taped interviews/ statements, original pleadings and other court documents which are prioritized on the originator's timeline.
• Phone Administration and Security System Back-Up to Office Services Manager.
• Maintain the MPD Wiki for Office services related items and contacts.
• May edit photos or video; scan or print documents; index, bates stamp and mail discovery; create trial notebooks; run Accurint reports.
• Train staff as needed in the use of modern office equipment and software.
• Cover Office Assistant reception duties as needed.

MDI – Legal Assistant
Legal Assistants are a key department of MDI, providing attorney support, case file management, and regular client engagement. Law office experience helpful, but not required, to join our team. Clear communication, flexibility, and effective prioritization are key skills necessary to succeed in this position.

Responsibilities include, but are not limited to:
• Opening, updating, and closing case files, and maintaining up to date computer records.
• Redacting documents and handling sensitive communications.
• Answering in-person and telephone inquiries from clients, as well as various court and agency personnel. Assisting clients, witnesses, and client family by telephone concerning case status and appearances.
• Other duties as assigned. Legal Assistants may occasionally take on administrative support tasks, such as: answering the reception phones, court deliveries, and generally helping with the logistics of a busy nonprofit office.

MPD – Legal Assistant 2
POSITION SUMMARY
The Legal Assistant 2 position is a customer service position providing administrative support to the defense team. The work performed requires a general knowledge of the organization's operations.

ESSENTIAL FUNCTIONS
The essential duties of this position include, but are not limited to, the following elements which require the Legal Assistant 2 to:

• Serve as liaison between client, attorney, client's family and elements of the criminal justice system; assess client needs, refer as appropriate to Alternatives Advocate; coordinate necessary services.
• Generate conflict reports and provide them to the appropriate Attorney.
• Conduct initial and subsequent interviews under the direction of an attorney. These interviews can take place in the office, at the jail facility or over the phone.
• Initiate client notification of court dates and other appointments, as appropriate.

• Obtain, analyze and disseminate pertinent records including court, medical, military, criminal and psychological; review sentencing reports, and prepares appropriate support documents; review presentence reports.
• Coordinate medical and/or psychological attention for clients, coordinate transportation for clients, as necessary.
• Maintain an organized caseload and current filing system; assist with clerical functions as required; maintain accurate and legible records including current log notes; and make photocopies and generate computer reports.
• Update court appearances, advise staff of schedules and changes, make frequent contact with court docketing personnel to facilitate the smooth flow of case information.
• Prepare and submit with appropriate documentation requests for trial expenses beyond those normally allowed.
• Determine witness expenses, including expert witnesses, and submit for authorization and payment per appropriate procedure.
• May assist with client pickup.
• Participate actively in the training of new hires and other staff in the duties, responsibilities and methods of conducting the work assigned to Legal Assistant 2's.
• Utilize office equipment effectively.
• Participate actively and appropriately in the zealous representation of clients, and in client advocacy.
• Participate in team meetings for case review and discussion of office-related issues; maintain flow of case-related information between team members assigned to each case, between teams, within groups and throughout the office, as appropriate; assist the team in accomplishing its goals.

CIDC – Legal Assistant

Legal Assistant:
Enhances attorney effectiveness by developing case information, evidence, and settlement options; tracking cases; supporting attorney's trial proceedings.

Legal Assistant Duties:
• Keeps cases organized by establishing and organizing files; monitoring calendars; meeting deadlines; documenting actions; inputting information into file database and case management software; confirming case status with attorney.
Receives appointments from administrator; advises attorney of appointment; opens file; schedules initial client conference.
• Helps develop cases by maintaining contact with people involved in the case; scheduling client conferences; preparing and forwarding summonses and subpoenas to investigator; drafting documents; preparing and filing discovery requests; preparing responses to opposing counsel; generating status reports.
• Keeps clients informed by maintaining contact; communicating case progress.
• Supports case preparation by preparing case summaries and materials for settlement conferences; preparing plea petitions; monitoring and obtaining discovery responses; organizing materials for team case review.
• Enhances trial proceedings by organizing evidence; preparing exhibits; scheduling witnesses; ensuring that witnesses are ready when needed; taking courtroom notes.
• Updates job knowledge by participating in educational opportunities; reading professional publications.

• Accomplishes organization goals by accepting ownership for accomplishing new and different requests; exploring opportunities to add value to job accomplishments.
Legal Assistant Skills and Qualifications:
Reporting Skills, Research Skills, Legal Administration Skills, Client Relationships, Organization, Planning, Attention to Detail, Confidentiality, Dependability, Client Confidentiality

MPD – Data Integrity Assistant

POSITION SUMMARY
The Data Integrity Assistant position assists in providing the client database for staff and credit reporting to the state. The work performed requires a general knowledge of the organization's operations.

ESSENTIAL FUNCTIONS
The essential duties of this position include, but are not limited to, the following elements which require the Data Integrity Assistant to:
• Participate in the three main functions of the position: tracking case acquisition, updating and closing electronic records, and assisting in court processes such as arraignment or other processes before the court.
• Enter case data into manual and computerized records systems to assure that client names, case numbers, attorney/team assignments and other critical information is maintained timely and accurately.
• Generate and monitor reports to assure that staff receives timely and accurate data in order to meet case assignment responsibilities.
• Update court appearances, advise staff of schedules and changes, make frequent contact with court docketing personnel to facilitate the smooth flow of case information.
• Maintain case logs, make photocopies, run computer reports, open and close files, frequently update files.
• Answer in-person and telephone inquiries from staff; maintain telephone contact with various court personnel; assist clients at court and/or by telephone concerning case status and appearances.

MDI – Receptionist

The essential duties of this position include, but are not limited to:

- Reception
    - Answer and route phone calls for an extremely busy public interest law firm.
    - Greet clients by telephone and in person. Hand out and collect intake forms.
    - Accept and forward faxes.
- Calendaring
    - Prepare a daily report of appointments.
    - Monitor a shared 'in & out' program.
- Legal Support
    - Help with case files as needed. Some tasks may include but are not limited to: preparing discovery requests, scanning files, and becoming familiar with our case management software Time Matters.
- Operational Support
    - Stamp and distribute mail, accept deliveries.
    - Assist Operations Manager in various administrative tasks.
    - Help troubleshoot office equipment as needed.

Paralegal

OPDS

A Paralegal in the Criminal Appellate Section supports attorneys who provide appellate representation to clients primarily in criminal cases and parole cases by performing complex administrative clerical work including preparation of legal documents, calendaring, and record preparation and maintenance, and coordination of communications with parties and trial-level representation. The paralegal processes all colorable claim case referrals and adds new cases to the case management system. The paralegal applies knowledge and experience in the analysis and decision-making of legal processes and support when determining the appealability and reviewability requirements for colorable claim cases. The paralegal serves as the primary assistant to the attorney assigned the colorable claim cases for initiation of an appeal and provides guidance to the intake clerk when additional external information or action is required to initiate an appeal.

State of Oregon

The PARALEGAL, under the direction and supervision of an attorney, researches legal precedent, statutes, decisions, legal articles, codes and documents; investigates facts and prepares legal documents. They do research and other related work to support legal proceedings, formulate a defense or initiate legal action.

1. Court, Case and Hearings Preparation
Analyze and interpret legal documents (such as motions, orders, interrogatories, depositions, requests for admissions, and pleadings) and financial documents (such as personal and corporate bank records and accounts, and business bookkeeping records) to decide affected parties, proper language and exhibits to be used in written legal statements of the facts.

Review case files for sufficiency of documentation and obtain additional materials. Prepare for litigation by establishing time and location of depositions, preparing subpoenas, collecting and organizing relevant documents, outlining deposition questions, summarizing proceedings, identifying key legal issues, and preparing and organizing exhibits.

Work with clients and representatives of the opposing party regarding pertinent case records and case status in order to gather necessary documents during the legal discovery process for submission at hearing for complex cases; constructs and manages computerized litigation support database. Assist in preparation of trial, appellate review, or administrative hearings by reviewing, organizing, indexing documents and managing document flow. Maintain and update casebooks and casefile logs. Attend attorney, client or third party and other case-related meetings and write memoranda recording discussions. Prepare legal correspondence for own signature or signature of attorney. Prepare status reports and calendars; monitor for litigation process deadlines to ensure timely action (i.e. document filings with the court) by both attorneys and themselves. Locate, interview, ensure availability, and prepare witnesses (including expert) for litigation purposes.

2. Legal or Legislative Research
Prepare legal arguments for attorney use in filing briefs and responses to complex cases (such as Board of Parole Disciplinary Review, Habeas Corpus, Post-Conviction). Research statutory legislative history, administrative rule, and case law by analyzing issues, summarizing cases, and drafting legal documents or

memoranda based on the research. Assist with Public Records Orders by researching issues, indexing orders, responding to inquiries, reviewing of client records for confidentiality and revising manuals.

Review legislative bills drafts, committee minutes and exhibits, tape recordings of committee hearings and floor debates, federal house and senate committee reports and hearing records, state laws and journals, the federal congressional record and other relevant documentation. Analyze and summarizes results and conclusions at attorney request.

3. Writing and Reviewing Legal Documents:
Examine the records of opposing parties to identify and acquire those that support the client's case. Write document requests and designate relevant documents. Answer interrogatories and locate, review, and segregate documents to be produced at discovery process of litigation by writing objections to document requests, and reviewing and identifying documents; provide for production and delivery of documents to the opposing parties.

Review, analyze, and draft subpoenas, interrogatories, pretrial orders, stipulations, findings of fact, opinions, petitions, responses to subpoenas, responses to motions, and other legal documents. Read and summarize arguments in opponents' pleadings, memoranda, and briefs; summarize, digest, and code transcripts from trials and other proceedings; assist with formal and informal opinions by researching issues and drafting opinions, cite-checking, and proofreading opinions. Prepare opinion synopsis, and respond to internal and external customers about opinions. Compute legal fees, interest and other costs for preparation of cost bills, judgments, and other legal documents.

Effectively Staffing Your Law Firm, ABA 2017 (2nd Edition), 62
"Paralegals have a more in-depth understanding of the law and of legal proceedings and traditionally conduct research, discovery, interviews with clients and witnesses, case management, and summaries of the cases. Paralegals may also assist the lawyers in court."

Investigator

ORS 703.401 (2)
"Investigator" means a person who is a licensed investigator under ORS 703.430 and who engages in the business of obtaining or furnishing, or who solicits or accepts employment to obtain or furnish, information about:
(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;
(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activities, movements, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person;
(c) The location, disposition or recovery of lost or stolen property;
(d) The cause of or responsibility for fires, libels, losses, accidents, damages or injuries to persons or property; or
(e) Evidence to be used before any court, board, officer, referee, arbitrator or investigation committee.

Federal Public Defender

Position Description: Investigators provide investigation for our clients under the direction of the case attorney and the Federal Defender. Responsibilities include investigating cases at varying stages of litigation from the most complex white collar fraud case to a person charged with illegally possessing a weapon; reviewing and analyzing discovery and case documents; locating and interviewing witnesses and clients; gathering and maintaining records; reporting information gathered from interviews and investigation to case attorneys; working with experts; documenting and photographing sites, events and items; serving subpoenas; coordinating witnesses for hearings; assisting attorneys at those hearings; and testifying in court.

NAPD Policy Statement on Public Defense Staffing (May 2020), 4-6

Importantly, investigators who interview witnesses, obtain records and survey the crime scene allow a lawyer to meet the ethical responsibilities of not becoming a witness in a case as required by ABA Model Rule of Professional Conduct Rule 3.7 Lawyer As Witness.

Investigators, with their specialized experience and training, are often more skilled than attorneys, and invariably more efficient, at performing critical case preparation tasks such as gathering and evaluating evidence and interviewing witnesses.

Human Resource and IT Ratio

Source	*Ratio*	*Text*	*Practice*
National Association for Public Defense (May 2020)	**3.4:100**	Human resource staff per employees for small organizations (less than 250 employees)	
National Association for Public Defense (May 2020)	**1:18**	IT staff per employees - Note that these surveys and studies are not public defense specific and do not account for IT assistance and analysis of digital evidence in a legal context.	

Staff (Non-Attorney) to Attorney Ratio

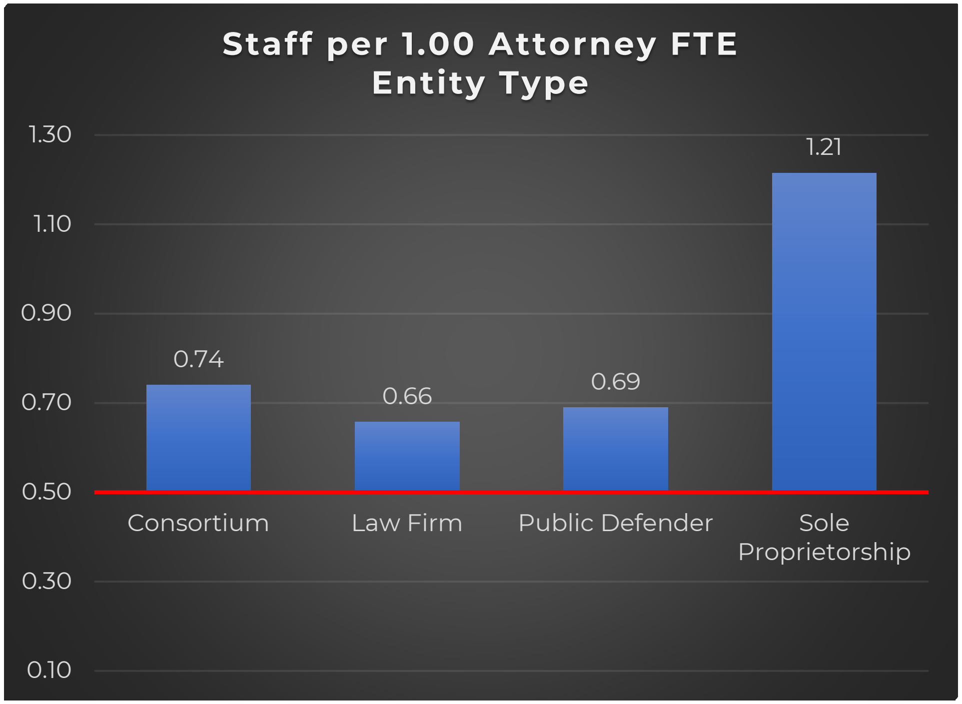
Source	Ratio	Text	Practice
National Association for Public Defense (May 2020)	**1:4**	at a minimum…there should be one **paralegal** and one **administrative assistant** for every 4 lawyers. There are other factors that can increase or decrease the need for staff assistance. A defender who has cases in multiple rural counties that involve substantial regular travel will need more staff to assist with more of the work.	Criminal
National Association for Public Defense (May 2020)	**1:3**	Until empirical studies are further able to determine the number of staff necessary to support the lawyer, public defense systems, at a minimum, should provide, one **investigator** for every three lawyers, one **mental health professional, often a social worker**, for every three lawyers.	Criminal
US DOJ Office of Justice Programs, Bureau of Justice Assistance (2001)		Investigator:Attorney 1:4 – Felony 1:6 – Misdemeanor 1:6 – Juvenile Paralegal:Attorney 1:4 – Felony 1:5 – Misdemeanor 1:4 – Juvenile 1:2 – Mental Health Secretary:Attorney 1:4 – Felony 1:6 – Misdemeanor 1:5 – Juvenile	All practice types

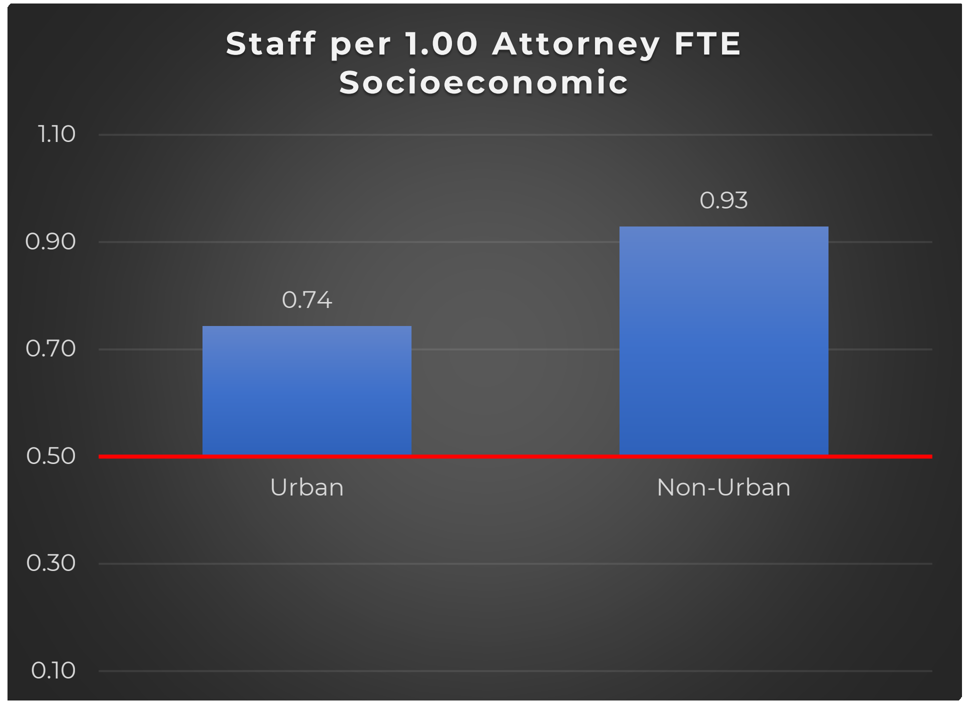
Supervisor to Attorney Ratios

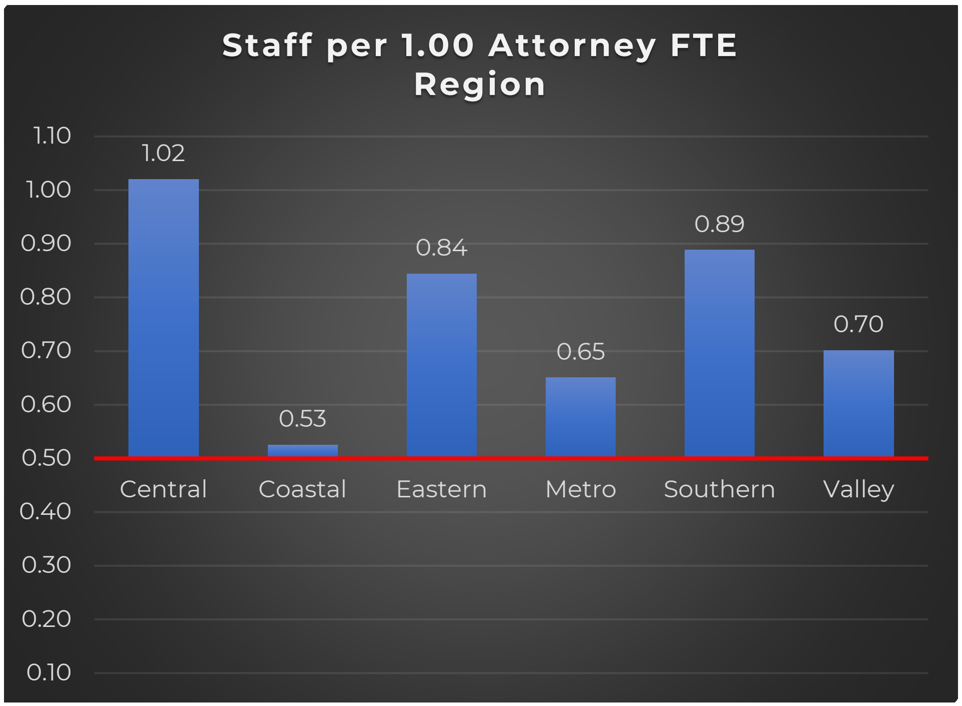
Source	Ratio	Text	Practice
Washington State Bar Association Standards for Indigent Criminal Defense (2011)	**10:1**	Each agency or firm providing public defense services should provide one full-time supervisor for every ten staff lawyers or one half-time supervisor for every five lawyers. Supervisors should be chosen from among those lawyers in the office qualified under these guidelines to try Class A felonies. Supervisors should serve on a rotating basis, and except when supervising fewer than ten lawyers, should not carry caseloads.	Criminal
Massachusetts Committee for Public Counsel Services	**5:1**	The CPCS also places considerable emphasis on the supervision of lawyers in its public defender division, maintaining to the extent possible a supervisory ratio of 1:5. (referenced in ABA's Securing Reasonable Caseloads: Ethics and Law in Public Defense)	Criminal
U.S. DOJ Office of Justice, Census of Public Defense (2007)	**10:1**	There should be 1 managerial attorney for every 10 staff attorneys in an office to ensure effective attorney supervision.	Criminal
New York Criminal Defense Offices	**5:1, 8.52:1**	LAS's staff/supervisor attorney ratio complied with the First Department's 10-to-1 maximum in each of FY 12 and FY 13. In addition, and commendably, LAS was able to decrease the staff/supervisor ratio during the reporting period from 9.6-to-1 to 8.52-to-1. LAS has also significantly (and, again, commendably) improved supervisory caseloads. The average daily caseload for supervising attorneys in both boroughs was 16.9 in the FY 12-13 reporting period (compared to 35.7 in the last reporting period).	Criminal

Source	Ratio	Text	Practice
Indigent Defense Organization Oversight Committee, New York 1st Department	**10:1 (or lower)**	To date, the First Department's indigent defense standards have refrained from specifying a maximum attorney/investigator or attorney/social worker ratio, but we believe the time has come to do so. Moreover, while a 10-to-1 ratio has long been treated in the First Department as the operative maximum, we believe that ratio is far too high	All practice types
Children's Law Center (Washington D.C.)	**1:4**	Supervisor to staff ratio is 1:4. New class meets weekly with supervisor for 9 – 12 months to review cases, once every 2 – 3 weeks thereafter. Supervisors accompany new attorneys to court for the first several months and as need/requested thereafter. Lawyers report almost daily consultation with supervisors during the first year	Juvenile
Kid's Voice	**1:12**	Supervisor to attorney/social services profession ratio is 1:12 (3 supervisors oversee 19 attorneys and 18 social services professionals). Supervisors meet with case teams as needed. Focus is on helping sort out differing viewpoints among case team on case direction, or situations in which additional input is needed. Case direction and decisions are left to the case team and all KidsVoice staff value that professional autonomy. Supervisors meet monthly with each staff member. Supervisors also conduct quarterly random file reviews and periodically observe staff in court and in the field at visits and meetings.	Juvenile

Source	Ratio	Text	Practice
Lawyers for Children	**1:5**	Supervisor to attorney/social worker ratio is 1:5. Initial attorney and social work training continues for the first two months on nearly a daily basis. New hires also attend the legal training offered by the Legal Aid Society's Juvenile Rights Practice (the other notable program in New York City). Ongoing training is provided consistent with the State's CLE accreditation requirements.	Juvenile
Legal Aid Society	**1:6**	Supervisor to attorney ratio is 1:6. Supervisors jointly staff cases with newly hired attorneys for the first month	Juvenile
National Association for Public Defense (May 2020)	**1:10**	At a minimum…one supervisor for every 10 lawyers.	Criminal

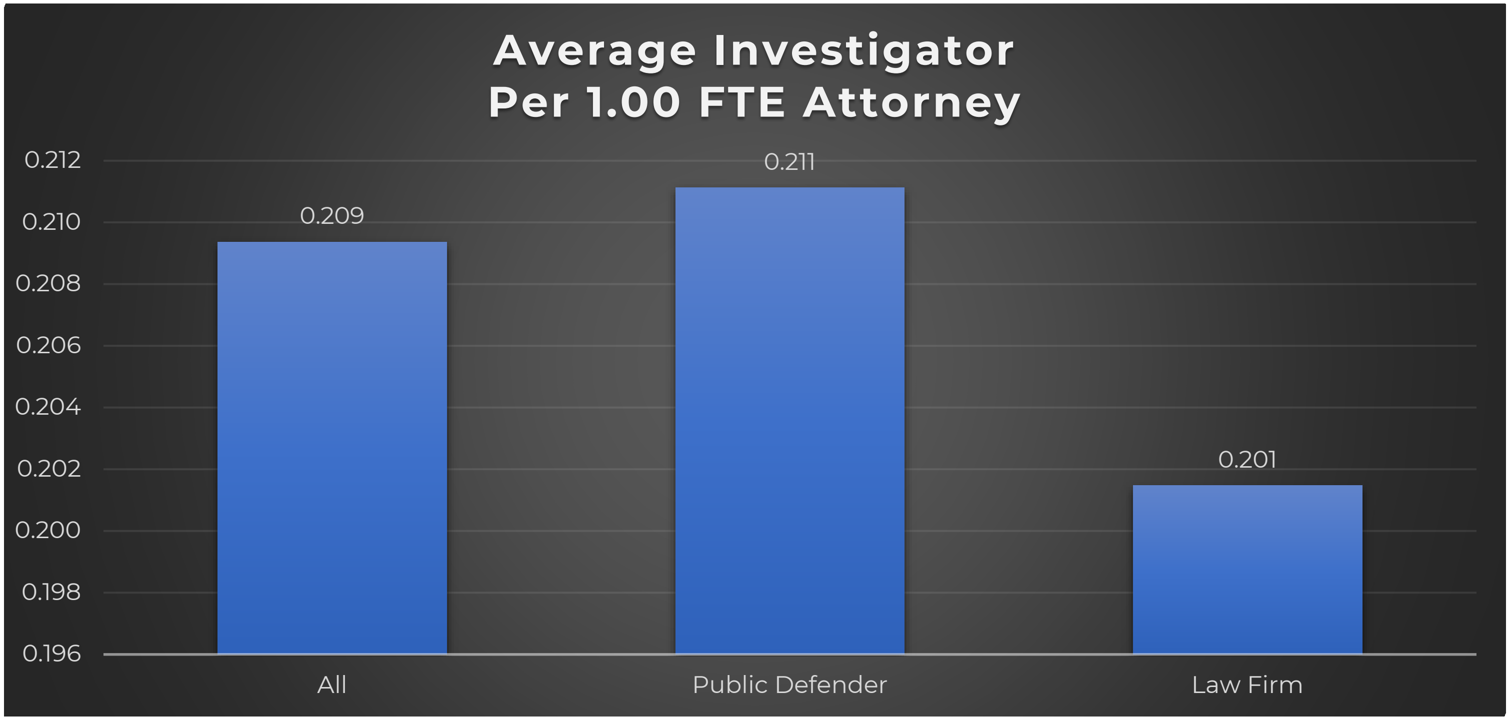

Staff per 1.00 Attorney FTE
Entity Type
1.30
1.10
0.90
0.70
0.50
0.30
0.10
0.74
0.66
0.69
1.21
Consortium
Law Firm
Public Defender
Sole Proprietorship


Staff per 1.00 Attorney FTE
Socioeconomic
1.10
0.90
0.70
0.50
0.30
0.10
0.74
0.93
Urban
Non-Urban


Staff per 1.00 Attorney FTE
Region
1.10
1.00
0.90
0.80
0.70
0.60
0.50
0.40
0.30
0.20
0.10
1.02
0.53
0.84
0.65
0.89
0.70
Central
Coastal
Eastern
Metro
Southern
Valley

CONTRACT	STAFF:ATTORNEY	COUNTY	TYPE	SOCIOECON	REGION
22nd Circuit Defenders, LLC	0.5:1	Crook/Jefferson	Consortium	Non-Urban	Central
7th District Consortium, LLC	0.9:1	Hood River/Wasco/Sherman/Gilliam/Wheeler	Consortium	Non-Urban	Central
Arneson, Stewart & Styarfyr, P.C.	0.5:1	Douglas	Law Firm	Urban	Southern
Bend Attorney Group	0.4:1	Deschutes	Consortium	Urban	Central
Benton County Legal Defense Corporation	1.2:1	Benton	Consortium	Urban	Valley
Blue Mountain Defenders, LLC	0.7:1	Umatilla/Morrow	Consortium	Non-Urban	Eastern
Bonnie Lam	0.9:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Clackamas Indigent Defense Corporation	0.7:1	Clackamas	Consortium	Urban	Metro
Clatsop County Defenders Association	0.4:1	Clatsop	Consortium	Non-Urban	Coastal
Columbia County Indigent Defense Corporation	0.6:1	Columbia	Consortium	Non-Urban	Coastal
Coos Criminal Consortium, LLC	2.4:1	Coos	Consortium	Non-Urban	Southern
Curry County Public Defense, LLC	1.3:1	Coos/Curry	Public Defender	Non-Urban	Southern
David R. Carlson, Attorney at Law	2.1:1	Malheur	Sole Proprietorship	Non-Urban	Eastern
David Schutt	0.5:1	Lake	Sole Proprietorship	Urban	Central
Denison Law, P.C.	0.5:1	Malheur	Law Firm	Non-Urban	Eastern
Deschutes Defenders	0.6:1	Deschutes	Public Defender	Urban	Central
Diana Bettles	3.4:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Douglas J. Rock, P.C.	0.7:1	Malheur	Law Firm	Non-Urban	Eastern
Eagle Cap Defenders, Inc.	0.8:1	Baker	Consortium	Non-Urban	Eastern
Eastern Oregon Defenders, LLC	1.0:1	Union/Wallowa	Consortium	Non-Urban	Eastern
Hillsboro Law Group PC	0.5:1	Washington	Law Firm	Urban	Metro
Intermountain Public Defender, Inc.	0.6:1	Umatilla/Morrow	Public Defender	Non-Urban	Eastern
Jackson Juvenile Consortium, LLC	0.9:1	Jackson	Consortium	Urban	Southern
Jeffrey Hedlund	2.5:1	Lake	Sole Proprietorship	Urban	Central
Jennifer Schade	1.1:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
John B. Lamborn, P.C.	1.0:1	Grant/Harney	Law Firm	Non-Urban	Eastern
Josephine County Defense Lawyers, Inc.	0.6:1	Josephine	Consortium	Urban	Southern
Joshua Guest	1.1:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Justice Alliance of Columbia County	0.5:1	Columbia	Consortium	Non-Urban	Coastal
Juvenile Advocacy Consortium	0.8:1	Marion	Consortium	Urban	Valley
Juvenile Advocates of Clackamas, LLC	0.7:1	Clackamas	Consortium	Urban	Metro
Karpstein & Verhulst, P.C. - DBA Cornerstone Law Group	0.9:1	Washington	Law Firm	Urban	Metro
Kollie Law Group, PC	0.8:1	Deschutes	Law Firm	Urban	Central
Lane County Defense Consortium	0.7:1	Lane	Consortium	Urban	Valley
Lane County Juvenile Lawyers Association	0.6:1	Lane	Consortium	Urban	Valley
Linn Defenders, Inc.	0.7:1	Linn	Consortium	Urban	Valley
Los Abogados, LLC	0.7:1	Jackson	Consortium	Urban	Southern
Marcus Costello	1.0:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Marion County Association of Defenders	0.5:1	Marion	Consortium	Urban	Valley
Metropolitan Public Defenders, Inc.	0.6:1	Multnomah	Public Defender	Urban	Metro
Monique Renner	0.5:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Morris & Sullivan, PC	0.7:1	Hood River/Wasco/Sherman/Gilliam/Wheeler	Law Firm	Non-Urban	Central
Multnomah Defenders, Inc.	0.6:1	Multnomah	Public Defender	Urban	Metro

CONTRACT	STAFF:ATTORNEY	COUNTY	TYPE	SOCIOECON	REGION
Noel Kersey	1.1:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Oregon Coast Defenders, Inc.	0.6:1	Lincoln	Consortium	Non-Urban	Coastal
Oregon Defense Attorney Consortium, Inc.	0.5:1	Washington	Consortium	Urban	Metro
Philip Studenberg	1.1:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Polk County Conflicts Consortium	1.0:1	Polk	Consortium	Urban	Valley
Portland Defense Consortium	0.5:1	Multnomah	Consortium	Urban	Metro
Public Defender of Marion County, Inc	0.5:1	Marion	Public Defender	Urban	Valley
Public Defender Services of Lane County, Inc.	0.7:1	Lane	Public Defender	Urban	Valley
Richard Garbutt	0.5:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Ridehalgh & Associates, LLC	0.7:1	Washington	Law Firm	Urban	Metro
Robert Foltyn	0.8:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Rogue Valley Defenders, LLC	0.7:1	Jackson	Consortium	Urban	Southern
Roseburg Defense Consortium	0.6:1	Douglas	Consortium	Urban	Southern
Sarah Dougherty	0.5:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Scott Carter	1.1:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Southern Oregon Public Defender, Inc	0.6:1	Jackson/Josephine	Public Defender	Urban	Southern
Southwestern Oregon Public Defender Services Inc.	0.8:1	Coos	Public Defender	Non-Urban	Southern
Stephen Hedlund	0.9:1	Klamath/Lake	Sole Proprietorship	Non-Urban	Central
Strawberry Mountain Law	0.7:1	Grant/Harney	Public Defender	Non-Urban	Eastern
Stunz Fonda Kiyuna & Horton, LLP	0.5:1	Malheur	Law Firm	Non-Urban	Eastern
Tillamook County Defense Consortium	0.5:1	Tillamook	Law Firm	Non-Urban	Coastal
Umpqua Valley Public Defender	0.6:1	Douglas	Public Defender	Urban	Southern
Valerie Hedrick	1.6:1	Klamath/Lake	Sole Proprietorship	Urban	Central
Vidrio Park & Jarvis, LLC	0.6:1	Polk	Law Firm	Urban	Valley
Yamhill Justice League, LLC	0.5:1	Yamhill	Consortium	Urban	Valley



Denison Law, P.C.	0.3:1
Deschutes Defenders	0.3:1
Intermountain Public Defender, Inc.	0.3:1
Metropolitan Public Defenders, Inc.	0.3:1
Morris & Sullivan, PC	0.2:1
Multnomah Defenders, Inc.	0.2:1
Public Defender of Marion County, Inc	0.3:1
Public Defender Services of Lane County, Inc.	0.2:1
Southern Oregon Public Defender, Inc	0.1:1
Southwestern Oregon Public Defender Services Inc.	0.1:1
Umpqua Valley Public Defender	0.2:1

Office of Public Defense Services

Best Practices for Oregon Public Defense Providers

Revised March 16, 2010

Preface

The Quality Assurance Task Force (QATF), an advisory group formed to assist the Executive Director of the Office of Public Defense Services (OPDS) in monitoring and improving the quality of public defense services in Oregon, has identified the policies and practices set forth below as a means to achieve excellence in public defense services. The recommended best practices are an outgrowth of the QATF's principal work of advising the Executive Director of OPDS on the conduct of peer evaluations of public defense providers. The recommendations, which evolve as the peer review process continues to identify policies and practices in use around the state that can be recommended to other providers, is neither a comprehensive description of a successful public defense provider management plan nor a recommendation for an inflexible "one-size-fits-all" plan. Rather, these are current practices that the QATF has identified as contributing to the achievement of excellence in public defense practice.

Unless specified, the practices identified below are recommended for all non-profit public defender offices, consortia and private law firms contracting with the Public Defense Services Commission. Following the summary of best practices below, each practice is set forth with recommendations for implementing the best practices, some of which may be applicable to only one type of provider. A brief commentary about each practice follows the implementation recommendations. While recommended for all providers, it is understood that some recommended practices may not be feasible for all contractors. Such providers should adopt alternative practices that accord with the spirit of the recommended practices.

As noted, the QATF will continue to revise this document as new information and insight is gained from the peer review process and other sources. If you have experience with public defense management and would like to comment on this document or make a recommendation concerning best practices for achieving excellence in public defense, please contact Paul Levy, OPDS General Counsel.

Summary of Best Practices

I. **Client-Centered Practice**. Public defense providers should formally recognize a paramount purpose to ensure zealous, high quality representation for each client. (See page 4 below.)

II. **Board of Directors**. The management of non-profit public defender offices and consortia should be directed and supervised by a board of directors. (See page 5 below.)

III. **Quality Assurance**. Public defense providers should establish practices, written protocols, policies and procedures, and other documents that assure high quality representation by provider attorneys. (See page 8 below.)

IV. **Case Assignment**. Providers should establish, in collaboration with the courts and others, a system for receiving court appointments and assigning counsel that assures high quality representation from a client's first appearance in court to the final disposition of the judicial proceeding. (See page 11 below.)

V. **Information Management**. Public defense providers should implement and manage information technology that effectively supports the mission of the provider. (See page 14 below.)

VI. **Facilities**. Public defense providers should work in office environments that safeguard the health, safety and comfort of attorneys, staff and clients. The environment should support efficient and productive legal work and instill pride and confidence in the work performed there. (See page 15 below.)

VII. **Collaborative Efforts**. Public defense providers should engage in collaborative efforts with judges, prosecutors, the Department of Human Services, community corrections, law enforcement, jail staff and others in the establishment of policies and procedures for local and statewide justice system operations. (See page 16 below.)

VIII. **Civic Engagement**. Public defense providers should recognize the value and support the engagement of public defense attorneys and staff in civic and other activities within the community. (See page 16 below.)

Implementation of Best Practices

I. Client-Centered Practice

Public defense providers should formally recognize a paramount purpose to ensure zealous, high quality representation for each client.

***Recommendations for implementing this practice*:**

1. Public defense providers should adopt a mission statement that announces to attorneys and staff working with the provider, as well as to clients, justice system officials and others, that the provider will act with commitment and dedication to the interest of each client and will zealously advocate on the client's behalf.

2. Public defense providers that operate under articles of incorporation, by-laws or other fundamental documents describing the purpose of the provider, should identify as that purpose the provision of high-quality representation to those persons for whom the provider is appointed to provide representation.

3. Through training, supervision and other management practices, described in other best practices below, public defense providers should ensure that all attorneys and staff working with the provider understand and adhere to their professional and ethical responsibilities to pursue with knowledge and skill whatever lawful and ethical measures are required to vindicate a client's cause.

4. Public Defense providers who represent clients in juvenile court proceedings should recognize the unique challenges of this work, which requires specialized skills and knowledge concerning complex state, federal and international statutory and regulatory schemes, specialized age-appropriate interview skills, familiarity with treatment and placement resources for children and families, awareness of research concerning childhood and adolescent development, and a host of other areas not commonly encountered by attorneys who are trained and practice primarily in criminal law cases. These factors will ordinarily require that those entities providing representation in juvenile court cases develop a specialized focus on these cases and the issues they present in the recruitment, hiring, training and supervision of attorneys and staff.

Commentary for this practice:

A lawyer's most fundamental obligation is to advocate for a client's cause with zeal, skill and devotion.[1] Many values and practical skills are required to fulfill this obligation, but foremost among them are a determined loyalty to the client, timely and effective communication with the client, and the exercise of knowledge and skill on behalf of the client. While the QATF has identified public defense providers across Oregon who seek to fulfill these obvious obligations, it remains a challenge for many and for some providers it is unclear whether the obligations are well understood. Too often, peer review teams are told of attorneys who fail to advocate for a client's cause. The explanations for unsatisfactory attorney performance are varied, but most frequently cited are the desires to please local judges or other officials who insist upon a particular style or method of practice, the acceptance of workloads that interfere with effective representation, and the lack of specialized knowledge and skill required for a particular type or area of practice. In some instances, public defense provider administrators are well aware of these shortcomings and have failed to undertake remedial measures. The Best Practice recommended above should serve as a guidepost for public defense administrators and others for measuring the success of the provider in meeting its most basic obligations.

II. Board of Directors

The management of non-profit public defender offices and consortia should be directed and supervised by a board of directors.

[1] This obligation derives from both the standards of the profession for public defense providers and the ethical responsibilities of all attorneys. As a matter of practice, "[t]he basic duty defense counsel owes to the administration of justice and as an officer of the court is to serve as the [client's] counselor and advocate with courage and devotion and to render effective, quality representation." *ABA Standards for Criminal Justice, Standard 4-1.2 The Function of Defense Counsel* (3d ed. 1993). The "overarching duty" of counsel is a "vigorous advocacy of the client's cause," guided by "a duty of loyalty" and the employment of the skill and knowledge necessary for a reliable adversarial system of justice. *Strickland v. Washington*, 466 US 668, 688, 104 S. Ct. 2052 (1984). As a matter of professional responsibility applicable to all lawyers, "[a] lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf." *ABA Model Rules of Professional Conduct*, *Commentary to Rule 1.3*, ABA Center for Professional Responsibility (2007).

Recommendations for implementing this practice:

1. An active and informed board of directors with independent members should oversee the management of public defense providers.

2. At least twenty percent of any board of directors (or at least one member of a five-member board) should be members unaffiliated with the provider and not engaged in providing public defense services.

3. A board should include some members selected to serve by persons unaffiliated with the provider, such as the chair of the local county commissioners and/or the president of the local or state bar association.

4. A board of directors should conduct an annual review of the effectiveness of the public defense provider in achieving its mission of ensuring zealous, high quality representation to each client, by:

    a. Assessing the performance of the provider's administrator or executive director;

    b. Gathering information from judges, prosecutors, representatives of other justice system partners and other constituencies that are served or represented by the provider concerning the effectiveness of the provider in achieving its mission; and

    c. Requiring that specific measures be taken to address any identified deficiencies in the effectiveness of the provider in achieving its mission.

5. A board of directors should be responsible for ensuring the transparency and accuracy of provider financial statements, whether audited or not, and direct any changes in management practices that are necessary for the responsible fiscal management of the provider.

6. Working with the provider administrator or executive director, a board of directors should adopt a fair, rational and responsible compensation plan for those persons providing services for the provider, by:

    a. For non-profit public defender offices and other law firms, establishing a transparent and fair salary plan that recognizes and rewards meritorious service and additional responsibilities for management or supervisory duties, and that accounts for increases in the cost of living.

    b. For consortia, fairly apportioning the proceeds from the provider's contract with the PDSC to member attorneys for work actually performed, reserving an agreed upon portion for payment of salaries and other expenses for those employed or serving the consortium in the conduct of its work.

7. Working with the provider administrator or executive director, a board of directors should develop and periodically update an effective strategic plan to identify strategies, goals and objectives for accomplishing the following elements:

    a. The effective articulation and achievement of the provider's mission;

    b. Improving the provider's organization;

    c. Recruiting new attorneys and support staff;

    d. Achieving a diverse and culturally competent organization that meets the needs of the community in which it operates;

    e. A plan for the development of skilled administrators and a succession plan for those persons;

    f. Written policies and procedures for achieving the provider's mission; and

    g. A protocol for the orientation, training, supervision and evaluation of the attorneys and staff working for or with the provider.

8. A board of directors should provide leadership for policy-makers, media, legislators and other members of the public within the provider's community to articulate the mission of the provider and enhance better understanding and appreciation for the essential role of public defense services.

***Commentary for this practice*:**

Even where a board of directors is not a legal requirement for the business structure of a provider, they have provided invaluable assistance to some Oregon public defense providers. Board members who are not directly affiliated with the provider they serve have included bankers and other leaders of the local business community, public relations consultants, civil rights advocates, and attorneys who manage their own civil or criminal defense firms. Members of board of directors can bring to public defense management a wealth of experience in organizational structure and management, and often have expertise in responsible financial management and the effective operation of non-profit and for-profit entities. The QATF has learned of instances where boards have provided valuable assistance in developing protocols for effective provider administration, for addressing conflicts and performance deficiencies within a provider, and for establishing responsible fiscal management of providers. Board members have also helped communicate with local communities and with state legislators concerning the essential service that providers perform and the need for adequate statewide funding for public defense services.

III. Quality Assurance

Public defense providers should establish practices, written protocols, policies and procedures, and other documents that assure high quality representation by provider attorneys.

***Recommendations for implementing this practice*:**

1. Providers should establish written expectations for the performance of attorneys and others working with or for provider that require, among other things, adherence to applicable provisions of the provider's contract with the PDSC; to the applicable Oregon State Bar Performance Standards for Counsel in Criminal, Delinquency, Dependency, Civil Commitment and Post-Conviction Cases; to other applicable national standards of justice; and to the Oregon Rules of Professional Conduct.

2. Providers should recruit new attorneys by attending job fairs and similar events sponsored by Oregon law schools and, where appropriate, regional events in Washington, California, and Idaho.

3. Providers should establish protocols and documents for the orientation, training and mentoring of attorneys and others working for or with the provider, which would include the following elements:

    a. For an orientation protocol, new attorneys and others should receive instruction on:

        i. The procedures for working within the provider's office or consortium.

        ii. The structure of the local criminal and/or juvenile justice system, including names and descriptions of the principle participants.

    b. The training protocol for attorneys should include:

        i. An overview of the legal and tactical issues that arise in the case types to be assigned to the attorney.

        ii. A plan for new attorneys to observe more experienced attorneys in the conduct of client interviews, conferences with investigators and experts, negotiations with prosecutors, and in court proceedings, including trials and, where possible, to serve as co-counsel to more experienced attorneys.

iii. Within the first six months of a new attorney's work with provider, participation in a practical skills training course covering the fundamentals of trial advocacy, including client interviews, working with investigators, identifying legal issues and preparing pretrial motions, jury selection, opening statements, direct and cross-examination, working with experts, closing argument, and sentence advocacy.

iv. Within the first year of a new attorney's work with provider, participation in the annual New Lawyers Seminar presented by the Oregon Criminal Defense Lawyers Association (OCDLA) or a similar program.

v. A plan for the assignment of cases of greater seriousness and complexity to attorneys as they gain the experience and qualification necessary for greater responsibilities.

vi. Support for attorney attendance at additional relevant OCDLA, Oregon State Bar, and other educational programs.

vii. Periodic presentation of continuing legal education programs, with attendance open to other local public defense providers, which address recent legal developments and issues of local concern.

c. The mentoring protocol for attorneys should include:

i. The designation of knowledgeable and experienced attorneys with an interest in assisting others who will consult with less experienced attorneys about the legal and tactical considerations in the cases assigned to the less experienced attorney.

ii. A plan for a knowledgeable and experienced attorney with an interest in assisting others to be available during a new attorney's first court appearances and trials for assistance and guidance, if needed, and to provide constructive feedback.

4. Providers should establish effective supervision of the work performed by attorneys and staff, by:

a. Designating an experienced and knowledgeable attorney who is responsible for ensuring that the attorney(s) or staff member under supervision perform satisfactorily. A supervisor:

i. Acts with the authority of provider management to achieve the mission of the provider to ensure zealous, high quality representation for each client.

ii. May receive specialized training in the conduct of effective supervision.

   iii. May receive additional compensation and/or a reduced caseload in recognition of the additional workload involved in providing supervision.

   b. Providing that a supervisor, who may also be the mentor working with a less experienced attorney, should monitor the performance of those under supervision and have the authority to direct changes or improvement in the performance of those under supervision.

5. Providers should perform regular performance reviews of the attorneys and other staff performing work for provider.

   a. The provider executive director or administrator should be responsible for ensuring fair and equitable evaluations, which may be conducted by designated supervisors.

   b. Performance reviews should measure performance against organizational and professional standards, and incorporate a self-evaluation and input from colleagues, judges and other appropriate justice system participants.

   c. Performance reviews should support improved performance, identify objectives and goals for future performance and, where necessary, establish an action plan with specific outcomes.

6. Providers should have written policies and procedures establishing a method to remedy performance deficiencies by attorneys and others performing work for provider, which includes the right of provider to end its relationship with attorneys and others who perform unsatisfactorily.

   a. For non-profit public defender offices and law firms that do not operate under a collective bargaining agreement, providers should make available a method for corrective actions through progressive discipline.

   b. For consortia, providers should utilize a membership agreement that, among other things, provides for the termination of members who fail to promptly address significant performance deficits.

7. Providers should establish a procedure for gathering and analyzing input from clients regarding the quality and responsiveness of the provider's legal services.

8. Providers should establish and share with local justice system stakeholders a procedure for receiving, investigating and resolving complaints about the quality of provider's legal services, and should review any complaints concerning provider attorneys received by the Oregon State Bar.

Commentary for this practice:

The Oregon statewide public defense system, with its state-funded, independent, non-partisan commission responsible for all components of public defense services, has been identified as a model for the delivery of cost-effective, quality public defense representation.[2] And, while the Public Defense Services Commission's qualification standards and performance expectations (incorporating the Oregon State Bar performance standards) are essential components of an effective statewide public defense delivery system, they do not, without more, guarantee quality.[3] The Commission's choice of a contract system for fulfilling its statutory and constitutional obligations, as opposed to a statewide public defender agency, puts the principal burden of providing quality representation upon the entities that contract with the Commission to provide the representation.[4] The Commission can attempt to assure quality through the terms of the contracts that it negotiates and through monitoring, oversight, and other enforcement measures, but achieving quality representation requires, in the first instance, that providers recognize and accept their own responsibility to undertake measures to assure it.

Public defender offices, with employees subject to direct supervision and with the potential capacity for comprehensive training programs, may be best positioned to implement and enforce quality assurance controls, and are especially well-suited to introduce new lawyers to public defense practice. The QATF peer reviews have found that most public defender offices recognize their quality assurance obligations and have attempted to implement many of the practices recommended above with varying degrees of success. The QATF has also found, however, that consortia are increasingly embracing quality assurance functions, and have effectively implemented enforceable standards of performance, mentorships, evaluations of members, protocols for taking corrective actions to improve performance, and complaint procedures. Models are available now of consortium membership agreements and other documents designed to assure quality representation. A QATF peer review identified one small consortium in a less populated area of Oregon that successfully integrated, through mentorship and oversight, new members with little prior experience in the work performed by the consortium. In short, providers across Oregon, whether they are public defender offices, consortia or law firms, appear to understand their essential role in assuring quality representation.

---

[2] *Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel*, Report of the National Right to Counsel Committee, at 166 (April 2009), available at: www.constitutionproject.org.

[3] *Id.*

[4] There is no inherent incompatibility between quality representation and a statewide system that relies upon a contract model for delivery of public defense services. In fact, a National Legal Aid and Defender Association study cited the Oregon model as an example of a contract system with safeguards in place that can assure quality representation. *Evaluation of Trial-Level Indigent Defense Representation in Michigan*, National Legal Aid and Defender Association, at 55 (June 2008). The report is available at: http://www.mynlada.org/michigan/michigan_report.pdf.

IV. Case Assignment

Providers should establish, in collaboration with the courts and others, a system for receiving court appointments and assigning counsel that assures high-quality representation from a client's first appearance in court to the final disposition of the judicial proceeding.

***Recommendations for implementing this practice*:**

1. Providers should ensure that an attorney is present at the first appearance in court of any person who may be entitled to representation by appointed counsel at state expense, including the initial arraignment in criminal cases, and shelter care or preliminary hearings in juvenile delinquency and dependency cases.

2. Providers should ensure that the attorney assigned to represent a client:

   a. Possesses the qualifications for representation of the involved case-type, and has been approved for appointment, under the Public Defense Services Commission's *Qualification Standards*, by the Office of Public Defense Services.

   b. Has a current workload that will not interfere with competent and diligent representation, as explained in Oregon State Bar Formal Ethics Opinion 2007-178, *Competence and Diligence: Excessive Workloads of Indigent Defense Providers*.

3. Providers should ensure that the attorney or firm assigned to represent a person is able to do so without conflict of interest, by:

   a. Working with the courts, district attorney, the juvenile department, the Department of Human Services and others who may be necessary to identify, in advance of the appointment of counsel, the principle parties and witnesses in a case so that the provider may be able to make appropriate conflict-free assignments of counsel.

   b. Ensuring that discovery is made available to assigned counsel expeditiously, so that assigned counsel can determine as soon as possible that he or she will be able to provide conflict-free representation.

4. Where the attorney present for a person's initial court appearance will not be the attorney assigned to represent that person, providers should ensure that:

a. The person, whether in or out of custody, is provided with the name of the assigned attorney and a means of contacting the attorney within 24 hours of the first court appearance.

b. The assigned attorney is informed of the assignment as soon as practicable after the assignment.

c. The person's legal interests are represented, and other immediate questions and concerns appropriately addressed, until an assign attorney is notified of his or her assignment and assumes responsibility for the person's case.

5. Providers should ensure that assigned counsel adheres to provider's contractual obligations for prompt contact with new clients, and fulfills professional and ethical responsibilities for timely communications and contact with clients who are adults, youth and children.

6. Where appropriate, providers should ensure that representation is continuously provided by the same attorney initially assigned to represent a person until the final disposition of the judicial proceeding.

***Commentary for this practice*:**

The practices recommended above implicate two related concerns: ensuring the presence of an attorney at all court appearances of a person eligible for court-appointed counsel, and ensuring that duties to existing clients will not interfere with appointed counsel's ability to provide quality representation to new clients (and *vice versa*). The presence of an attorney at a client's first court appearance has long been identified as an essential component of quality public defense services.[5] And ordinarily, the same attorney should continuously represent a client from initial assignment through completion of trial level proceedings.[6] Moreover, the managers and administrators of public defense providers who are responsible for making case assignments have a duty to determine that those attorneys assigned to new clients will not have workloads that improperly interfere with the attorney's ethical and professional obligations to provide quality representation to all clients.[7]

There is a record of mixed success with these principles, according to QATF reviews. While the norm in Oregon is to have public defense providers available at initial appearances in criminal cases, there remain some counties, including one with a large population, that are not complying with this essential practice. In juvenile court, especially with dependency cases,

[5] Resolution concerning *Representation of Indigents at Initial Appearance*, American Bar Association (August 1998), available at: http://www.abanet.org/legalservices/downloads/sclaid/112d.pdf.

[6] *The Ten Principles for s Public Defense Delivery System*, Principle 7, American Bar Association (February 2002), available at: http://www.abanet.org/legalservices/downloads/sclaid/resolution107.pdf.

[7] Eight Guidelines of Public Defense Related to Excessive Workloads, American Bar Association (August 2009), available at: http://www.abanet.org/legalservices/sclaid/defender/downloads/eight_guidelines_of_public_defense.pdf.

many counties continue to lack the presence of attorneys at initial shelter hearings, despite the demonstrated benefit of counsel at those proceedings.[8] However, the QATF has found that even in counties with very few public defense providers, arrangements can be made to have public defense providers present at initial appearances, in both criminal and juvenile cases, where the providers, courts, prosecutors and others work cooperatively toward that end.

QATF reviews regularly receive reports that high caseloads appear to interfere with the ability of public defense providers to devote adequate time to client contact and to be properly prepared for all court proceedings. Where appropriate, peer evaluations have reminded public defense administrators of their ethical and contractual obligations to ensure that attorneys providing public defense services are not required to handle excessive workloads. Those obligations are now detailed in the American Bar Association's *Eight Guidelines of Public Defense Related to Excessive Workloads* (August 2009).[9]

V. Information Management

Public defense providers should implement and manage information technology that effectively supports the mission of the provider.

***Recommendations for implementing this practice*:**

Effective information technology should support the mission of the provider by:

1. Monitoring the number, type and current status of cases assigned to provider attorneys.
2. Supporting the identification of conflicts of interest so that provider may make appropriate case assignments and attorneys can identify those cases that they may not accept or from which they must withdraw.
3. Creating and maintaining calendars.
4. Documenting and evaluating case outcomes.
5. Collecting and reporting case information for satisfaction of contractual obligations with the Office of Public Defense Services.
6. Supporting responsible fiscal management.

[8] *See*, *Zealous Advocacy: Shelter Hearings*, Juvenile Rights Project Juvenile Law Reader (December 2007/January 2008), available at: http://www.jrplaw.org/Documents/JRPReaderV4I56.pdf.
[9] *See supra* note 6.

***Commentary for this practice*:**

Fulfilling many of the best practices recommended in this document requires the collection and management of qualitative and quantitative statistical information. The available technology for accomplishing this purpose varies greatly in cost and sophistication, and changes often. Thus, no recommendations are made here for specific products or services. The QATF has found that public defense providers of all variety and size have experienced varying levels of success in purchasing "off-the-shelf" products or in custom-designed management information systems. OPDS staff can refer interested providers to those providers who appear to be pleased with the technology and systems they employ. Whatever products and systems are adopted, however, public defense administrators should have access to reliable and current information to make informed decisions on the assignment of cases and to aid in the evaluation of work performed by provider attorneys, in addition to performing other administrative functions that rely upon accurate information about provider activity.

VI. Facilities

Public defense providers should work in office environments that safeguard the health, safety and comfort of attorneys, staff and clients, support efficient and productive legal work, and instill pride and confidence in the work performed there.

***Recommendations for implementing this practice*:**

1. Attorney law offices should allow for confidential conferences with clients and those working on behalf of clients.

2. For attorneys working in consortia who share office space, facilities and support staff should be managed to avoid conflicts of interest, as described in Oregon State Bar Formal Ethics Opinion 2005-50, *Conflicts of Interest, Current Clients: Office Sharers Representing Opposing Parties*.

3. Offices should be equipped with current reference manuals, practice guides and online services necessary to support representation in the types of cases handled by attorneys working there.

***Commentary for this practice*:**

QATF peer review teams have visited attorney offices in both large and small communities in every region of the state. In every community the teams found offices that were comfortable and appeared appropriate to the work to be performed there and others that were less so. The reality of law practice in many communities, especially in smaller communities where public defense providers may not have the time or opportunity to also engage in the private practice of law, is that attorneys must spend as little as possible on rent and equipment for their offices or meeting places, often sharing space with other attorneys and finding offices in older properties. There is no need or expectation that offices be opulent, but they should be comfortable and safe places for attorneys and their clients and staff. Where attorneys share office space, they must make clear to clients that they maintain separate law practices and take other steps to safeguard client communications, as outlined in the Formal Ethics Opinion referenced above.

VII. Collaborative Efforts

Public defense providers should engage in collaborative efforts with judges, prosecutors, the Department of Human Services, community corrections, law enforcement, jail staff and others in the establishment of policies and procedures for local and statewide justice system operations.

***Commentary for this practice*:**

Regular contacts between public defense providers and other justice system stakeholders, outside the context of individual cases, can benefit the provider, its clients and the justice system as policies and procedures evolve with the information and expertise of respected public defense leaders. These contacts also benefit public defense as system partners gain a better appreciation of the work of public defense providers, and become a valuable source of input for performance assessments of the provider and its attorneys and staff.

VIII. Civic Engagement

Public defense providers should recognize the value and support the engagement of public defense attorneys and staff in civic and other activities within the community

Commentary for this practice:

Peer reviews of public defense providers have confirmed that those providing public defense services are real people with everyday lives that reach beyond the office and courtroom. Providers of public defense services make time in their busy lives to serve in elected positions in their communities, on the boards and as officers of local charitable causes, as teachers in local schools, and in a myriad of other positions that form the fabric of community life. To the extent that associates in these various ventures come to understand the work of public defense providers and "how you can defend those people" and why, the overall cause of public defense and civic understanding is advanced.