

**Public Defense Services Commission**  
**The Executive Director's Annual Report**  
**March 2014**

**Introduction**

The Public Defense Services Commission (PDSC) experienced significant change and achieved some notable successes in 2013. Employees at the Office of Public Defense Services (OPDS) began the year with a continued freeze of employee merit increases, and the agency operated with reduced spending in place to manage the 3.5% budget holdback imposed during the 2011-13 biennium. In mid-May, two of the agency's long-time managers retired: the Business Services Manager, and the Contract and Business Services Division Director, who functioned as the agency's manager for information technology, contracting, operations, human resources, and budget, in addition to serving as the agency's Chief Financial Officer. These departures required an immediate shift to interim leadership, increased responsibilities for employees within that Division, and a rapid acceleration of the agency's effort to create succession plans and realign its structure to better serve agency employees and customers.

The agency reorganization was a time-consuming but necessary process, and through close examination and a reallocation of resources, the agency was able to implement a structure that will serve the agency needs, including those of customers and employees. The first step was the immediate recruitment of a Budget and Financial Services Manager. Later, a Human Resources Manager and a Research and Information Technology Director were added to the team. Additionally, the agency promoted from within to fill a Contract Manager position. Throughout the change, the agency was able to fulfill its statutory obligations, continue to meet or almost meet its Key Performance Measure targets, and execute new statewide contracts for representation in trial level and capital cases effective January 2014. As 2013 drew to a close, the agency was operating under a new structure, with final personnel pieces completed in early 2014. The agency is now moving forward with an examination and modification of existing Key Performance Measures, and will request new performance measures targeting trial level

representation when it submits its budget for the 2015-17 biennium. The Public Defense Services Commission will meet for a full day in March 2014 to update its strategic plan and explore ways in which it might better meet its statutory mandate to “maintain a public defense system that ensures the provision of public defense services in the most cost-efficient manner consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.”

### **PDSC’s Accomplishments in 2013**

#### **1. Agency Restructure**

The agency’s structure was originally developed in 2003. It included an Appellate Division<sup>1</sup> (AD) for direct client services in criminal and parole appeals, and the Contract and Business Services Division (CBS) for statewide contracting of trial court representation and administrative support for the entire agency. Following the May 2013 retirements of two critical managers within CBS, the CBS Director and the Business Services manager, two individuals were selected to operate in an interim capacity. Paul Levy, OPDS General Counsel, served as Interim CBS Director, and Erica Robinson, Accountant and Human Resources Analyst, served as Acting Business Services Manager. Both dedicated significant hours and energy to learning new tasks and guiding the work of others in the Division in order to preserve business operations from May through December 2013. The agency was also fortunate to arrange a job rotation with the Department of Administrative Services, allowing Angelique Bowers to assist OPDS with budget matters during the final stages of the 2013 legislative session and start of the new biennium. As a former OPDS employee, Ms. Bowers brought a familiarity with the office, along with a wealth of knowledge in budget and accounting gleaned through service to other state agencies. With these pieces in place the agency was able to work with a consultant to determine whether the original structure allowed the agency to meet existing needs and future expectations.

In September 2013 the agency began moving toward a new structure by eliminating old positions, creating new positions, and hiring a Human Resources Manager. A Contract Manager position, filled by Caroline Meyer,

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<sup>1</sup>Formerly referred to as the Legal Services Division.

was created in order to bring continued strategic development to the agency's existing contracting model, and Cynthia Gregory joined OPDS as the Human Resources Manager to help define and document roles and responsibilities, and to provide increased human resources support for OPDS employees. The Public Defense Services Commission approved a new structure in October 2013 (included below) and the agency began recruiting for a Research and Information Technology (IT) Director. This position was determined to be essential not only for maintaining functionality of existing databases, but also to explore new systems for data collection and research, to improve functionality of the agency's existing website, and to explore development of an agency intranet. OPDS continues to lag behind most state agencies in its ability to collect and analyze statewide data, and with 54 percent of its employees living more than 45 miles outside of the Salem area, access to necessary work documents via readily available technology is becoming increasingly important. The redistribution of agency resources in order to create the Research and Information Technology Director position will enhance the agency's ability to provide employees with appropriate IT services, and the agency's ability to monitor the performance of statewide public defense services through improved data collection and analysis.

## **2. The Commission**

The Public Defense Services Commission met nine times in 2013. The Commission dedicated much of its energy to review and approval of the 2013-15 budget process, a revised certification process for capital providers, two service delivery reviews, and new statewide contracts that took effect in January 2014.

### **A. Service Delivery Reviews**

Budget reductions imposed during the 2011-13 and 2013-15 biennia reduced agency resources available for all types of travel, including service delivery reviews. As one strategy for more efficient use of agency resources, the Commission revised the peer review and service delivery review systems during 2013. In the past, these two review systems were entirely separate; the peer review was a confidential review of the quality of services of individual contracting entities, while the service delivery review involved a Commission

investigation and public hearing focused on the health of the entire contracting system within a particular judicial district. The Commission elected to combine the reviews into one, two-stage process in order to more fully measure the degree to which recommendations of the peer review team are implemented by reviewed entities. Along with this shift, peer review concerns and contractor responses were shared with the Commission prior to the Service Delivery Review, which enabled the Commission to consider quality of representation issues as it examined the health of the contracting model. The Commission completed two service delivery reviews in 2013: Linn County and Clatsop County. The Linn County review was performed independent of the peer review process, while the Clatsop County system delivery review was held eleven months after the peer review team visited the jurisdiction.

The Commission visited Linn County and heard testimony from criminal and juvenile justice system partners in December 2012, discussed the service delivery plan in January 2013 and approved the plan in March 2013. While the Commission did find that the structure in Linn County was appropriate, the Commission had several areas of concern. First, the Commission encouraged the Linn County Legal Defense Corporation (LCLDC) to continue development of its structure and succession planning, and to implement a fiscal management system that holds in reserve compensation credits in excess of those actually earned.<sup>2</sup> Additionally, both LCLDC and the Linn County Juvenile Defense Corporation (LCJDC) were encouraged to work with the court to ensure that financially eligible individuals have a lawyer present at the first court appearance in criminal and juvenile dependency cases, and when the petition is filed in juvenile delinquency cases.

The Commission visited Clatsop County in July 2013. Though the initial peer review report identified a variety of concerns regarding the primary consortium provider, by the time the Commission visited in July 2013 the most significant concerns had been addressed by the consortium administrator and the court. As in Linn County, though the Commission did not find reason to change the service delivery

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<sup>2</sup> LCLDC was succeeded in January 2014 by a new organization, Linn Defenders, Inc., under new leadership but with substantially the same membership.

structure in Clatsop County, it did note some areas that remain a concern. First, a number of defendants resolve charges without access to a lawyer. These instances arise in the context of an Early Disposition Program (EDP) where defense attorneys have declined to participate because they do not have adequate time to review police reports and thoroughly advise clients. Second, the Commission was concerned that there might be a high rate of waivers of counsel in juvenile delinquency proceedings. The Commission encouraged OPDS to work with providers, the court, and other stakeholders in Clatsop County so that lawyers are appointed to represent children in juvenile delinquency cases, and are able to provide legal advice to participants in the EDP before the court accepts a plea.

## **B. PDSC Budget**

The PDSC approved the agency budget in September 2012, and the final budget was presented to the Legislature in October 2012. The budget request included funding for the current service level (funding to continue with current services), estimating no increase in the public defense caseload, and three policy option package (POP) requests. POP 100 requested one third of the funding necessary to reduce dependency caseloads to recommended levels. POP 101 requested one third of the amount necessary to provide OPDS Appellate Division attorneys with pay comparable to lawyers at the Department of Justice. POP 102 requested one third of the amount necessary to increase compensation for non-profit public defenders, hourly attorneys, and hourly investigators.

The 2013 Legislative Session began on February 4, 2013. Both before and after its start, the OPDS Director worked closely with staff, legislators, and system partners to build understanding regarding funding needs for public defense providers.

The PDSC Budget presentation to the Joint Ways and Means Subcommittee on Public Safety took place on March 25 and 26, 2013. Chief Justice Balmer and PDSC Chair Ellis introduced the budget and provided critical background information regarding the importance of public defense services. The remainder of the first day included

information about the agency's mission, history, vision, and values, the work of each agency division, discussion of key performance measures, and review of the agency's quality assurance efforts. The second day covered budget drivers, challenges, and an overview of budget development. The second day ended with presentations from criminal and juvenile justice partners: the Honorable Judge David Schuman, Oregon Court of Appeals; the Honorable Judge Nan Waller, Presiding Judge for the Fourth Judicial District; Attorney General Ellen Rosenblum, and Walt Beglau, Marion County District Attorney. These presenters shared their views on the important role of public defense services. Public defense providers Jack Morris, from the Seventh Judicial District, and Angela Sherbo, from Youth, Rights, and Justice in the Fourth Judicial District, along with former clients from juvenile dependency cases, stressed the need for funding to compensate public defense lawyers and reduce caseloads. Finally, Brett Ballew, Managing Attorney at the Washington State Office of Public Defense Parent Representation Program shared statistics regarding reduced foster care rates attributable to improved representation for parents with children in the child welfare system.

At the close of the 2013 session, two POPs received partial funding: \$3 million for compensation increases to non-profit public defenders, hourly attorneys, and hourly investigators, and \$2.4 million to reduce dependency caseloads. The Legislature also imposed a 2% holdback and a 5% reduction to services and supplies to all state agency budgets. With these reductions, the final funding package was below the current service level request.<sup>3</sup>

While the partial funding of POP 100 and 102 were considered tremendous successes, the cuts imposed continue to pose challenges for PDSC providers, and limited rate increases are a source of frustration for non-profit public defender support staff who did not receive the same increases as lawyers, and consortia and private law firm providers who were also in need of compensation increases.

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<sup>3</sup> A March 2014 restoration of the 2% holdback to the Professional Services Account, which funds trial level services, brings the total amount allocated (excluding policy option funding) to just under the amount requested for current service level. The remaining reduction reflects the 5% services and supplies reduction imposed upon all state-funded entities.

The agency continues to explore ways to mitigate these impacts and plan for increased funding in the 2015-17 biennium.

The Office of Public Defense Services is developing plans for distribution of dependency policy option package funding that will improve representation in juvenile dependency cases within the identified counties. The agency hopes to identify two pilot counties where caseloads can be reduced and additional monitoring and training resources can be provided to improve the quality of representation and outcomes for Oregon families. The agency is working closely with the Department of Human Services and Oregon Judicial Department, as these entities will also be participating in the pilot program.

The PDSC began the process of building policy option packages for the 2015-17 biennium that address the needs of all provider types. The framework for building requests began at the OCDLA Management Conference in October 2013, and continues into 2014 through regional meetings with all PDSC contract providers, Commission meetings, and opportunities for contractors' public comment regarding proposed policy option packages.

### **3. Statewide Contract and Financial Services**

#### **A. Leadership**

Following CBS Division Director Kathryn Aylward's May 2013 departure, Nancy Cozine, Executive Director, and Paul Levy, General Counsel and Interim CBS Division Director, worked with OPDS contract analysts to guide the process of statewide contracting. Angelique Bowers assisted with budget information. Once the statewide plan had been reviewed and approved by the Commission, the agency began the transition into new leadership for contract services. In September 2013, Caroline Meyer took the role of Contracts Manager, and Billy Strehlow became the Senior Contract Analyst. With the expertise of Ms. Meyer, Mr. Strehlow, and contract analysts Amy Jackson and Shelley Winn, all contract services were completed as expected in 2013. OPDS analysts continue to receive high praise for consistently providing

accurate, timely information and assisting contract providers and courts as needed to keep the trial level public defense system functioning smoothly.

## **B. Contracts**

### **i. January through December 2013**

In 2013, OPDS analysts managed 98 statewide contracts. Total contract expenses for 2013 were approximately \$86,529,280, with representation provided in approximately 166,962 criminal and juvenile case proceedings. In 2013 there were 18 new death penalty cases filed, adding to the number already in the system.

### **ii. Preparation for Contract Cycle Beginning in January 2014**

The contracting process for non-capital, trial-level cases began on May 3, 2013, with release of the 2013 PDSC Request for Proposals. Contract proposals for non-death penalty trial level representation were due by June 17, 2013. These proposals were reviewed by OPDS analysts who then developed a statewide plan for non-capital contract services. The Commission reviewed the statewide plan on July 17 and July 31, 2013. Proposals for capital representation were due on July 15, 2013. The Commission reviewed the plan for representation in capital cases on September 24, 2013, and the statewide contracting plan (for both death penalty and non-death penalty cases) was approved by the Commission at its meeting on October 25, 2013.

## **C. Financial Services**

Contract and hourly providers, as well as experts retained by counsel, must submit information to the Office of Public Defense Services in order to be paid for their work. The financial services department processed 17,166 non-routine expense requests and

40,963 billings in 2013. In addition to processing a high volume of work, this group continues to implement procedures that create efficiencies for the agency and providers.

#### **4. Quality Assurance**

General Counsel, in collaboration with others at OPDS, continued to pursue a number of quality assurance measures in 2013.

In 2013, OPDS General Counsel planned and staffed a peer review of the two criminal defense providers in Marion County. This was the first in-depth look at the operations of the Public Defender of Marion County since it was established at the direction of the Commission in 2007. OPDS intends to follow up on that review with a Commission service delivery review of Marion County in 2014.

General Counsel, along with the OPDS Executive Director and an OPDS Analyst, conducted a detailed follow up in 2013 of the 2012 peer review in Clatsop County. As noted above, the Commission later held a public hearing in Clatsop County to address issues raised by the initial peer review and developments in the county following the review.

In 2013, planning began for the next peer review, which is scheduled for mid-June 2014 in Washington County.

General Counsel also continued work, begun in 2012, as chair of a small task force formed by the Oregon State Bar Board of Governors to update that organization's performance standards for defense representation in criminal and delinquency cases. The PDSC has adopted the standards promulgated by the Oregon State Bar for the performance of public defense attorneys in Oregon, pursuant to ORS 151.216(1)(e)(G).

Also in 2013, General Counsel presented the Commission with a proposed revision of the attorney certification procedure in capital cases, which the Commission adopted at its March 2013 meeting. A new form was then employed for responses to the Request for Proposals for representation in capital cases for 2014-2015. General Counsel reported later in 2013 that the new procedure allowed for much more meaningful review of the attorneys seeking contracts in capital cases. In early 2014, he told the

Commission that OPDS intends to revise the certification procedure for all case types.

As in preceding years, in early 2013 General Counsel conducted a statewide survey of public defense performance. He then participated in follow up contacts, along with the four OPDS Analysts, to speak personally with survey respondents who provided their name and expressed specific concerns about public defense services in their counties. General Counsel reported to the Commission on survey results at its March 2013 meeting.

In 2013, OPDS received approximately 80 complaints concerning public defense services, which is about the same number received in 2012. While most complaints were received by mail from persons serving time in custody following a conviction for a crime, General Counsel receives a significant number of telephone calls each week from people with concerns about public defense representation, many of them referred to OPDS by the Client Assistance Office of the Oregon State Bar. In most instances, the telephone complaints concern problems with attorneys not responding to client requests for case information and assistance. General Counsel is usually able to quickly resolve these matters through telephone or email contact with the appointed attorney and the administrator of the contract entity with whom the attorney works. As a result of complaints received by OPDS, in 2013 General Counsel devoted significant attention to nine matters where corrective measures were taken through the Commission's complaint policy and procedure.

General Counsel spoke about OPDS quality assurance measures and new initiatives at both the Juvenile Law Training Academy and the Public Defense Management Seminar.

Finally in 2013, General Counsel organized a half day diversity program, focused on recognizing implicit bias, for all OPDS staff. The day began with reflections from a young woman who spent significant time in custody with the Oregon Youth Authority (OYA), went on to earn a college degree, and is now an employee at OYA. Following her presentation, April Lewis and Carol French, from Figure 8 Consulting, provided OPDS employees with a series of exercises and discussions centered specifically on implicit bias, and raising individual awareness around immediate reactions to people and situations, many of which are guided by implicit biases.

## 5. Appellate Division

The Appellate Division (AD) is comprised of a criminal section and a juvenile section.

The criminal section is significantly larger and is managed by the Chief Defender and three Chief Deputies, who are each responsible for a discrete aspect of the practice (outreach, operations, and personnel). The criminal section represents financially eligible individuals on direct appeal in misdemeanor and felony criminal cases (including capital cases), parole appeals, denial of applications for DNA testing for exoneration, and victim's rights challenges. The criminal section also acts as a resource for mandamus actions. The criminal section trains, supervises, and evaluates its 36 attorneys, articulates caseload expectations, allocates and redistributes manageable individual caseloads, and maintains documentation of its workflow.

The 2007 legislature funded the creation of the Juvenile Appellate Section (JAS) in AD. The section now has five attorneys representing parents in juvenile dependency appeals. Senior Attorney Shannon Storey leads the section. The section both provides superior representation to its clients and helps improve Oregon dependency practice statewide by obtaining appellate opinions that bring clarity and consistency to Oregon's dependency laws. In 2013, the unit argued its second case in the Oregon Supreme Court, *Department of Human Services v. S.M.*, 256 Or App 15, *rev allowed*, 353 Or 867 (2013).

Case Referrals. During 2013, the criminal section processed 1633 incoming criminal case referrals (versus 1642 in 2012) and filed 1079 notices of appeal in 2013 (versus 1140 in 2012).

In addition, the Juvenile Appellate Section processed 283 case referrals (versus 299 in 2012), filed 262 notices of appeal (versus 264 in 2012), and assigned 224 cases internally (versus 201 in 2012).

Practices and Procedures Manual. AD management revised the AD Practices and Procedures Manual over the course of several months and distributed it in October 2013. The 157-page manual is a critical, desktop

resource for AD employees and management. It describes the office structure, documents office policies and procedures for most issues confronting criminal section attorneys, and articulates performance expectations for every category of attorney personnel. In 2013, the JAS unit published its own policies and procedures manual to address issues and practices unique to the juvenile unit.

Filing Dates. The Division's Criminal Section incrementally reduced the median filing date for merit briefs in the Court of Appeals. At the end of 2013, the median brief filing date was reduced to 224 days. (Note: In February, 2014, OPDS reduced the Key Performance Measure tracking the median brief filing date for criminal appeals from 210 days to 180 days.)

The Oregon Rules of Appellate Procedure impose an expedited briefing schedule (42 days maximum) for juvenile dependency appeals.

Supreme Court Practice. The Division continues to have an active practice in the Oregon Supreme Court. In 2013 the Oregon Supreme Court issued 18 opinions in criminal cases litigated by AD's criminal section.

Outreach. Attorneys from both the criminal and juvenile sections have regular outreach to the trial bar through, *inter alia*, the Attorney Regional Contact Program, by responding to an increasing number of daily inquiries from the trial bar, through participation on the OCDLA "pond" discussion listserv, by writing an appellate perspective column for the OCDLA newsletter, and by providing numerous CLE presentations. AD criminal section attorneys gave presentations at the annual Oregon State Bar (OSB) Criminal Law Section CLE, the OSB's Appellate Section CLE, and at multiple "brown bag" presentations for trial level providers. Deputy Chief Defender Ernie Lannet co-edited the three volume OSB CLE publication on criminal law, and several criminal section attorneys authored or co-authored chapters for the same publication. Finally, several AD attorneys typically spend two or more "telecommute" days per month interacting with attorneys at the public defender office in Lane County, at the Metropolitan Public Defender in Portland, and occasionally at Multnomah Defenders, Inc.

Similarly, the juvenile section attorneys serve as a resource, providing regular consultation and support to the trial bar. They also presented at various CLE presentations, including the annual Oregon State Bar Juvenile

Section CLE, the annual Juvenile Law Training Academy in Eugene, and the OCDLA Juvenile Law Section CLE. In addition, Shannon Storey presented on three topics at the ABA Parents' Attorneys Conference held in Washington, D.C. Ms. Storey also participated on the Oregon State Bar task force which is in the process of revising performance standards for juvenile dependency practitioners.

AD inaugurated its first attorney exchange program with the trial bar in 2013. Jed Peterson of OPDS represented a client in the Marion County Circuit Court, and Drew Jackson of the Public Defender of Marion County participated in OPDS team meetings and ultimately argued a case in the Oregon Court of Appeals.

AD hosted an extern from the Willamette University School of Law during the summer of 2013 and plans to institute year-long externships in coming years.

With the recent addition of a Research and IT Director at OPDS, the Appellate Division hopes to expand its outreach to trial practitioners through webinar programs and materials uploaded to the OPDS website.

Legislative Activity. Both the criminal and juvenile sections served as a resource to the 2013 Legislature. Three bills were introduced at the behest of the Appellate Division during the 2013 Legislative Session. Senate Bill 42 provided an appeal provision to the statutory scheme that allows persons convicted of serious felonies the opportunity to obtain DNA testing of evidence. Senate Bill 44 provided a legislative fix to a continuing source of appellate litigation and logistical headaches for the Appellate Division - affixing a due date for filing an amended notice of appeal from amended and supplemental judgments. AD attorneys completed most of the drafting of those provisions, educated stakeholders and legislators regarding the need for the legislation, and testified before both the House and Senate Judiciary Committees in favor of the bills. Both bills easily passed through both chambers and were signed into law by the Governor.

A third bill was drafted and introduced that would have modified the application of Rule 59H of the Oregon Rules of Civil Procedure to criminal cases. The bill was tabled when the rule was independently amended to produce the desired change. A fourth bill relating to a criminal defendant's

eligibility for diversion in driving under the influence cases was discussed with legislative counsel and received favorably; however, the bill was not introduced because a more comprehensive overhaul of the diversion statutes was in progress.

In addition to AD bills, AD lawyers participated in the consideration of a number of criminal bills before the legislature, primarily to provide information to legislators and interested stakeholders. For example, Chief Deputy Shawn Wiley testified (neutrally) during Judiciary Committee hearings on Senate Bill 39, which substantially overhauled a trial court's authority to issue stays of sentence pending appeal in criminal cases. And AD lawyers played a substantial role in discussions concerning efforts to amend or repeal the statute governing speedy trial, providing systemic information and legal analysis as stakeholders negotiated a compromise bill.

Finally, Ms. Storey worked with the Oregon Law Commission to pass SB 622, concerning the confidentiality of juvenile records.

## **6. Executive Director**

In addition to organizing PDSC meetings, service delivery reviews, the office restructure, budget hearing testimony, communication with the Oregon Legislature, weekly meetings of the OPDS Executive Team, bi-monthly OPDS All Staff meetings and providing oversight of statewide contracting and planning for regional meetings with providers across the state, the Executive Director lead and participated in several committees and work groups throughout 2013.

The Public Defense Advisory Group (PDAG), comprised of contract administrators who are viewed as leaders in their communities, met in January and April 2013. The PDAG discussed a range of topics from quality of services, peer reviews, and budget matters to eCourt implementation and possible topics for the 2013 OCDLA Public Defense Management Conference. The Death Penalty Peer Review Panel met in February 2013 to review the newly proposed death penalty certification process. Finally, the Executive Director worked with representatives from OPDS, the Department of Justice, District Attorneys, courts, Department of Human Services and CASA to plan the 2013 Juvenile Law Training Academy (JLTA).

This year's JLTA had a record number of attendees and enjoyed positive reviews. The Executive Director also worked with OCDLA in planning for the 2013 OCDLA Public Defense Management Conference.

During 2013, the Executive Director participated in telephonic and in-person meetings of the National Legal Aid and Defender Association's Research and Data Advisory Committee, as well as the Oregon Juvenile Court Improvement Program. Both of these committees serve as excellent sources of information for continuing improvement efforts for both criminal and juvenile practice in Oregon. The Executive Director also participated as an external member of the Oregon Judicial Department's Audit Committee and the Governor's public safety team meetings. Finally, she is a contributing editor of the *Juvenile Law Reader*, and a member of the JR Justice Loan Review Panel, and OCDLA's Juvenile Law Committee.

The Executive Director also participated in several work groups focused on juvenile law. In January 2013 the Department of Human Services convened a small work group, chaired by former Attorney General Hardy Myers, to discuss representation for the Department of Human Services in dependency proceedings across the state. This group met in response to the decision of some district attorneys to stop providing state representation in these cases. The Executive Director also participated, along with Shannon Storey, in the Oregon Law Commission's juvenile records bill work group, which met several times to propose statutory amendments to clarify rules around access to electronic juvenile court records. Yet another juvenile work group was formed following the passage of House Bill 3363 in the 2013 legislative session; this work group is focused on identifying and removing barriers to permanency for children in the child welfare system. The Executive Director and OPDS Commission member Judge Elizabeth Welch are members of this legislatively created work group, which continues to meet regularly.

### **Challenges for 2014**

OPDS continues to pursue excellence in all aspects of its business. Through consistent training, mentoring, supervision, and annual reviews of lawyers in the appellate division, OPDS is able to ensure quality representation at the appellate level. That said, appellate caseloads remain well above national standards, and staff at OPDS receive compensation that is 3-14% below

comparable positions at other state agencies. OPDS will continue to pursue funding to increase compensation and reduce caseloads to a level more consistent with national standards.

Measuring excellence is more challenging at the trial court level, where there are almost 100 contract providers statewide, in addition to a limited number of hourly providers. Information provided by criminal and juvenile justice stakeholders through annual statewide surveys indicates that the quality of services varies across the state. On the whole, providers are providing good representation, but comments in the survey reveal that more work is needed. Caseloads must be reduced in order to give lawyers time to meet with clients, prepare cases for trial, and ensure a timely appearance at all court proceedings. Additionally, providers need funding to implement training, mentoring, and education programs, address recruitment and retention challenges, and increase compensation. Attorney salaries at non-profit public defender offices are approximately 10-35% below district attorney salaries. Most consortia and law firm providers indicate that their ability to handle private cases in addition to public defense cases has declined significantly over the last ten years, and that they must agree to provide representation in an increasing number of public defense cases each year in order to keep their businesses operating. Lawyers do not have enough time for client communication and case preparation. Finally, adequate compensation for trial court providers continues to be a major concern articulated by all provider types.

OPDS is dedicating more resources to the review of non-routine expense requests, communication with providers regarding quality of services, and is enhancing its ability to assess workload and quality of services at the trial court level. The agency will continue to pursue initiatives and funding to support this work and will be selecting new key performance measures focused on the quality of services at the trial court level. OPDS will also continue to use existing resources and advocate for additional resources to improve compensation for publicly funded lawyers in the criminal and juvenile justice systems, and dedicate resources toward the two other major goals described in its strategic plan: assuring continued availability of qualified and culturally competent public defense providers in every judicial district, and continuing to strengthen the efficiency and management of OPDS and the contracting system.