

Annual Report 2016-2017

PARENT CHILD REPRESENTATION PROGRAM

Parent Child Representation Program

Annual Report 2016-2017

Contents

| | |
|--|----|
| The importance of legal advocacy: Patricia’s story..... | 2 |
| Introduction..... | 2 |
| Summary..... | 4 |
| Notable Observations..... | 4 |
| PCRP Program Goal: Competent and Effective Legal Representation Throughout the Life of the Case..... | 6 |
| I. Indicator: Immediate and consistent access to multi-disciplinary staff..... | 6 |
| II. Indicator: Reasonable caseloads..... | 9 |
| III. Indicator: Representation out of court..... | 10 |
| PCRP Program Goal: Meaningful Representation of Parents and Children at all Proceedings.. | 12 |
| I. Indicator: Shelter hearing representation..... | 12 |
| II. Indicator: Case resolution..... | 13 |
| PCRP Program Goal: Improved Outcomes for Children and Families..... | 17 |
| I. Indicator: Quality representation decreases time to safe permanency..... | 17 |
| II. Indicator: Client satisfaction..... | 22 |
| Conclusion..... | 23 |

The importance of legal advocacy: Jamie's story

Jamie is an Iraq war veteran, mother of two fun-loving boys, and a survivor of domestic violence. Like many veterans, her PTSD symptoms made it difficult for her to manage the challenges of daily life. Her life became increasingly chaotic and unstable as she struggled to find housing, maintain sobriety, and manage her mental health. Eventually, she and the children ended up living in a small trailer parked on the property of a distant relative. The family was holding it together until the boys' abusive father moved up from California. Three weeks later, DHS and police responded to an incident of domestic violence and the boys were removed and placed in stranger foster care.

At the shelter hearing, Jamie met her attorney, Mark Lang, and her case manager, Jillian Rivas-Davilla. Jillian immediately connected Jamie with services for DV victims. Because of Jillian's training and experience, she was able to provide Ms. Wentz with tools to better understand domestic violence and develop healthy boundaries. As a result of Jillian's advocacy, Jamie engaged in treatment on her own and wasn't forced to wait for DHS to make service referrals.

Jamie worked hard in treatment to make lasting change in her life. However, DHS did not make much of an effort to maintain the family. She saw her children, who were living with strangers in foster care, only when DHS was able to provide a visit, 1-2 hours per month. DHS promised to provide more visits, but regularly cancelled them at the last minute. "I tried to be understanding of their staffing and organizational challenges, but they continued to drop the ball" reported Jamie. Jamie missed her boys terribly and knew how traumatic the separation was for the boys. Recognizing the harm to the boys, the foster parents offered to help facilitate more visits.

Introduction

In Oregon, nearly 8000 children are in foster care, all placed with the goal of keeping them safe.¹ State and federal laws require that efforts are made to reunify families, the needs of children in foster care are adequately met, and steps are taken to ensure children do not spend lengthy periods of time languishing in foster care. However, even when necessary, removal of a child from family and placement into foster care is a traumatic experience that often leaves long-lasting impacts on children and families. The foster care experience itself—separation from family, extreme uncertainty, and multiple foster homes—imparts additional traumatization. Even though approximately 60% of children are returned to their families, families can be permanently damaged as a result of experience with the child welfare system.² The 40% of children not reunified with family face lengthy foster care stays; in Oregon, the median time to achieve adoption is 36 months.³

Recent studies show children and parents benefit from good lawyers. High-quality legal representation has been associated with fewer unnecessary removals.

Additionally, families are more likely to: (1) participate in court hearings; (2) engage in meaningful services; (3) have frequent family visitation; (4) minimize time in foster care; (5) achieve permanency sooner; and (6) reunify successfully. These outcomes improve child and family well-being and diminish harm.⁴ Reduced foster care stays have the additional benefit of saving states

¹ Oregon Child Welfare Data Set report CM.02 Placement Type (of those in care) (March 31, 2018),

https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=250.

² Oregon Child Welfare Data Set report CM.05.1 Federal Discharge Reason (of those discharged) (2016-2017),

https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=116.

³ Oregon Child Welfare Data Set report CM.15 Median Length of Stay at Foster Care Exit (2016-2017),

https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=248.

⁴ Courtney, M. E. & J.L. Hook, Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care, Children and Youth Services Review 34(7) (2012), <http://partnersforourchildren.org/resources/publications/evaluation-impact-enhanced-parental-legal-representation-timing-permanency>. Center for Family Representation, <http://www.cfrny.org/our-work/training-and-technical-assistance>. Oregon Task Force on Dependency Representation, Task Force on Dependency Representation Final Report (July 2016)

http://www.oregon.gov/gov/policy/Documents/LRCD/Oregon_Dependancy_Representation_TaskForce_Final_Report_072516.pdf, US DHHS ACF Children's Bureau, Information Memorandum ACYF-CB-IM-17-02 on High Quality Legal Representation for All Parties in Child Welfare Proceedings (January 17, 2017), <https://www.acf.hhs.gov/sites/default/files/cb/im1702.pdf>.

Jamie’s attorney, Mark Lang, held DHS accountable. He demanded DHS offer more visits. When DHS failed to respond, refused to schedule-make up visits, and continued to fall short, Mark motioned the court for an order expanding visits. The court required DHS to provide more frequent and unsupervised visits—or be held in contempt.

Once visits expanded, a road map to reunification was created and the boys starting spending time at home. Four months after the court’s order expanding visits, the court dismissed the case.

“Jillian and Mark were invaluable to me. They were responsive and available when I needed them. This case was frustrating and terrifying. DHS delivered mixed messages and ignored my requests for help. It was not fair that months went by where I barely saw the boys. Thankfully, Mark and Jillian were always on top of things. They found services for me, got visits expanded, and protected my rights. They did so much to help me when DHS was falling short.”

-Jamie

on the highly successful Washington State Parent Representation Program, which, over the past 18 years, has increased the speed at which children achieve permanency and reduced the use of foster care.⁷

Linn and Yamhill counties were initially selected as the pilot PCRCP sites. The program began in August 2014 and, with cost savings gained from rolling out the program in the initial two counties, was expanded to Columbia County in January 2016. Findings from the first two years show an increase in the frequency of family reunifications, a reduction in the time children spend awaiting permanency, and a reduced use of foster care. PCRCP lawyers are expected to provide high quality legal representation, zealously protecting the legal rights of parents and children while engaging in client-driven collaborative problem solving.

In recognition of the potential for improved outcomes and cost savings, the 2018 Legislative Assembly funded an expansion of the program to two additional counties: Coos and Lincoln.

money.⁵

Oregon’s Parent Child Representation Program (PCRCP) provides high-quality legal representation for parents and children. The PCRCP is designed to improve legal representation for parents and children through reduced attorney caseloads, rigorous quality assurance, and, in complex cases, the use of social workers⁶ as part of the legal representation team. The PCRCP is modeled

⁵ American Bar Association Center on Children and the Law, Investment that Makes Sense, http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/At-a-glance%20final.authcheckdam.pdf.

⁶ Because the term “social worker” is a protected term requiring licensure, within the PCRCP the term “case manager” is used to denote social service professionals who serve on the legal team.

⁷ Courtney, M. E. & J.L. Hook, Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care, Children and Youth Services Review 34(7) (2012), <http://partnersforourchildren.org/resources/publications/evaluation-impact-enhanced-parental-legal-representation-timing-permanency>.

Summary

This 2016-2017 report, the third Parent Child Representation Program Annual Report, utilizes the same methodology as its predecessors. The report relies on seven key indicators and fifteen data measures to assess the PCRCP. The majority of indicators within the PCRCP report were recommended by the American Bar Association's 2015 evaluation tool for legal representation in dependency cases, *Indicators of Success for Parent Representation*, that was developed, validated and tested by eight states over a three-year period.⁸

The report assesses the effectiveness of the Parent Child Representation Program model of legal representation in juvenile dependency cases. The PCRCP model contains the following core components: (1) a caseload limit of 80 open cases; (2) multidisciplinary representation through the use of social workers (case managers) in 10-15% of cases; (3) heightened accountability—lawyers track and report their time and case activities; and (4) oversight, training, and support provided by an attorney program manager.

Over the past two years, Oregon's child welfare system has come under intense scrutiny due to chronic management failures, high caseloads, and a severe shortage of adequate foster homes. In January 2018, the Secretary of State released a critical audit that questioned the safety of children involved with the child welfare system due to systemic poor management, inadequate and insufficient foster homes, and pervasive staffing challenges.⁹

The system inadequacies raised in the audit directly impact the parents and children represented by PCRCP lawyers and, to some extent, are reflected in the data contained in this report. For example, Senate Bill 942 (2017) effectively

⁸ American Bar Association Center on Children and the Law, *Indicators of Success for Parent Representation* (2015), http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/Indicators-of-Success.authcheckdam.pdf.

⁹ Secretary of State Audit Report on Foster Care in Oregon (January 2018) <http://sos.oregon.gov/audits/Documents/2018-05.pdf>.

ended the agency's Differential Response program that emphasized keeping families together and sought to divert low-risk families away from formal assessments and court proceedings.¹⁰ The 2016 Federal Child and Family Services Review identified deficiencies in the timely investigation of child abuse reports and, as a result, DHS pressed to complete more child abuse and neglect investigations in a timely manner and to reduce existing backlogs.¹¹ Staff turnover and chronic understaffing led to a large proportion of inexperienced staff in need of better training and supervision.¹² The policy shifts and staffing challenges described above influence case outcomes, caseloads, and timely resolution of cases. Because legal representation of parents and children is so closely intertwined with the functioning of the child welfare system, the most competent attorney is challenged to deliver positive outcomes when the system itself is in crisis.

Even with the pervasive challenges posed by the child welfare system, positive trends continue in the Parent Child Representation Program counties.

Notable Observations

Family reunification

2016-2017: Within the PCRCP counties, very young children are much more frequently reunified with family. In the PCRCP counties, an average of 75% of children ages 0-5 are reunified with family whereas, statewide 61% are reunified.¹³ In addition, children in PCRCP counties are reunified more quickly. In the PCRCP counties, the average time to reunification is 7 months whereas, statewide the average time to reunification is 12 months.¹⁴

Program Trends: Since the inception of the PCRCP program, the time to reunification in PCRCP counties has been consistently decreasing. Currently, in the PCRCP counties, the average time to reunification is 7 months while the state average remains 12 months.¹⁵ During the

¹⁰ *Supra*, n. 9.

¹¹ *Supra*, n. 9. US Department of Health and Human Services Administration Child and Family Services Review (2016), <http://www.oregon.gov/DHS/CHILDREN/Documents/Oregon%20CFPSR%20Round%203%20Final%20Report%202016.pdf>.

¹² *Id.* at 11.

¹³ Indicator V. Case resolution, Age of children.

¹⁴ Indicator VI.(a): Quality representation decreases time to safe permanency, Median time to reunification.

¹⁵ Average change in PCRCP county time to reunification per year, 2014-2017, Oregon Child Welfare Data Set report CM.15 Median Length of Stay at Foster Care Exit, Of children discharged, the

first two years of the PCRCP, the frequency of family reunification was higher than the statewide average. In the third year of the PCRCP; the reunification rate declined in PCRCP counties and across the state.¹⁶

Permanency for children

2016-2017: Within the PCRCP counties, an average of 77% of children attain permanency within 24 months whereas, statewide 66% of children attain permanency within 24 months.¹⁷

Program trends: Before the start of the PCRCP, Linn, Yamhill, and Columbia counties had rates lower than the statewide average. In 2016, all had rates consistent with the statewide average and by mid-2017, the percentage of children achieving permanency in 24 months in both counties greatly exceeded the statewide average. Over the length of the PCRCP, the percentage of children achieving permanency within 24 months increased by a relative 10% whereas, statewide the increase was 3%.¹⁸

Foster care

2016-2017: Within the PCRCP counties, the number of children in foster care in Columbia County declined. Conversely, Yamhill and Linn counties saw an increase in the foster care population, particularly in the first half of 2017. Statewide, the number of children in foster care also increased.¹⁹

Program trends: Over the length of the PCRCP, the foster care population in the PCRCP counties decreased by an average of 8.7% per year whereas, statewide the population increased by

an average of 1.7% per year.²⁰ The program trend shows a decrease in foster care usage throughout the length of the program.

In summary, the data elements contained within this report paint a persuasive picture as to the effect of quality legal representation on case outcomes. Three years' worth of observations and data analysis suggest some baselines in outcome measures. Observable trends include more frequent and more rapid reunification of families, faster permanency for children, and reduced use of foster care.

Notwithstanding the current struggles of the child welfare system, positive outcomes have continued in PCRCP counties.

median number of months to discharge (median is middle score where half were more and half less), by admin level, https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=248.

¹⁶ *Supra*, n. 14.

¹⁷ Indicator VI.(c). Quality representation decreases time to safe permanency, Time to achieve permanency.

¹⁸ Average rate of change in PCRCP county permanency within 24 months 2014-2017, Oregon Child Welfare Data Set report PA.08 Permanency in 24 months (of those entered care 24 months ago), https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=111.

¹⁹ Indicator VI.(e). Quality representation decreases time to safe permanency, Number of children in foster care.

²⁰ Average rate of change in PCRCP county foster population per year, 2014-2017, Oregon Child Welfare Data Set report CM.02 Placement Type (of those in care), The number/percent of children on the caseload on the last day of each report period, by the placement type they were in on that day, over time. Report provided by DHS Office of Business Intelligence 10.25.2017.

PCRP Program Goal: Competent and Effective Representation Throughout the Life of the Case

I. Indicator: Immediate and consistent access to multi-disciplinary staff

a. Access to and use of case managers

Measure: Percentage of attorneys that have access to case managers as part of the legal team and percentage of cases in which a case manager is used.²¹

Explanation: When lawyers and social workers collaborate to help parents succeed in reunifying with their children, the entire child welfare system benefits. The use of social workers as part of the legal representation team is recommended by the American Bar Association, the National Juvenile Defender Center, the National Association of Counsel for Children, and the Oregon State Bar.²² The 2016 Report of the Oregon Task Force on Dependency Representation highlights access to social workers as a key component of quality parent and child representation.²³

Case managers, who fulfill a function similar to a social worker, work closely with PCRP attorneys to assess and address client needs, motivate parents, develop alternative safety and visitation plans, and identify solutions to expedite permanency for children. Case managers are a limited resource, and typically resolve issues during a particularly difficult stage of a case, rather than throughout the entire case. Because case managers are part of the legal representation team and their work falls within the scope of attorney-client privilege, they are more easily able to develop trusting relationships with parent clients.

Data: In the PCRP, case managers work as part of the legal team on 10-15% of open cases and are available to work with clients from the moment an attorney is appointed. From July 2016 through June 2017, PCRP case managers served 311 clients, an increase of 132 clients over the previous year. This is a 73% increase in clients served by case managers versus the previous year and is reflective of the increased case manager capacity as a result of adding Columbia County to the PCRP program in 2016.

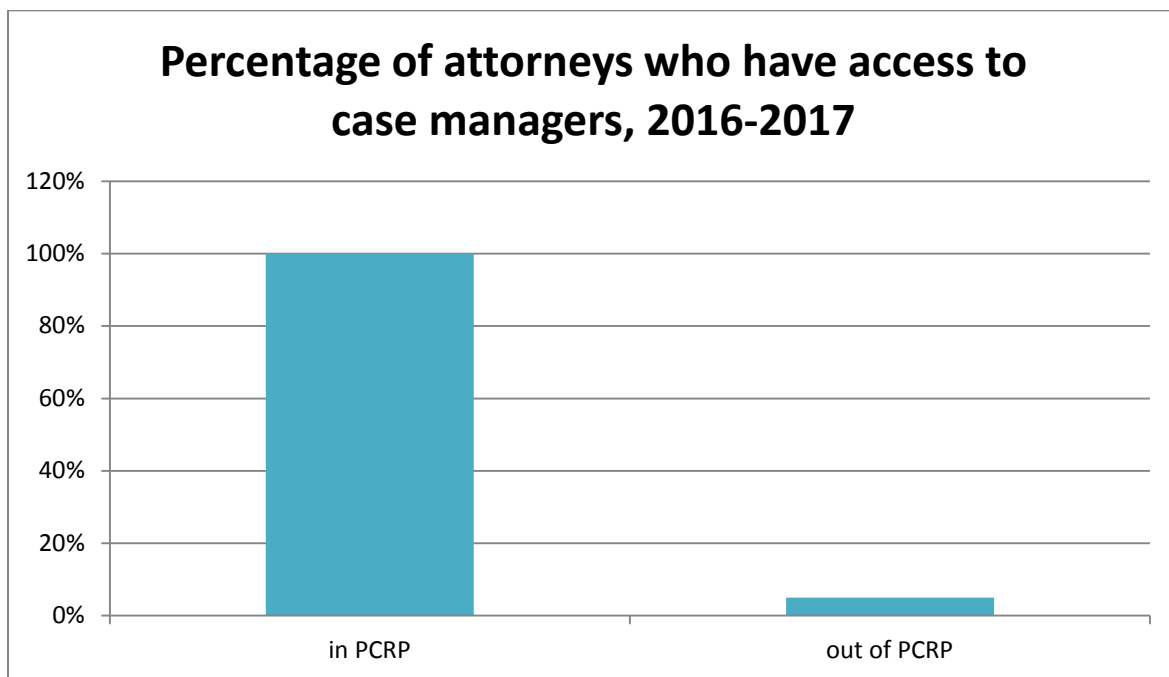
During 2016-2017, 100% of the PCRP attorneys had access to case managers as part of the legal representation team. During the same period, 5% of the juvenile attorneys who represented parents and children in dependency cases statewide had readily available access to social workers or case managers.²⁴ This is a decrease from 2015-2016, when 7% of juvenile attorneys statewide had access to social workers or case managers.

²¹ Data sources: PCRP attorney activity reports, case manager assignment spreadsheet, OPDS contract analysts.

²² See American Bar Association, Standards of Practice for Attorneys Representing Parents http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/parentrepresentation/parent_standards_pa_ssed.doc, National Juvenile Defender Center, Juvenile Defense Standards <http://njdc.info/wpcontent/uploads/2013/09/NationalJuvenileDefenseStandards2013.pdf>, National Association of Counsel for Children, Recommendations for Representation of Children http://c.ymcdn.com/sites/www.naccchildlaw.org/resource/resmgr/Standards/NACC_Standards_and_Recommend.pdf, Oregon State Bar Report of the Task Force on Standards of Representation in Juvenile Dependency Cases http://www.osbar.org/_docs/resources/juveniletaskforce/JTFR3.pdf.

²³ Oregon Task Force on Dependency Representation, *Task Force on Dependency Representation Final Report* (July 2016) http://www.oregon.gov/gov/policy/Documents/LRCD/Oregon_Dependency_Representation_TaskForce_Final_Report_072516.pdf.

²⁴ In a few non-PCRP jurisdictions, juvenile attorneys have access to social service professionals. A couple of public defender offices maintain a social worker on staff. Klamath Defenders, the public defense provider in Klamath and Lake counties, utilizes case managers in a role similar to that of the PCRP.



b. Access to and use of expert witnesses

Measure: Percentage of attorneys that have access to expert witnesses and percentage of cases in which an expert witness is requested and determined by OPDS to warrant funding as a necessary and reasonable expense.²⁵

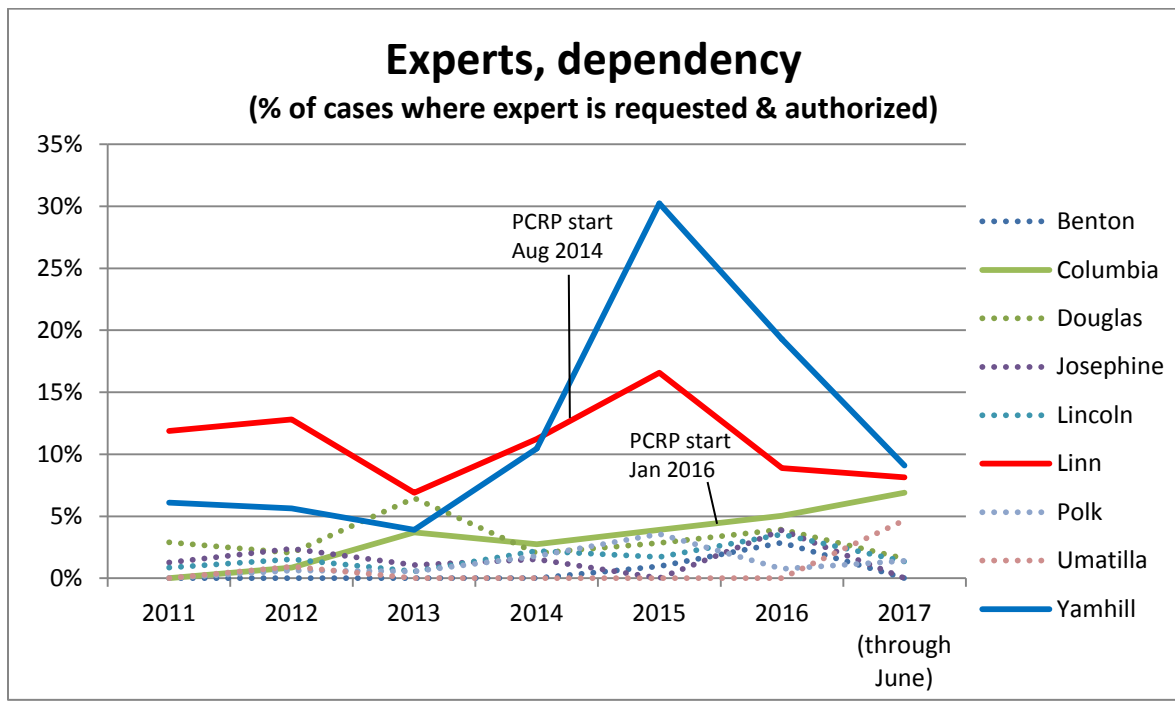
Explanation: Each attorney must have access to independent expert analysis to assess and present the client’s case and to challenge the state’s case. The right to court appointed counsel at state expense includes necessary and reasonable fees and expenses for the investigation, preparation, and presentation of the case.²⁶

Data: All juvenile public defense attorneys have access to non-routine expense funds for case investigation, preparation, and presentation. In order to receive funding authorization, the attorney must document that the funds are both necessary and reasonable in the case at issue. Although all juvenile attorneys may access funds for experts, this resource is not widely utilized. In the PCRCP, attorneys are expected to request these resources where appropriate.

During 2015, in comparably sized counties, an expert was requested and authorized by OPDS in an average of 2% of juvenile dependency cases. In 2016, this number increased to 3% but, by June 2017, declined to 2%. In contrast, during 2016, in PCRCP counties, an expert was requested and authorized by OPDS in an average of 11% of dependency cases. In the first 6 months of 2017, this number is 8%.

²⁵ Data sources: PCRCP attorney activity reports, OPDS non-routine expense data, OPDS case credit reports.

²⁶ ORS 135.055(3)(a) (2016).



c. Access to and use of investigators

Measure: Percentage of attorneys that have access to investigators and percentage of cases in which an investigator is requested and determined by OPDS to warrant funding as a necessary and reasonable request.²⁷

Explanation: Each attorney must independently investigate the state’s allegations and seek evidence that challenges the state’s case. The right to court appointed counsel at state expense includes necessary and reasonable fees and expenses for the investigation, preparation, and presentation of the case.²⁸

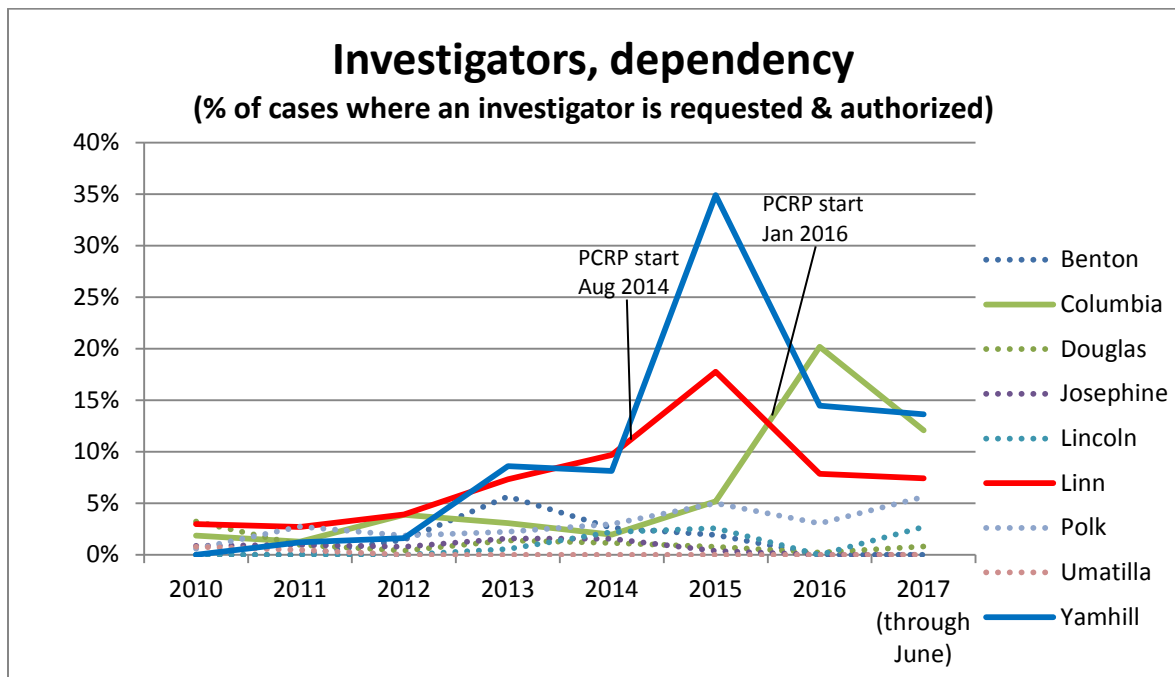
Data: All juvenile public defense attorneys have access to non-routine expense funds for case investigation, preparation, and presentation. In order to receive funding authorization, the attorney must document that the funds are both necessary and reasonable in the case at issue. Although all juvenile attorneys may access funds for investigators, this resource is not widely utilized. In the PCRP, attorneys are expected to request these resources where appropriate.

During 2015, in comparable counties, an investigator was requested and authorized by OPDS in an average of 2% of juvenile dependency cases. In 2016, this number dropped to 1% and in the first half of 2017 has increased back to 2%. In contrast, during 2016, in PCRP counties, an investigator was requested and authorized by OPDS in an average of 14% of juvenile dependency cases. In the first six months of 2017, this number is 11%. PCRP attorneys report the lack of available investigators as a reason for reduction in investigator usage.²⁹

²⁷ Data sources: PCRP attorney activity reports, OPDS non-routine expense data, OPDS case credit reports.

²⁸ *Supra*, n.26.

²⁹ The state public defense hourly rate is \$29 for investigative services. This rate is unchanged since 2014 when it was raised from \$28/hour.



II. Indicator: Reasonable caseloads

Measure: Caseload limit for full- and part-time PCRCP attorneys; percentage of PCRCP attorneys who fall within the limit.³⁰

Explanation: Mechanisms to control attorney caseload are one of—if not the—most important components of strong parent and child representation.³¹ A reasonable workload allows attorneys to provide standards-based legal representation and meet their ethical obligations. Chronic underfunding of Oregon’s public defense system has led to excessive attorney workloads for most public defenders including juvenile attorneys. As a result, outside of the PCRCP counties, attorneys struggle with high caseloads and are forced to triage work, at the expense of outcomes for clients, to accommodate existing resources.³²

Data: Within the PCRCP, attorneys are limited to a full caseload of no more than 80 open cases.³³ The PCRCP caseload limitation requires attorneys to limit the number of non-PCRCP cases they handle, including privately retained work, so that they remain within the caseload limit. Lawyers within the PCRCP are expected to have frequent client contact, attend all case-related meetings, conduct independent investigations throughout the life of the case, and advocate at all court and Citizen Review Board hearings at every stage of the case.

³⁰ Data source: PCRCP attorney activity reports, Oregon e-Court case information system.

³¹ Laver, *American Bar Association Children’s Rights Litigation, Improving Representation for Parents in the Child-welfare system* (Oct. 2013) <http://apps.americanbar.org/litigation/committees/childrights/content/articles/fall2013-1013-improving-representationparents-child-welfaresystem.html>, Duquette and Darwall, *Child Representation in America: Progress Report from the National Quality Improvement Center*, 41 Fam. L.Q. 87 (Spring 2009).

³² Levy, Miller and Deitrick, *The Future of Public Defense in Oregon: The Discussion Continues* (December 13, 2017) <http://www.oregon.gov/OPDS/docs/Agendas/12132017.pdf>.

³³ An open caseload of 80 cases is assumed to be reasonable given the type of work and quality expectations of the PCRCP. However, 80 cases may be too many to facilitate high-quality legal representation. The Family Justice Initiative, a partnership of the ABA Center on Children and the Law, Casey Family Programs, and the Children’s Law Center of California, recommend caseloads no higher than 60. Heimov, Laver and Carr, *Introducing the Family Justice Initiative*, Child Law Practice Vol. 36 No. 3 (2017). Nationally, caseload limits in dependency cases range from 60 to 100, with most falling in between. See American Bar Association Parent Attorney National Compensation Survey (2015) https://www.oregon.gov/gov/policy/Documents/LRCD/Meeting1_102815/National/Parent_representation/2015_Parent_Attorney_Compensation_Survey.pdf.

During 2016-2017, juvenile attorneys in three of Oregon's 36 counties, Linn, Yamhill, and Columbia, were subject to a caseload limit of 80 open cases. In the remainder of the counties, attorneys did not experience explicit caseload limits.³⁴

III. Indicator: Representation out of court

a. Time spent in contact with clients outside of court hearings

Measure: Time spent with clients, outside of the courtroom, as reported by the PCRCP attorneys and PCRCP case managers.³⁵

Explanation: Establishing and maintaining a relationship with the child client is the foundation of representation. Meeting with the child personally and regularly allows the lawyer to develop a relationship with the client and to assess the child's circumstances and developmental stages. The Oregon State Bar Performance Standards indicate that lawyers should have contact with child clients whenever a significant case event occurs and at least every quarter.³⁶

Gaining a parent client's trust and establishing ongoing communication are two essential aspects of representing the parent. The job of the lawyer extends beyond the courtroom and ongoing client contact is an integral component of effective legal representation. The Oregon State Bar Performance Standards require a parent's attorney to establish in-person meetings or telephone calls and to give the parent client sufficient time to ask questions and consider alternatives.³⁷

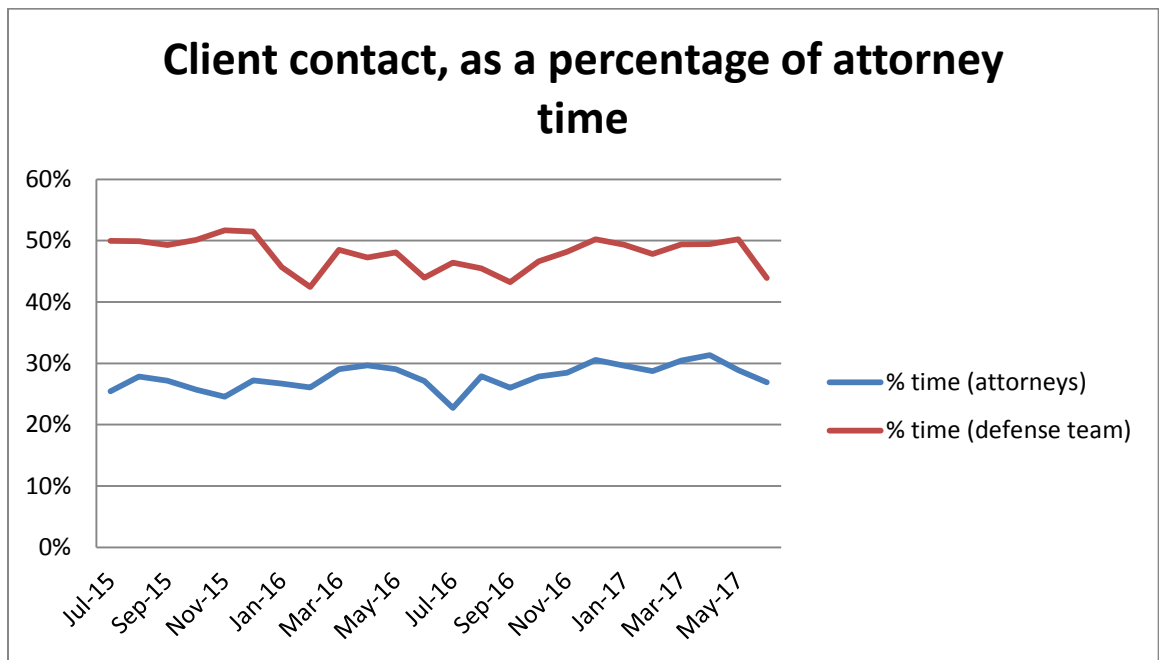
Data: The goal of the PCRCP is for attorneys to spend 1/3 of their time with clients outside of the courtroom. From July 2016-June 2017, the 22 attorneys in the PCRCP program in Linn, Yamhill and Columbia counties spent an average of 28% of their reported time meeting with clients. However, case managers also work with clients as part of the legal representation team in complicated cases. The use of case managers who work with attorneys to address non-legal barriers to 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. If the time case managers spend in direct service is added to the time attorneys spend with clients, an average of 48% of the time invested by the defense team from July 2016-June 2017 is spent with clients or in direct client service.

³⁴ The issue of high caseloads for public defenders has been repeatedly identified as a concern. Despite a decade's worth of effort to improve quality, excessive workloads continue to be a primary obstacle to the delivery of quality legal services. Workload should never be so large as to interfere with the delivery of quality representation. The 2016 Report of the Oregon Task Force on Dependency Representation recommends that all attorneys who represent parents and children in dependency cases have caseload caps. See Levy, Miller and Deitrick, *The Future of Public Defense in Oregon: The Discussion Continues* (December 13, 2017) <http://www.oregon.gov/OPDS/docs/Agendas/12132017.pdf>, American Bar Association, *Ten Principles of a Public Defense Delivery System*, https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_te_nprinciplesbooklet.authcheckdam.pdf, Oregon Task Force on Dependency Representation, *Task Force on Dependency Representation Final Report* (July 2016) http://www.oregon.gov/gov/policy/Documents/LRCD/Oregon_Dependency_Representation_TaskForce_Final_Report_072516.pdf.

³⁵ Data source: PCRCP attorney activity reports, PCRCP case manager activity reports.

³⁶ Oregon State Bar Report of the Task Force on Standards of Representation in Juvenile Dependency Cases http://www.osbar.org/_docs/resources/juveniletaskforce/JTFR3.pdf.

³⁷ *Id.*



b. Attorney presence at key case non-court events

Measure: Number of case-related meetings attended; time spent in case-related meetings. Attorney presence at case-related meetings from a stakeholder perspective.³⁸

Explanation: Lawyers should actively engage in decision-making meetings. Decisions made in out-of-court case planning meetings play a critical role in timely and effective case resolution.

Attorney advocacy at case planning meetings is an essential part of quality legal representation.³⁹ PCRCP attorneys are expected to attend case-related meetings unless a court appearance is scheduled at the same time.

Data: From July 2016-June 2017, PCRCP attorneys in Linn, Yamhill and Columbia counties attended a total of 2,058 case-related meetings, an average of 11 meetings per month per attorney. The monthly average number of meetings is roughly the same as during 2015-2016. At times, a staff assistant or case manager may attend a case-related meeting at the attorney’s request. However, for purposes of this report, only attorney attendance at meetings is reported.

Although the level of PCRCP attorney participation in case-related meetings is significant, according to stakeholders attendance still needs improvement. In August 2016, OPDS surveyed juvenile court stakeholders. When asked about attorney participation in case-related meetings, 61% indicated that all or most attorneys regularly participate in out-of-court meetings.

³⁸ Data source: PCRCP attorney activity reports, August 2016 PCRCP Stakeholder survey results, January 2017 PCRCP Stakeholder survey results.

³⁹ *Supra*, n. 23.

PCRP Program Goal: Meaningful Representation of Parents and Children at all Proceedings

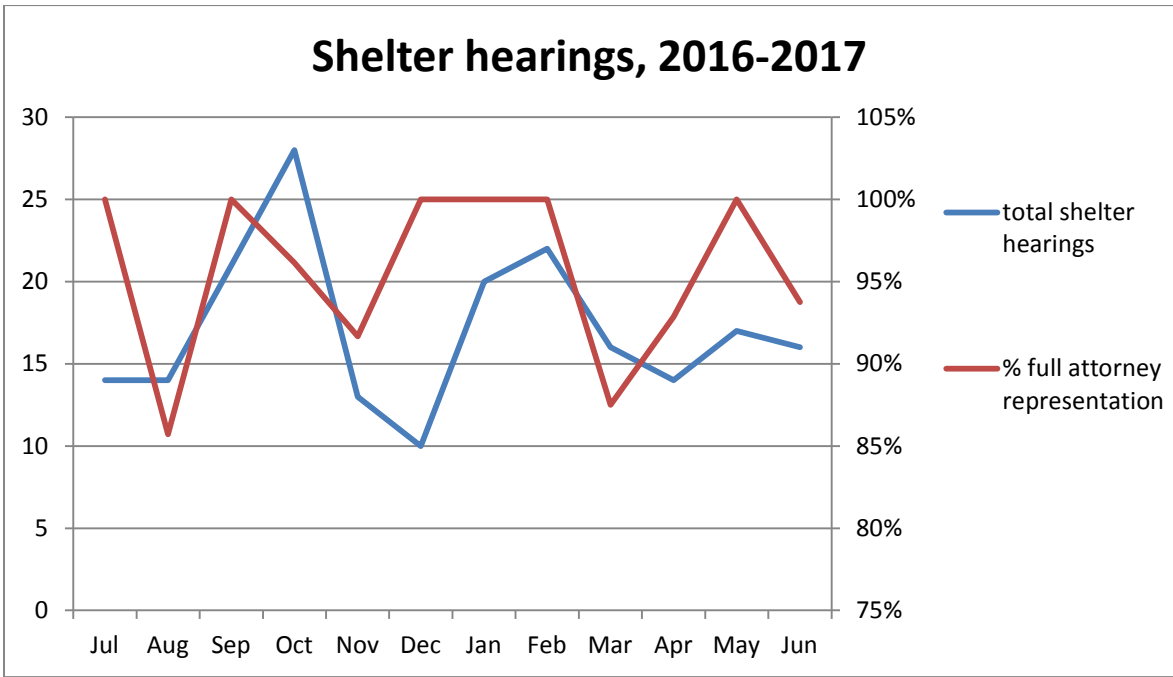
I. Indicator: Shelter hearing representation

Measure: Percentage of parties represented by an attorney at shelter hearings.⁴⁰

Explanation: PCRP attorneys are required to provide representation at the initial hearing, called a shelter hearing, in each case. Prior to the PCRP, attorneys in Linn, Yamhill, and Columbia counties were not consistently present at shelter hearings and, as a result, parents attended these hearings, where children were often removed from their care, without an advocate. And children, who have their own legal rights and often substantial needs, had no independent voice in the proceeding.

As a result of the PCRP, parents and children are now consistently represented at initial shelter hearings by attorneys who have access to discovery and, in most cases, meet with their clients before the hearings. Research underscores the importance of early engagement in juvenile court cases. Families are more likely to be reunified when parents, mothers in particular, and attorneys are present and involved in early stage hearings. Children who have attorneys appointed early in the case are more likely to achieve faster permanency.⁴¹ The direction a case takes early on often predicts whether a child will return home.

Data: Between July 2016 and June 2017, 96% of the time PCRP attorneys have been present, on behalf of all parties, at shelter hearings. This number has increased from 92% between July 2015 and June 2016.⁴²



⁴⁰ Data source: PCRP attorney activity reports, Oregon e-Court case information system.
⁴¹ National Council of Juvenile and Family Court Judges, *Effects of Parental and Attorney Involvement on Reunification in Juvenile Dependency Cases*, PPCD Research Snapshot (August 2011).
⁴² The Juvenile Court Improvement Program’s Model Shelter Hearing Protocol emphasizes consistency for shelter hearings: a consistent docket time, a consistent discovery process, and orders that are consistent with the Model JCIP Shelter Order. See <http://www.courts.oregon.gov/programs/jcip/EducationMaterials/model/ShelterProtocolFinal.pdf>.

II. Indicator: Case resolution

Measure: Discharge reason for those children leaving foster care.⁴³

Explanation: High-quality legal representation for parents, where attorneys have adequate time to devote to their client's case and parents have access to independent social workers as part of their legal team, has been shown to reduce the time children spend in foster care. An evaluation of Washington State's Parent Representation Program, which began in 2000 and is similar to the PCRCP, has shown that quality legal representation increases the frequency of family reunification while reducing the time to reunification.⁴⁴

Data:

Family Reunification: The State of Oregon expresses a strong preference that children live in their own homes with their own families when possible.⁴⁵ Oregon's child welfare system is facing unprecedented challenges. As result of an increasing need for child welfare services and decreasing options for out of home care, some children are being placed in hotels while others receive insufficient or inadequate services.⁴⁶ Foster care itself is a risk factor for health problems in children. Research shows that foster children exhibit a higher prevalence of chronic physical health, behavioral health, and dental health problems that have sometimes go unaddressed.⁴⁷

From 2015 to 2016, the statewide percentage of children exiting foster care to reunification was 61%. From 2016 to 2017, statewide discharge to reunification decreased by 1%, to 60%. In the PCRCP, from 2015 to 2016, the percentage of children exiting foster care to reunification increased from 61% to 67%. From 2016 to 2017, PCRCP county discharge to reunification decreased to an average of 53%.

From 2015 to 2016, within the PCRCP and across the state, the percentage of children reunifying with family increased. However, from 2016 to 2017, both the statewide and PCRCP percentages of children reunifying with their families decreased. In Columbia County from 2016 to 2017, the percentage of children reunifying with family actually increased, similar to the changes seen in the second year of the PCRCP program for both Linn and Yamhill counties.

This change in the rate of reunification could be due to statewide practices influenced by DHS, societal trends such as an increase in opiate use, or the scarcity of resources in conjunction with an over-burdened child welfare system.⁴⁸ It could also be an effect of the PCRCP in the second year of the program, as the trends exhibited in Columbia County are similar to previous years in Yamhill and Linn counties.

⁴³ Data source: Oregon Child Welfare Data Set report CM.05.1 Federal Discharge reason (of those discharged) https://om.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=116. This report replaced CM.05 Discharge Reason (of those discharged) that was used in the 2014-2015 and 2015-2016 PCRCP reports. According to DHS, the report criteria is unchanged; the difference in reports is a result of filtering options.

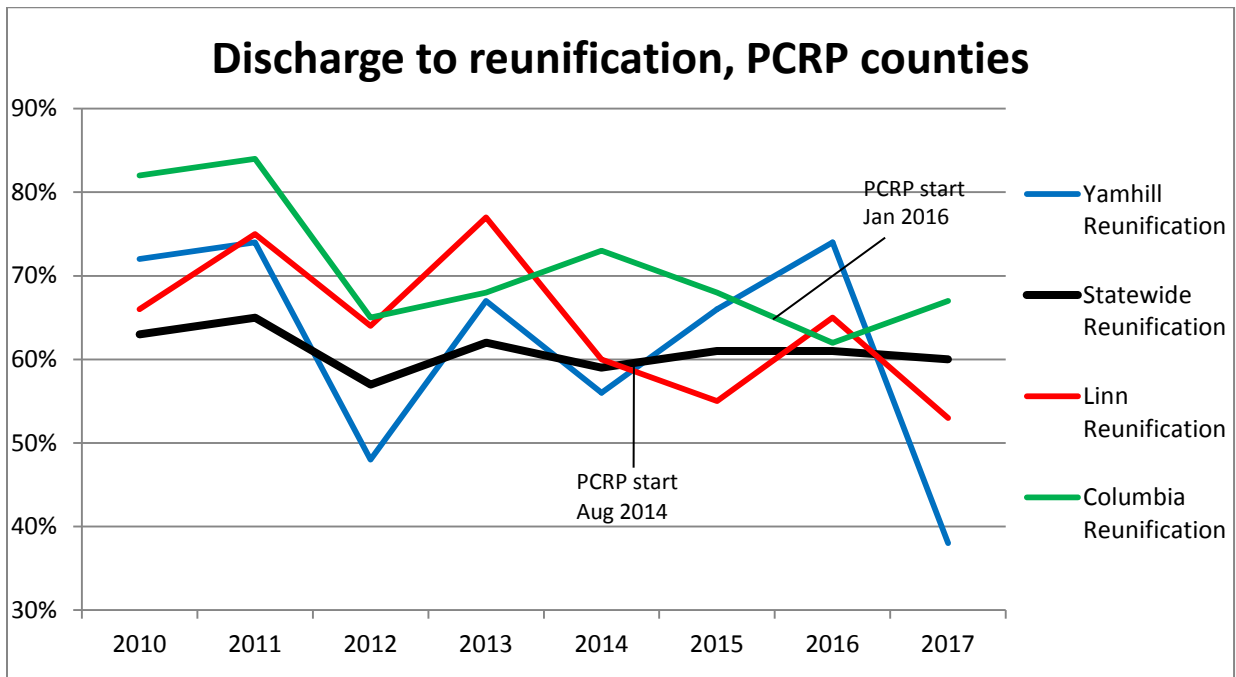
⁴⁴ Courtney, M. E. & J.L. Hook, *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care*, Children and Youth Services Review 34(7) (2012), <http://partnersforourchildren.org/resources/publications/evaluation-impact-enhanced-parental-legal-representation-timing-permanency>.

⁴⁵ ORS 419B.090(5) (2016).

⁴⁶ SEIU Issue Brief, *Oregon Child Welfare: A System in Crisis* (2017) <https://olis.leg.state.or.us/liz/2017R1/Downloads/CommitteeMeetingDocument/116042>. Bernstein, *Dozens of Oregon Children Still Staying in Hotels while Awaiting Foster care*, Oregonlive (June 27, 2017) <http://www.google.com/search?q=oregon+foster+children+nhotel&sourceid=ie7&rls=com.microsoft:en-US:IE-Address&ie=&oe=>.

⁴⁷ Health Share of Oregon, Foster Care System Navigation, <http://www.healthshareoregon.org/transforming-health-together/care-innovations/maternal-child-and-family-wellness/foster-care-system-navigation>.

⁴⁸ Ehrlich, *Foster Care Rates Skyrocketing Amid Drug Addiction in Southern Oregon*, nrtoday.com (August 6, 2017) https://www.nrtoday.com/news/health/foster-care-rates-skyrocketing-amid-drug-addiction-in-southern-oregon/article_2371180d-9b95-518d-b393-a6065227eb36.html.

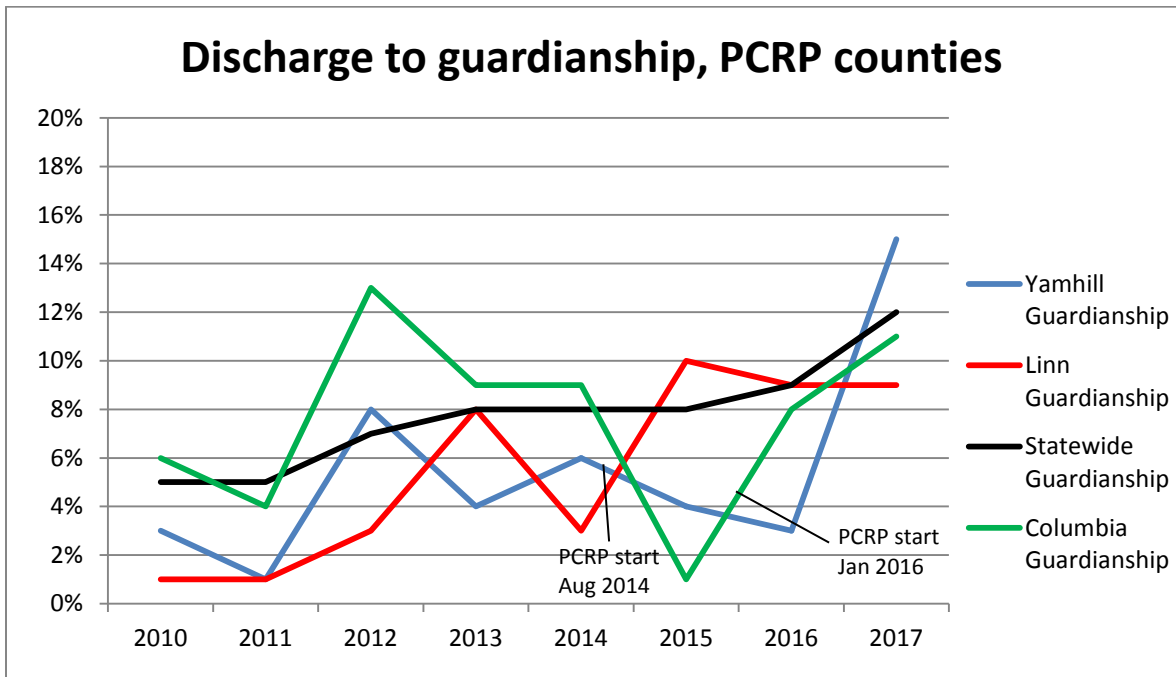


Guardianship: Guardianship is an important measure of permanence that allows children to be discharged from foster care and has the added benefit of maintaining the legal parental relationship between the child and his or her birth parents.⁴⁹ It is particularly effective for older children who would have to consent to adoption and have connections with biological family.

The statewide percentage of children who entered a guardianship upon leaving foster care has been increasing steadily since 2010. In 2010, 5% of children entered guardianships, and by June 2017, the number increased to 12%.

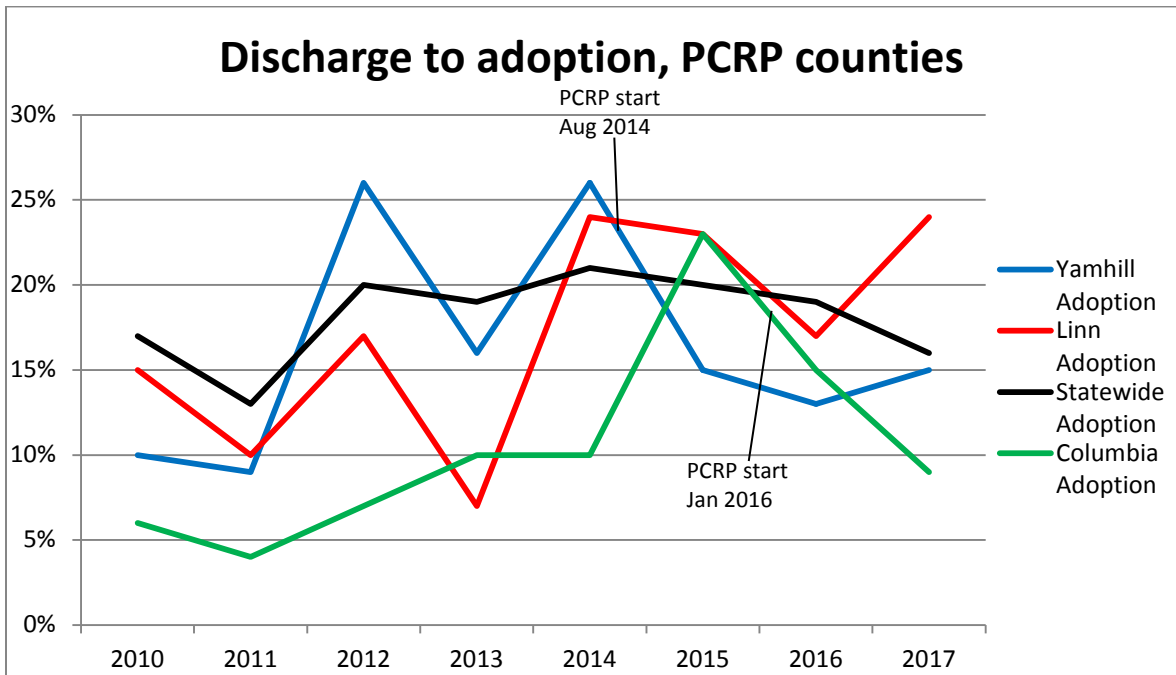
Use of guardianship in the PCRP counties appears to encompass a variety of factors including age of the child and local practice. The use of guardianship as a permanent plan is variable because both reunification and adoption should be fully considered before guardianship. Additionally, guardianship is more likely when children are older. In Linn County, the overall guardianship rate for 2016 is 10% and through June 2017 is 9%, slightly lower than the statewide average. Conversely, in Yamhill County, the overall rate was 3% in 2016 and through June 2017 is 15%, three percent above the statewide average. In Columbia County, the guardianship rate of 2016 was 8%, and through June 2017 it was 11%, lower than the statewide average.

⁴⁹ Guggenheim and Sankaran, *Representing Parents in Child Welfare Cases: Advice and Guidance for Family Defenders* (2015).



Adoption: Children have a legal right to permanency with a safe family.⁵⁰ For some children, adoption is the most permanent alternative for children after reunification. Between 2014 and June 2016, the statewide percentage of children discharged to adoption declined. From 2015-2016, the statewide rate of decline was 5%. From 2016 to 2017, the statewide adoption rate declined by another 16%.

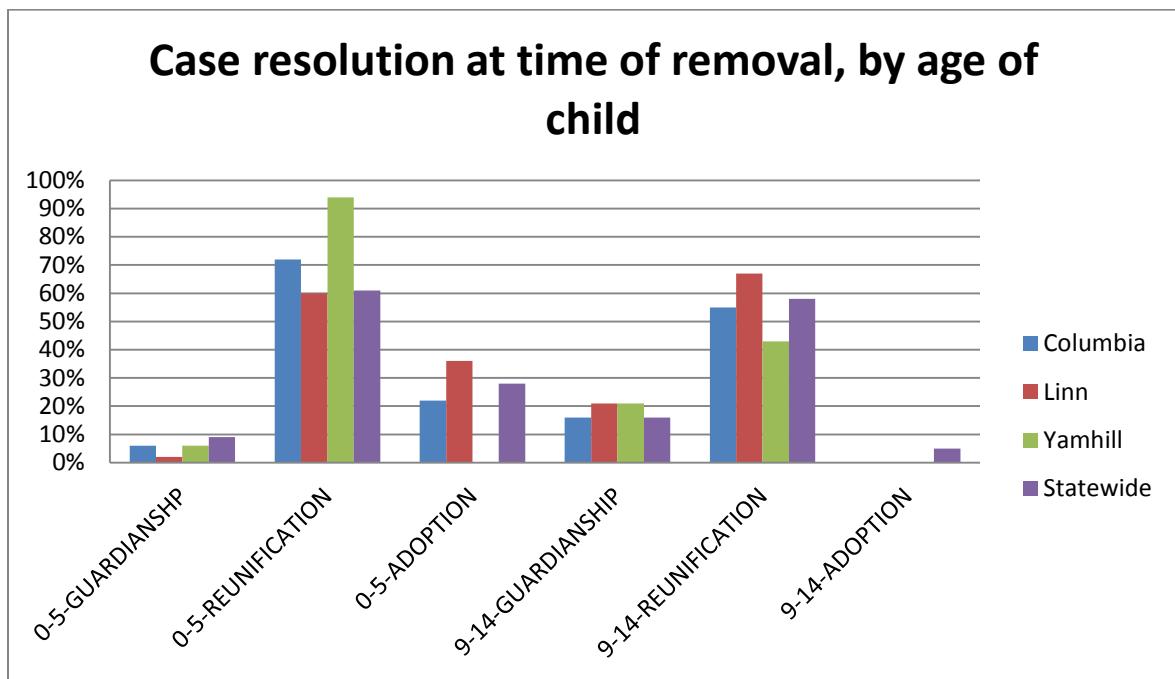
The decline in the number of children adopted is offset by the number of children reunified with families and the number of children discharged to guardianship. In the PCRP counties, the percentage of children who discharge from foster care to adoption decreased in the first three years of the program, however, recent data shows an uptick in the number of children adopted in 2017.



⁵⁰ ORS 419B.090(2) (2016).

Age of children: Data on case resolution can be further dissected by age of the child at the time of removal. This information is particularly instructive because age of the child is a significant factor in case resolution. For very young children, adoption is the most likely case plan after reunification whereas, for older children, guardianship is much more common. Statewide, for children ages 0-5 at the time of removal, 61% are discharged to reunification, 28% to adoption, and 9% to guardianship. Statewide, for children ages 9-14 at the time of removal, 58% are discharged to reunification, 16% to guardianship, and 5% to adoption.⁵¹

Within the PCRCP counties, 75% of children ages 0-5 are discharged to reunification, 19% to adoption, and 5% to guardianship. For children ages 9-14 within the PCRCP counties, 55% are discharged to reunification, 19% to guardianship, and 0% to adoption. Within the PCRCP counties, very young children are much more frequently reunified with family. Reunification for young children is particularly important; continuity with primary attachment figures and a sense of permanency is critical during early brain and personality development.⁵²



⁵¹ Data source: Oregon Child Welfare Data Set report CM.05.1 Federal Discharge reason (of those discharged) https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=116. This report replaced CM.05 Discharge Reason (of those discharged) that was used in the 2014-2015 and 2015-2016 PCRCP reports. According to DHS, the report criteria is unchanged; the difference in reports is a result of available filtering options.

⁵² American Academy of Pediatrics Committee on Early Childhood, Adoption and Dependent Care, *Development Issues for Young Children in Foster Care*, Pediatrics 106(5) (November 2000) <http://pediatrics.aappublications.org/content/106/5/1145>.

PCRP Program Goal: Improved Outcomes for Children and Families

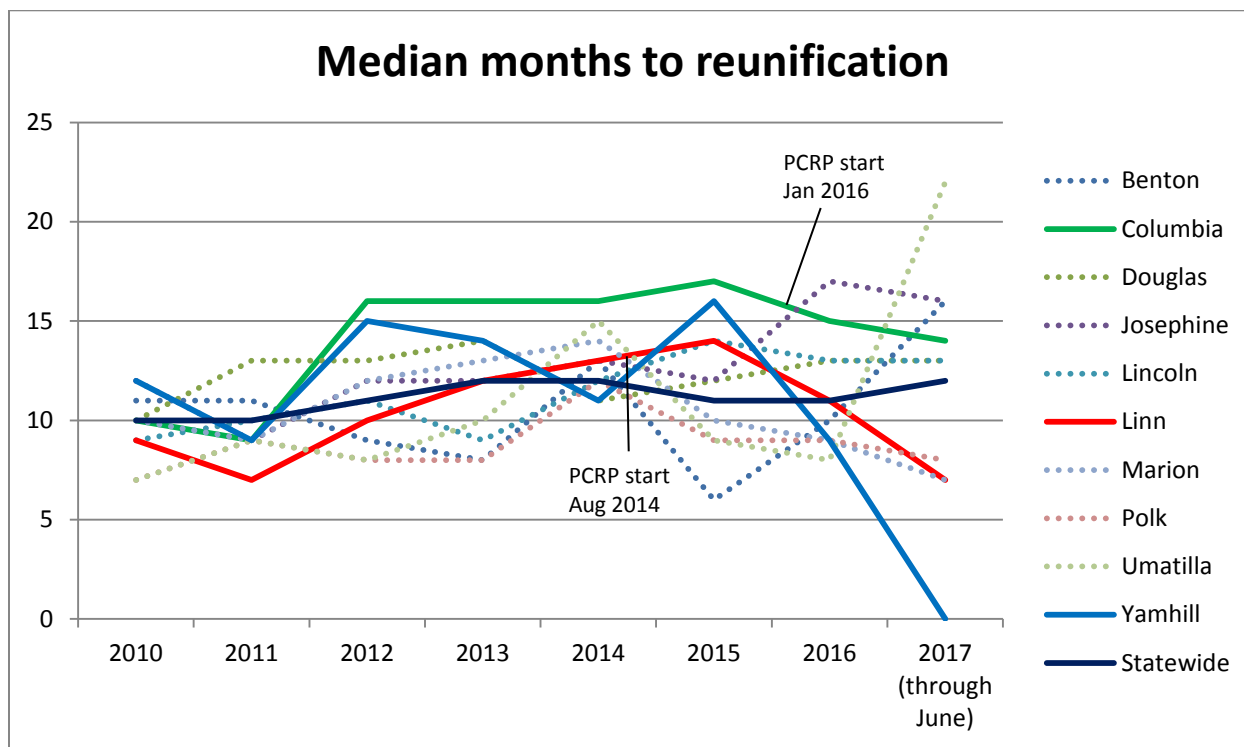
I. Indicator: Quality representation decreases time to safe permanency

a. Median time to reunification

Measure: Of children discharged, the median number of months to discharge to reunification.⁵³

Explanation: Reunification occurs when children leave foster care to be reunified with parents or families. An attorney’s advocacy for frequent visitation, parent engagement, and the right service plan helps steer the case toward early reunification. It is the preferred permanency plan in the majority of cases.

Data: Statewide, from 2016 to 2017, the median number of months to reunification increased from 11 to 12 months. Looking at the trends, statewide time to reunification has been increasing or remained the same since 2015 while, in the PCRP counties, the time to reunification has decreased over the same time period. Statewide, from 2016 to June 2017, the time to reunification increased by 8% while in the PCRP counties, the average time to reunification decreased by 32%.



b. Median time to adoption

Measure: Median months of those adopted within the time period sampled.⁵⁴

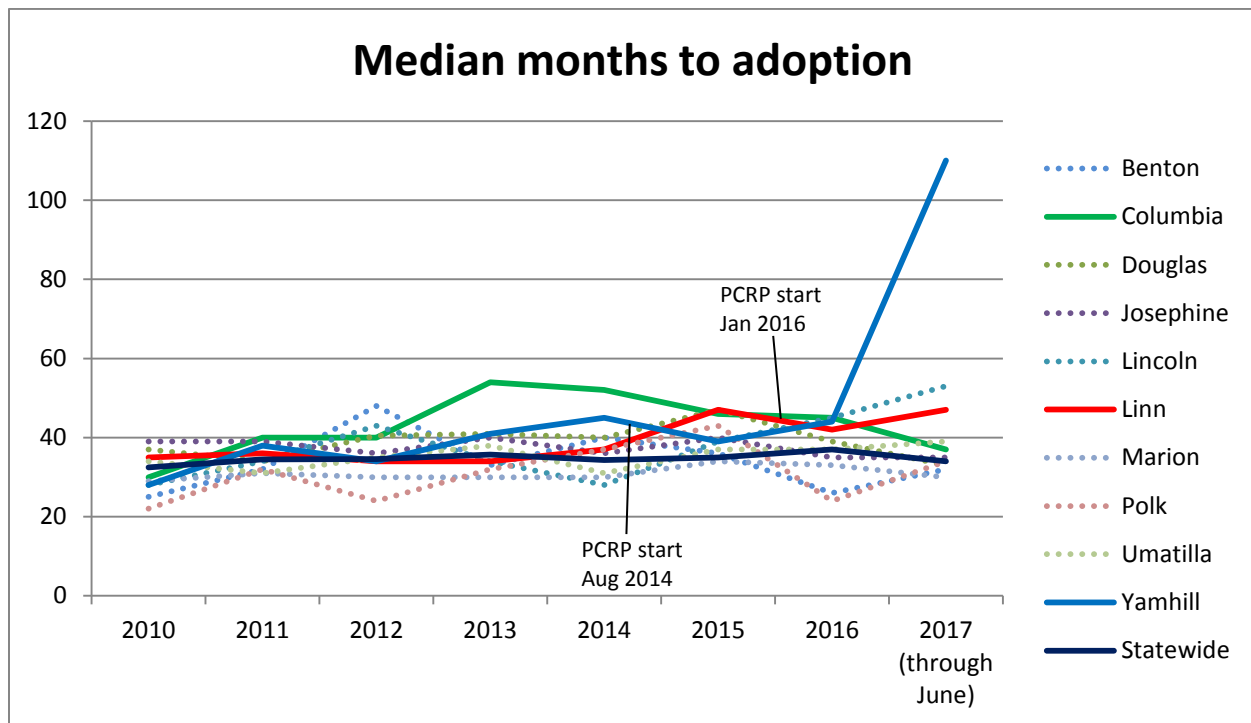
⁵³ Data source: Oregon child welfare data set report OR.05, Of children discharged, the median number of months to discharge (median is middle score where half were more and half less), over time https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=6005. Since accessing data for this report, OR.05 has been replaced by CM.15 Median Length of Stay at Foster Care Exit, Of children discharged, the median number of months to discharge (median is middle score where half were more and half less), by admin level. According to DHS, the report criteria is unchanged; the difference in reports is a result of available filtering options.

⁵⁴ Data source: Oregon child welfare data set report OR.05, Of children discharged, the median number of months to discharge (median is middle score where half were more and half less), over time https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=6005. Since accessing data for this report, OR.05 has been replaced by CM.15 Median Length of Stay at Foster Care Exit, Of children discharged, the median number of months to

Explanation: Focused advocacy by attorneys for children and parents is needed to expedite the achievement of permanency for children. Research conducted on Washington State’s Parent Representation Program has found that the availability of quality legal representation speeds reunification with parents, and for those children who do not reunify, it speeds achieving permanency through adoption and guardianship.⁵⁵

Data: This indicator is a measure of the time from foster care entry to adoption. This period of time reflects a lengthy legal process that typically includes: the adjudication of a dependency petition, a change of case plan to adoption at a permanency hearing, the filing of a termination of parental rights (TPR) petition, the adjudication of the TPR petition and, on occasion, the appeal of the termination judgment, the selection and designation of an adoptive placement, agency consent to adoption, and the adoption itself. A number of non-legal factors such as special needs of the children and the availability of adoptive resources also influence this measure.

Since 2010, the statewide average is 35 months, with the months to adoption increasing from 35 in 2015, to 37 in 2016. This number decreased to 34 months during the first half of 2017. Linn County has seen a decrease in months to adoption, from 47 months in 2015 down to 42 months in 2016. However, this number has increased back to 47 months in the first half of 2017. Over the same period in Yamhill County, the median months to adoption increased from 39 months in 2015, to 44 months in 2016, topping out at 110 months in the first half of 2017. In contrast, Columbia County’s median months to adoption have steadily decreased, from 46 months in 2015, to 45 months in 2016, to 37 months in the first half of 2017, an 18% decrease overall.



c. Time to achieve permanency

Measure: Percentage of children who achieved permanency within 24 months of removal.⁵⁶

discharge (median is middle score where half were more and half less), by admin level. According to DHS, the report criteria is unchanged; the difference in reports is a result of available filtering options.

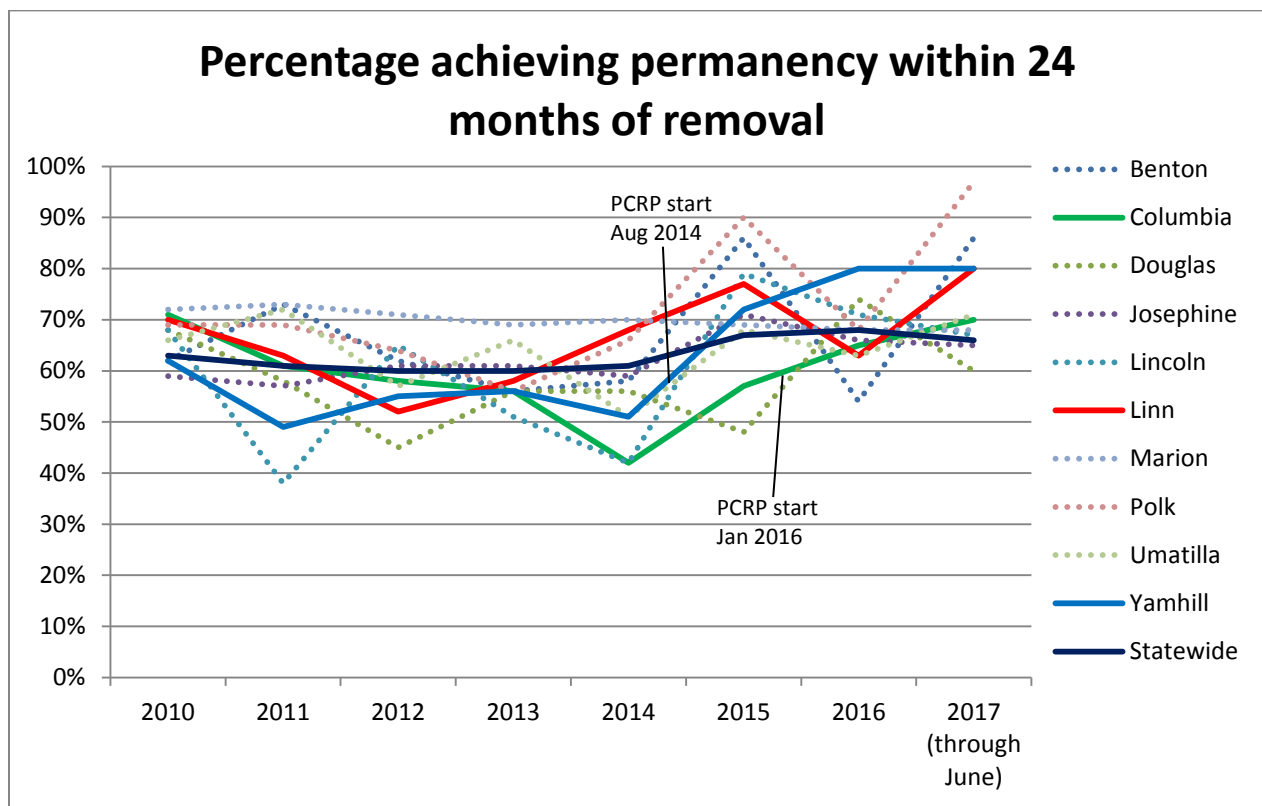
⁵⁵ *Supra*, n. 44.

⁵⁶ Data source: Oregon child welfare data set report PA.08 Permanency in 24 months (of those entered care 24 months ago)

Explanation: When consistent with the client’s interests, the lawyer should take every appropriate step to expedite proceedings.⁵⁷ Delaying a case often increases the time a family is separated and can reduce the likelihood of reunification. Research shows that the effectiveness of foster care diminishes over time. The longer children remain in foster care, the less effective foster care is in meeting children’s needs.⁵⁸

Data: From 2010 through 2014, the statewide average hovered at 62%. From 2015-2017 the rate was fairly flat, averaging 67%.

Before the start of the PCRCP, Linn, Yamhill and Columbia counties had rates lower than the statewide average. In 2016, all had rates consistent with the statewide average and by mid-2017, the percentage of children achieving permanency in 24 months in both counties greatly exceeded the statewide average. In the first half of 2017, 80% of children in Linn and Yamhill counties achieved permanency in 24 months, while 70% of children in Columbia County had achieved permanency within 24 months. The statewide average is 66% for the first half of 2017.



d. Rate of re-entry after discharge from foster care

Measure: No re-entry into custody of those discharged 12 months ago.⁵⁹

https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=111.

⁵⁷ *Supra*, n. 36.

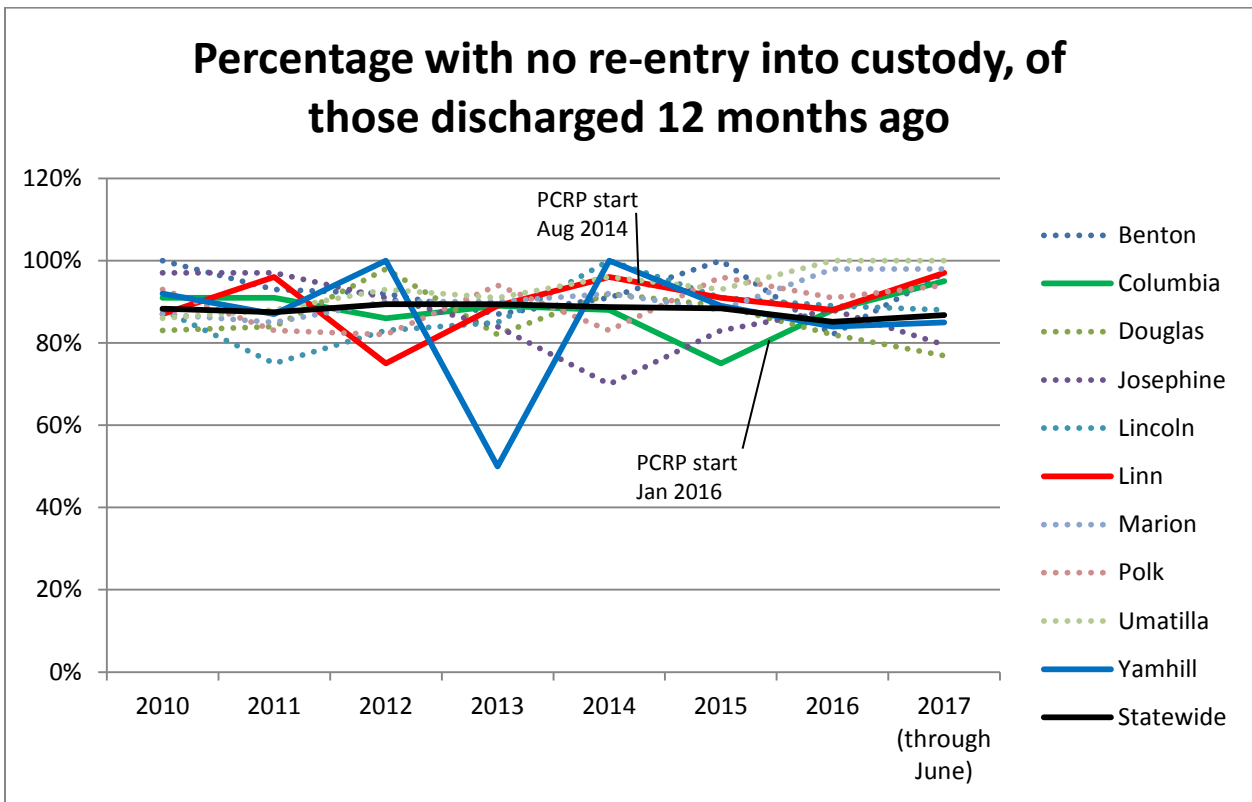
⁵⁸ *Joint Interim Task Force on Juvenile Court Dependency Proceedings Final Report* (December 3, 2014)

<https://olis.leg.state.or.us/liz/201311/Downloads/CommitteeMeetingDocument/41222> (DRAFT COPY).

⁵⁹ PA.04 (Fed) Re-entry to Foster Care, Of all children who enter foster care in a 12-month target period and discharged within 12 months to reunification, living with a relative(s), or guardianship, what percent re-entered foster care within 12 months of discharge, https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=105. This report replaced CM.06 No re-entry into Custody (of those discharged 12 months ago) that was used in the 2014-2015 and 2015-2016 PCRCP reports. The criteria for PA.04 are different than CM.06; discharge to plans other than reunification, living with a relatives(s), or guardianship are no longer included in the report.

Explanation: Safe reunification, as shown by no re-entry into custody within 12 months of discharge from foster care, is a necessary measure when determining whether cases have resolved appropriately, whether parents have remediated the issues that led to foster care placement, and whether services provided to families were appropriate and effective. Since the inception of the PCRP, the percentage of cases resulting in reunification has steadily increased. But, it is critical to analyze reunification data in light of child safety.

Data: In 2015, the statewide percentage of children who were safely reunified (or placed into guardianship or adoption) upon discharge from foster care was 88%. By June 2017, safe reunifications had decreased statewide to 87%. By June 2017, Columbia and Linn counties maintained safe reunification rates of 95% and 97%, respectively, well above the statewide average. Yamhill County is slightly below the statewide average, at 85%. Overall, the average for the PCRP counties is 92%, which is above the statewide average.



e. Number of children in foster care

Measure: Count of children in foster care by placement type.⁶⁰

Explanation: Quality legal representation is linked to reduced use of foster care and preservation of families. Foster care is not a benign intervention; it has long-lasting consequences that adversely impact child and family well-being.⁶¹ Reducing the use of foster care is a goal of the Parent Child Representation Program.

Data: From 2010-2014, the number of children in care in Oregon has been steadily declining. In 2015, the

⁶⁰ Oregon Child Welfare Data Set report CM.02 Placement Type (of those in care), The number/percent of children on the caseload on the last day of each report period, by the placement type they were in on that day, over time. Report provided by DHS Office of Business Intelligence 10.25.2017.

⁶¹ Heimov, Laver and Carr, *Introducing the Family Justice Initiative*, Child Law Practice Vol. 36 No. 3 (2017).

number of children in care plateaued, and, since then the number of children in care is on the rise. On December 31, 2016 there were 7,666 children in Oregon's foster care system. By June 30th, 2017, an additional 255 children were in the foster care system, an increase of 3% (7,921 total children in care).

In Linn and Yamhill counties, the number of children in care declined between 2012-2016 and started to increase in 2017. In contrast, in Columbia County the foster care population had been increasing until recently. On December 31st, 2012 there were 200 children in care, and by December 31st, 2016 there were 244 children in care. By the end of June, 2017, there population decreased to 189.

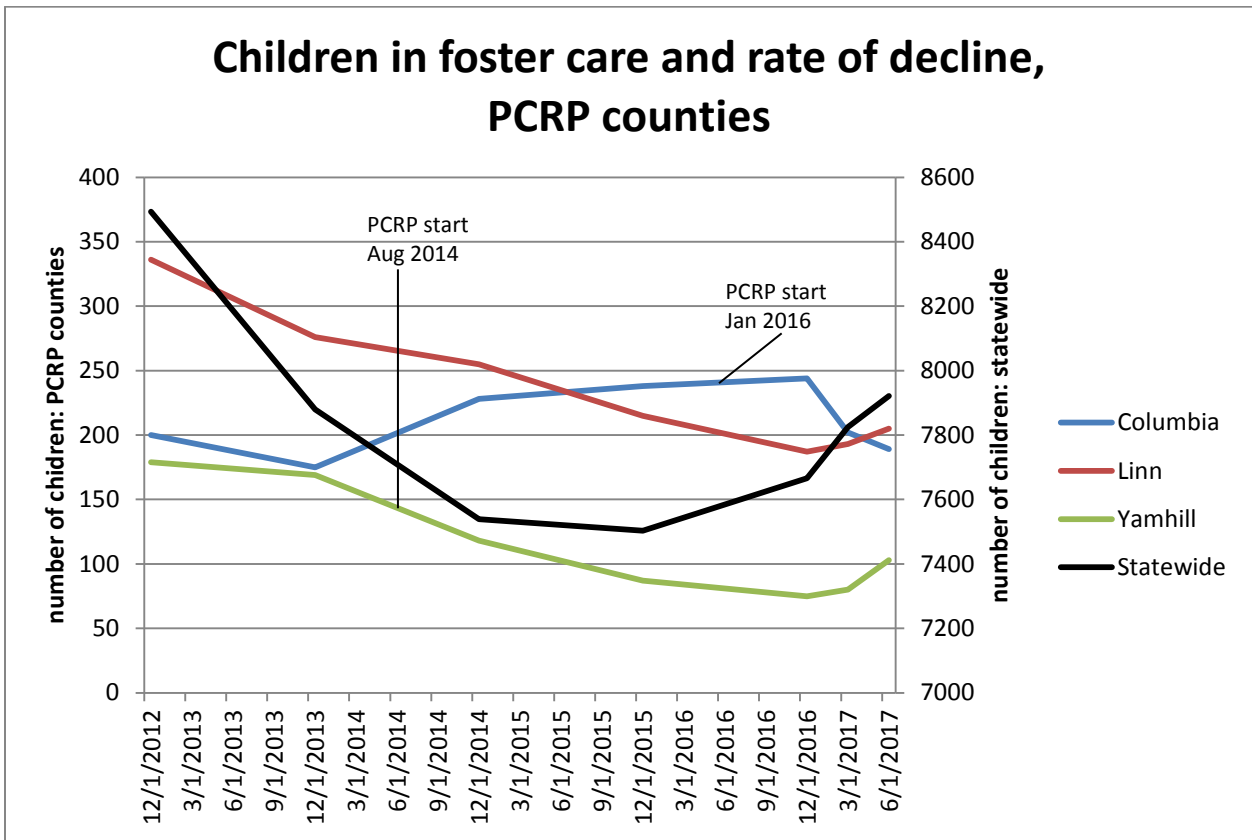
Although variances exist among counties, it is important to look at the overall trends for foster care population. This is because, in a small county such as Yamhill, short-term circumstances can have a large impact on the foster care population. For example, DHS measures the entry and exit rates for foster children each quarter. For 10 of the past 11 quarters, the foster care population either declined or increased slightly. However, in the second quarter of 2017, the foster care population increased by 21 children.⁶² Data for Linn County is remarkably similar with an abnormally large increase in the foster care population occurring in the second quarter of 2017.⁶³

These isolated increases appear to be aberrations and not indicators of a change in the trend of declining foster care population for PCRFP counties. However, given the policy changes implemented in 2017, more observation is necessary.

⁶² Oregon Child Welfare Data Set Report OR.03 Children Entering and Exiting Foster Care, https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=6103. The following quarters had a decline in foster care population: Q1 2015, Q2 2015, Q3 2015, Q4 2015, Q1 2016, Q3 2017. The following quarters had a small increase in foster care population: Q2 2016 (6 children), Q3 2016 (3 children), Q4 2016 (1 child), Q1 2017 (3 children).

⁶³ Oregon Child Welfare Data Set Report OR.03 Children Entering and Exiting Foster Care, https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=6103. In Q2 2017, 17 more children entered foster care than were discharged. The following quarters had a decline in foster care population: Q1 2015, Q2 2015, Q3 2015, Q1 2016, Q2 2016, Q4 2016, Q3 2017. The following quarters had a small increase in foster care population: Q4 2015 (1 child), Q3 2016 (9 children), Q1 2017 (6 children).

Children in foster care and rate of decline, PCRCP counties



II. Indicator: Client satisfaction

Measure: Percentage of former PCRCP clients who report overall satisfaction with the representation provided by their attorney.⁶⁴

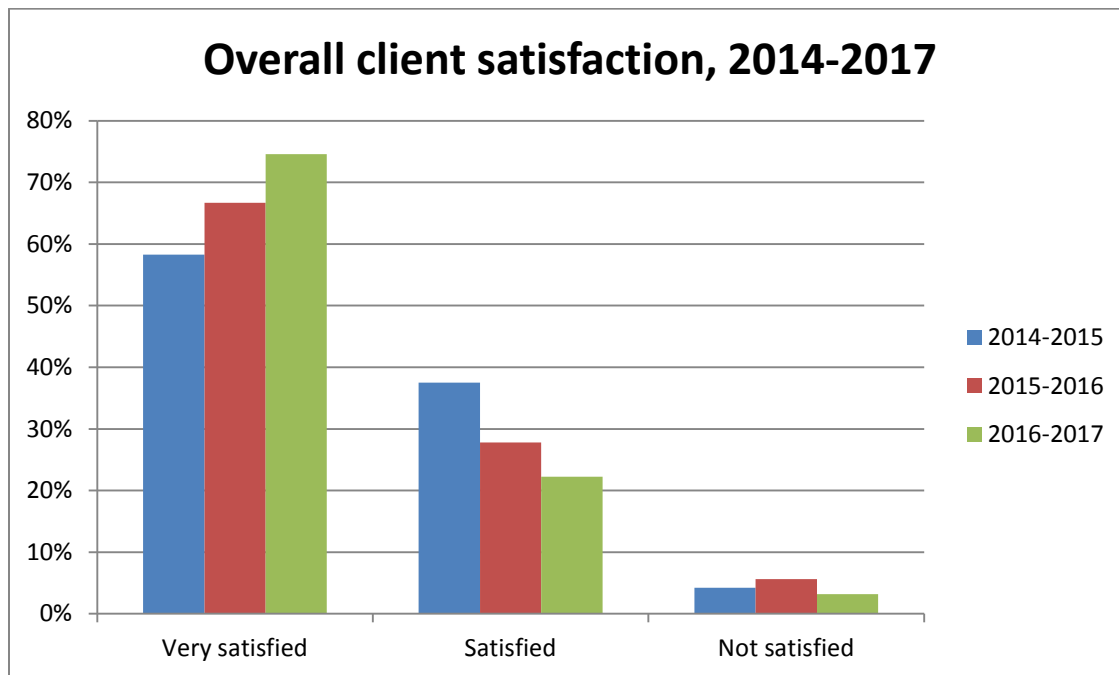
Explanation: Client satisfaction is an important measure of attorney performance and quality legal representation. When clients have an opportunity to participate in the process and are treated fairly and respectfully they are more likely to cooperate with court orders and agency recommendations.⁶⁵ Improved lawyer-client relationships may have tangible case benefits as a result of more extensive client engagement.⁶⁶ Within the PCRCP, an attempt is made to contact each former client who consents to the survey and is old enough to provide feedback.

Data: Former clients are asked questions related to attorney responsiveness, thoroughness, communication, and investigation. Client satisfaction surveys began in April 2015 and, as of June 2017, 105 former clients have completed the survey with the majority reporting being very satisfied with the quality of representation.

⁶⁴ Data source: PCRCP client satisfaction survey.

⁶⁵ Sandys and Pruss, *Correlates of Satisfaction Among Clients of a Public Defender Agency*, Ohio State Journal of Criminal Law Vol. 14 (2017). Washington State University, Hamilton County Customer Satisfaction Pilot Project (May 31, 2010) http://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/2014/ls_sclaid_3d_%20janet_moore_indig_def_ref_proj.authcheckdam.pdf.

⁶⁶ *Supra*, n. 65.



Conclusion

This report begins to establish data trends first observed in previous PCRCP Annual Reports. The data gathered by OPDS and presented in this report reflects the program trends of reduced use of foster care, increased reunification with family, and expedited permanency for children. The past year has been particularly challenging due to rapidly changing policies and priorities within an overburdened and inadequately managed child welfare system. Those who have worked diligently to improve the child welfare system should be recognized. The lawyers, case managers, and legal assistants in the PCRCP counties should be acknowledged for their commitment to delivering high-quality legal representation within a very challenging system.

Data observed within PCRCP counties reflects a relationship between positive case outcomes and quality legal representation of parents and children. According to testimony provided to the Governor’s Task Force on Dependency Representation by the American Bar Association,

“ . . . a legal team approach like the PCRCP’s is a best practice which leads to strong outcomes for children and families and best protects due process rights. Housing your program at the Office of Public Defense Services will lead to ongoing accountability and support for the lawyers and other professional staff that will result in high quality representation for their clients. With the expansion of the model, Oregon can emerge as a true leader in our field. The ABA strongly supports your effort to improve outcomes for children and their families, through your examination of representation.”⁶⁷

In the 2018 session, the legislature supported the expansion of the PCRCP to two additional counties. OPDS looks forward to growing the program and delivering high quality legal services to more of Oregon’s vulnerable families.

⁶⁷ Testimony provided by the American Bar Association Center on Children And the Law, quoted by Justice Brewer, Chair of the Governor’s Task Force on Dependency Representation, http://www.youthrightsjustice.org/media/3945/2017_4_yrj_law_reader_winter_2017.pdf.