

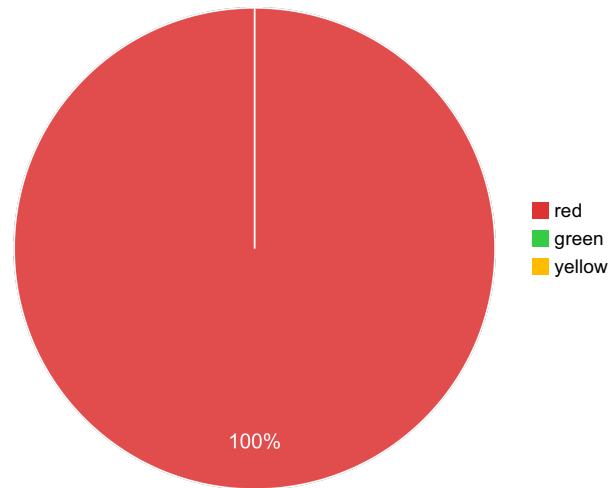
Public Defense Services Commission

Annual Performance Progress Report

Reporting Year 2021

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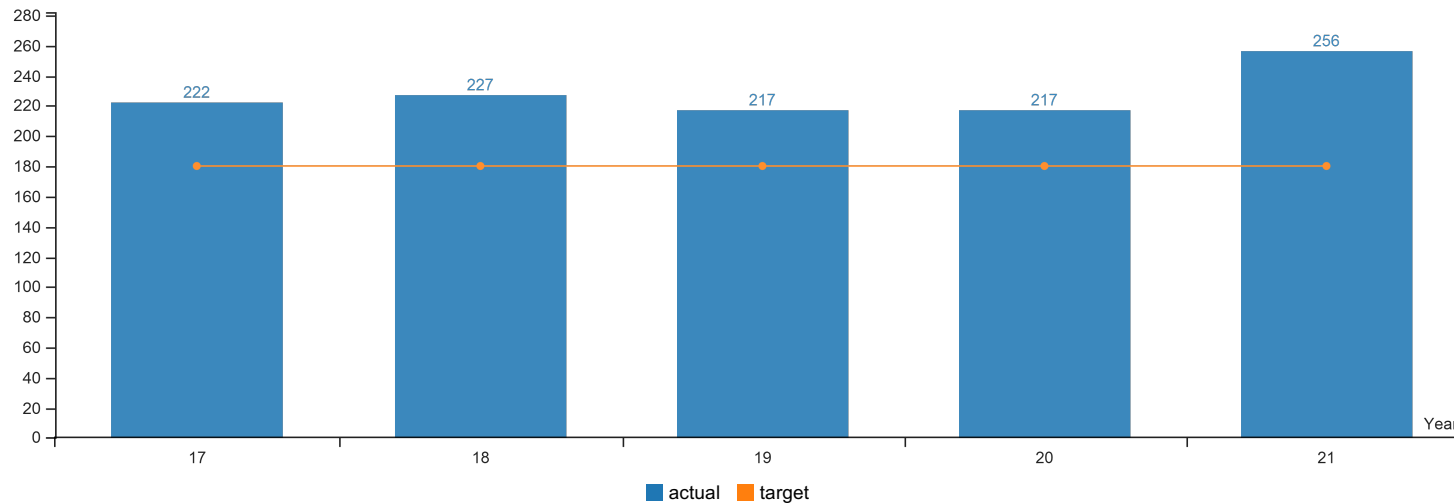
KPM #	Approved Key Performance Measures (KPMs)
1	APPELLATE CASE PROCESSING - Median number of days to file opening brief.
2	CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness,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



Performance Summary	Green	Yellow	Red
	= Target to -5%	= Target -5% to -15%	= Target > -15%
Summary Stats:	0%	0%	100%

KPM #1	APPELLATE CASE PROCESSING - Median number of days to file opening brief.
	Data Collection Period: Jan 01 - Dec 31

* Upward Trend = negative result



Report Year	2017	2018	2019	2020	2021
Median Number of Days to File Opening Brief					
Actual	222	227	217	217	256
Target	180	180	180	180	180

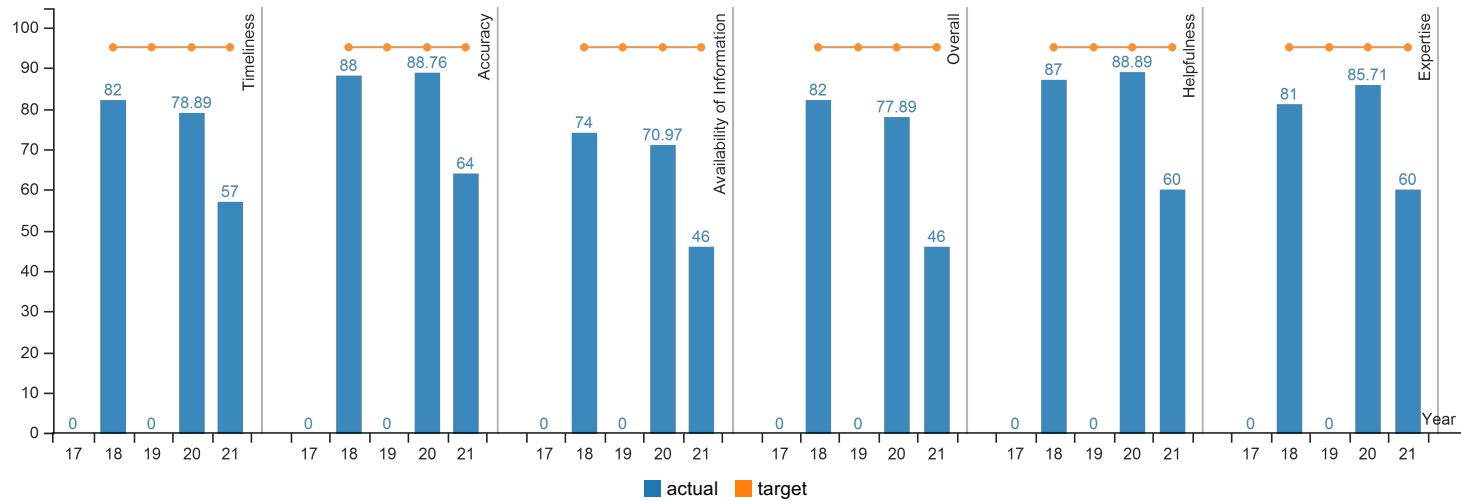
How Are We Doing

A confluence of events resulted in an anomalous recorded KPM during the last reporting year. Despite the progress made during fiscal year 2019, which reduced the median number of days to file the opening brief in the Criminal Appellate Section to 217 days, the median during fiscal year 2020 was 256 days. The complications attendant to adjusting operations in early 2020 in response to the COVID-19 pandemic required attorneys to ask for extraordinary extensions to file a brief. A significant proportion of support staff and a few attorneys separated from the agency or took extended leave. Additionally, non-management attorneys began teleworking exclusively, which required acquisition and distribution of resources with which the attorneys could complete all aspects of their job. Finally, a prolonged three-year period of increasing referrals without a corresponding increase in workforce capacity had accumulated an unprecedented number of open, unbrieffed cases in the Criminal Appellate Section. Because pandemic restrictions also suspended case resolutions at the circuit court level, the Criminal Appellate Section was able to work through the backlog and the Appellate Division is in excellent position to meet its goal in 2021.

Factors Affecting Results

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

KPM #2	CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.
	Data Collection Period: Jan 01 - Jun 30



Report Year	2017	2018	2019	2020	2021
Timeliness					
Actual		82%		78.89%	57%
Target		95%	95%	95%	95%
Accuracy					
Actual		88%		88.76%	64%
Target		95%	95%	95%	95%
Availability of Information					
Actual		74%		70.97%	46%
Target		95%	95%	95%	95%
Overall					
Actual		82%		77.89%	46%
Target		95%	95%	95%	95%
Helpfulness					
Actual		87%		88.89%	60%
Target		95%	95%	95%	95%
Expertise					
Actual		81%		85.71%	60%
Target		95%	95%	95%	95%

How Are We Doing

The most recent survey was conducted in August 2021. The survey results indicate a lower level of satisfaction with customer service in 2020 than the survey results from 2019. The overall service provided by OPDS was rated as good or excellent by 46% of the respondents. The standard reporting measure for state agencies groups both “good” and “excellent” into one category. In the categories of helpfulness and expertise, 60% of respondents rated the agency’s service as “good” or “excellent.” In the category of accuracy, 64% of respondents rated the agency’s service as “good” or “excellent.” OPDS’s ratings were down in every category in 2020 when compared to 2019.

Factors Affecting Results

OPDS implemented a large-scale change in its contracting model beginning January 1, 2020. The agency shifted from paying contract attorneys a flat fee per case rate to a full-time equivalent (FTE) contracting model in which the agency contracted for attorneys’ time that they work on public defense cases. Under the new contract, attorneys receive a set monthly contract amount for appointments to public defense cases.

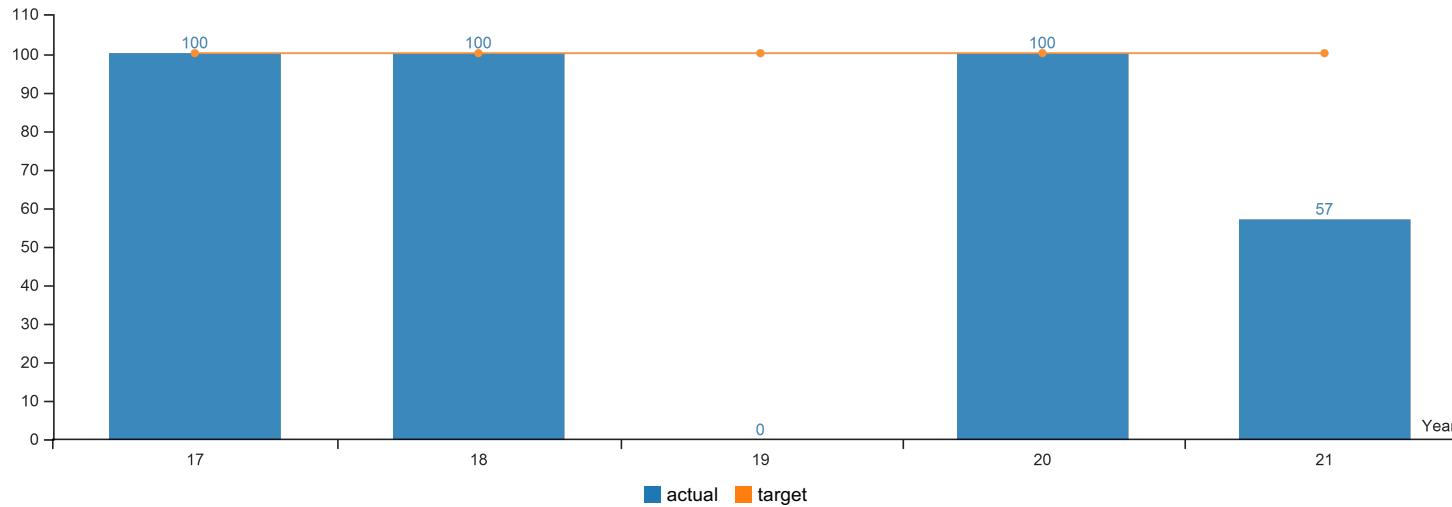
As with the implementation of any new model, OPDS has encountered unforeseen questions and issues with the new contracts. Moreover, as explained in last year’s KPM report, the agency learned in April 2020 that it would not receive additional funding from the \$20 million that had been set aside in the Special Appropriation Account, and it had to scale back its original plans while still implementing the new contract model. The lack of increased funding for trial-level providers led the agency to set attorney caseload standards for the FTE contracts much higher than the agency would have liked. That combined with a backlog of cases in the system from the courts being closed during the pandemic has led to high open caseloads for contract attorneys while at the same time, they are adjusting to the new contract model.

Additionally, OPDS’s Executive Director resigned in June, and the agency is currently headed by an interim director. OPDS was allocated several new positions and directed to restructure agency staff in its latest budget bill. That has led to a focus on hiring for those new positions, reorganization of staff within the agency, and an influx of new employees to the agency.

The combination of the internal agency changes and the large-scale change in the contracting model has contributed to lower ratings for the agency in all categories.

KPM #3	BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission.
	Data Collection Period: Jan 01 - Dec 31

* Upward Trend = positive result



Report Year	2017	2018	2019	2020	2021
Percentage of total best practices met					
Actual	100%	100%		100%	57%
Target	100%	100%	100%	100%	100%

How Are We Doing

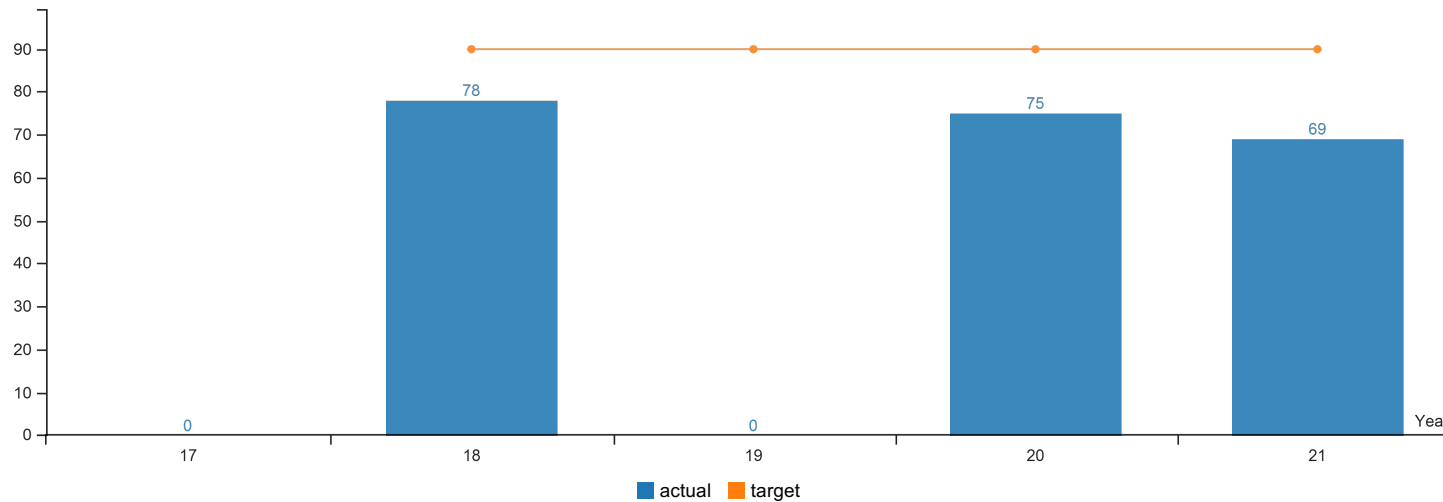
For 2020, OPDS evaluated the PDSC as it relates to Best Practices for Boards and Commissions. It concluded that the PDSC satisfied 8 of the 14 criteria. Gaps for the PDSC were failing to conduct an annual performance review of the executive director; failure to ensure its mission and high level goals are current and applicable; failure to review agency's key communications; failure to review key financial information and audit findings; failure to appropriately account for resources; and failure to review its management practices.

Factors Affecting Results

There was a significant communication gap between the executive director and the members of the PDSC, which resulted in PDSC members being uninformed about key agency action, expenditures, and communications. The agency now has an interim executive director as it searches for a new executive director. Additionally, the issues surrounding Covid-19 impacted the ability for the PDSC to meet its KPMs, as public meetings became more difficult to schedule and conducting business in a virtual forum became more challenging. Finally, the agency has been undergoing a significant modernization effort following the publication of the 6AC Report – the Right to Counsel in Oregon – in January 2019. Those efforts required undoing decades of practices, and structurally, given the time availability of a volunteer commission and limited number of agency staff, it was challenging to coordinate all agency action with the PDSC.

KPM #4	TRIAL LEVEL REPRESENTATION - During the term of the OPDS contract, percent of attorneys who obtain at least 12 hours per year of continuing legal education credit in the area(s) of law in which they provide public defense representation.[1] [1] Case types listed in the 2014-2015 Public Defense Legal Services Contract General Terms are: criminal cases, probation violations, contempt cases, civil commitment cases, juvenile cases, and other civil cases. (http://www.oregon.gov/OPDS/docs/CBS/ModelContractTerms/documents/ModKJan2014.pdf)
	Data Collection Period: Jan 01 - Dec 31

* Upward Trend = positive result



Report Year	2017	2018	2019	2020	2021
Percent of Attorneys with 12 CLE Credits Annually					
Actual		78%		75%	69%
Target		90%	90%	90%	90%

How Are We Doing

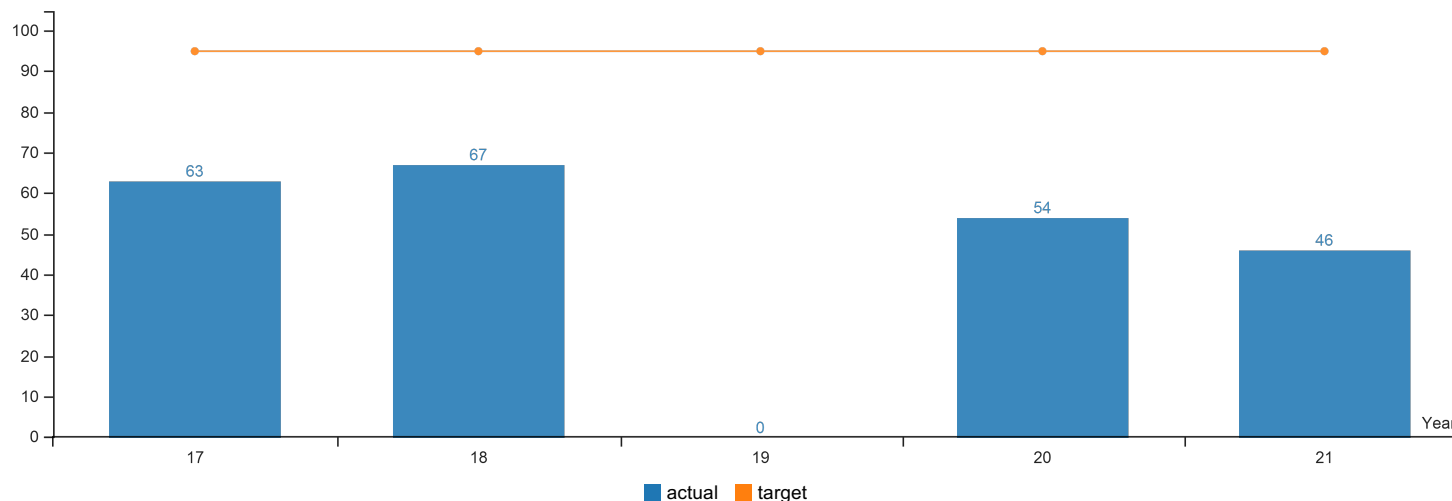
The survey was completed by 81 attorneys. Of the respondents, 69% reported obtaining at least 12 CLE credits related to public defense work in the calendar year 2020.

Factors Affecting Results

This year's percentage of respondents reporting obtaining 12 or more CLE credits is slightly lower than last year, but it is understandable. CLE opportunities for all lawyers was greatly diminished because the state was essentially locked down for all of 2020 due to the global pandemic. Many longer CLE programs and conferences were not offered, and shortened virtual course were offered in their place. Given the pandemic, it is not surprising that fewer attorneys obtained 12 or more CLE credits. Although only 69% of respondents obtained 12 or more CLE credits, 13% obtained between six and 11 CLE credits, and 18% obtained between one and five credits.

KPM #5	PARENT CHILD REPRESENTATION PROGRAM (PCRP) - Percent of PCRP attorneys who report spending approximately 1/3 of their time meeting with court appointed clients in cases which the attorney represents a parent or child with decision-making capacity.[1] [1] For a discussion on determining decision-making capacity, see The Obligations of the Lawyer for Children in Child Protection Proceedings with Action Items and Commentary, Oregon State Bar, Report of the Task Force on Standards of Representation in Juvenile Dependency Cases (2014).
	Data Collection Period: Jul 01 - Jun 30

* Upward Trend = positive result



Report Year	2017	2018	2019	2020	2021
Percent of PCRP Attorneys Spending 1/3 Time Meeting With Clients					
Actual	63%	67%		54%	46%
Target	95%	95%	95%	95%	95%

How Are We Doing

This Key Performance Measure separates representation of clients with decision-making capacity from representation of clients with diminished capacity (typically young children). However, data gathered by the Parent Child Representation Program (PCRP) program does not distinguish based on decision-making capacity. Therefore, the data reported for this KPM includes time spent with all clients.

From July 2019-June 2020, 46% of the PCRP attorneys report spending approximately one-third of their time meeting with clients. During this time period, the PCRP attorneys spent an average of 34% of their time meeting with clients.

Factors Affecting Results

This measure analyzes attorney performance in PCRP's initial five implementation counties: Linn and Yamhill (2014), Columbia County (2016); and Coos and Lincoln Counties (2018). The COVID pandemic and its public health restrictions were intact for nearly half of the relevant timeframe. There is a notable decline (approximately 8%) in the percentage of attorneys reporting more than one-third client communication time that aligns with the start of the COVID pandemic. This decline brings down the entire measure. The lower rate of attorneys meeting the one-third target may be related to COVID and its restrictions, including, for example, court closures, lack of access to technology/communication tools by clients.

The Parent Child Representation Program case managers add to the client communication time with defense team. Case Managers are social service professionals and work as part of the legal representation team in 10-15% of the cases. Case managers work with attorneys to address non-legal barriers and help achieve timely and sensible case resolution is a best practice and a critical

component of the success of the PCRCP. The PCRCP case managers are required to spend at least 85% of their time in direct service work, providing an additional investment in client contact by the defense team.

The agency needs to continue monitoring the quality of work provided by lawyers in the Parent Child Representation Program. Additional consideration should be given to the data collection and utilization process. There should be further examination of which metrics are most sensible to measure and which are indicative of standard's based legal representation associated with improving client engagement and court outcomes. Mixed-methods (quantitative and qualitative) data should also be used to establish benchmarks which are indicative of effective legal representation. OPDS is undergoing agency wide modernization, which will include refinement and improvement of PCRCP data collection, analysis, and application.