

Annual Report 2015-2016

PARENT CHILD REPRESENTATION PROGRAM



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Parent Child Representation Program

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The importance of legal advocacy: Patricia's story

In February 2015, my 11-year old daughter, J, and 3-year-old son, D, were removed from my care and placed in a foster home. The reason they were taken from me is because of bad choices I made as a parent. I had a long history of struggling with my methamphetamine addition. Sometimes I could keep it under control but sometimes it got the best of me. I moved my family to Oregon from another state to try to escape my drug-involved lifestyle and, for a few months, was clean and sober in Oregon. Then, things got really bad. I was using a lot, smoking in front of my children, and frequently had unsafe people in my home around my children.

The police came to my house and searched it, I was charged with possession of a controlled substance, and DHS removed my children. I was clean for a week and then started using again.

I had never been in any kind of trouble before, never had a lawyer, and did not know what to expect in my case. All I knew is that my children were in a stranger's care and I wanted to get clean and sober for them. At the shelter hearing in my case, I was appointed an attorney. He eased my anxiety and encouraged me to get help. I did that, moving first into clean and sober housing and then starting family treatment court where I was required to participate in services and do treatment.

It was pretty easy once I got my head on straight. I was fortunate. My children were with a foster parent who turned out to be a wonderful support for my family. And, I was paired with a case manager as part of my juvenile defense team.

Introduction

Decisions made in dependency courtrooms have far reaching consequences for Oregon's vulnerable children and families.¹ Few legal proceedings immediately affect an individual's rights more than a juvenile dependency case where children may be removed from their home, parents, and siblings. This intervention has long-lasting effects on the well-being of children.²

Competent legal representation for parents and children is correlated with improved outcomes. Effective parent and child representation has been shown to: reduce unnecessary removals of children, decrease time to reunification, decrease re-entry following reunification, decrease time to other forms of permanency and ensure more frequent and appropriate services are provided.³

Attorneys serve as guides, advocates, translators, and counselors and play an important role in ensuring fairness and equity. Parent's and children's attorneys must protect the rights of their clients in the courtroom and in decision-making meetings throughout the life of the dependency case. Strong advocacy is critically important in the dependency system, where cases are

¹ *Oregon Task Force on Dependency Representation Final Report*, 3 (June 2016)

https://www.oregon.gov/gov/policy/Documents/LRCD/Oregon_Dependency_Representation_TaskForce_Final_Report_072516.pdf.

² *Id.* at 16.

³ Center on Children and the Law, American Bar Association, *Investment that Makes Sense* http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/At-a-glance%20final.authcheckdam.pdf, Thorton and Gwin, *High-Quality Legal Representation for Parents in Child Welfare Cases Result in Improved Outcomes for Families and Potential Cost Savings* 46 Fam. L.Q. 1390154 (Spring 2012), Courtney, Hook & Orme, Partners for Our Children, *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care* https://partnersforourchildren.org/sites/default/files/2011_evaluation...impact_of_enhanced_parental_legal_representation...discussion_paper.pdf, Center for Family Representation, *2013 Report to the Community* <https://www.cfrny.org/wp-content/uploads/2013/11/CFR-2013-Report-to-the-Community.pdf>.

The case manager stayed by my side, checking in on me regularly to ensure I was receiving services and that my kids needs were being met and that I was having visits with my children. It was such a comfort to know that my case manager was on my side and would advocate for what my family needed.

I graduated from treatment, moved into my own place, and my children were returned to me 11 months after they were removed. My attorney strongly advocated for reunification and worked with me to make sure everything was in place to make sure the reunification was successful. Looking back, I recognize that the support of my case manager and strong advocacy by my attorney were two crucial things that helped get my family back together.

a longstanding history of deficient legal representation in juvenile dependency cases⁶ and a desire to achieve results similar to those observed in Washington State. 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 workers⁷ as part of the legal representation team. The PCRCP is modeled on the highly successful Washington State Parent Representation program, which, over the past 16 years, has increased the speed at which children achieve permanency and reduced the use of foster care.⁸

Linn and Yamhill counties were initially selected as the pilot PCRCP sites. The program began in August 2014 and, with cost savings gained in the two initial counties, was expanded to Columbia County in January 2016. At the end of the first year of the PCRCP, OPDS published the first annual report which assessed the program's effectiveness through a variety of quantitative and qualitative data measures. The first-year findings show an increase in family reunifications and a reduction in the use of foster care.⁹

prosecuted inconsistently, and disproportionately impact poor families.⁴

Improved outcomes not only benefit families; they translate into cost savings and system efficiencies. For example, Washington State's Parent Representation Program, which ensures competent and effective legal representation for parents in juvenile dependency cases, saves \$7.5 million per year by reducing the length of time children spend in foster care.⁵

In 2013, the Oregon Legislative Assembly provided funding to the Office of Public Defense Services to develop an enhanced legal representation program in Oregon. This program, the Parent Child Representation Program (PCRCP), is both a response to

⁶ Concerns about the quality of representation of parents and children in juvenile court have been ongoing for nearly two decades. See OSB 2000 Indigent Defense Task Force III Report, https://www.osbar.org/_docs/idthf/idthf3.pdf, Office of the Secretary of the State 2005 OPDS Audit <http://sos.oregon.gov/Documents/audits/management/2005/404-2005-02-01.pdf>, *Oregon Task Force on Dependency Representation Final Report*, 3 (June 2016) https://www.oregon.gov/gov/policy/Documents/LRCD/Oregon_Dependency_Representation_TaskForce_Final_Report_072516.pdf.

⁷ 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.

⁸ Courtney, Hook & Orme, Partners for Our Children, *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care* https://partnersforourchildren.org/sites/default/files/2011_evaluation...impact_of_enhanced_parental_legal_representation....discussion_paper.pdf.

⁹ *Parent Child Representation Program Annual Report 2014-2015*

https://www.oregon.gov/OPDS/docs/Reports/PCRCP_report_PDS_C_Jan_2016.pdf.

⁴ Guggenheim and Sankaran, *Representing Parents in Child Welfare Cases: Advice and Guidance for Family Defenders*, xx and 21 (2015).

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

Summary

This report, the second Parent Child Representation Program Annual Report, utilizes the same methodology as its predecessor. 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*, which was developed, validated and tested by eight states over a three-year period.¹⁰

An annual report is a necessary part of the continuous quality improvement process: it is the first step toward establishing benchmarks, identifying trends, and initiating data-driven quality improvement principles to guide the program's growth. The data is intended to show the quality of legal representation provided, and to assess whether the PCRCP's system changes are associated with positive effects. Caution should be used when interpreting the data described within the report; there are a number of factors which contribute to the overall effectiveness of the juvenile dependency system, including judicial resources, caseworker staffing and turnover, available services, the scarcity of foster homes, laws and regulations, and local culture. In addition, in the PCRCP counties and across the state, a number of programs and reform initiatives have started, ended or are underway.¹¹

This report is organized by program goals: to provide competent and effective legal representation throughout the life of the case; to provide meaningful representation of parents and children at all proceedings; and to improve outcomes for children and families. Linn and Yamhill counties are included in all measures. Columbia County is included where

specifically indicated. This is because the program has been operating in the county for only six months and for some data points a year or more of data is required.¹² Many of the report's graphs include data for PCRCP counties and similarly sized counties. The comparable counties are included to allow the reader to better understand and compare trends.

Notable Observations

The 2015-2016 PCRCP Annual Report builds on the promising findings in the 2014-2015 Report. Over the past year, along with improved legal representation, the most notable observations are: a reduction in the use of foster care, an increase in family reunification, and expedited permanency. Caution should be used when interpreting the results of this report; the observations do not prove a causal relationship between legal representation and improved results. However, over the past two years, the observations suggest an encouraging link between quality legal representation and positive outcomes for families.

Within this report, improved legal representation is measured by access to multi-disciplinary staff, case preparation and presentation efforts, caseload limits, time spent with clients, attorney presence at case planning meetings, attorney advocacy at shelter hearings, and client satisfaction.

When compared to non-PCRCP attorneys, the PCRCP attorneys are more frequently investigating cases and, where appropriate, utilizing experts in presenting their case to the court. Since the inception of the program in 2014, PCRCP attorneys utilize investigators eight times and experts ten times more frequently than non-PCRCP attorneys. In addition, the PCRCP attorneys have access to case managers, social service professionals, on complex cases and are the only Oregon public defense attorneys with explicit caseload limits.

¹⁰ 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-ofSuccess.authcheckdam.pdf.

¹¹ Some of these programs include: DHS Family Find, 2015 changes in federal law eliminating APPLA as a permanency plan for some children, expansion of guardianship assistance, Permanency Roundtables, DHS differential response, and enhanced DHS legal representation.

¹² Although Columbia county is not included in outcome data, the raw data is contained within the graphs in the report. For example, this report indicates time to reunification has decreased and the percentage of children achieving permanency in 24 months has increased. See a. Median time to reunification page 16, and c. Time to achieve permanency page 18.

PCRCP attorneys record their time and activities and are expected to spend approximately 1/3 of their time in client contact outside of court. From July 2015-June 2016, the 21 attorneys in the PCRCP program spent an average of 27% of their time meeting with clients.

PCRCP attorneys are also expected to attend meetings where critical case planning decisions are made. Because the juvenile court system is an amalgamation of law and social work, parties and stakeholders typically meet, out of court, to make case planning decisions. The Department of Human Services is required to hold case planning meetings at certain intervals throughout the case. Complex cases may necessitate additional service-delivery-focused meetings.

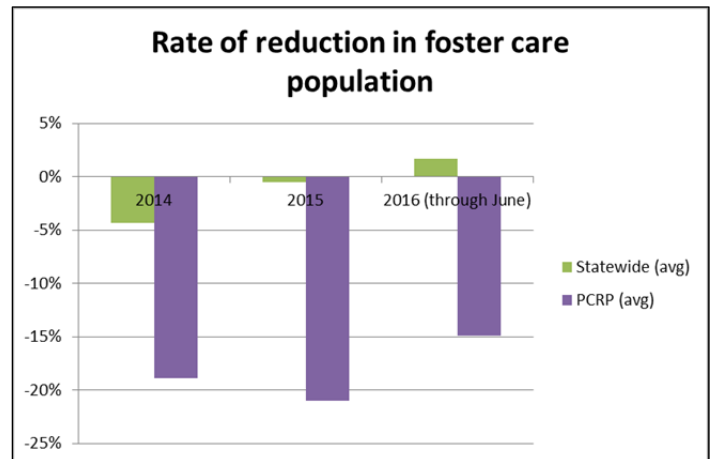
Advocacy, on behalf of parents and children, is essential at case related meetings. Without the presence of attorneys, parents and, in some cases, children would be required to attend these meetings alone and be expected to share information, participate in developing solutions, and posit options for case planning. Attorneys protect the rights of parents and children and increase the effectiveness of case planning meetings. From July 2015-June 2016, PCRCP attorneys in Linn, Yamhill and Columbia counties attended a total of 1766 case-related meetings, an average of 11 meetings per month per attorney.

Prior to the PCRCP, attorneys in the pilot counties were not consistently present at shelter hearings and, as a result, parents attended these hearings, where children were usually removed from their care, without an advocate. Between July 2015 and June 2016, PCRCP attorneys were present on behalf of all parties, at 92% of the shelter hearings.

Clients also recognize the benefits of competent and effective legal representation. From July 2015-June 2016, 95% of clients report satisfaction with their attorney's handling of their case.

For the second consecutive year of the PCRCP, the foster care population in Linn and Yamhill counties declined at a rate greater than the statewide rate. In 2015, the number of children in foster care in the

PCRCP counties decreased by an average of 21% while the statewide decrease was .5%. From January-June 2016, the number of children in foster care in the PCRCP counties decreased by an average of 15% while the number of children in care statewide *increased* by 2%.¹³



In the PCRCP counties from 2015-June 2016, the number of months to reunification declined while the percentage of cases resulting in reunification increased. Children in PCRCP counties are spending an average of 5 fewer months awaiting reunification while across the state children are spending an additional month awaiting the same outcome.¹⁴ In PCRCP counties, the reunification rate has increased 12% (to 68%) while the statewide rate increased 3% (to 63%).¹⁵

In the PCRCP, the percentage of children achieving permanency within 24 months of removal has been growing and now exceeds the statewide average. In the first half of 2016, 69% of children in Linn county and 74% in Yamhill achieved permanency in 24 months. The statewide average is 64% for the same time frame.¹⁶

¹³ See e. Indicator: Number of children in foster care, page 20.

¹⁴ See a. Median time to reunification, page 16.

¹⁵ See II. Indicator: Case resolution, page 13.

¹⁶ See c. Time to achieve permanency, page 18.

PCRP Program Goal: Competent and Effective Legal 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.¹⁷

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.¹⁸

Case managers, who fulfill a function similar to a social worker, are working 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 help resolve issues during a particularly difficult stage of a case, rather than throughout the entire case. Case managers report that the most common challenges faced by clients are: distrust of DHS, inconsistency in DHS decision-making, lack of clarity regarding expectations, inaccessible community resources due to transportation or waiting lists, homelessness, and lack of suitable placements for children.

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 2015 through June 2016, PCRP case managers served 179 clients, an increase of 29 clients over the previous year.

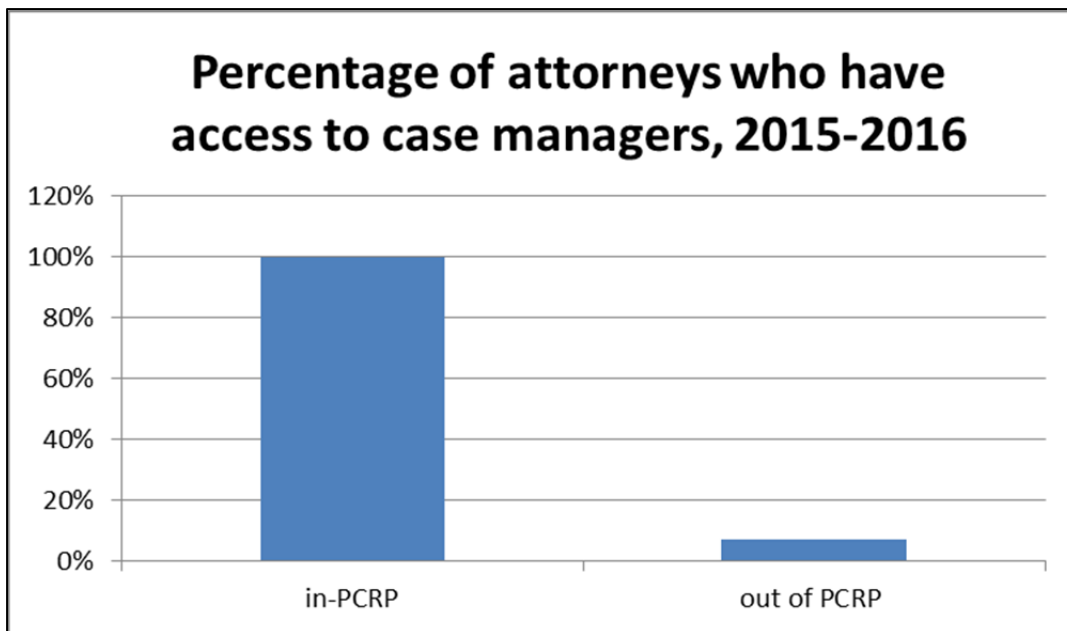
During 2015-2016, 100% of the PCRP attorneys had access to case managers as part of the legal representation team.¹⁹ During the same period, 7% of the juvenile attorneys who represented parents and children in dependency cases statewide had readily available access to social workers or case managers.²⁰

¹⁷ Data sources: PCRP attorney activity reports, case manager assignment spreadsheet, OPDS contract analysts.

¹⁸ 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_pssed.doc, National Juvenile Defender Center, *Juvenile Defense Standards* <http://njdc.info/wp-content/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 (2014) http://www.osbar.org/_docs/resources/juveniletaskforce/JTFR3.pdf.

¹⁹ In a handful of non-PCRP jurisdictions, juvenile attorneys have access to social service professionals. A limited number of public defender offices maintain a social worker on staff. Klamath Defenders, the public defense provider in Klamath and Lake counties, utilize case managers in a role similar to that of the PCRP.

²⁰ Data source: Contractor Survey 2015, OPDS contract analysts.



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.²¹

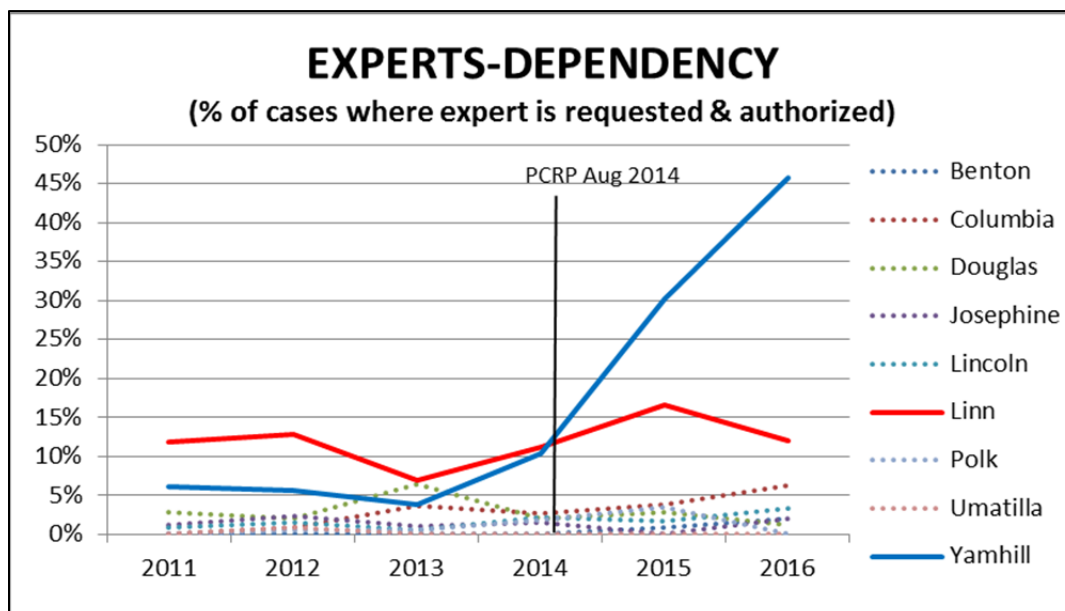
Explanation: Each attorney must have access to independent expert analysis to assess and present the client's case and to challenge the state's case. The right to court appointed counsel at state expense includes necessary and reasonable fees and expenses for the investigation, preparation, and presentation of the case.²²

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 2014, in comparably sized counties, an expert was requested and authorized by OPDS in an average of 1% of the juvenile dependency cases. In 2015 and the first-half of 2016, this number is 2%. In contrast, during 2014, in PCRCP counties, an expert was requested and authorized by OPDS in an average of 11% of the juvenile dependency cases. In 2015 this number is 23% and in the first 6 months of 2016, this number is 29%.

²¹ Data sources: PCRCP attorney activity reports, OPDS non-routine expense data, OPDS case credit reports.

²² ORS 135.055(3)(a) (2015).



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.²³

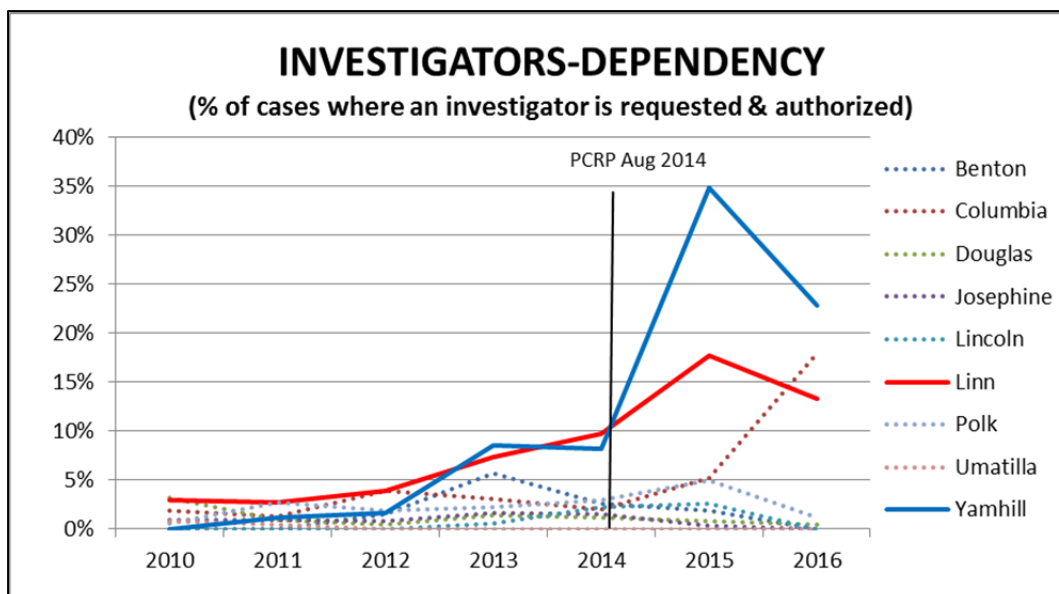
Explanation: Each attorney must independently investigate the state's allegations and seek evidence that challenges the state's case. The right to court appointed counsel at state expense includes necessary and reasonable fees and expenses for the investigation, preparation, and presentation of the case.²⁴

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 PCR, attorneys are expected to request these resources where appropriate.

During 2014, 2015 and through June 2016, in comparable counties, an investigator was requested and authorized by OPDS in an average of 2% of the juvenile dependency cases. In contrast, during 2014, in PCR counties, an investigator was requested and authorized by OPDS in an average of 9% of the juvenile dependency cases and in 2015 this number is 26%. In the first six months of 2016, this number is 18%.

²³ Data sources: PCR attorney activity reports, OPDS non-routine expense data, OPDS case credit reports.

²⁴ ORS 135.055(3)(a) (2015).



II. Indicator: Reasonable caseloads

Measure: Caseload limit for full- and part-time PCRCP attorneys; percentage of PCRCP attorneys who fall within the limit.²⁵

Explanation: Mechanisms to control attorney caseload are one of—if not the—most important components of strong parent and child representation.²⁶ A reasonable workload allows attorneys to provide standards-based legal representation and meet their ethical obligations. The current statewide model legal for representation, with the exception of the PCRCP, is funded at 60% of the need.²⁷ As a result, attorneys struggle with high caseloads and are forced to triage work, at the expense of outcomes for clients, to accommodate existing resources.

Data: Within the PCRCP, attorneys are limited to a full caseload of no more than 80 open cases. 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 case 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.

During 2015-2016, juvenile attorneys in two of Oregon's 36 counties, Linn and Yamhill, were subject to a caseload limit of 80 open cases. Columbia county joined the PCRCP in 2016 and the

²⁵ Data source: PCRCP attorney activity reports, Oregon Child Welfare Data Set report CM.02 Count of Children in Foster Care by Placement Type-Last Day of Period, https://rom.socwel.ku.edu/Oregon_Public/MyReports.aspx.

²⁶ 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-representation-parents-child-welfaresystem.html>; Duquette and Darwall, *Child Representation in America: Progress Report from the National Quality Improvement Center*, 41 Fam. L.Q. 87, 113-14 (Spring 2009).

²⁷ This assumes that the need is a caseload of 80 cases for all attorneys representing parents and children. However, in rural jurisdictions, 80 cases is too high and even in non-rural areas, 80 cases is a significant workload. 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.

attorneys there are subject to the same caseload caps. In the remainder of the counties, attorneys did not experience explicit caseload limits.²⁸

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.²⁹

Explanation: Establishing and maintaining a relationship with the child client is the foundation of representation. It is often more difficult to develop a relationship of trust with a child client than with an adult. Meeting with the child personally and regularly allows the lawyer to develop a relationship with the client and to assess the child's circumstances. The child's position, interests, needs, and wishes change over time. A lawyer for a child must develop a relationship through frequent contacts.³⁰

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. The lawyer should be a counselor as well as litigator. The lawyer should be available to talk with the parent to prepare for hearings, and to provide advice and information about ongoing case concerns.³¹

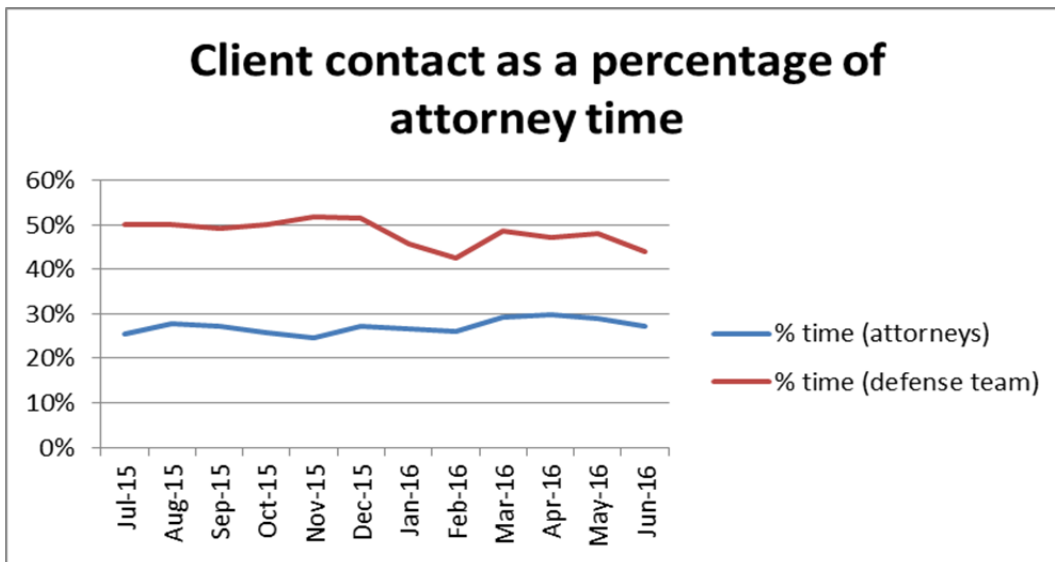
Data: The goal of the PCRCP is for attorneys to spend 1/3 of their time with clients outside of the courtroom. From July 2015-June 2016, the 21 attorneys in the PCRCP program in Linn, Yamhill and Columbia counties spent an average of 27% of their time meeting with clients. However, beginning in January 2015, case managers have worked with clients as part of the legal representation team in complicated cases. 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 2015-June 2016 is spent with clients or in direct client service.

²⁸ The issue of high caseloads for public defenders has been repeatedly identified as a concern. See *Public Defense Services Commission Retreat Agenda and Objectives* (March 20, 2014) <http://www.oregon.gov/OPDS/docs/Agendas/03-20-14.pdf>. See also *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). The Oregon Governor's Task Force on Dependency Representation 2016 report recommends that all attorneys who represent parents and children in dependency cases have caseload caps. *Oregon Task Force on Dependency Representation Final Report*, 21 (June 2016) https://www.oregon.gov/gov/policy/Documents/LRCD/Oregon_Dependency_Representation_TaskForce_Final_Report_072516.pdf.

²⁹ Data source: PCRCP attorney activity reports, PCRCP case manager activity reports.

³⁰ Oregon State Bar Report of the Task Force on Standards of Representation in Juvenile Dependency Cases, *The Obligations of the Lawyer for Children in Child Protection Proceedings with Action Items and Commentary* (2014) http://www.osbar.org/_docs/resources/juveniletaskforce/JTFR3.pdf.

³¹ Oregon State Bar Report of the Task Force on Standards of Representation in Juvenile Dependency Cases, *The Obligations of the Lawyer for Parents in Child Protection Proceedings with Action Items and Commentary* (2014) http://www.osbar.org/_docs/resources/juveniletaskforce/JTFR3.pdf.



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.³²

Explanation: Lawyers should actively engage in case planning, including attending substantive case meetings, such as initial treatment planning meetings and case reviews of treatment plans.³³

Many important decisions in a case are made outside of the courtroom in case-related meetings. The Department of Human Services is required to hold case planning meetings at certain intervals throughout the case and complex cases may necessitate additional meetings focused on service delivery and engagement.³⁴ These meetings are critical to case resolution and collaborative problem solving.³⁵ Therefore, advocacy at case planning meetings is an essential part of effective legal representation. PCRCP attorneys are expected to attend case-related meetings unless a court appearance is scheduled at the same time.

Data: From July 2015-June 2016, PCRCP attorneys in Linn, Yamhill and Columbia counties attended a total of 1766 case-related meetings, an average of 11 meetings per month per attorney. The average number of meetings is down slightly from 12 per month from the 2014-2015 year. 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 a multidisciplinary survey of stakeholders attendance still needs improvement. In August 2016, OPDS surveyed juvenile court stakeholders within Linn and Yamhill counties.³⁶ When asked about attorney participation in case-related meetings, 61% indicated that all or most attorneys regularly participate in out-of-court meetings.

³² Data source: PCRCP attorney activity reports, August 2016 PCRCP Stakeholder survey results.

³³ Oregon State Bar, *supra* n. 31.

³⁴ Oregon Department of Human Services Procedure Manual Chapter II-Screening and Assessment, https://www.dhs.state.or.us/csf/safety_model/procedure_manual/ch02/ch2-assessment-section13.pdf. Oregon Department of Human Services Procedure Manual Chapter 3-Managing child safety in and out of home, https://www.dhs.state.or.us/csf/safety_model/procedure_manual/ch03/ch3-section6.pdf.

³⁵ *Oregon Task Force on Dependency Representation Final Report*, 12 (June 2016)

https://www.oregon.gov/gov/policy/Documents/LRCD/Oregon_Dependency_Representation_TaskForce_Final_Report_072516.pdf.

³⁶ Columbia county stakeholders will be included in the survey in 2017.

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

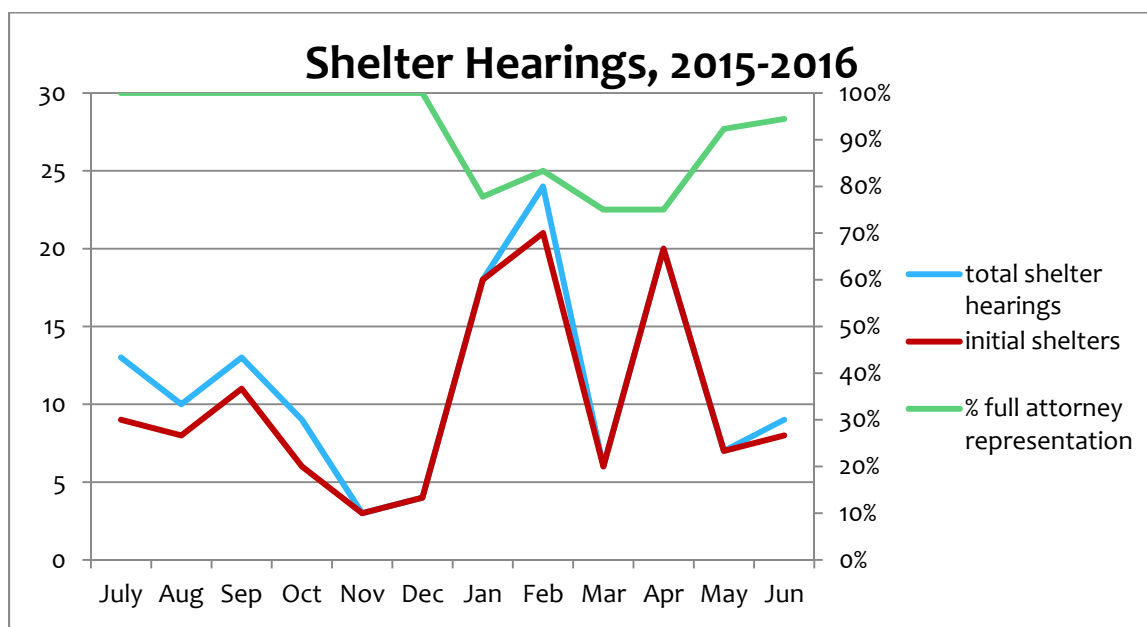
I. Indicator: Shelter hearing representation

Measure: Percentage of parties represented by an attorney at shelter hearings.³⁷

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 many 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.³⁸ Children who have attorneys appointed early in the case are more likely to achieve faster permanency.³⁹ The direction a case takes early on often predicts whether a child will return home.⁴⁰

Data: Between July 2015 and June 2016, 92% of the time PCRP attorneys have been present on behalf of all parties, at shelter hearings. The PCRP program requires attorney presence at all shelter hearings. However, in Columbia County, it took nearly six months to develop a reliable and consistent process for notification, distribution of discovery, and scheduling of shelter hearings.



³⁷ Data source: PCRP attorney activity reports, Oregon e-Court case information system.

³⁸ National Council of Juvenile and Family Court Judges, *Effects of Parental and Attorney Involvement on Reunification in Juvenile Dependency Cases*, PPCD Research Snapshot (2011)

http://www.ncjfcj.org/sites/default/files/Parental%20Involvement%20One%20Pager_Final_0.pdf.

³⁹ Orlebeke, Zhou, Skyles and Zinn, *Evaluation of the QIC-ChildRep Best Practices Model Training for Attorneys Representing Children in the Child Welfare System*, Chapin Hall at the University of Chicago (2016)

<http://www.improvechildrep.org/Portals/0/QIC-ChildRep%20Chapin%20Hall%20Evaluation.pdf>.

⁴⁰ Cohen and Cortese, *Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families*, American Bar Association Child Law Practice (2009).

II. Indicator: Case resolution

Measure: Discharge reason for those children leaving foster care.⁴¹

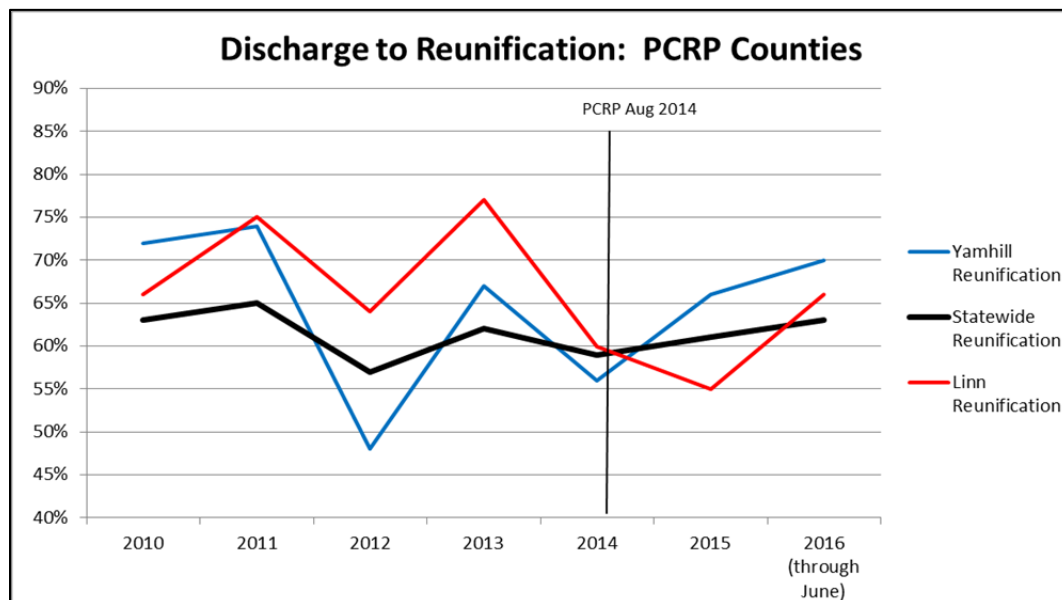
Explanation: High-quality legal representation for parents, where attorneys have adequate time to devote to their client's case, and parents have access to independent social workers as part of their legal team, has been shown to reduce the time children spend in foster care.⁴² Washington State's Parent Representation Program, which began in 2000 and is similar to the PCRCP, is associated with an increase in the rate of family reunification.⁴³

Data:

Family Reunification: The State of Oregon expresses a strong preference that children live in their own homes with their own families when possible.⁴⁴ In addition, foster care is a risk factor for health problems in children. Children who have been in the U.S. foster care system are at a significantly higher risk of mental and physical health problems - ranging from learning disabilities, developmental delays and depression to behavioral issues, asthma and obesity - than children who haven't experienced foster care.⁴⁵

From 2014 to 2015, statewide discharge to reunification increased by 3.3%, from 59% to 61%. From 2015-June 2016, statewide discharge to reunification increased by 3%, from 61% to 63%.

In the PCRCP, from 2014 to 2015, the percentage of children leaving foster care to reunification increased by an average of 4.1% from 58% to 61%. From 2015 to June 2016, PCRCP county discharge to reunification increased by an average of 12% from 61% to 68%.



⁴¹ Data source: Oregon Child Welfare Data Set report CM.05 Discharge Reason (of those discharged) https://rom.socwel.ku.edu/Oregon_Public/MyReports.aspx.

⁴² Courtney, Hook & Orme, *supra* n. 8.

⁴³ American Bar Association, *National Project to Improve Representation for Parents Fact Sheet* <http://schubert.case.edu/files/2014/02/ABAFactsheet.pdf>.

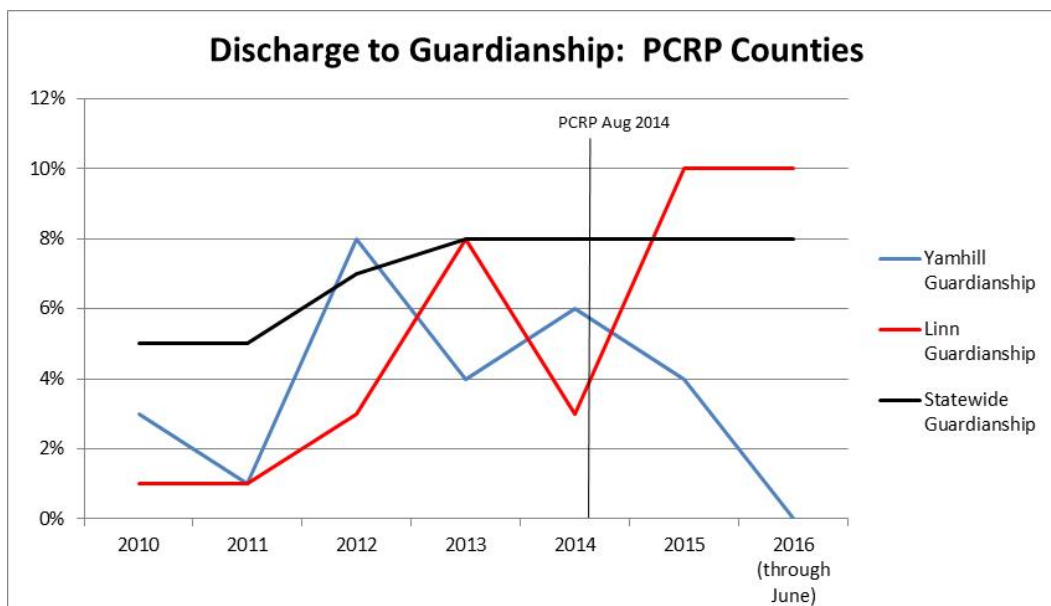
⁴⁴ ORS 419B.090(5) (2015).

⁴⁵ Turney and Wildeman, *Mental and Physical Health of Children in Foster Care*, *Pediatrics* 138(5) (November 2016).

Guardianship: Guardianship is an important measure of permanence which 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.⁴⁶ 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, 2016, the number has increased to 8%.

Use of guardianship in the PCRCP counties appears to be inconsistent and possibly inversely related to the reunification rate. 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 the PCRCP counties in 2015, 25% of children ages 12-14 discharged to guardianship whereas 0% of children age 0-2 discharged to guardianship. In Linn County, the overall guardianship rate for 2015 and through June 2016 is 10%, two points above the statewide average. Conversely, in Yamhill County, the overall rate is 4% and 0%, well below the statewide average.



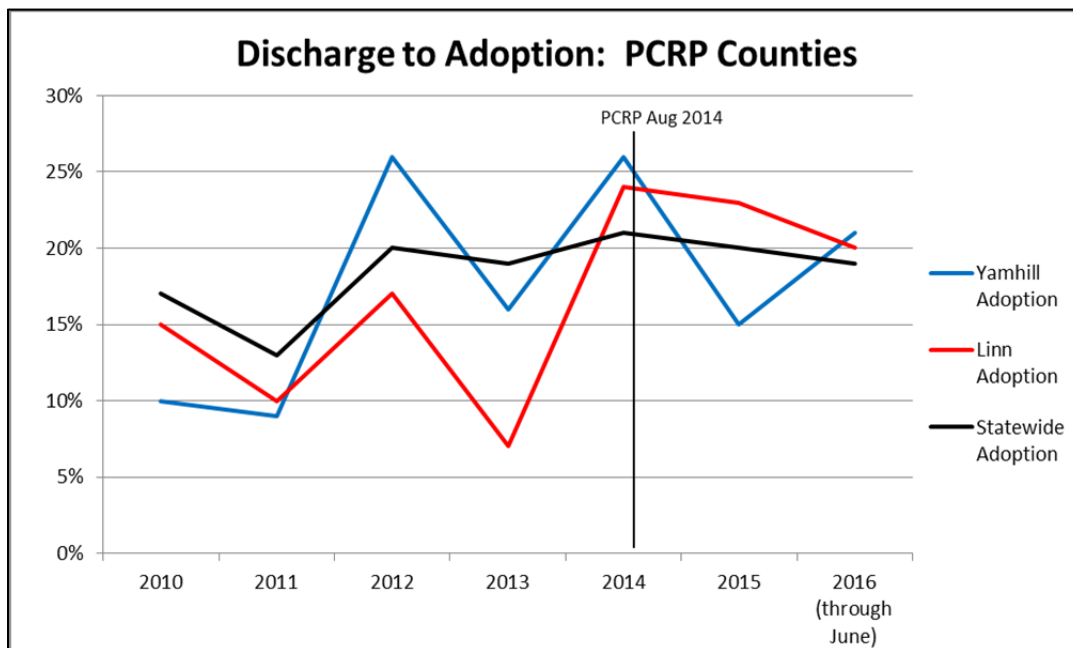
Adoption: Children have a legal right to permanency with a safe family.⁴⁷ Adoption is the most permanent alternative for children after reunification. Between 2014 and June 2016, the statewide percentage of children discharged to adoption has declined. From 2014-2015, the statewide rate of decline was 5%. From 2015-June 2016, the statewide adoption rate declined by another 5%.

The decline in the number of children adopted is offset by the number of children reunified with families and, to a lesser extent, the number of children discharged to guardianship. As discussed above, within the PCRCP and across the state, the percentage of children reunifying with family continues to increase. In the PCRCP counties, the percentage of children reunifying with families is increasing more rapidly than across the state. It follows that the percentage of children leaving foster care for adoption in the PCRCP counties is also declining.

⁴⁶ Guggenheim and Sankaran, *supra* n. 4 at 303.

⁴⁷ ORS 419B.090(2) (2015).

In the PCRCP counties, the percentage of children who discharge from foster care to adoption has been decreasing at a rate higher than the statewide average. From 2014-2015, the PCRCP rate of decline was 23%. From 2015-June 2016, the PCRCP rate of decline is 5%.



PCRP Program Goal: Improved Outcomes for Children and Families

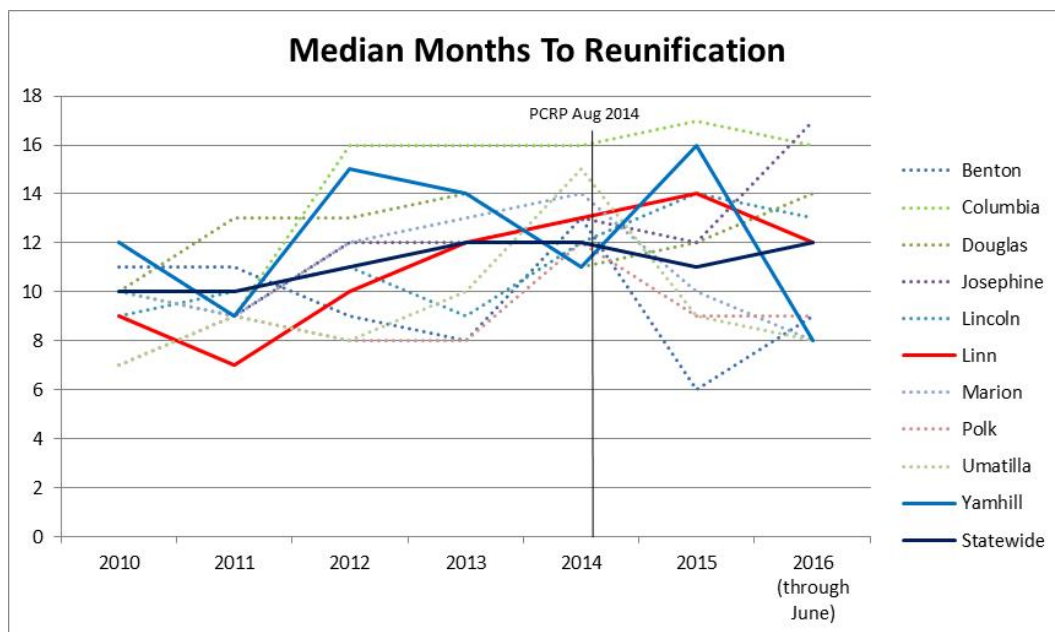
I. Indicator: Quality representation decreases time to safe permanency

a. Median time to reunification

Measure: Of children discharged, the median number of months to discharge to reunification.⁴⁸

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.⁴⁹ It is the preferred permanency plan in the majority of cases. In 2015, 61% children who left foster care were reunited with families.⁵⁰

Data: Statewide, from 2015 to June 2016, the median number of months to reunification increased from 11 to 12 months. Over the same time period, Linn County's median time to reunification decreased from 14 to 12 months and Yamhill County's time to reunification decreased from 16 to 8 months. Looking at the trends, statewide time to reunification has been increasing since 2015 while, in the PCRP counties, the time to reunification has decreased over the same time period. Statewide, from 2015 to June 2016, the time to reunification increased by 9% while in the PCRP counties, the average time to reunification decreased by 32%.



⁴⁸ 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. Note that this report methodology, updated in 2016 to reflect new federal reporting requirements, is different than the data source used in the 2014-2015 PCRP report. The new methodology results in a longer median length of stay because discharge requires 6 months of reunification time. The prior methodology required 30 days of reunification time.

⁴⁹ Cohen and Cortese, *supra* n. 40.

⁵⁰ Data source: Oregon Child Welfare Data Set report CM.05 Discharge Reason (of those discharged) https://rom.socwel.ku.edu/Oregon_Public/MyReports.aspx.

b. Median time to adoption

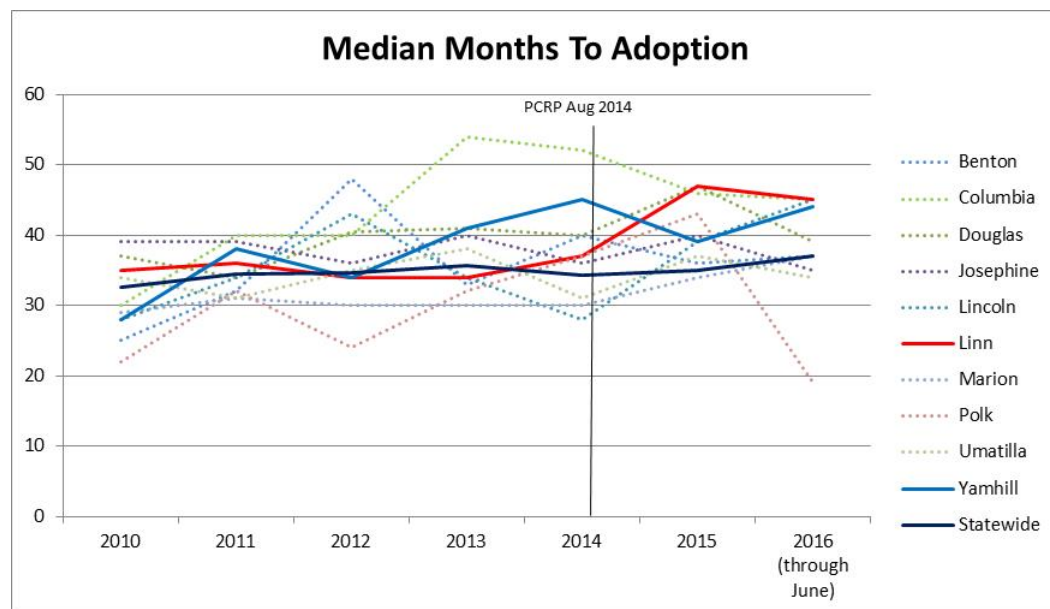
Measure: Median months of those adopted within the time period sampled.⁵¹

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 adequate legal representation speeds reunification with parents, and for those children who do not reunify, it speeds achieving permanency through adoption and guardianship.⁵²

Data: This indicator is a measure of the time from foster care entry to adoption. This period of time reflects a lengthy legal process which 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, 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 34 in 2014, to 35 in 2015, and to 37 during the first half of 2016, a gain of 9% since 2014.

Linn county has seen a 22% increase in the median months to adoption from 37 in 2014 to 45 in 2016. In contrast, over the same period in Yamhill county, the median months to adoption declined by 2% from 45 to 44 months.

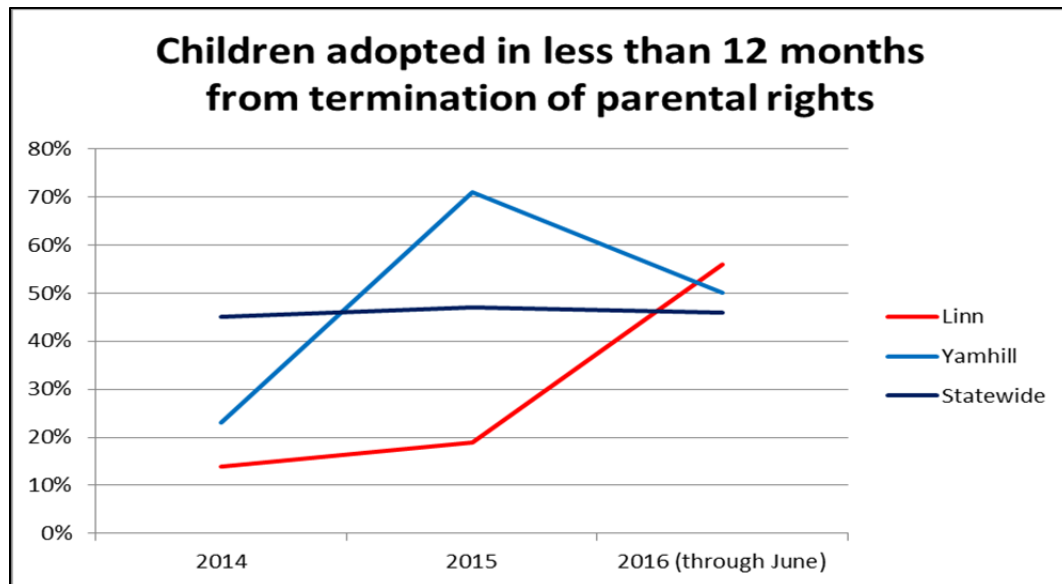


As seen in the chart above, the time from entry to foster care to adoption in both PCRCP counties is greater than the statewide average. However, the time to achieve adoption after a child has been freed for adoption (parental rights terminated) has declined significantly in the PCRCP counties. When the PCRCP began in 2014, on average 81.5% of children awaiting adoption in PCRCP counties waited over 12 months. Statewide, 45% of children waited over 12 months. By 2016, in the PCRCP

⁵¹ Data source: Oregon child welfare data set report OR.05, Of children discharged from foster care to adoption, 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.

⁵² Courtney, Hook & Orme, *supra* n.8.

counties, only 47% waited over 12 months as opposed to 54% statewide.⁵³ This measure, time to achieve adoption post-TPR more accurately reflects improved advocacy by children's attorneys within the PCRCP because it is focused on the completion of the adoption process after the identification of an adoptive placement.



c. Time to achieve permanency

Measure: Percentage of children who achieved permanency within 24 months of removal.⁵⁴

Explanation: When consistent with the client's interests, the lawyer should take every appropriate step to expedite proceedings. Delaying a case often increases the time a family is separated and can reduce the likelihood of reunification.⁵⁵ 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.⁵⁶ Foster care is a significant childhood health risk which leads to poor outcomes for children.⁵⁷

Data: From 2010 through 2014, the statewide average hovered at 61%.

Before the start of the PCRCP, both Linn and Yamhill counties had rates lower than the statewide average. In 2015, both had rates consistent with the statewide average and by mid-2016, the percent of children achieving permanency in 24 months in both counties has greatly exceeded the statewide average. In the first half of 2016, 69% of children in Linn County and 74% in Yamhill achieved permanency in 24 months. The statewide average is 64% for the same time frame.

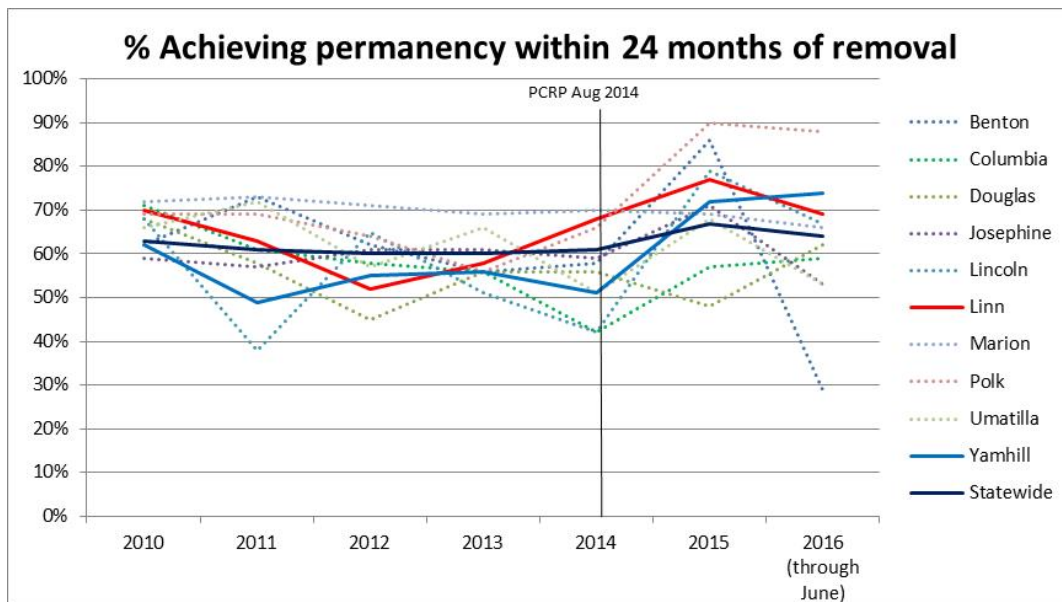
⁵³ Data source: Oregon child welfare data set report PA.12, Percent of children that became legally free for adoption (TPR) 12 months ago who were discharged to a finalized adoption in less than 12 months of becoming legally free (TPR)
https://rom.socwel.ku.edu/Oregon_Public/AllViews.aspx?R=115.

⁵⁴ Data source: 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.

⁵⁵ Oregon State Bar *supra* n. 30. Oregon State Bar *supra* n. 31.

⁵⁶ Joint Interim Task Force on Juvenile Court Dependency Proceeding Final Report (December 3, 2014)
<https://olis.leg.state.or.us/liz/201311/Downloads/CommitteeMeetingDocument/41222> (DRAFT COPY).

⁵⁷ Turney and Wildeman, *supra* n.45.

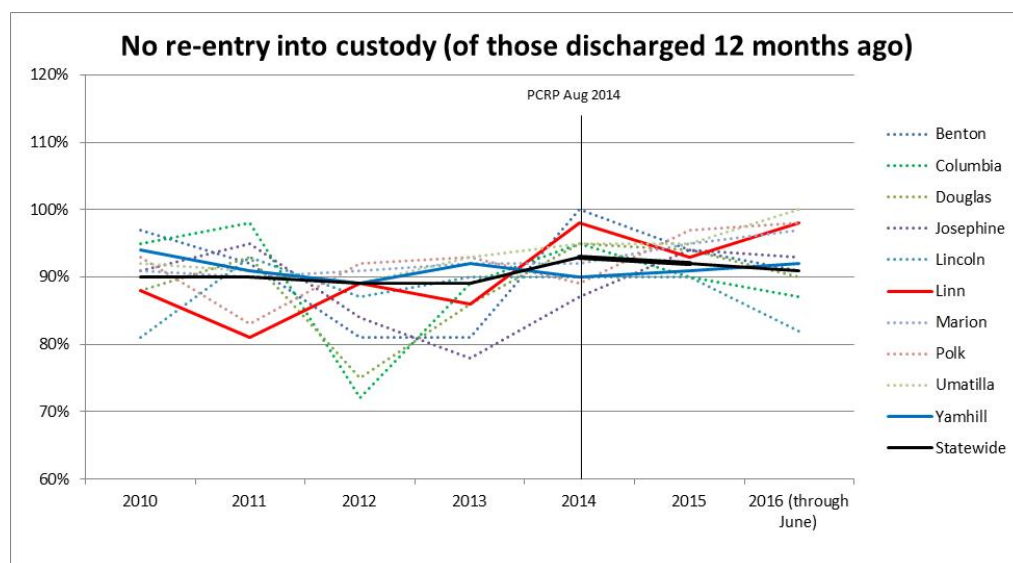


d. Rate of re-entry after discharge from foster care

Measure: No re-entry into custody of those discharged 12 months ago.⁵⁸

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 which 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 to well above the statewide average. But, it is critical to analyze reunification data in light of child safety.

Data: In 2014, the statewide percentage of children who were safely reunified (or placed into guardianship or adoption) upon discharge from foster care was 93%. Safe reunifications have decreased statewide to 91% in mid-2016. In 2015, Linn and Yamhill counties had reunifications slightly below the statewide average of 92%. By June 2016, both counties maintained safe reunification rates above the statewide average.



⁵⁸ Data source: Oregon child welfare data set report CM.06 No Re-entry into Custody-of those discharged 12 mos ago https://rom.socwel.ku.edu/Oregon_Public/MyReports.aspx.

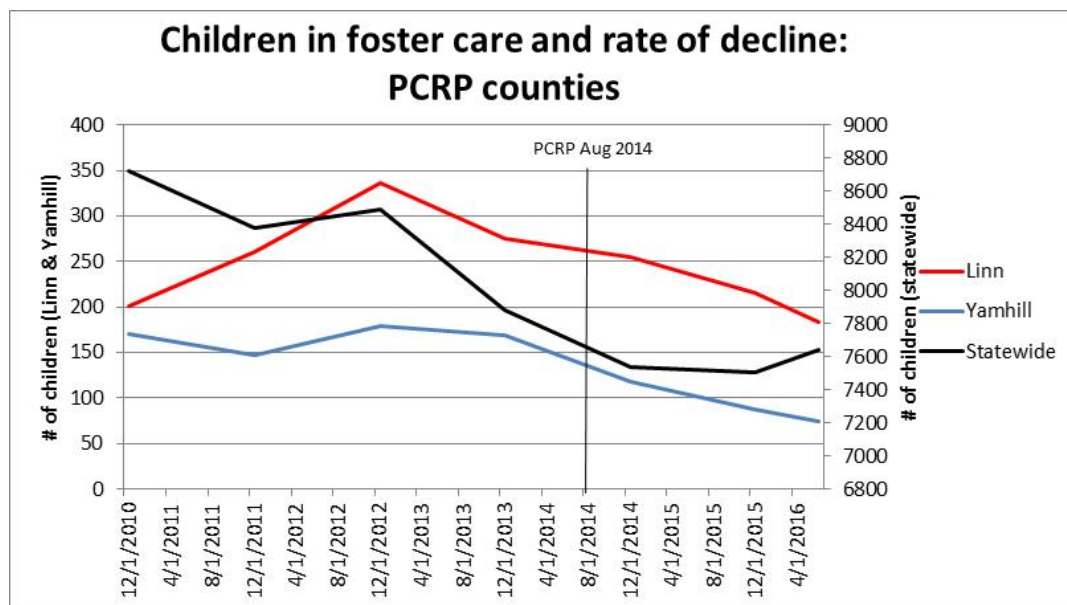
e. Number of children in foster care

Measure: Count of children in foster care by placement type.⁵⁹

Explanation: According to Partners for Our Children, a Washington State research and policy organization, jurisdictions that want to improve legal representation and potentially shorten the time children are in foster care should consider a program focused on improved legal representation similar to the Parent Child Representation Program.⁶⁰ 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 had been steadily declining. In 2015, the number of children in care plateaued, and, in 2016, the number of children in care is on the rise. On December 31, 2015 there were 7503 children in Oregon's foster care system. By June 30, 2016, an additional 135 children were in the foster care system, an increase of 2% (total of 7638).

In Linn and Yamhill counties, the number of children in care has been declining since the end of 2012. On December 31, 2012, there were 336 children in foster care in Linn County and 179 in Yamhill County. By December 31, 2015, there were 214 children in foster care in Linn County and 87 in Yamhill. Although the number of foster children had been declining even prior to the start of the Parent Child Representation Program, the *rate* of reduction has increased since the PCRCP began and, the rate of reduction has outpaced the statewide rate. The average rate of reduction in children in foster care for PCRCP counties was 19% in 2014, 21% in 2015, and 15% through June 2016. In contrast, the number of children in foster care statewide decreased by 4% in 2014, 0% in 2015 and *increased* by 2% between January 2016 and June 2016. The graph below reflects the number of foster children in Linn and Yamhill counties over the past 5 years as compared to Oregon as a whole.



⁵⁹ Data source: Oregon child welfare data set report CM.02 Count of Children in Foster Care by Placement Type-Last Day of Period https://rom.socwel.ku.edu/Oregon_Public/MyReports.aspx.

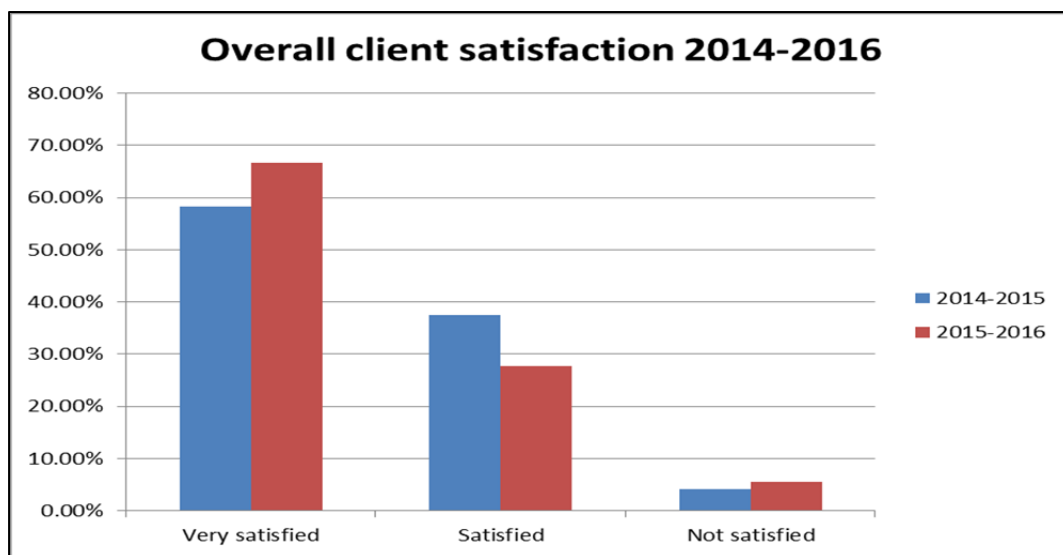
⁶⁰ Courtney, Hook & Orme, *supra* n 8.

II. Indicator: Client satisfaction

Measure: Percentage of former PCRCP clients who report overall satisfaction with the representation provided by their attorney.⁶¹

Explanation: Client satisfaction, trust and participation are important elements of any successful legal representation. Without these elements, there is a high probability that the client will not fully cooperate with or confide in their attorney and could jeopardize the effectiveness of the client's defense.⁶² Client satisfaction is an important component in assessing attorney competence and effectiveness. Within the PCRCP, an attempt is made to contact each former client who consents to the survey.

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 2016, 42 former clients have completed the survey with the majority reporting being very satisfied with the quality of representation.



⁶¹ Data source: PCRCP client satisfaction survey.

⁶² 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/lisclaid_3d_%20janet_moore_indig_def_ref_proj.authcheckdam.pdf.

Conclusion

This report serves as a strong endorsement of the Parent Child Representation Program as a model for legal representation of parents and children in juvenile dependency cases. Over the past two years, the Office of Public Defense Services relied on a number of qualitative and quantitative data indicators to measure the effectiveness of improved legal representation within the PCRCP counties. The data gathered by OPDS and presented in this report reflects the reduced use of foster care, increased reunification with family, and expedited permanency for children.

Improving legal representation requires time, consistent focus, and effective use of resources. Those who work diligently to represent parents and children in the PCRCP counties—attorneys, legal assistants, and case managers—should be recognized for their commitment to providing high-quality, client-centered legal representation. Additionally, the collaborative efforts of local stakeholders—Judges, Deputy District Attorneys, Assistant Attorney Generals, CASAs, Juvenile Court Counselors, and DHS staff—have been indispensable. Last, feedback and encouragement from former clients, both parents and children, has provided helpful guidance.

In 2016, statewide implementation of the Parent Child Representation Program was endorsed by the Governor’s Task Force on Dependency Representation because the program is linked to improved outcomes and offers an opportunity for cost-effective, quality legal representation for parents and children.⁶³ The Office of Public Defense Services is committed to continuing to improve the PCRCP in existing counties and enabling lawyers to serve more families as the program grows.

⁶³ *Oregon Task Force on Dependency Representation Final Report*, *supra* n. 1 at 3.
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