



**Meeting:** OPDS Teleconference with Oregon Public Defense Providers

**Date & Time:** October 6<sup>th</sup>, 2020 – 10:30am PST

**Address/Platform:** OPDS Conference Line

**Connection Info:** (866) 390-1828 | Participant Code: 805008

**Invitees:** All Oregon Public Defense Providers, Lane Borg (Executive Director, OPDS), Kaysea Dahlstrom (Executive Assistant, OPDS)

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### Greetings & Welcome

- Kimberly McCollough has departed OPDS to be a Director at the Department of Justice.
- Bridget Budbill, from the Criminal Justice Commission, will join OPDS as Kimberly McCollough’s replacement on October 26<sup>th</sup>. OPDS has worked with her before on pre-trial release. She will be an asset to us, and we are excited to have her coming aboard.

### Case Backlog

- We would like to address the current case backlog. It is our understanding that all courts have the ability to conduct all dispositions up to jury trials, but we are missing the data relating to their capacity for frequency. This is likely due to the lack of jury trials or the decreased incentive for why a client would want to resolve the case, especially if the District Attorney isn’t making offers that reflect realities of COVID pandemic that we’re all dealing with today.
- The agency is responsive to claims we hear from different stakeholder groups.

- We would like to gather information that would be meaningful in conversations that we participate in. Please let us know what's going on in your jurisdiction:
  - How many client meetings are occurring?
  - How many trials actually happen? And what type(s)?

## Commission Directive

- The PDSC voted to adopt a new contracting model at the September 29<sup>th</sup> meeting.
- The new contracting model focuses on purchasing time and effort rather than the model of case credit.
- The PDSC has requested OPDS staff to adopt a model that (1) is revenue-neutral (within confines of what we have in PSA), and (2) give specific consideration and distinction between urban and non-urban entities (in terms of attorney and staff compensation, other overhead such as office space, insurance, etc.).
- We have received direction from the PDSC to develop an aggressive plan that addresses disparities we saw between contractors. These disparities were provided in materials at the PDSC September meeting. The disparities weren't created in the last couple of years but were made more transparent through our data analysis. We were able to get a better idea of what we pay for in different counties through our strategic calculations.
- The agency has already been moving away from the case credit model and, with PDSC's new directive, we are crunching the numbers and looking at the data to present an update at the next commission meeting on October 23<sup>rd</sup>.
- Per the PDSC guidelines, this model will encompass capping caseloads – not to exceed 115% of NACC standards. There were only about seven counties that were above NACC standards, (the highest being at 130% of NACC), and there are a few places where we will need to add capacity.
- We feel optimistic as we don't have evidence that caseloads are completely out of control. We are aware that this will have a significant impact as there will be some who will be offered increases, and others we will expect more from as it presumes you have support staff. We believe that the PDSC's decision incites equity, transparency and accountability. We are awaiting ABA report which will be released next year (2021).
- Overall, this will be a better model for us, for the legislature, and to better service our clients.
- Materials will be posted a week ahead of the October 23<sup>rd</sup> PDSC meeting. It is important to access and review them so that you can weigh in on the changes that are coming. We value your constructive comments as we look at ways we can best transition.
- The PDSC also asked to set monthly meetings in 2021, apart from a retreat in January.

## Multnomah County Central Courthouse

- The new courthouse opened on October 5<sup>th</sup> and encompasses deliberate space for public defense providers.
- The space is quiet at this time due to COVID-19, however, there are conference rooms and offices available to attorneys during trials.

- We are hiring someone to manage the space, and they should be brought on in November.

## ABA Caseload Study

- We have completed the first round of survey on criminal cases. That data has been analyzed and round two will go out two weeks from today; The juvenile survey will begin next month.
- We are actively working to identify practitioners who handle either delinquency or dependency cases.
- In terms of NACC conversation, these numbers that come from caseload numbers will be very different than what we are accustomed to seeing. It is unlikely that we will be in the position to adopt the standard immediately. For reference, other states have needed two to three times the number of Attorney's to handle caseload.

## Open Q&A with Providers

- Q: Will the new 1-year contracts be signed before January 1<sup>st</sup>?
  - Yes, we are looking at one-year contracts: January 1<sup>st</sup> – December 31<sup>st</sup>, 2021.
- Q: What is the timeline for contracts? Will the new 1-year contracts be signed before January 1<sup>st</sup>?
  - Analysts are working to identify the folks who would be taking a hit, as well as people who are under compensated (and who need more infrastructure) and have conversations with them first. The next step will be to provide PDSC with an update on the numbers they have requested. Analysts are starting these conversations as soon as possible.
- Comment from Mae Lee Browning: OCDLA has a seat at the table at Chief Justice's workgroup on remote hearings for criminal cases. The Chief Justice asked for ideas as to how to clear backlog for criminal cases. Please send thoughts and ideas to [MLBrowning@ocdla.org](mailto:MLBrowning@ocdla.org).

(Lane Borg) I'd like to echo what Mae Lee said. We've got to demonstrate how the fact that 'you can have a jury trial' doesn't mean that the jury trials are happening; Doing one jury trial every other week is not the same as four per week. It's my position that we can't have any solution that implies that defense attorneys are supposed to mislead clients. Our obligation is to be truthful with our clients. Until the DA's offices are willing to come to the table and recognize we are in a pandemic and make better and different offers, it won't be helpful. They can't continue business as usual. I think PJ's need to put more pressure on District Attorney's.
- Comment from Lane Borg: Thank you, keep doing the good work, and talk to your analysts.