

# BENTON & FRANKLIN COUNTIES OFFICE OF PUBLIC DEFENSE

*Benton County  
Operations*

*Quarterly Report*

*First Quarter 2014*

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*Prepared by:  
Eric Hsu, Public  
Defense Manager*

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# Overview

*This is a Quarterly Report of Benton & Franklin Counties Office of Public Defense's Benton County Operations, highlighting key caseload, financial, staffing, legal and other information in an easy to read update.*

Benton & Franklin Counties Office of Public Defense ("BFOPD") provides public defense services in all courts and jurisdictions in Benton County.

This report is part of BFOPD's regular Update Series. Other components of the Update Series include:

- Annual Reports and Strategic Plans
- Quarterly Total Operations Reports

These reports can all be found on [BFOPD's website](#).

This report is an **overview only** and does not contain any detailed information. For background details, facts and figures and more information, please contact BFOPD's Public Defense Manager by phone (509) 737-3521 or Email (OPD@co.benton.wa.us). For additional information about BFOPD's operations, please visit our website at [BentonFranklinDefense.org](http://BentonFranklinDefense.org).

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*Please [contact us](#) for more information about topics covered in this report.*

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# Quick Summary

**Superior Court Operations** YTD April 30, 2014

*Busy? Here is a quick executive summary giving you key information at a glance.*

Metric	2014	2010-2013 Avg	Deviation
Filings YTD	504	468	+8.0%
Appointments YTD	425	405	+5.0%
Trials Held	6	19.5 (2012-13)	-69.2%
% of cases apptd to counsel	84%	87%	-2.8%
	System Capacity	% Capacity Used	% of Year
Case Appointments	1,126	37.7%	33.0%
	Biennial Budget	% Budget Used	% of Biennium
Financials-contracts	\$1,932,556	52.9%	66.7%
Financials-professional svcs	\$453,635	89.4%	66.7%

# Quick Summary

**District Court Operations** YTD April 30, 2014

*Busy? Here is a quick executive summary giving you key information at a glance.*

<b>Metric</b>	<b>2014</b>	<b>2010-2013 Avg</b>	<b>Deviation</b>
Filings YTD	2,634	2,965	-13%
Appointments YTD	1,282	1,476	-11%
Trials Held	38	22 (2012-13)	+72.7%
% of cases apptd to counsel	49%	50%	-2%
	<b>System Capacity</b>	<b>% Capacity Used</b>	<b>% of Year</b>
Case Appointments	3,725	34.4%	33.0%
	<b>Biennial Budget</b>	<b>% Budget Used</b>	<b>% of Biennium</b>
Financials	\$1,647,629	68.4%	66.7%

# Facts & Figures Superior Court

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*Caseload Trends (Filings)*

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*Caseload Trends  
(Appointments)*

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*Caseload Trends  
(Homicides)*

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*Performance Metrics  
(Trials Held)*

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*Performance Metrics (Jail  
Visits)*

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*Performance Metrics (% of  
cases appointed)*

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*Performance Metrics  
(Requests for Funding)*

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*Financial Trends  
(Budgeted vs Actual  
expenditures)*

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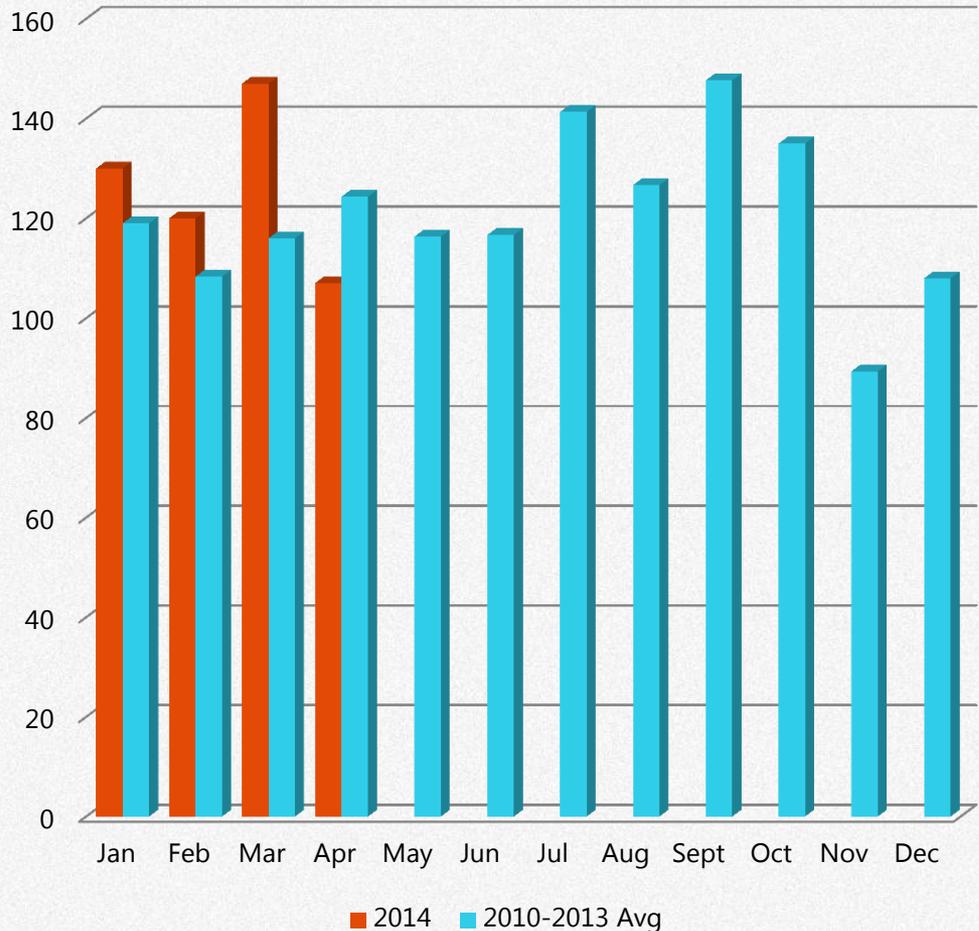
# Caseload Trends

Superior Court - Filings YTD

*"Filings" represents the aggregate number of cases filed in court without regard to whether they are actually appointed to a public defender.*

*Trend: compared to recent years, the filing trend is up.*

## Benton County Superior Court 2014 Filing Trend



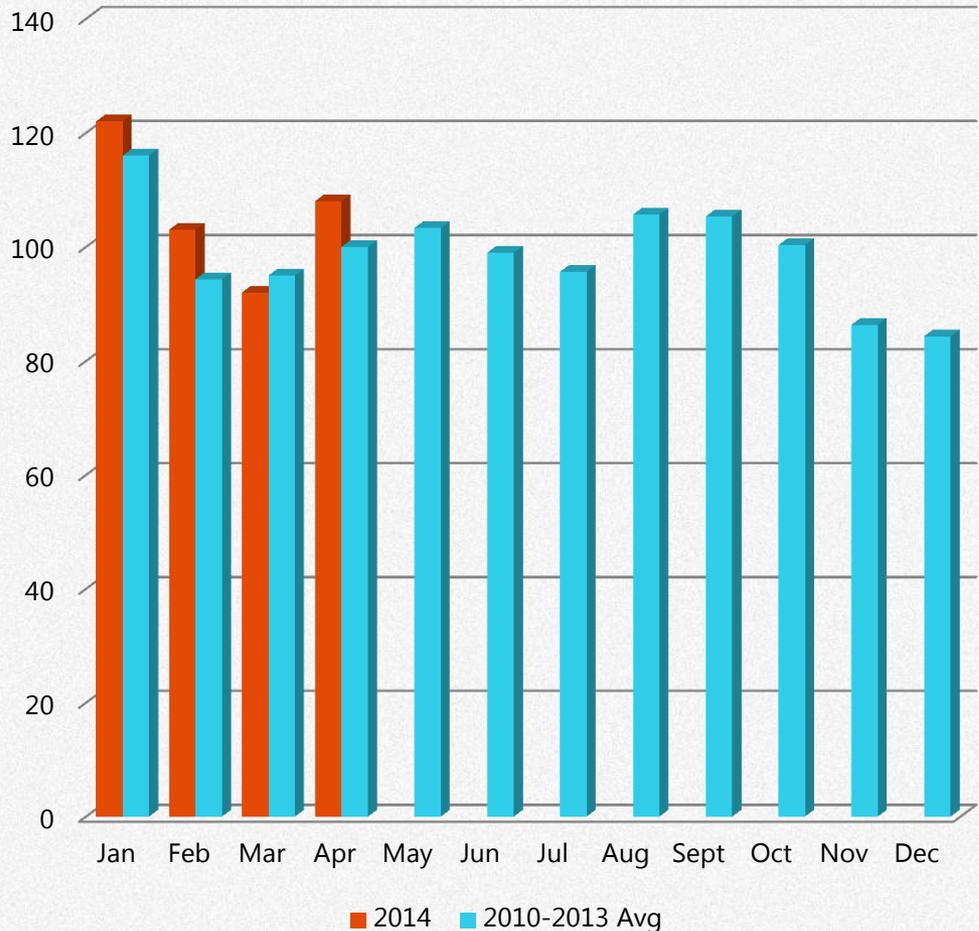
# Caseload Trends

Superior Court - Appointments YTD

*"Appointments" represents the portion of overall filed cases that are actually appointed to public defenders.*

*Trend: compared to recent years, the appointment trend is slightly upward.*

## Benton County Superior Court 2014 Appointment Trend



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# Caseload Trends

Superior Court - Pending & Recent  
Homicide Cases

Case Name	Year of Filing	Charge	Status
Scantling	2013	Aggravated Murder	Closed
Gonzalez	2013	Murder	Closed
Matlack	2013	Murder	Pending
Miller	2013	Murder	Pending
Lincoln	2013	Vehicular Homicide	Closed
McCorkindale	2013	Murder	Pending
Hunt	2013	Murder	Closed
Young	2013	Murder	Closed
Jacobsen	2012	Manslaughter	Pending 2 <sup>nd</sup> Trial

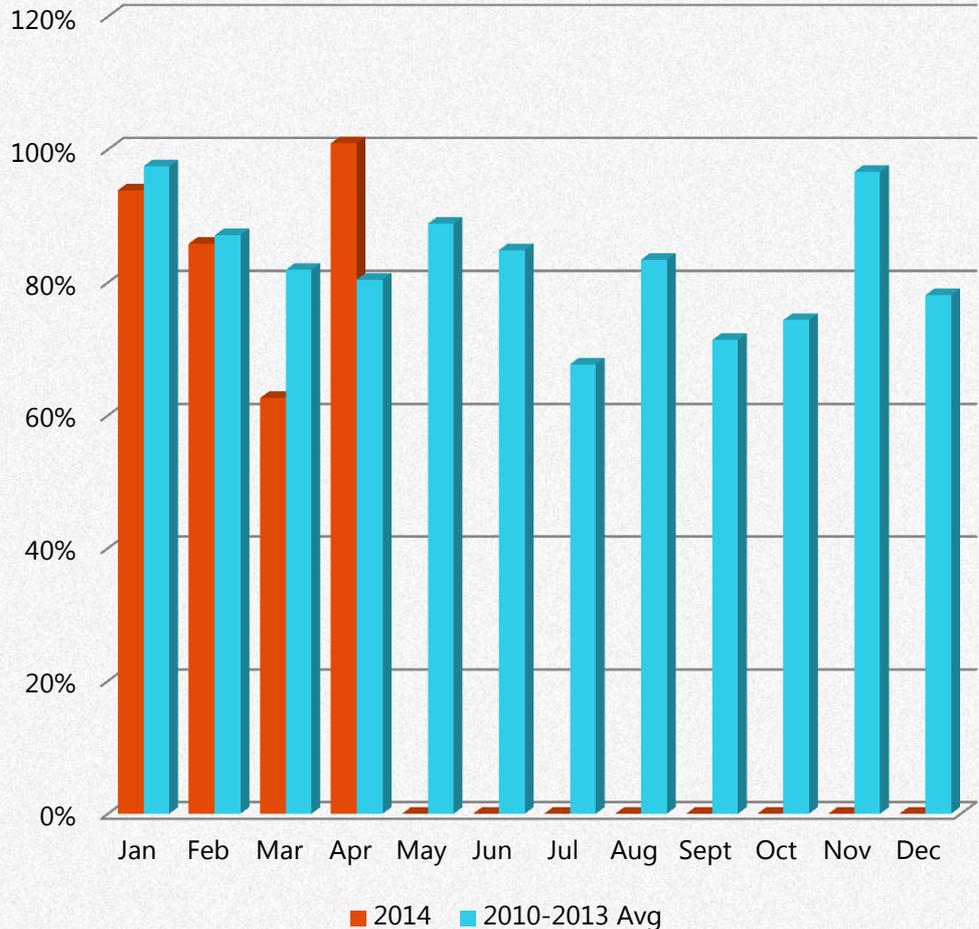
# Performance Metrics

**Superior Court** - % of cases appointed to counsel YTD

*This metric measures the percentage of cases filed in District Court that are actually appointed to counsel and plots it over time. This percentage can be indicative of the success of early resolution programs.*

**Trend: compared to recent years, the proportion of filed cases actually appointed to public defense counsel is somewhat lower.**

## Benton County Superior Court % of Cases Appointed to Counsel



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# Performance Metrics

## Superior Court - Homicide Case Hours by In-House Counsel

Since 2013, BFOPD has begun staffing homicide cases with a Staff Defender instead of a contractor. This has resulted in significant cost savings as shown below.

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Case Name	Hours Logged	Costs saved (\$75/hr contract)
Scantling (closed)	385	\$28,875
Lincoln (closed)	112	\$8,400
Miller (open)		
Matlack (open)		
McCorkindale (open)		
<b>Total for Open Cases</b>	351	\$26,325
	<b>TOTAL</b>	<b>\$63,600</b>

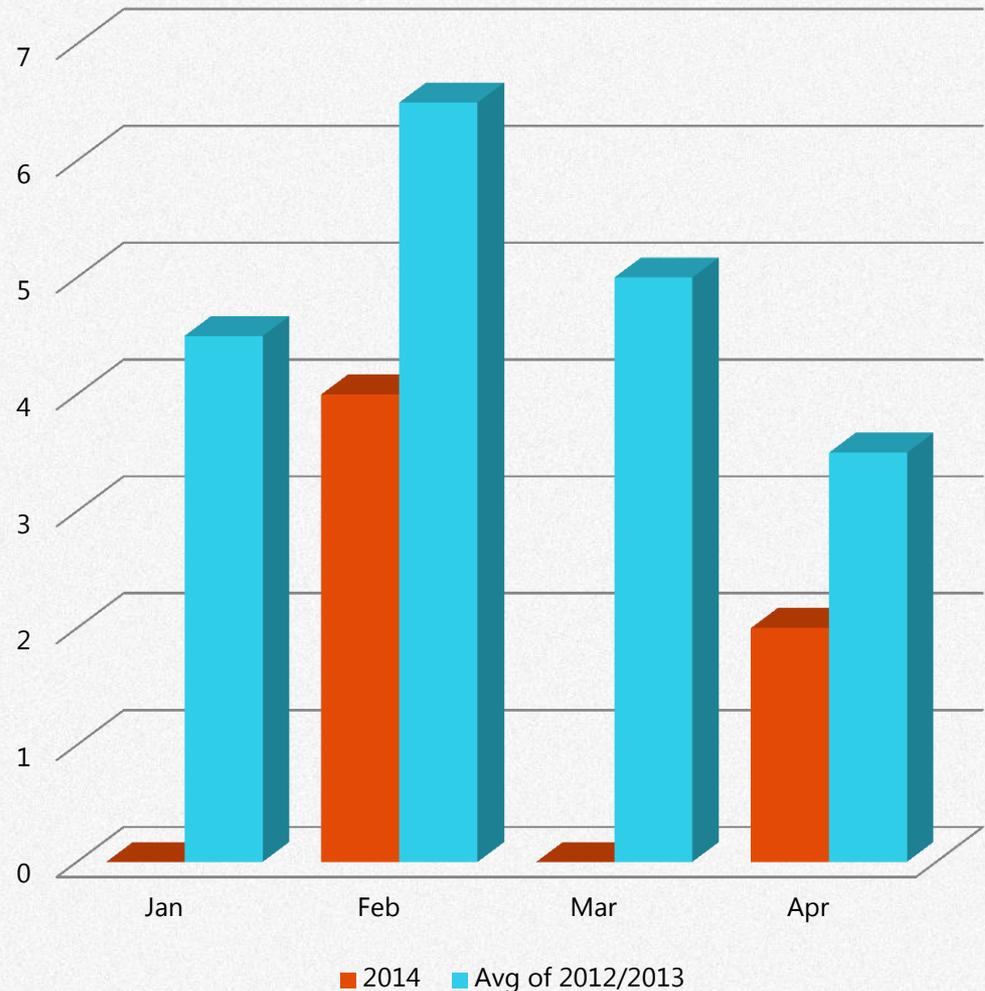
# Performance Metrics

## Superior Court - Trials Held YTD

*The number of trials held is an important metric to monitor since it is indicative of the relative effectiveness of public defense representation.*

**Trend:** *The number of trials held is substantially down so far in 2014. It is too early to determine whether this is of concern but this Metric will be monitored closely as the year unfolds.*

## Trials Held in Superior Court



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# Performance Metrics

## Superior Court - Jail Visits YTD

*Data collection for this Metric has only begun, on an automated basis, as of May 1, 2014. Future reports will have data on this Metric in a more meaningful and longer-term basis.*

*This metric measures the number of Superior Court public defense inmates that are represented by their public defenders and is another important indicator of quality of public defense services rendered.*

### **Trend:**

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# Performance Metrics

## Superior Court - Number of Requests for Funding

*This data is not readily reportable at this time. Efforts will be made to reduce data on this metric to a meaningful and easily understood format and will be presented in future reports.*

*This metric measures the number of times Superior Court Defenders request funding for investigative or expert services. This can be indicative of the effort they put into defending the cases they are assigned.*

### **Trend:**

# Financial Metrics

## Superior Court - Contracts Budget

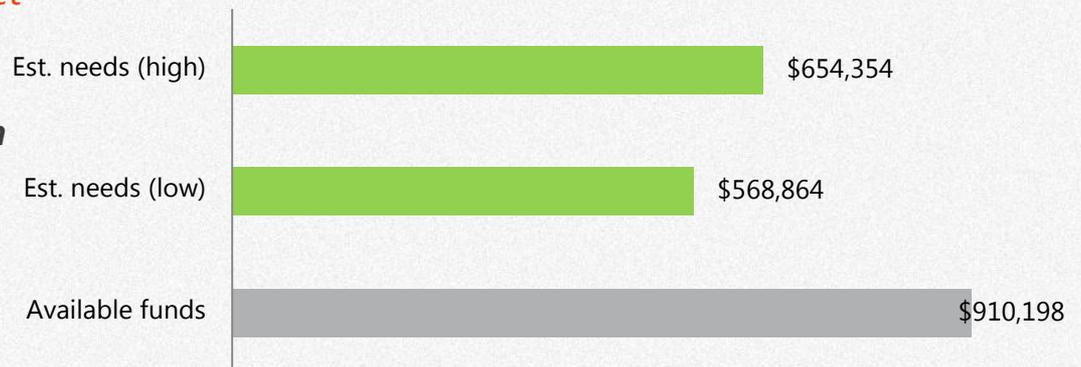
*These metrics measure Biennium-to-date ("BTD") actual vs budgeted expenditures and makes a forecast for the end-of-biennium status of this budget line item .*

***Trend: This budget line item is significantly under-expended both in terms of point-in-time budget usage and year-end forecast.***

### BTD Superior Court Budget Usage as of 4/30/14



### Remainder of Biennium Forecasting Superior Court as of 4/30/14



# Financial Metrics

## Superior Court - Prof Services Budget

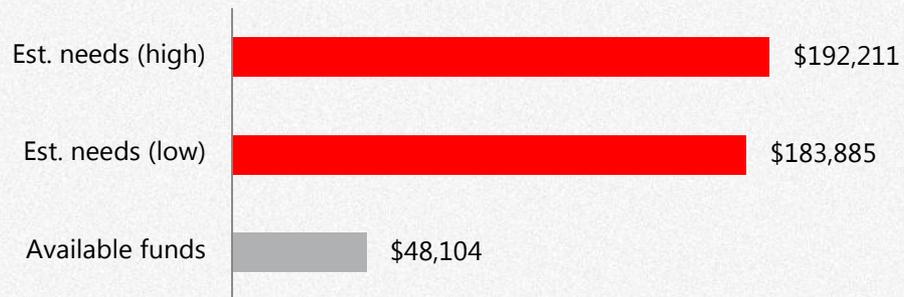
*These metrics measure Biennium-to-date ("BTD") actual vs budgeted expenditures and makes a forecast for the end-of-biennium status of this budget line item .*

***Trend: This budget line item is significantly under-expended both in terms of point-in-time budget usage and year-end forecast.***

## BTD Superior Court Budget Usage as of 4/30/14



## Remainder of Biennium Forecasting Prof Services as of 4/30/14



# Facts & Figures District Court

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*Caseload Trends (Filings)*

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*Caseload Trends  
(Appointments)*

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*Performance Metrics  
(Trials Held)*

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*Performance Metrics (Jail  
Visits)*

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*Performance Metrics (% of  
cases appointed)*

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*Performance Metrics  
(Requests for Funding)*

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*Financial Trends  
(Budgeted vs Actual  
expenditures)*

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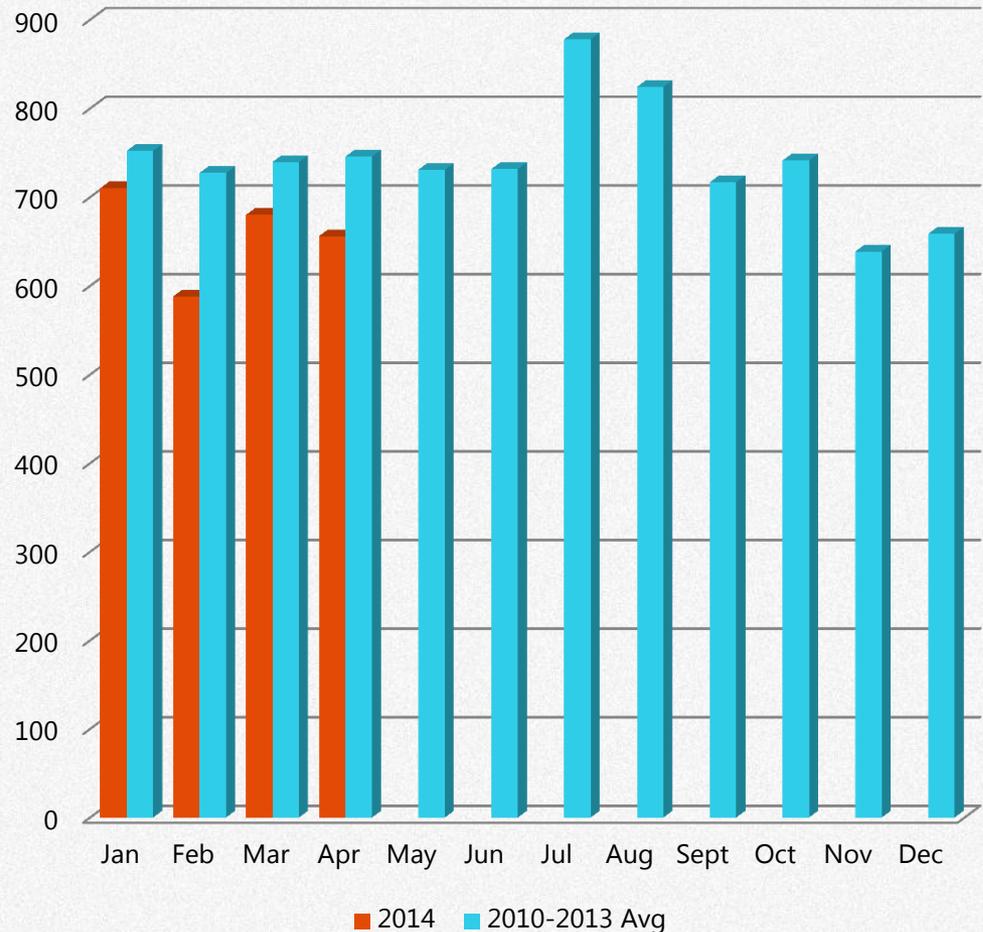
# Caseload Trends

District Court - Filings YTD

*"Filings" represents the aggregate number of cases filed in court without regard to whether they are actually appointed to a public defender.*

***Trend: Based on available data<sup>1</sup> it appears that there is a slight downward trend to case filings in 2014***

## Benton County District Court 2014 Filings Trend



<sup>1</sup> Data for case filings is obtained from the [Washington State Courts](#) website. Data for District Court filings generally lag at least a month, if not two, behind.

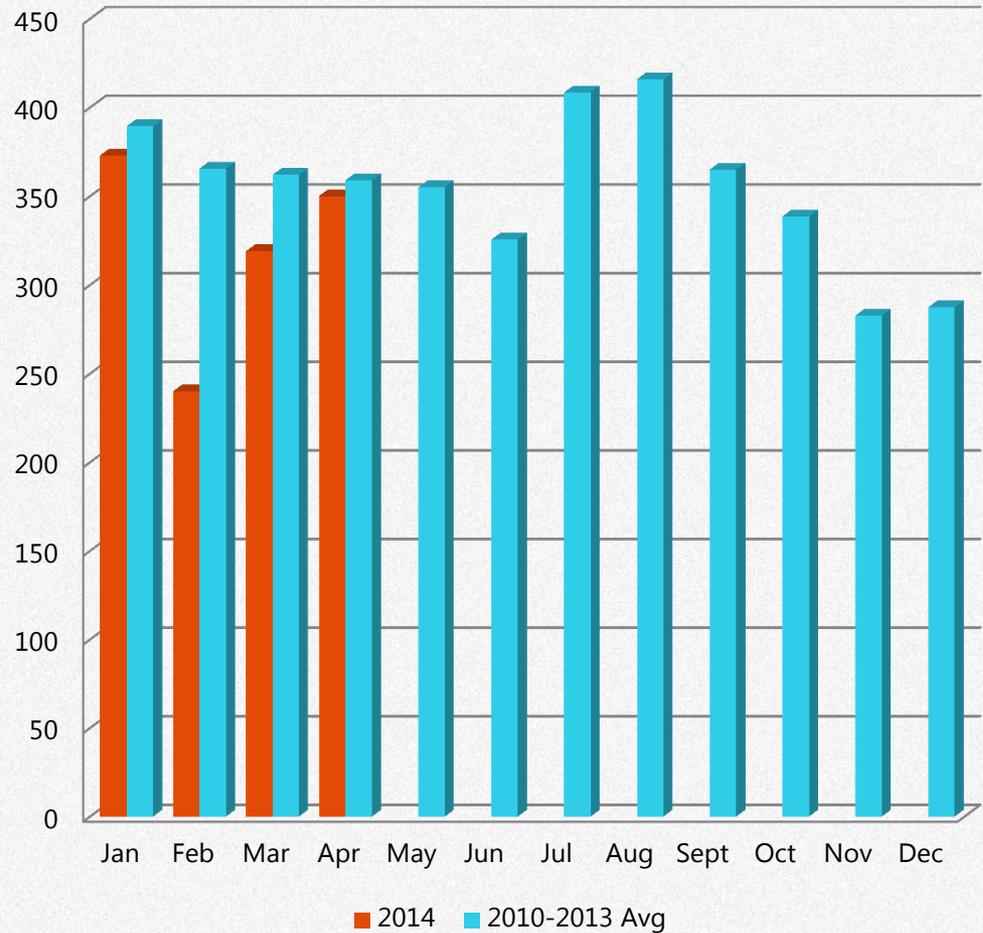
# Caseload Trends

District Court - Appointments YTD

*"Appointments" represents the portion of overall filed cases that are actually appointed to public defenders.*

*Trend: even more so than with filings, appointments to counsel are down compared with 2010-2013 averages.*

## Benton County District Court 2014 Appointments Trend



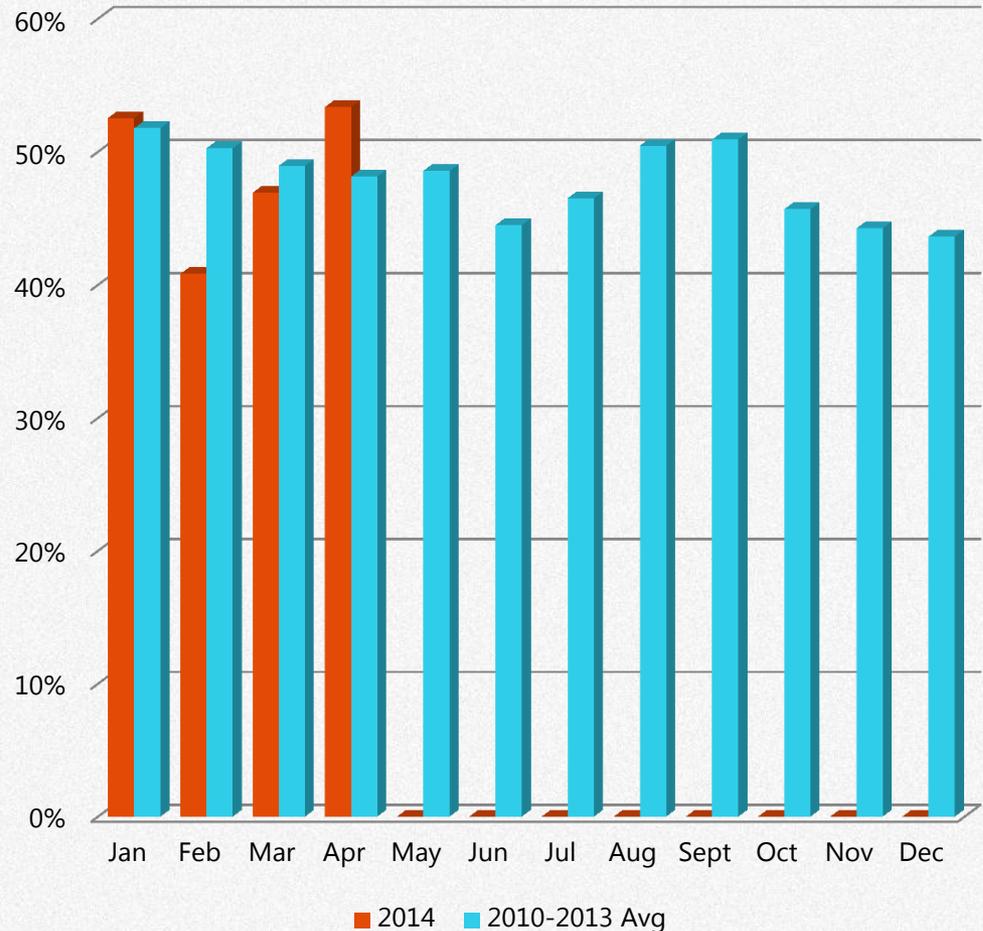
# Performance Metrics

**District Court** - % of cases appointed to counsel YTD

*This metric measures the percentage of cases filed in District Court that are actually appointed to counsel and plots it over time. This percentage can be indicative of the success of early resolution programs.*

**Trend:** *Compared to 2010-2013, a lower percentage of filed cases are actually appointed to public defenders.*

## Benton County District Court % of Cases Appointed to Counsel



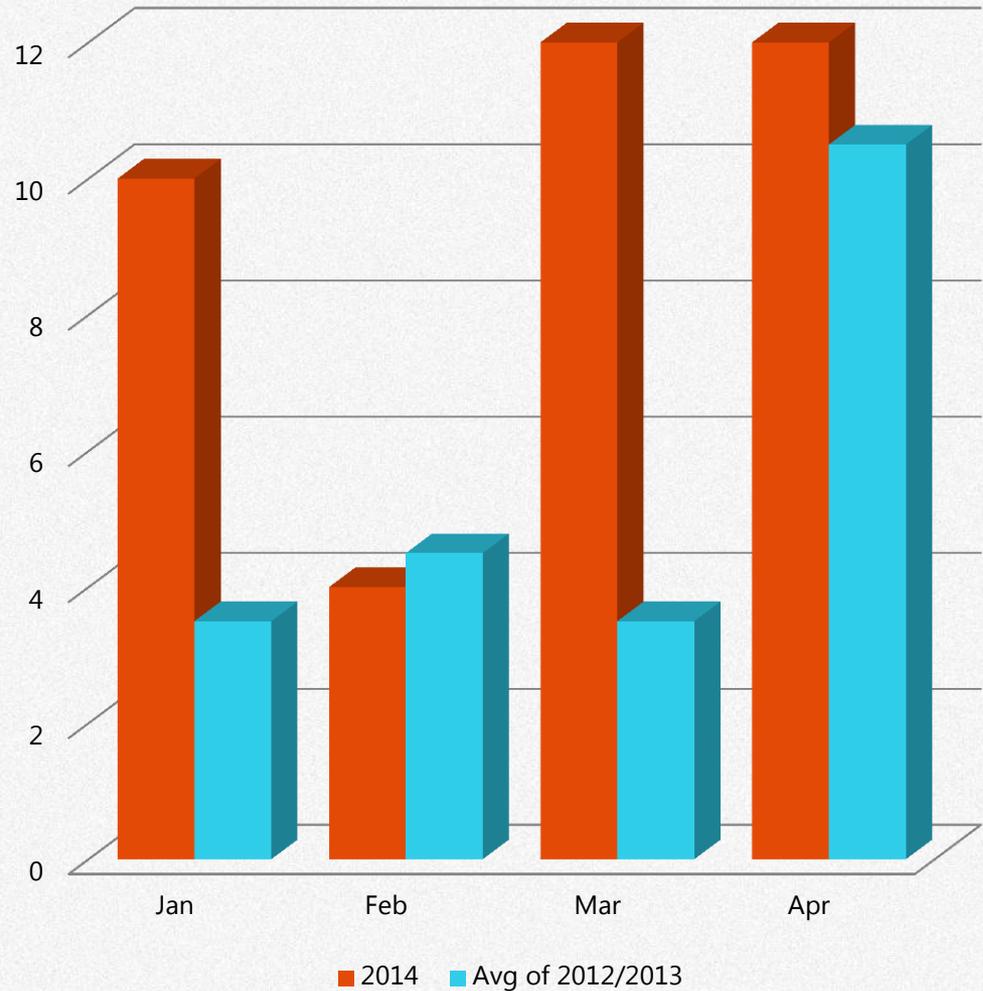
# Performance Metrics

## District Court - Trials Held YTD

*The number of trials held is an important metric to monitor since it is indicative of the relative effectiveness of public defense representation.*

**Trend: Trials appear to be on the rise in 2014 as compared to 2012/2013 averages.**

## Trials Held in District Court



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# Performance Metrics

## District Court - Jail Visits YTD

*Data collection for this Metric has only begun, on an automated basis, as of May 1, 2014. Future reports will have data on this Metric in a more meaningful and longer-term basis.*

*This metric measures the number of District Court public defense inmates that are represented by their public defenders and is another important indicator of quality of public defense services rendered.*

### **Trend:**

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# Performance Metrics

## District Court - Number of Requests for Funding

*Currently funding requests in District Court cases are made directly to District Court with a Motion and Order. Therefore data for tracking this Metric is not available. Efforts will be made to collect and track this data whether this system of funding management continues or not.*

*This metric measures the number of times District Court Defenders request funding for investigative or expert services. This can be indicative of the effort they put into defending the cases they are assigned.*

### **Trend:**

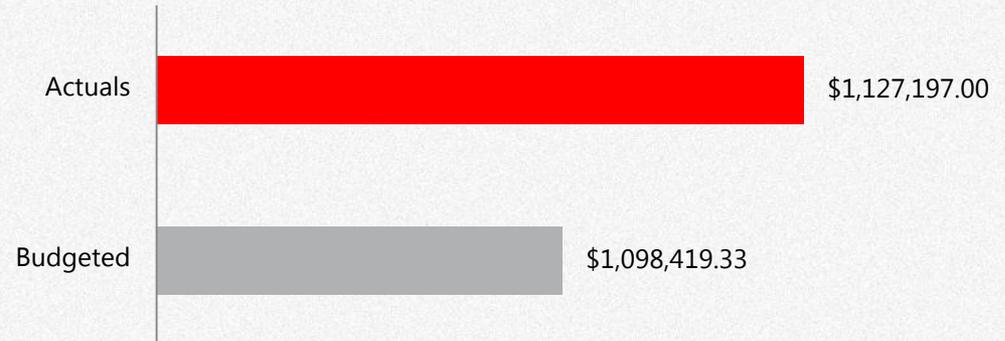
# Financial Metrics

District Court - Overall Budget

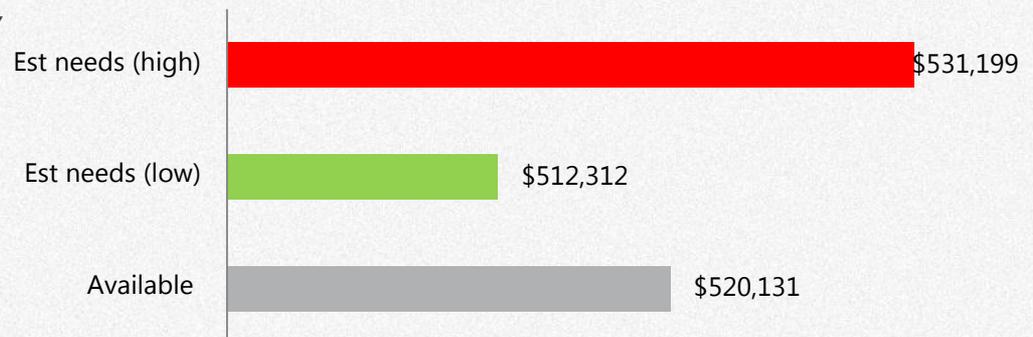
*These metrics measure Biennium-to-date ("BTD") actual vs budgeted expenditures and makes a forecast for the end-of-biennium status of this budget line item .*

***Trend: Despite being slightly over-budget for this point in the biennial budget cycle, this budget line item is still predicted to finish the year with at most a minor deficit, if not a surplus.***

## BTD District Court Budget Usage as of 4/30/14



## Remainder of Biennium Forecasting District Court as of 4/30/14



# Staffing

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*Staffing Overview*

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*Superior Court Staffing  
Allocation*

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*District Court Staffing  
Allocation*

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*District Court Special  
Teams*

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*Juvenile Court Staffing  
Allocation*

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*Juvenile Court Contract  
Staffing*

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*District Court Staffing  
Allocation*

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*District Court Contract  
Staffing (Pre-Trial)*

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*District Court Contract  
Staffing (In-Custody)*

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# Staffing Overview

## People

BFOPD provides public defense services in Benton County Courts in two different ways:

Through fully employed **Staff Defenders**, and using **Contract Defenders**.

Contract defenders are further divided between “monthly compensation” contractors (paid a fixed monthly compensation for “up to” a total number of cases per year and “by the case” contractors (paid for cases appointed as needed only).

## Standards

BFOPD adheres to the Public Defense Standards mandated by the Washington State Supreme Court.

This means, among other things, that all District Court defenders have caseloads of no more than 400 cases per year, all Superior Court defenders have caseloads of no more than 150 cases per year, and all defenders certify that they have access to appropriate office and interview facilities.

## Quality

BFOPD utilizes an **Enforcement & Empowerment** approach to public defense quality control.

**Enforcement** refers to the enhancing of quality control through rigorous contract compliance and monitoring of key Performance Metrics.

**Empowerment** is accomplished through mentorship opportunities and class-leading Continuing Legal Education (“CLE”) training offered free to all contract and staff public defenders.

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# Staffing Overview

## Management & Administration

### Management

*To improve the management of BFOPD's District Court operations, Sr. Staff Defender Alexandria Sheridan was recently promoted to District Court Supervisor. She assists with day to day oversight as well as policies, procedures and training in District Court.*

### Administration

*Administrative support for District and Superior Court operations includes contract oversight, accounts payable functions, and caseload audit. The caseload audit functions are increasingly important for fiscal and risk management reasons so a sophisticated system of audit checks and balances, including multiple data sources and a custom database is used.*

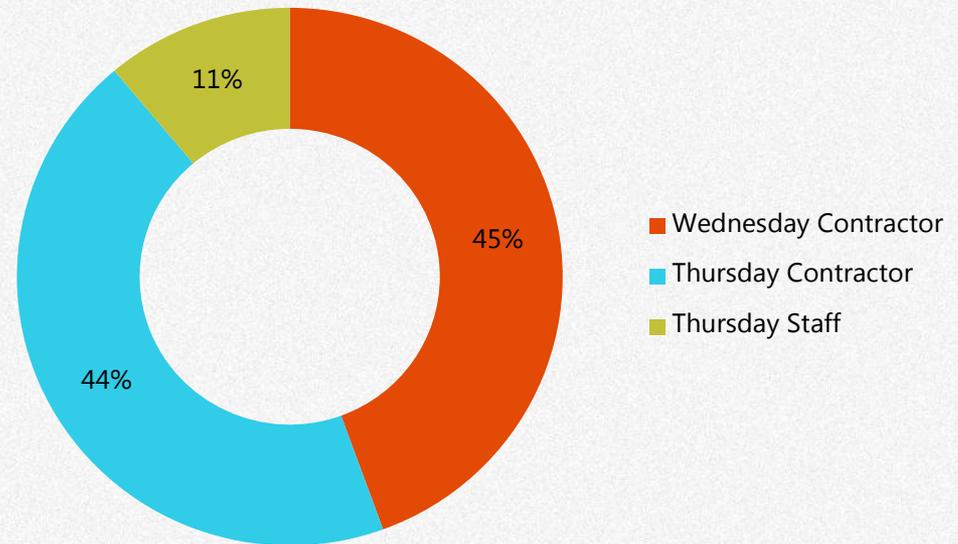
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# Staffing Allocation

## Superior Court

*Staffing in Superior Court is divided between the Wednesday and Thursday criminal pre-trial dockets. There is no difference between the dockets except for the different prosecutors who are assigned to each.*

# Staffing Allocation



<sup>1</sup> For example, the Richland/West Richland docket has needed more than 2 contract defenders but not quite three. Instead of assigning three to this docket at the beginning of the year and risking having all three contractors getting paid for 390 cases a piece but having fewer than those assigned to them, only two contract defenders are assigned to this docket with the anticipation that overage cases will be appointed to "by the case" contractors or "monthly compensation" contractors from other jurisdictions.

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# Special Teams

## Superior Court

### Legal Financial Obligations

*The Superior Court Clerk's Office is authorized by RCW 9.94A.760 to collect legal financial obligations ("LFOs") imposed in Superior Court convictions. BFOPD provides defense counsel to those indigent defendants facing a potential jail sanction for an alleged failure to pay LFOs as agreed. Currently this is provided by way of a team of two contract defenders each contracted to make two court appearances a month.*

### Civil Commitment

*BFOPD is obligated by law to provide public defense services to indigent individuals subject to involuntary civil commitment pursuant to Washington's Involuntary Treatment Act (RCW Chapter 71.05).*

*Services are currently provided by way of a contract shared by two attorneys who jointly provide services to all Benton & Franklin County cases.*

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# Special Teams

## Superior Court

### Child Support Contempt

*BFOPD is obligated by law to provide public defense counsel to indigent individuals facing Contempt of Court proceedings for failure to pay child support, where incarceration in jail is likely. This primarily occurs in cases prosecuted by Child Support Division of the Prosecutor's Office.*

*Services are provided by a contract public defender.*

### Homicide Defense

*BFOPD provides public defense counsel for all indigent defendants charged with homicide (ie Murder, Manslaughter, Vehicular Homicide etc).*

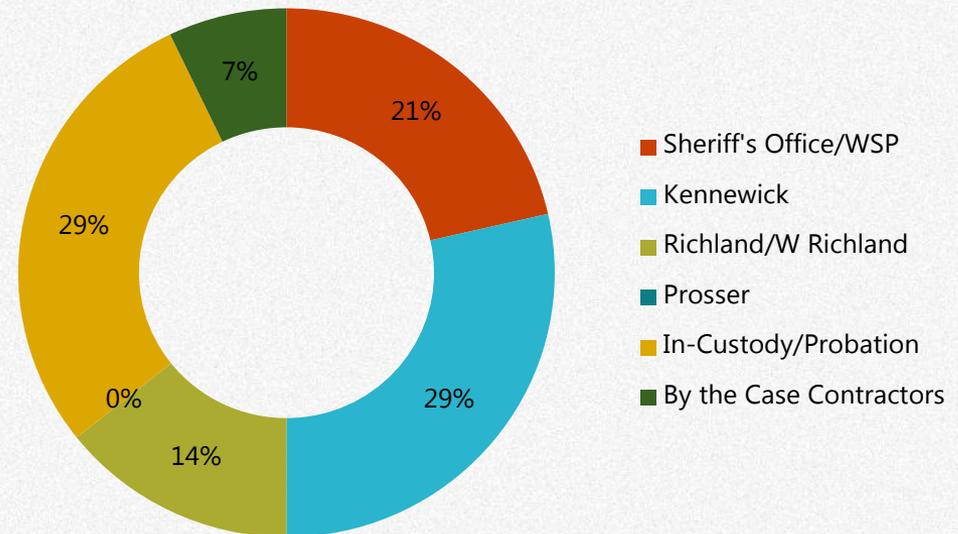
*Services are provided by a special team of specially trained attorneys consisting of 3 contract public defenders and one Sr. Staff Defender.*

# Staffing Allocation

District Court

## Staffing Allocation

*Staffing allocation decisions are made based on caseload forecasts for each docket/jurisdiction. Based on persistently low caseloads for the biennium, a contract that will be vacated in June will not be filled. This leaves Prosser cases to be handled by a combination of a partial Kennewick contractor and (as needed) a "by-the-case" contractor.*



1 For example, the Richland/West Richland docket has needed more than 2 contract defenders but not quite three. Instead of assigning three to this docket at the beginning of the year and risking having all three contractors getting paid for 390 cases a piece but having fewer than those assigned to them, only two contract defenders are assigned to this docket with the anticipation that overage cases will be appointed to "by the case" contractors or "monthly compensation" contractors from other jurisdictions.

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# Special Teams

## District Court

### In-Custody/Probation

*The In-Custody and Probation team consists of four contract attorneys. Collectively, this team provides provisional representation every day to all in-custody defendants at time of initial appearance (both on misdemeanor and felony initial appearances) and also provides defense representation on all District Court probation and fail to pay fine cases.*

### Walk-In Arraignments

*The Walk-In Arraignment Team provides provisional representation to all out-of-custody defendants at time of initial appearance for District Court matters.*

*Public defenders on this team all have District Court defense contracts and are provided additional compensation, on a per-docket basis, for their services on this team.*

# Legal

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*Legal Updates Overview*

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*Wilbur v. Mount Vernon et al*

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*ACLU Report on Fine Collection in Benton County*

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# Legal Updates

*As a professional public defense agency, the Benton & Franklin Counties Office of Public Defense constantly stays abreast of the dynamic legal landscape of public defense services in the State of Washington.*

*In light of this legal landscape, the public defense system is constantly evaluated for opportunities to improve representation of clients, improve fiscal performance, and reduce risk.*

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*The three most important legal update issues that BFOPD is actively analyzing are:*

- 1. The recent decision in Wilbur v. Mt. Vernon.*
- 2. The recently published report by the ACLU criticizing Benton County's fine collections practices.*
- 3. The imminent effective date for the District Court caseload standards mandated by the Washington State Supreme Court.*

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# Wilbur v. Mt. Vernon

*Wilbur v. Mt. Vernon is a case filed in US District Court challenging the public defense system operated jointly by the cities of Mt. Vernon and Burlington.*

*The Court found the public defense system in those cities greatly flawed and went into great detail about why. OPD has conducted a detailed analysis of this case including details about what factors are important, how our system stacks up, and best practices for moving forward.*



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# ACLU Report

*On February 11, 2014, the ACLU and Columbia Legal Services jointly published a report entitled "Modern Day Debtors' Prisons" which criticized the fine or Legal Financial Obligation collection practices of a number of courts in four counties of the State (Benton, Clallam, Clark and Thurston). Benton County District Court was one of the courts that was profiled in this report as utilizing fine collection techniques that were contrary to the law.*

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*Steps BFOPD is taking to address this report:*

- 1. Informational publication about the rights of people who owe Legal Financial Obligations has been drafted and provided to clients upon request, posted outside the office, and prominently featured on BFOPD's website.*
- 2. Training was provided at BFOPD's Spring 2014 CLE on best practices for addressing fines at sentencing and defending people accused of failing to pay their fines.*
- 3. Best practice resources, templates, sample briefs, and memos will be provided to BFOPD District Court public defenders so that they will be fully equipped to deal with these types of cases.*

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# Caseload Standards

*In 2012, the Washington Supreme Court adopted a comprehensive set of public defense standards including "hard" case caps for public defenders in District Court.*

*For a number of reasons, implementation of these District Court case caps was delayed a number of times, ultimately until January, 2015. The latest delay was to provide the State Office of Public Defense to develop a state-wide "Model Weighting System" to assist local jurisdictions in developing and implementing such a weighting system if desired.*

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*What does the "Model Weighting System" mean for public defense in Benton County?*

## *Background*

*The caseload standards adopted by the Washington Supreme Court limit District Court Public Defender case loads to either 400 "actual cases" or 300 "weighted cases." The Model Weighting System recently drafted by the Washington State Office of Public Defense provides a framework by which local jurisdictions can develop weighting systems (whereby cases are assigned varying case credits depending on their complexity) if desired.*

## *Benton County*

*We are watching the development of the Model Weighting System closely to see if we need such a system in Benton County. The most concerning aspects of caseload caps is how we will be mandated to count cases resolved at arraignment dockets and how the defender assigned to the probation docket will have to count probation cases to which she is assigned. Whether or not these two types of cases are included in the calculations will probably determine the need for a weighting system in Benton County.*

# Other Updates

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*Annual Report & Strategic  
Plan*

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# Annual Report & Strategic Plan

## 2013 Annual Report

*The Annual Report recaps the year's operations including caseload, financial, and other data. This Report also revisits Strategic Goals the office set for 2013 in its 2013 Strategic Plan, reporting on the progress toward each goal and the measurable improvements related thereto.*

## 2014 Strategic Plan

*BFOPD is committed to a strategy of continual improvement so as to advance its mission and become as effective and efficient as it can be. The Strategic Plan details the efforts that will be made and goals set for this next year in order to advance this effort.*

Click on the underlined text to be taken directly to each report.