



## Office of Public Defense Services

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OPDS Teleconference with Oregon Public Defense Providers  
June 30<sup>th</sup>, 2020 10:30am – 11:30am PST

### Teleconference Recap

Questions? Please send them to [Kaysea.R.Dahlstrom@opds.state.or.us](mailto:Kaysea.R.Dahlstrom@opds.state.or.us).

### Greeting & Welcome (Kimberly McCullough)

- Thanks for taking the time out of your day to join us. Today, we will give update on the legislative special session that took place last week, a couple of announcements, an update on contracts, and then we will have our normal open Q&A at the end.

### Update on Special Session (Kimberly McCullough)

- The legislative special session ran from Wednesday through Friday of last week. It was called to address bills and legislation related to COVID-19 and police reform. They also included a few more items that weren't necessarily related.
  - o [HB 4212](#) – This was the COVID omnibus bill which included a variety of provisions. The greatest impact on public defense was the section that relates to the Chief Justice's authority to extend case timelines, as well as the ability to delegate those extensions to the presiding judges (specifically on those cases related to pretrial detention). A workgroup on this had occurred a month ago, and another workgroup was convened last week. COVID will be considered good cause to extend pre-trial detention from 60 to 180 days. In addition, the court can extend up to 60 days (total of 240 days) only in the following circumstances: ineligibility for bail or if there is serious risk of physical injury to victim or public and that no other condition of release could mitigate that danger.
  - o Several police reform bills were introduced, but there is a general feeling by the legislature that these bills are just an initial step and not the end of this work. This feeling has been echoed by advocates in community that work on these issues. There was very little notice for folks to put together a more robust package of bills, and police reform takes a lot of work. Some things might seem like a good idea at first but may have unintended consequences. We will continue this work in preparation for the next legislative session at the end of January 2021.
    - [HB 4201](#) – Under the original bill, DOJ would have conducted independent investigations into use of deadly force. Instead, the bill was amended to create a dedicated joint committee in the legislature to focus on police form and look at standards around use of force.
    - [HB 4203](#) – Bans chokeholds except where deadly forces allowed under Oregon law, but this exception is extremely broad. Work needs to be done by the joint committee to bring those provisions up to the standard that folks in Oregon want them to be.
    - [HB 4205](#) – Duty to intervene and report when another officer engages in misconduct. Must be reported to supervisor within 72 hours. Prohibits retaliation about reporting misconduct. "Misconduct" as described is fairly broad.

- [HB 4207](#) - DPSST – create database of police misconduct, however the only misconduct required in the database is that which rises to level that an officer has been decertified by DSST. All of this information is already public record, but perhaps this bill will put this information in a format that is more accessible to the public. It also requires police departments to obtain and review personnel records when hiring new officer and requires holding records.
  - [HB 4208](#) – bans tear gas except for when in circumstances constituting a riot. It also requires an announcement of intent and allows time for departure before tear gas is deployed. The bill originally included LRADs, but those provisions were amended out.
  - [SB 1604](#) - relates to arbitration. Until now, the union contract requires that if an officer is disciplined, it can go to arbitration. Then the police officer may be removed by the chief of police or the mayor, and then the arbitrator gets that person back on the force. Now, the arbitrator cannot overturn the discipline as long as they agree with the LEA’s findings.
- Several miscellaneous bills were also revived from last session and passed:
  - [HB 4210](#) - Oregon Law Center’s bill for prohibiting suspension of licenses based on failure to pay fees.
  - [HB 4214](#) – Oregon Indian Child Welfare Act (ICWA) – bill in same form as it was at end of short session in March. It was originally set to pass, but session ended without quorum. Everyone knows that the language in this bill still needs some work. A work group will be pulled together in August for this.
  - [SB 1605](#) - Modifies Oregon Promise program to extend eligibility to certain Oregon foster children who attain their highest level of education while in out-of-state placements. Also changes some provisions related to out-of-state and institutional/residential placements of foster children.
- We do expect another special session sometime in July regarding budget issues, and I would not be surprised if another special sessions follows that.

#### Upcoming Dates

- PDSC meeting will be on July 16<sup>th</sup> held on Microsoft teams. Follow this [link](#) to view it. The primary focus for the next PDSC meeting is the budget that we will submit later this year. We will submit the budget to LFO for them to analyze, comment on, critique, and question. After that process occurs, we will ask for approval of the budget by the PDSC. Policy option packages (POPs) will be submitted later in summer for analysis, and an initial round of our current service level budget will be submitted in July.
- Next provider teleconference will be on July 14<sup>th</sup>
- PDSC retreat will occur on August 14<sup>th</sup>.

#### Roll-out of PCRCP (Lane Borg)

- This morning, all contract extensions were signed, and copies should be delivered to you. They are effective tomorrow, July 1<sup>st</sup>. Thanks again for your patience. We received several questions from commissioners about contracting. We have been very fortunate to have a really strong and dedicated public defender force at the trial level – attorneys, consortia, public defenders, nonprofit offices - and we have been able to cover all cases that have been filed. Under this new contracting model, we aren’t putting hard caps or quotas on people. We are working with providers to cover cases, and providers will be allowed to cut themselves off.

- PCRP roll out in Multnomah county begins tomorrow, July 1<sup>st</sup>. The model has set components and a targeted capped workload of open cases. Originally, my decision was to go with conservative number of caseloads, and then to add if necessary. We don't wish to take clients away from attorneys. Every attorney client relationship is special, but especially in PCRP. For that reason, it will take us several months to get to the correct caseloads. I appreciate people in this environment being flexible and participatory.
- The purpose of the upcoming PDSC retreat is to give ourselves ability to look at criteria and factors that we should be applying when we enter into contracts with providers. With change to our contacting model, we have discovered that in caseloads across the state (county vs. county) there is great variation in what we pay for FTE or attorney caseload. It varies because of a system that was in place, and that variation was uncomfortable to commission. There was a desire to have a conversation about what we pay per caseload and, if there are differences, are they understandable? Or are they just a visage of too much caseload? These retreat conversations will be important, and it will be important for you to give input on. We will ask you to provide information. For example: How many cases do you have? What's going on in your jurisdiction? What's important to you? This won't be a one-and-done meeting; this will be a continuing conversation.

#### Open Q&A with Providers (Kimberly/Lane)

- **Q: In regard to individuals contracting with administrators, what does a "case" mean? I have too many cases, can't take any more for a couple of weeks.**
  - o You are correct, that is something that needs to be defined. In North Carolina they stumbled on reform efforts because they couldn't come to agreement on what a case meant. We need a better definition of case, and the PDSC needs to weigh in on this. The ABA study will help us with this, but we unfortunately won't have that completed until the end of the year.
- **Q: You agree to give administration "X" amount of dollars for "X" number of lawyers. That second level of contracting isn't really addressed. Will it ever be?**
  - o There is now a requirement that providers (members of that contract) must read and see the terms of the contract that their administrators are administering. We hope that with more transparency that there will be more equitable contracts. Ultimately, it is a market-based model. We would appreciate you sharing your thoughts and input in time for the commissioners to consider at the treat.
  - o We really want to hear from you. [Kimberly](#) is happy to hop on the phone or exchange emails with any of you about this topic. As we move into a newer contacting model that will go into effect in January, we are anticipating being more specific about the amount of money going specifically to administration versus attorney work. We look forward to having more transparency in showing money given to administration and money given to the attorneys.
- **Q: A lot of thought has gone into the implementation of the PCRP model on dependency cases. We aren't a PCRP county. What, if any, guidance can be taken from the target caseload rate?**
  - o We do not yet have a clear answer from the ABA about what caseloads should look like, so we are left with the ethical rule that an attorney should only take the number of cases they can competently handle. That is an unfortunately unsatisfying answer, as it doesn't give you all the clarity you need. So we simply rely on you to determine when

you have met the limit. All that said, we continue to push for PCRFP funding in the legislature, and our goal is to eventually implement the PCRFP caseloads statewide.

- Send an email to [Kaysea](#), [Kimberly](#), or [Lane](#) an email if you have anything if you'd like to see us discuss in the future. Thanks again for all the work you're doing. We're entering a new phase of working reality. Please let us know if there is anything we can do in terms of support.

*Next OPDS call-in meeting is Tuesday, July 14 at 10:30am.*