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# **The Public Defense Pilot Projects**

## **Washington State Office of Public Defense**

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### **Looking Glass Analytics**

215 Legion Way SW  
Olympia, WA

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## About the Office of Public Defense

Established by the Legislature in 1996, the Washington State Office of Public Defense (OPD) is an independent agency of the judicial branch. The Office implements the constitutional and statutory guarantees of counsel to ensure the effective and efficient delivery of indigent defense services funded by the state. Specifically, OPD administers state funds appropriated for the Parents Representation Program for dependency cases, appellate indigent defense services and criminal trial indigent defense services.

An Advisory Committee oversees the activities of OPD. The Committee includes members appointed by the Chief Justice of the Washington State Supreme Court, the Governor, the Court of Appeals, the Washington State Association of Counties, the Association of Washington Cities, as well as the Washington State Bar Association, two Senators and two Representatives.

OPD's Director, Joanne Moore, is appointed by the Washington State Supreme Court.

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# The Public Defense Pilot Projects

## Washington State Office of Public Defense

Looking Glass Analytics  
March 2009

### SUMMARY

The Washington State Office of Public Defense (OPD) provided funds to two adult courts and one juvenile court for additional public defenders and support staff as part of its Public Defense Pilot Projects. Prior to the Pilot there were significant issues with the availability and quality of public defense services in all three courts, including an absence of defenders at arraignment, limited client contact and high caseloads.

Interviews with key court participants and analysis of court case records showed several key findings resulting from the Pilot, including:

- Lower caseloads for public defenders
- Representation for all indigent defendants at arraignment
- Faster resolution of charges over the course of the Pilot
- Improved communications with clients
- Improved indigency screening
- Reductions in cases filed at all sites and increases at two sites in the use of deferred prosecutions.

*During our time as participants in the Pilot Project, we have witnessed an improved atmosphere in the courtroom. Public defense attorneys with reasonable caseloads have time to work the cases resulting in fewer requests for continuances and a quicker time to resolution and services.*

Linda Storck, Director  
Judicial & Support Services  
Bellingham Municipal Court

## I. Introduction and Background

In July 2005 the Washington State Legislature authorized funding to implement three Public Defense Pilot Projects through the state's Office of Public Defense (OPD). The OPD provided funds to two adult courts and one juvenile court for additional attorneys, investigators, paralegals and social workers. The OPD-funded positions for each court are listed in Table 1: OPD Pilot Site Characteristics. In addition to these newly-funded positions, OPD provided project managers that assisted in the implementation of the projects, performing tasks such as streamlining the indigency screening process, managing new attorneys and providing individual case assistance. These changes were implemented because of deficiencies in the public defense system at each site (see *Pre-Pilot Conditions*, p.3).

In part, the new funding came in response to growing concerns about the inability of under-funded, over-burdened public defense systems across the state to provide quality, individualized representation to indigent clients. OPD oversaw implementation of the special Pilot Projects, which commenced in January 2006. This report outlines findings from a recent independent evaluation of these programs.

### Purposes of the Evaluation

The primary purpose of this evaluation was to determine whether public defense practices have improved as a result of OPD's intervention. Key areas of public defense practice were examined, including controlling caseload size, improving client contact and expanding representation to cover first appearance hearings. This evaluation also sought to identify other key strengths, including the influence of the Pilot on case processing and outcomes, such as the length of time from filing to disposition, the use of alternative sentencing procedures and the number of cases filed.

### Pilot Selection Process

The OPD selected Pilot sites based on several factors, including the size of the court, the type of court, the magnitude of current caseloads and resources that would be required to address caseload and other issues.<sup>1</sup> There was a strong interest in being able to demonstrate improved defense practices in juvenile courts and courts of limited jurisdiction and a desire to test activities in different types of settings. In addition, OPD based site selection on the degree of interest expressed by county and/or court officials

### Site Characteristics

As outlined in Table 1, OPD management ultimately selected three very different types of Pilot sites, including (1) a municipal court serving a primarily urban population, (2) a juvenile court serving a rural county and (3) a county district court serving a mix of urban, rural and suburban populations. Each site represented a different type of delivery structure for public defense services. Bellingham Municipal and Grant County Juvenile courts both utilized contracted services from private attorneys, but in Bellingham a group practice headed by an owner/manager contracted with the city government and supervised all other attorneys and staff. These staff all worked at the same office and their practice consisted solely of defense of indigent clients. OPD had a single contract with the private lead attorney outlining the expectations and requirements

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<sup>1</sup> The authorizing legislation did not specify eligibility criteria for being considered or selected as a Pilot site.

of the Pilot.<sup>2</sup> Contracts in Grant County were all with individuals prior to attorneys. In Thurston County District Court, Pilot attorneys constituted a misdemeanor unit within a county-run public defender office that also handled felony and juvenile cases.

### OPD Pilot Site Characteristics

	Bellingham Municipal	Thurston District	Grant County Juvenile
<b>Court type</b>	Adult Misdemeanor	Adult Misdemeanor	Juvenile Offender
<b>Area served</b>	Urban	Mixed	Rural
<b>Defense office model</b>	Contracted office of assigned counsel	County government	Independent Contractors
<b>Supervision</b>	On-site by private contractor and lead attorney	On-site by director of office	Off-site by private attorney w/separate private practice
<b>OPD-funded FTE attorneys</b>	2 new attorneys <i>Expanded existing office from 3 to 5 attorneys</i>	3 new attorneys <i>Expanded existing office unit from 2 to 5 attorneys</i>	2 attorneys (jointly funded by OPD and county) <i>No expansion in attorney resources, but practice limited to juvenile public defense</i>
<b>OPD-funded staff</b>	1 FT investigator 1 social worker /paralegal (50 percent time for each function)	1 FT paralegal Additional funds provided for contract investigators	1 part-time social worker (hired Sept. 2006) 1 part-time office assistant (hired April 2006)

As the table above shows, Bellingham Municipal and Thurston County District courts shared a number of similarities. They both served adults charged with misdemeanors, both were located in urban settings and both used an office-based model of public defense. That is, public defense attorneys and staff worked together in one office with on-site supervision.

### Pre-Pilot Conditions

While each Pilot site faced unique circumstances and challenges, there were some common cross-site issues that the OPD projects sought to address. Conditions thought to affect the quality of defense at the three sites included:

- No public defenders at first appearances or arraignments
- Limited or delayed client contact
- High caseloads
- Limited or no use of investigative and other support services
- Constrained pre-trial motion practice

### ***No Public Defenders at Arraignment***

Prior to the Pilots being introduced, none of the sites provided defense attorney coverage of first appearance or arraignment calendars. Typically, defendants appeared for arraignment without having consulted with an attorney. Those who might have qualified for a public defender would enter a plea without the benefit of advice of counsel. Specific problems caused by the absence of public defenders included:

- Defendants did not always fully understand their rights and incriminated themselves.
- Defendants were not in a position to assess the evidence and would plead guilty even when the initial charge may have not been supported by the evidence, or might choose to

<sup>2</sup> The attorney had previously held the public defense contract, so the pilot represented a continuation of contracted services, but with two major structural changes: The previously sub-contracted staff became employees of the office and representation of private clients was discontinued.

go forward toward trial when the evidence suggested that it was in their best interest to negotiate a plea.

- Judges responded to unrepresented defendants in different ways. Some were comfortable with accepting uncounseled pleas, pointing out that many of the matters were relatively minor and that the defendants and their families were often eager to resolve their problems through an initial guilty plea. However, the majority interviewed felt that the lack of counsel presented the appearance of unfairness, if not actual unfairness, and had the potential to undermine confidence in the justice system. A number of judges interviewed felt it was their duty to counsel against a hasty plea and several indicated they would not accept a guilty plea at arraignment for more serious matters involving jail time.
- Pro se defendants introduced more confusion and delays in some of the arraignment calendars.

### ***Limited/Delayed Client Contact***

A second problem area involved the timing and level of client contact public defenders incorporated into their practice. Attorneys frequently were unable to meet with clients in a timely manner. Initial meetings often took place just a few minutes before or at the pre-trial hearing. As a result, cases had to be continued to allow the defense time to learn more about the case and develop an appropriate legal strategy. The manner in which defender offices structured service delivery to clients also created barriers to communication. Defense attorneys did not have set office hours, making it more challenging to connect either in person or by phone with clients. None of the sites had established minimum requirements for meeting or communicating with clients.

### ***High Caseloads***

Under the Washington State Bar Association's approved standards of practice for public defense, the recommended misdemeanor caseload is up to approximately 400 cases per year. At both sites caseloads substantially exceeded this recommendation, reaching as high as 800 or more per year at Thurston County District Court. Large caseloads interfered with the defense attorneys' ability to explore fully each case and prepare an adequate defense in a timely manner. Defense attorneys had to ask for continuances because they were unprepared to move forward.

### ***Limited Use of Investigative or Other Services***

Another condition at the sites was the limited use of investigative or other supportive services, such as social workers, paralegals or experts. Attorneys at times did their own investigative work on cases and made their own referrals to needed social services. However, being stretched thin by caseload requirements, as described above, attorneys were often not able to track down and interview key witnesses. Moreover, by acting in the role of investigator, attorneys put themselves at risk for becoming a witness in their own cases. None of the sites had paralegal or social worker services available prior to the Pilot.

### ***Constrained Pre-Trial Motion Practice***

The limited ability to investigate combined with high caseloads placed constraints on motion practice at all sites, according to interview data. The majority of those interviewed believed that both the quantity and quality of motions were affected by these constraints.

## **Description of Implementation**

OPD selected the three sites in late fall 2005. Two OPD program managers implemented and oversaw the Pilot sites. By December 2005 OPD had reached agreements for the Pilots with the local governments and had signed contracts with public defense offices involved. The project was

rapidly implemented, with most new staff hired by January 2006. OPD managers were involved in the hiring process at all sites.

Different types and levels of resources were put into each Pilot, depending on the conditions at the site. For example, Thurston County District, which had the highest caseloads, received resources primarily to expand from two to five attorneys. With OPD Pilot funding, the site also was able to hire a new full-time paralegal. Bellingham Municipal Court received funds to expand legal staff, hire a full-time investigator and support a social worker/paralegal position. All sites received additional OPD-sponsored training either on-site or through continuing legal education. Finally, all sites received extra attorney mentoring and staff development services through OPD. The OPD program managers initially observed less experienced attorneys in court, provided feedback to attorneys and, on an ongoing basis, made themselves available to all Pilot site attorneys for case consultation.

In the contracts, OPD required that the offices and attorneys meet a number of conditions. Each agreed to:

- Restrict attorney caseloads. Each public defender attorney should be assigned no more than 400 total case equivalents per year for municipal and district court Pilots and no more than 250 per year for the juvenile court Pilot.
- Provide counsel at all proceedings, including first appearances
- Ensure that adequate and appropriate case investigation is conducted
- Maintain adequate client contact throughout each case
- Devote all legal services to indigent clients assigned by the court
- Monitor, supervise and evaluate the performance of attorneys on a regular basis

In addition to the above requirements, each Pilot site was expected to maintain individual case time records and fill out monthly case disposition forms provided by OPD.

## Methodology

Three primary sources of data were used to examine the effects of the Pilots, including:

**Interviews.** The evaluators visited all three sites and conducted 40 in-depth interviews with OPD Pilot staff and other stakeholders, including public defender staff, judicial officers, court staff and prosecutors.

**Document Review.** In addition to interviews, the evaluator gathered and reviewed a range of documents pertaining to the Pilot Projects, including contract materials, website materials and data collection forms and data output used at each of the sites.

**Electronic Court Data.** Electronic records from four sources were used in this evaluation: 1) Case disposition forms, completed by public defenders at each Pilot site, containing information on case characteristics and time spent on various tasks. 2) Records from the Washington State Administrative Office of the Courts (AOC) for each case filed in the adult courts. These records included information on charges filed, filing and disposition dates. 3) Case assignment records from Bellingham Assigned Counsel, the contracted provider of public defense for the Bellingham Municipal Court. These records detailed the public defender assigned to the case along with assignment dates and other case characteristics. 4) AOC Caseload Reports: published annually by the AOC containing aggregate data for each court in the state with information on cases filed, hearings held and dispositions.

## II. Pilot Results in the Adult Courts

The Pilots had significant effects on several aspects of court activity, including public defender workload, the quality of the representation provided and the processing of individual cases. Specifically, at the adult sites, the following changes were observed:

### 1. Lower Caseloads

In Thurston County District Court, caseloads were reduced significantly, from over 800 per year prior to the Pilot to 376 in 2006. In 2007, the average caseload was 380. Thus, over time, caseloads went from far above the Bar Association guidelines to well within those guidelines.

In Bellingham, caseloads were reduced significantly, from 600 per attorney per year prior to the Pilot to 399 in 2006. In 2007, the average caseload was 408. Thus, caseloads declined about 33 percent during the Pilot.

### 2. Improved and Expanded Representation

In both adult courts, legal representation was improved for indigent misdemeanor defendants in several ways.

**Representation at Arraignment.** Interview data confirmed that the common practice of holding a first appearance/arraignment without providing access to a public defender ended during the first months of the Pilot. The overwhelming majority of judges, defense attorneys, prosecutors and court personnel viewed the presence of defense attorneys at arraignment as a positive development for several reasons. First, most concurred that providing access to a defense attorney early on ensured that the constitutional rights of the accused were preserved. Second, many felt that having an attorney present at all arraignment calendars was important in that it prevented the appearance of unfairness and increased defendants' confidence in the court as an institution. Third, a majority of interviewees believed that the presence of public defenders at arraignment had a positive impact on one or more aspects of the larger court system and/or on case processing.

**Improved Communications with Clients.** Interview data showed that communication between attorneys and clients improved substantially. Examples of improved communication practices included:

- Maintaining specific office hours so that face-to-face and telephonic client meetings could be facilitated. Prior to the project none of the sites appeared to have regular attorney office hours.
- Holding substantive meetings with clients much earlier in the processing of the case. The formerly routine practice of meeting clients at court just before a pre-trial hearing was substantially reduced in at least two sites, according to interview data.
- Contacting clients prior to arraignment to remind them of the proceedings and to encourage their attendance. A number of interviewees believed that this practice reduced the number of failure to appear warrants issued.
- Visiting clients in custody.

**Improved Motions.** The overwhelming majority of interviewees agreed that additional attorneys and/or other resources provided by the Pilots gave attorneys increased ability to focus on each case. As a result, most concurred, more issues were now being spotted, more investigative resources were being used to develop a case and more motions were being filed. Almost two-

thirds agreed that the overall quality of motion work had improved. While there was some variation across sites, the general pattern held across all three Pilot sites. Nearly all judges noted improvements in the motions submitted by defense attorneys at the Pilot sites.

### 3. Case Processing Improvements

**Faster Processing of Charges.** Figures 1 and 2 highlight changes in the time it took to resolve charges in Thurston County District Court and Bellingham Municipal Court<sup>3</sup>. Time to resolution was measured in two ways: 1) the percentage of charges resolved in 90 days or less and 2) the percentage of charges resolved in 180 days or less.

#### Charges Resolved in 90 Days or Less

- Thurston: In late 2005, immediately prior to the Pilot, 38 percent of all charges were resolved in 90 days. The percentage of charges resolved in 90 days increased to 55 percent by the end of 2007. This represents an increase in charges resolved in 90 days of nearly 45 percent.
- Bellingham: In late 2005, immediately prior to the Pilot, 48 percent of all charges were resolved within 90 days. By the end of 2007, 56 percent of all charges were resolved in 90 days. This represents an increase in charges resolved in 90 days of nearly 17 percent.

#### Charges Resolved in 180 Days or Less

- Thurston: Immediately prior to the Pilot, 55 percent of all charges were resolved in 180 days or less, and that figure increased to 74 percent by the end of 2007. This represents an increase in charges resolved in 180 days of nearly 35 percent.
- Bellingham: Immediately prior to the Pilot, 61 percent of all charges were resolved within 180 days and that figure increased to 80 percent by the end of 2007. This represents an increase in charges resolved in 180 days of 31 percent.

Figure 1

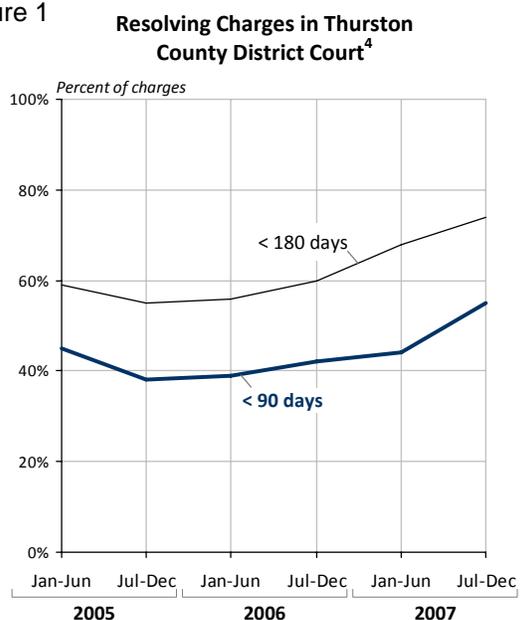
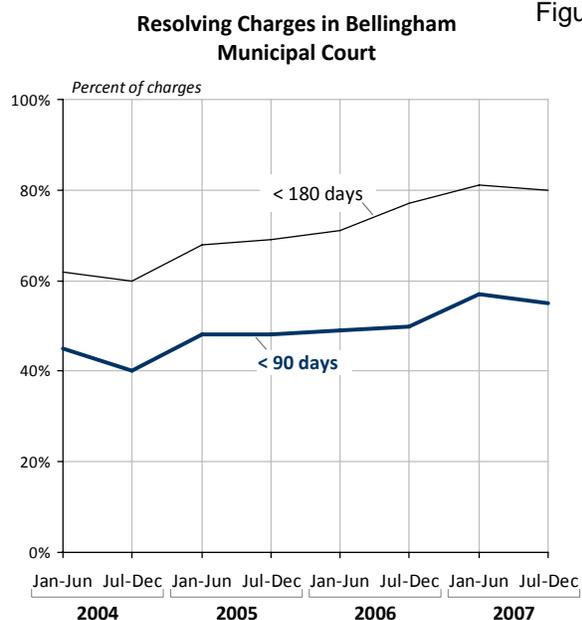


Figure 2

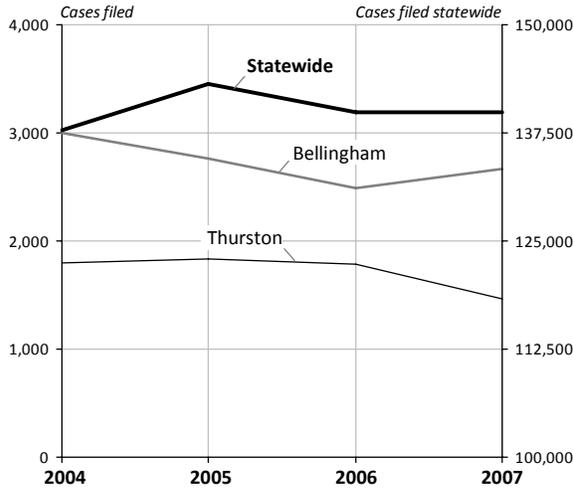


<sup>3</sup> Infractions and amended charges were not included in this analysis. DWLS 3<sup>rd</sup> Degree cases were also omitted due to variations in filings resulting from the Washington Supreme Court's Redmond v. Moore decision.

<sup>4</sup> Only one year of valid pre-Pilot data was available from the Thurston District Court. Two years were available for Bellingham.

#### 4. Decreases in Case Filings

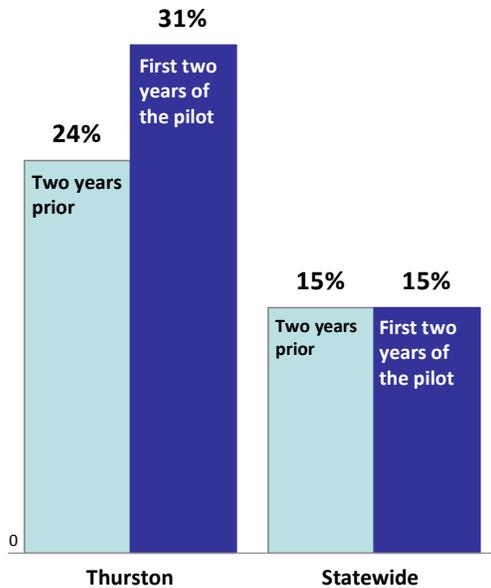
Figure 3 Case Filings for Non-Traffic Misdemeanors 2004 – 2007



In both adult court sites, the number of case filings for non-traffic misdemeanors declined. In Bellingham, non-traffic misdemeanor filings declined 11 percent in the first two years of the Pilot, compared to the two years prior to the Pilot. The decline was 11 percent in Thurston County as well. Statewide, case filings increased slightly over this period of time. One interviewee in Bellingham attributed some of the decline to the work of investigators during the Pilot, who brought more information about cases overall and thus influenced charging decisions and practices.

#### 5. Increase in Deferred Prosecutions: Thurston County District Court

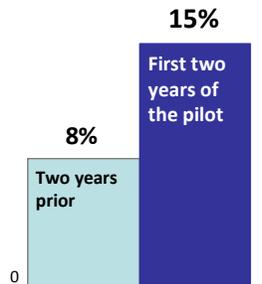
Figure 4 Percent of Cases Resolved with a Deferred Prosecution Non-Traffic Misdemeanors



In Washington State, deferred prosecutions provide a way to get chemically dependent offenders into treatment. In Thurston County District Court, that option was used more frequently during the two-year Pilot period than in the two years prior to the Pilot. In contrast, across the state the percentage of cases resolved in this way did not change.

#### 6. Increase in Jury Trials Held: Bellingham Municipal Court

Figure 5 Jury Trials for Non-Traffic Misdemeanors Bellingham Municipal Court



Jury trials in courts of limited jurisdiction are relatively rare events, but defense attorneys and their clients were more willing to take cases to trial during the two-year Pilot period compared to the two years before. During the Pilot, 28 trials were held for non-traffic misdemeanors compared with eight trials held prior to the Pilot.

Both prosecuting and defense attorneys in Bellingham noted that the Pilot investigator's work resulted in favorable resolution of a significant number of trial track cases prior to trial. In these cases, if the defense investigation added new information and evidence favorable to the defense, defense counsel would forward the results to the prosecuting attorney. After reviewing the investigation report, if it appeared that the defense's chances of prevailing at trial were good, the prosecutor often filed a dismissal motion in order to efficiently resolve these trial track cases, prior to trial, which saved time for the court and the parties<sup>5</sup>.

## 7. Improved Indigency Screening

Before the Pilot, screening for indigency was not considered adequate prior to the appointment of counsel. In response, OPD created a new indigency application that defendants fill out before or during the arraignment proceedings. The judge then reviews the form and for those found to be indigent, the court appoints a public defense arraignment attorney. According to multiple interviewees from both adult courts, the new form as well as improved interviewing techniques made the process quicker, more reliable and user-friendly.

## 8. Assessment of Judges

Judges at the two misdemeanor sites were overwhelmingly favorable in their assessments of the Pilot's impact in terms of improving the quality of defense and protecting clients' rights. In addition, judges at these sites felt the Pilot directly and positively affected them in carrying out their judicial functions. They were glad to be relieved of the duty of counseling pro se defendants at arraignment, believing that this duty could be more properly discharged by defense attorneys. A majority of judges expressed relief at no longer having to play the role of the (absent) defense attorney, as captured in a judicial officer's paraphrased statement below:

*We [at the court] had to go to some lengths, bending over backward to make certain that defendants understood their rights. It was uncomfortable, at times. I had to essentially insert myself into the role of the defense and try to imagine how an attorney would act in a given circumstance to protect the rights of his client.*

Moreover, judges at these sites believed that arraignments functioned more smoothly and efficiently with defense attorneys present. For all these reasons, judges at these sites unanimously wanted Pilot funding to continue.

## 9. Client Satisfaction

A major theme across all the sites was that changes in public defender practices had increased client satisfaction, decreased client confusion and promoted greater trust in the court system as a whole. The factors most likely to contribute to greater client satisfaction included:

- Immediate access to an attorney's advice at arraignment
- Assistance in understanding and filling out indigency screening forms
- Greater access to the public defender, who was better able to respond to each case individually
- Ability to meet with the attorney to discuss a case in a private office setting, as opposed to meeting for a few minutes right before court

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<sup>5</sup> Bellingham prosecuting and defense attorneys also said that in other investigated cases, the defense investigator's report can result in a second, more favorable plea offer by the prosecutor.

- A greater sense that a public defender team, including an investigator and a social worker, was working on behalf of the client. This was especially evident at the Bellingham Municipal Court.

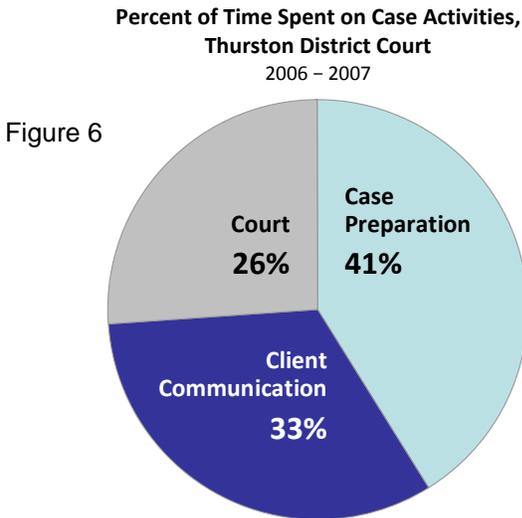
### 10. Training for Pilot Attorneys

Five Pilot attorneys from the Thurston County District Court participated in OPD-sponsored training sessions during 2006-2007. Four of the five participated in a two-day Pilot-specific session in 2007. Other attorneys participated in the more general single-day sessions.

Public defenders in the Bellingham Municipal Court took advantage of training sessions offered by the OPD. Three Pilot attorneys participated in OPD-sponsored training sessions during 2006-2007. Two of the three participated in a two-day Pilot-specific session in 2007. Other attorneys participated in the more general single-day sessions.

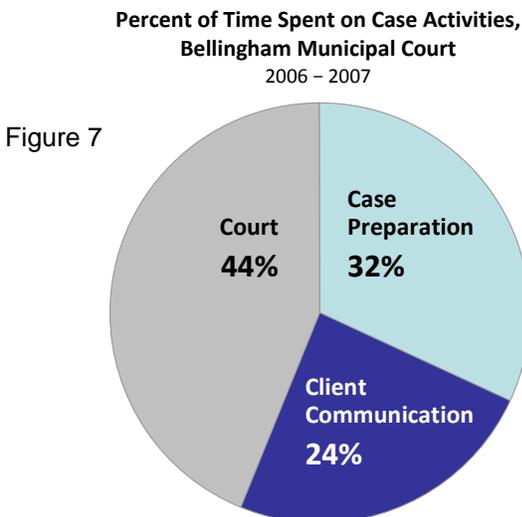
### 11. Pilot Attorney Activities

During the Pilot, participating public defenders kept records of how their time was spent on various aspects of their cases. Figures 6 & 7 show time spent by attorneys over the two-year Pilot period.



In Thurston County District Court, Pilot attorneys spent 41 percent of their time on case preparation and 33 percent communicating with clients. There is no quantitative data on how time was spent prior to the Pilot, but interview data from public defenders show that case preparation and client communication were both quite limited during that period due to high caseloads.

Note: average attorney time spent per case = 4.5 hrs, average annual caseload = 376.



In Bellingham, Pilot attorneys spent 44 percent of their time in court, 32 percent on case preparation and 24 percent on client communication. There is no quantitative data on how time was spent prior to the Pilot, but interview data from public defenders show that case preparation and client communication were both quite limited during that period due to high caseloads.

Note: average attorney time spent per case = 4.3 hrs, average annual caseload = 399.

### III. The Grant County Juvenile Court Pilot

In Grant County, OPD contracted with private attorneys to provide representation in the juvenile offender and BECCA<sup>6</sup> cases. Funds from the OPD were allocated in several ways:

- Funding one-half of the salary of two full-time contract attorneys.
- Contracting for the services of one part-time social worker and one part-time office assistant.
- Attorney mentoring and staff development services. OPD Pilot managers initially observed less experienced attorneys in court, provided feedback and, on an ongoing basis, made themselves available for case consultation. OPD also conducted formal training sessions that were made available to all Pilot defense attorneys.

#### Pilot Results

**1. Improved and Expanded Representation.** Many of the changes evident in the adult courts were evident in the juvenile Pilot site as well. Legal representation was improved for juveniles in Grant County in the following ways.

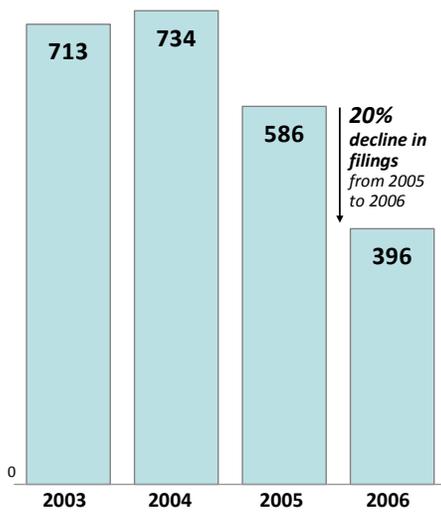
- **Representation at arraignment and first appearance calendars.** Interview data confirmed that the common practice of holding a first appearance/arraignment without providing access to a public defender ended during the first months of the Pilot. Pleas without the benefit of counsel were accepted practice prior to the Pilot, with almost one-fifth (20 percent) of all charges resolved by the court accepting guilty pleas without counsel for the respondent. The practice of scheduling first appearance/arraignments for out-of-custody respondents prior to appointment of counsel was eliminated in February 2006. The presence of defense attorneys at arraignment was seen as a positive development for several reasons. First, most interviewees concurred that providing access to a defense attorney early on ensured that the constitutional rights of the accused were preserved. Second, many felt that having an attorney present at all arraignment calendars was important in that it prevented the appearance of unfairness and increased respondents' confidence in the court as an institution. Third, the presence of public defenders at arraignment had a positive impact on one or more aspects of the larger court system and/or on case processing.
- **Improved communications with clients.** Interview data showed that communication between attorneys and clients improved substantially. Contrary to the pre-Pilot situation, attorneys were available for face-to-face meetings with clients and by telephone. In addition, clients were contacted prior to arraignment to remind them of upcoming proceedings. A number of interviewees felt that this practice reduced the number of failure to appear warrants during the Pilot. Also, attorneys visited clients in custody prior to all court hearings.
- **Improved motions.** Much like the two adult sites, interviewees noted improvements in the motions submitted by defense attorneys in Grant County Juvenile Court.
- **Reduction in case filings.** The assertion of constitutional rights by juveniles led to the adoption of more rigorous filing standards by the county prosecutor resulting in more cases being referred for diversion rather than formal court processing (see Figures 8-11)<sup>7</sup>.

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<sup>6</sup> BECCA cases are non-criminal status offenses, At-Risk Youth, Children in Need of Services and truancy contempt.

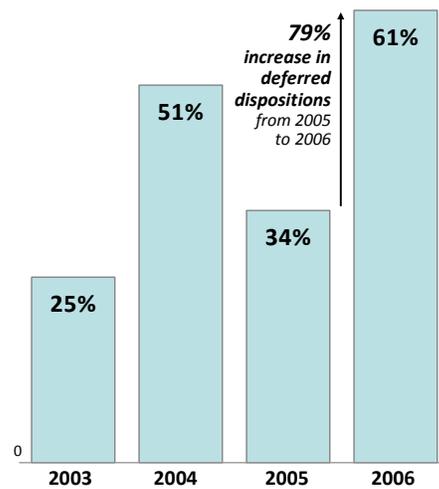
**Juvenile Offender Cases Filed in Grant County  
Juvenile Court  
2003 – 2006**

Figure 8



**Juvenile Offender Deferred Dispositions in Grant County  
Juvenile Court  
2003 – 2006**

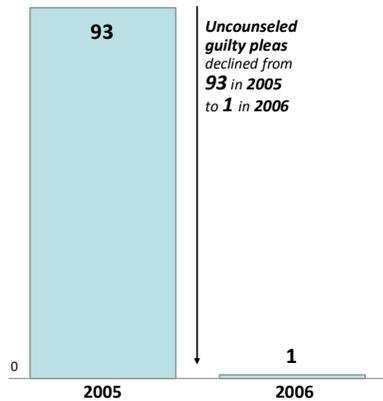
Figure 9



## 2. Improved Case Outcomes during the Pilot

**Guilty Pleas without Counsel, Grant County Juvenile Court  
2005 – 2006**

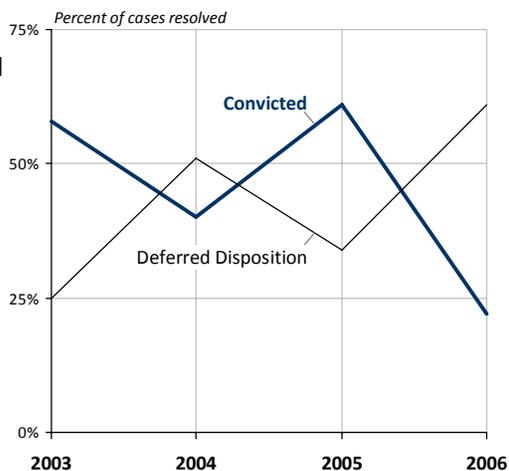
Figure 10



*A decline in guilty pleas without the Benefit of Counsel. In 2005, the year prior to the Pilot, 93 juveniles pled guilty to charges without legal representation. That situation was nearly eliminated during the Pilot. In 2006, only one juvenile made an uncounseled guilty plea.*

**Cases Resolutions in Grant County Juvenile Court  
2003 – 2006 After an adjudicatory hearing**

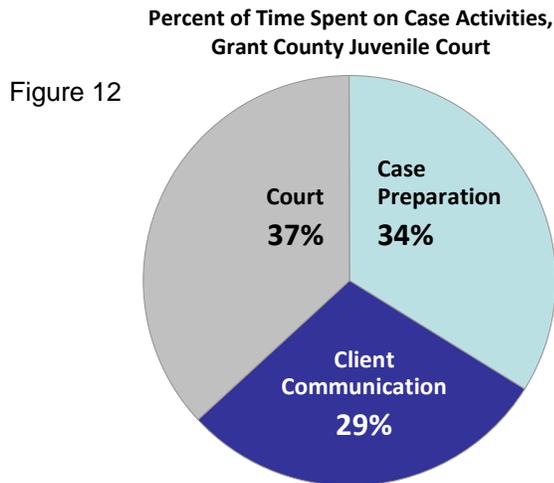
Figure 11



*A higher rate of deferred dispositions and a lower rate of convictions. Over the course of the Pilot, these changes brought case outcomes in Grant County Juvenile Court more into line with outcomes in all Washington State Juvenile Courts.*

<sup>6</sup> Results from the first year of the pilot are reported here. During the second year and one-half, case filings dropped significantly so that by the end of the second year the pilot attorneys' yearly caseloads were significantly lower than the 250-case standard.

**3. Caseloads During the Pilot.**<sup>8</sup> Caseload guidelines from the Washington State Bar Association recommend 250 juvenile offender cases per year per attorney. Over the course of 2006, OPD paid for 2.1 FTE attorneys who had a total caseload of 528, or 251 per attorney.



*How attorneys spent their time.* In 2006, Pilot attorneys allotted their time in three primary ways, time in court, communicating with clients and preparing their cases. Across all their cases, 37 percent of their time was spent in court and 34 percent was spent on case preparation. Twenty-nine percent of their time was spent communicating with their clients.

While there is no similar data before the Pilot, a common complaint was that a lack of communication and case preparation hindered public defense. During the Pilot, nearly two thirds of all attorney time was spent on these tasks.

Note: average attorney time spent per case = 6.8 hrs, average annual caseload = 250.

In addition to standard contract requirements setting caseload and compensation, the Pilot contracts incorporated the *Ten Core Principles for Providing Quality Delinquency Representation through Public Defense Delivery Systems*.<sup>9</sup> These principles required the Pilot attorneys to provide a more holistic representation model consistent with the research-based practices adopted by the juvenile court services throughout the State.

<sup>8</sup> SOURCE: OPD Case Disposition forms and records from the Washington State Judicial Information System (JIS). JIS records were used to identify cases where representation was provided but no OPD Disposition form was submitted.

<sup>9</sup> The *Principles* were developed through a collaborative venture between the National Juvenile Defender Center and National Legal Aid and Defender Association in 2004.

## IV. Conclusion and Recommendations

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The **Public Defense Pilot Projects** were successful in instituting significant changes in public defender practices and attitudes at all three Pilot sites, including reducing caseloads, extending public defender resources to arraignments, increasing the quality and quantity of client communication and improving investigation, case analysis and motion work. Both “old” and “new” attorneys (that is, those brought in to the sites through Pilot resources) embraced these changes.

### **Challenges in Introducing New Support Services**

The one area of practice that was less consistently implemented was utilization of new support staff resources (investigator, social worker and paralegal). While use of these support services substantially increased in the first months of their availability, they were unevenly utilized both within and across sites. Interview data suggests that many factors could be affecting utilization, including the skills of the support staff (or lack thereof), as well as attitudes, knowledge and experiences of the attorney. Site supervisors also may need to provide additional structure or guidance in the use of investigators and social workers. Finally, individual attorneys and public defender offices as a whole may require more time to integrate additional staff resources into their practice, particularly after adapting so many other changes in office practice in a relatively short period of time.

## TECHNICAL NOTES

### Data Sources and Methods

**Interviews.** Three layers of interviews were conducted: First, background interviews with OPD management staff were conducted during the summer of 2006. These semi-structured in-person and telephone interviews were used to develop background context and identify potential program issues, strengths and accomplishments. Second, the evaluator interviewed Pilot site staff and other key stakeholders at each of the three sites. OPD staff assisted the evaluator in identifying and contacting all public defender attorneys/staff, prosecutors, judicial officers, and administrative court staff who might be influenced by or have observations of the Pilot. During the period September through October 2006 the evaluator visited all three sites and conducted pre-scheduled, in-person interviews. Individuals who were not available for an in-person interview participated in a telephone interview. All interviews used a semi-structured format, which encouraged interviewees to respond in narrative form to open-ended questions. Most interviews ranged between 45 and 65 minutes. A third layer of interviews consisted of follow-up questions for OPD management staff to clarify and fill in information gaps. On average, five interviews were conducted at each site.

**Document Review.** In addition to interviews, the evaluator gathered and reviewed a range of documents pertaining to the Pilot Projects. Documents included:

- Pilot contract materials
- Newspaper articles related to general public defense issues and site specific issues prior to the Pilot Projects
- Data collection forms developed by OPD
- Examples of data summaries and data output used at each of the sites
- OPD website
- Washington State Bar Association standards for public defense
- Legislation authorizing the Public Defense Pilot Projects
- New indigency screening form (Thurston County District Court)

**Electronic Court Data.** Electronic records from four sources were used in this evaluation.

1. Case disposition forms, completed by public defenders at each Pilot site, containing information on case characteristics and time spent on various tasks. Data was initially collected on paper forms and later entered into an Access database by OPD staff.
2. Records from the Washington State Administrative Office of the Courts (AOC) for each case filed in the adult courts. These records included information on charges filed, filing and disposition dates and the identity of the defense attorney.
3. Case assignment records from Bellingham Assigned Counsel, the contracted provider of public defense for the Bellingham Municipal Court. These records detailed the public defender assigned to the case along with assignment dates. These data were used for determining caseloads in that court.
4. AOC Caseload Reports: published annually by the AOC containing aggregate data for each court in the state with information on cases filed, hearings held and dispositions.

**Counting Caseloads and Case Equivalents.** Contracts with each site defined a case equivalent as all charges filed against a single defendant arising out of a single incident, and the caseload counts presented in this report were based on this definition. Probation violations arising out of a single case were defined as one-third of a case equivalent, as were open and closed cases (i.e. cases resolved at the first hearing that involved no more than one hearing). While this definition was used as a standard for each site, the data used to calculate case equivalents differed across sites. This was necessary because data quality varied across Pilot sites and data sources.

*Bellingham Municipal Court:* Case assignment records from Bellingham Assigned Counsel were deemed the most valid source of data at this site. These data were sent to Looking Glass Analytics for analysis. These data included a record of each case assigned to an attorney along with the date of assignment. Probation violations and open and closed cases are identified in these records, which allowed for the weighted case counts stipulated by OPD.

*Thurston County District Court:* During the Pilot period, the county purchased and began using a new information system for all court activities. Accurate case counting required the use of data from both the old and new systems, and because of the complications involved, caseload counts were done by the county Office of Assigned Counsel (OAC). OAC adhered to the definition of a case equivalent when making their caseload counts.

*Grant County Juvenile Court:* Two sources were used for this site. OPD required that attorneys submit a record of each case disposition. This source was important but incomplete, since some cases were not resolved within the study period. To supplement data on case disposition reports, Looking Glass Analytics used records from the Judicial Information System (JIS) kept by the Administrative Office of the Courts. JIS records were used to identify cases assigned to public defenders that were not included in the OPD disposition data. BECCA cases in 2006 were counted as one-half of a case.



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