Oregon Public Defense Caseload Forecast

October 2024

Release Date: October 15th, 2024

Department of Administrative Services
Berri Leslie
DAS Director
Chief Operating Officer

Office of Economic Analysis
Carl Riccadonna, Chief Economist
Michael Kennedy, Senior Economist
Mitchell D'Sa, Senior Economist
Kanhaiya Vaidya, Senior Demographer

TABLE OF CONTENTS

Background

Oregon Revised Statute 151.235 authorizes the Department of Administrative Services to produce the forecast. The Office of Economic Analysis (OEA) produces the semi-annual Oregon Public Defense Caseload Forecast which provides projections of populations eligible for public counsel. The forecast will be published April 15th and October 15th of each year. State agencies, in particular the Office of Public Defense Commission (OPDC) and the Oregon Criminal Justice Commission (CJC), are mandated to use the forecast for budgeting and policy development where public defense is concerned.

Currently there is no official advisory committee for the forecast, however our office has been working collaboratively with partner agencies in gathering and understanding caseload data, and in developing the forecast. Our office is working on creating an official advisory committee. In general, advice from the committee forms the basis for forecast assumptions regarding policy and practices in the public defense system and the impact of law and policy changes on public defense assignment and caseloads. Committee members bring to the forecast process decades of diverse experience in the criminal justice system. They meet prior to each forecast release to discuss forecast-related issues such as trends in crime, potential impact of new laws, changes in criminal justice practices, and to advise technical aspects of the forecast process.

The general forecast process, the publication of the forecast, and the technical aspects of developing the forecast, are manage by the Office of Economic Analysis, in partnership with the Criminal Justice Commission, and with substantial assistance from both the Oregon Public Defense Commission and the Oregon Judicial Department.

For more information or questions regarding the forecast please use the following contact information:
Website: http://www.oregon.gov/DAS/OEA/Public-defense-caseload-forecast.aspx
Email: michael.kennedy@das.oregon.gov
Phone: (971) 446-1379
Office of Economic Analysis
Department of Administrative Services
155 Cottage Street, NE, U20
Salem, OR 97301-3966

Forecast Summary

The Office of Economic Analysis was authorized to produce the public defense caseload forecast effective January 2024. This October forecast marks the second iteration of the office's forecast publication. As such, the forecast output and the mechanics of producing the forecast are still in development. Currently, the forecast depicts adults and juveniles eligible for public counsel. These populations are delineated across thirteen case categories. The forecast extends out to the 2029-31 biennium for planning purposes. Monthly projections are included, as well as fiscal year forecast by county for all case types.

While this forecast does not have a formal advisory committee as do the Corrections and Juvenile Corrections forecasts, the office did meet with members of the Office of Public Defense Services and the respective executive and legislative budget offices to discuss the forecast and the systems affecting it. Chief among the topics of conversation were:

- The passage of House Bill 4002 (2024) and the recriminalization of Possession of Controlled Substances. This significant law change has the capacity to affect the forecast in a number of ways. First, impact estimates for this bill have been incorporated into the respective case-type forecasts (Felony, Misdemeanor, and Probation Violation). To the degree that those estimates are truly forecasts subject to error, they introduce additional error into the model. Second, it is highly possible that increased detection of PCS will also increase ancillary detection, arrest and charging activity that could increase these eligibility caseloads above what is reflected in the current report.
- Criminal case filing is currently being impacted by the availability of public defense attorneys, according to advisors on the Corrections Population Forecast Advisory Committee. This is particularly true of lessor offenses. This has created a disconnect between broad measures of criminal offending and metrics of criminal justice system processing, such as arrests, cases filed, and intakes to incarceration. To the degree that the state addresses the public defense issue over the ensuing few years, caseloads could be affected in a way not depicted herein.
- As noted in the Methodology section, all of the case type forecasts are modeled on some population demographic in the long run. Currently, the outlook for population growth produced by the Office of Economic Analysis is very muted. Fertility rates in Oregon have slowed dramatically in recent years. This has even resulted in projected declines in the juvenile demographics in the outer years. To the extent that in-migration and/or fertility rates deviate from the current forecast, the caseload projections in this report will be subject to associated error.

Table 1 presents the public defense forecast and historical detail, by case type, through the 2031 fiscal year. Both adult and juvenile[1] caseloads are expected to increase modestly throughout the forecast horizon at the top level. However, juvenile delinquency and other juvenile case types exhibit slight declines in the outer years due to the demographic outlook on which they are based.

Table 1: Public Defense Forecast Detail

Cases Eligible for Court-Appointed Counsel

October 2024 Forecast

| | Actuals | | | | | | | Forecast | | | | | | |
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Adult														
Felony	26,550	24,648	21,922	20,286	19,033	19,933	19,665	21,089	21,791	22,390	22,773	22,933	22,955	22,943
Misdemeanors	42,483	42,842	35,114	30,303	30,953	32,405	33,799	39,489	47,208	51,278	53,160	53,927	54,290	54,648
Treatment Court			433	691	727	867	828	830	837	840	844	845	844	843
Probation Violation	22,116	22,659	18,718	13,419	13,471	14,623	14,140	14,001	14,713	18,545	21,344	22,413	22,692	22,688
Appellate	1,458	1,801	1,463	974	1,341	1,448	1,425	1,439	1,430	1,437	1,442	1,444	1,442	1,440
Post-Conviction Relief	270	384	317	566	390	408	427	426	433	433	434	434	434	433
Habeas Corpus	40	53	129	436	100	86	95	139	141	142	142	142	142	142
Civil Commitment	1,408	1,461	1,746	1,688	1,650	1,791	1,997	2,151	2,145	2,193	2,237	2,283	2,328	2,374
Total Adults	94,325	93,848	79,842	68,363	67,665	71,561	72,376	79,565	88,698	97,259	102,376	104,420	105,126	105,511
Juvenile														
Dependency*	16,384	14,564	12,200	10,447	9,612	9,042	8,850	8,629	8,491	8,569	8,611	8,660	8,708	8,756
Delinquency**	3,562	3,426	3,259	2,178	2,427	2,893	3,144	3,297	3,367	3,346	3,330	3,298	3,259	3,213
Probation Violation	2,799	2,821	2,475	1,717	1,615	1,875	1,970	2,057	2,107	2,094	2,083	2,063	2,037	2,007
Appellate	378	362	320	368	342	295	313	327	320	318	316	313	309	304
Treatment Court			26	71	89	113	141	154	166	165	164	162	160	158
Total Juveniles	23,123	21,173	18,280	14,781	14,085	14,218	14,418	14,465	14,451	14,492	14,503	14,496	14,474	14,438

This public defense forecast is a particularly important input into the budget development process for the 2025-27 Legislatively Adopted Budget. The October forecast will be incorporated into the Governor's Recommended Budget step of the process, which is due to be released on or about December 1. Table 2 presents information specific to the changes between the current biennium and the 2025-27 biennium.

---

[1] Note that Juvenile – Dependency includes parents and guardians.

The most significant increases can be seen in Adult-Misdemeanor and Adult-Probation Violation due to the incorporation of House Bill 4002 impacts. Adult-Felony is also affected by the law change, but not nearly to the same extent due to the nature of Possession of Controlled Substance charges. Adult-Habeas Corpus is also expected to increase, although from small numbers initially, due to recent jumps in actual cases.

For juvenile caseloads, Juvenile-Delinquency and Juvenile-Treatment Court illustrate the largest expected percentage increases, mostly due to recent activity.

Table 2: Biennial Summary

Public Defense Forecast - Biennial Summary
(October 2024 forecast)

| | Biennium | | | |
	2023-25	2025-27	Change	Percent
Felony	40,754	44,182	3,428	8.4%
Misdemeanors	73,288	98,486	25,198	34.4%
Treatment Court	1,658	1,677	19	1.2%
Probation Violation	28,141	33,257	5,116	18.2%
Appellate	2,864	2,868	3	0.1%
Post-Conviction Relief	853	866	13	1.6%
Habeas Corpus	234	284	49	21.0%
Civil Commitment	4,148	4,338	189	4.6%
TOTAL	151,941	185,957	34,017	22.4%

| | Biennium | | | |
	2023-25	2025-27	Change	Percent
Dependency*	15,786	15,741	-45	-0.3%
Delinquency**	6,396	6,696	299	4.7%
Probation Violation	3,889	3,945	56	1.4%
Appellate	587	595	8	1.3%
Treatment Court	289	310	21	7.2%
TOTAL	26,948	27,287	339	1.3%

* Includes Parents and Guardians.
** includes Measure 11, Murder, and All Other

Data Sources

The primary inputs to the public defense forecast are circuit court case data provided by the Oregon Judicial Department. These individual case records provide a rich dataset to model each respective case type forecast. The records include information indicating whether or not the subject was eligible for counsel, as well as detailed information regarding the stage of the case. As noted below, this allows for the delineation between newly filed cases and "ongoing" cases at later stages of the process.

Other inputs to the forecast process include Uniform Crime Report data provided by the Criminal Justice Commission, but originally collected by police departments and compiled by the Federal Bureau of Investigations.

Finally, and of utmost importance, is the Office of Economic Analysis' demographic forecast. Different demographic breakdowns are utilized depending on the specific eligibility population being modeled.

Oregon Total Crime
FBI Uniform Crime Reporting (UCR) for cities over 100,000 population

Latest Data: 2023 H2 (Jan-Jun) | Source: FBI, Oregon Office of Economic Analysis

Oregon Population Forecast
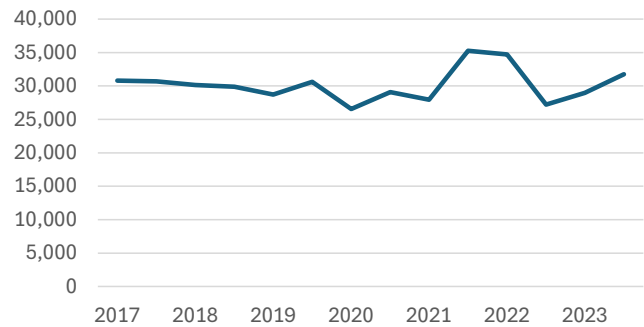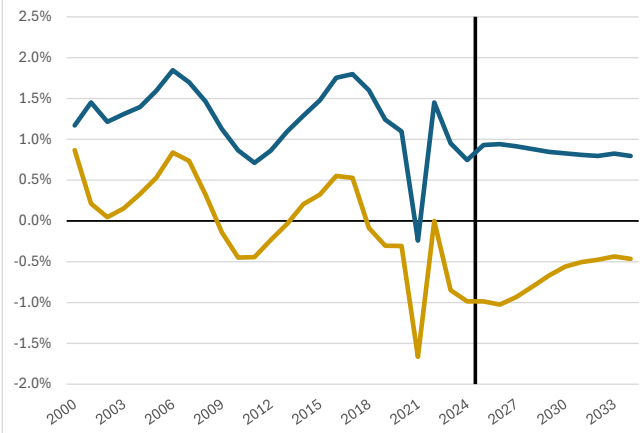Annual percent change in Adult (18+) and Juvenile (0-17) population

Methodology

Each of the thirteen case types is modeled separately. With the exception of a few case types (e.g., probation violations), cases are distinguished between "new" cases and "ongoing" cases.

New cases are those that either are not eligible for counsel, or where the Order Appointing Counsel (ORAC) occurs within 31 days of the case filed date. This is done to allow for modeling with concurrent descriptive information, such as crime data and population growth. Recent growth trends are examined in the context of these underlying data. The most recent fiscal year increase is used as the baseline and a "glide path" is created to transition to long-run population growth. The year in progress, examined on a year-over-year basis, is also used to inform the transitional path. The philosophical
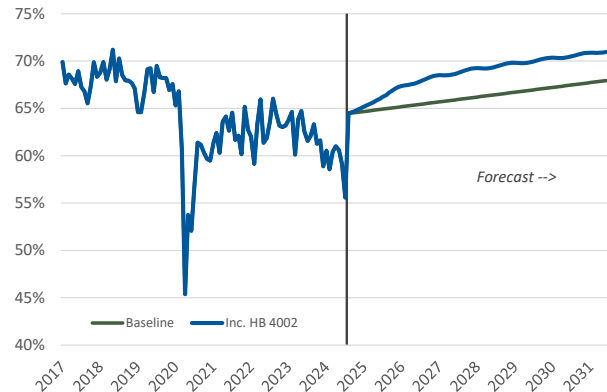
underpinning is that, in the absence of significant changes in the rate of crime, population growth is the best predictor of change in the long run for total case growth.

The forecast, however, is for the population that is eligible for counsel. Next, the fraction of the total cases that is eligible is examined. As seen in the associated chart, the pandemic caused a major dip in the number of eligibles immediately following the shutdown. Of equal note, there is a lag in the coding of the eligibility information in the system that results in the decline immediately prior to the forecast line. The forecast (black line, "Baseline") is based on the period of stability in between and continues the trend seen therein. The resulting number of eligibles is simply the total cases times the projected eligibility percentage.

Misdemeanor Eligibility
Percent of all new adult misdemeanor cases eligible for public defense

Note: at this point, House Bill 4002 impact estimates are incorporated into the forecast. Assumptions are made to calibrate the Criminal Justice Commission's Probation, Local Control and Post-prison Supervision estimates to the public defense populations in this forecast. Due to the manner in which the impacts are introduced, two eligibility percentages can be seen in the chart above. The higher line includes the HB 4002 impacts.
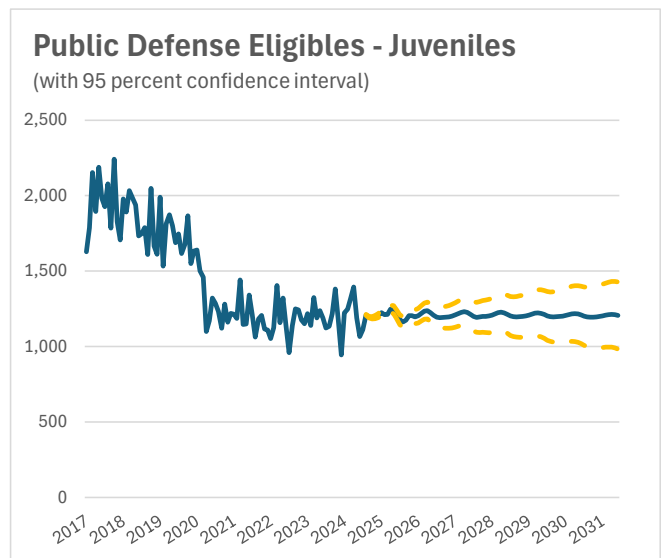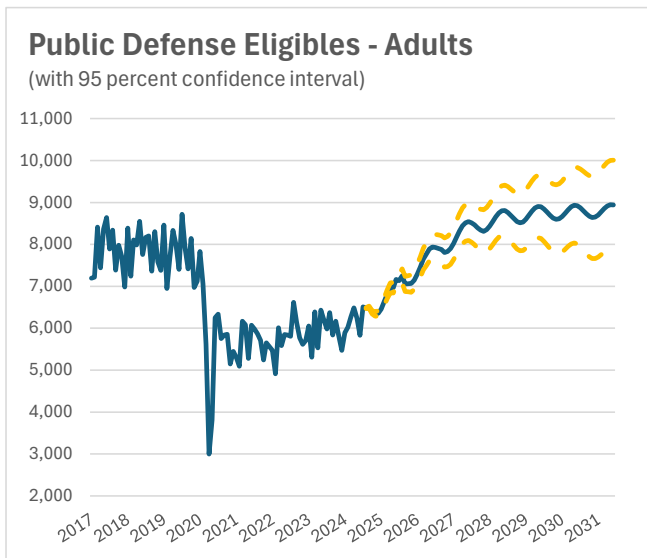
Separately, ongoing cases are modeled based on historical patterns and trends. This includes case types that do not have "new" cases, such as probation violations and post-conviction relief. The primary reason for the differential treatment is that the point of eligibility is often far removed from the time at which the offense occurred and thus the best predictor for the forecast is the recent history.

Finally, total eligibles by case type are broken out by county. This is a vital administrative input in the budgeting and particularly the contracting process. The historical distribution across counties is examined and projections of the shares are made based on a blend of the most recent actual and a three-year average. The topline forecast is then shared down.

Margin of Error

ORS 151.235 Section 3 (b) directs the Office to identify the forecast's margin of error for the adult and juvenile populations separately. In due time, a suitable number of prior forecast iterations will allow for a history of errors from which to calculate a predicted confidence interval for future forecasts. With only one previous forecast and just four intervening months of actuals, a margin of error is not available via these methods. Therefore, another method is necessary.

Looking at the historical variation in the eligible population provides an indication for how the actual population might deviate from the forecast. The period from January 2022 through the latest actual in July 2024 is examined and the variance around the trend is calculated. Two standard deviations should approximate a ninety-five percent confidence interval for the forecast. The charts below exhibit the calculated margins for error for the adult and juvenile population forecasts.

Public Defense Eligibles - Adults
(with 95 percent confidence interval)

Public Defense Eligibles - Juveniles
(with 95 percent confidence interval)

Components of Change

ORS 151.235 Section 3 (c) directs the Office to "attribute growth or decline in the forecast, relative to previously issued forecasts, to specific policies or to specific components of the baseline underlying the forecast." Given that the preeminent policy change in recent effect, House Bill 4002 (2024), was factored into the April 2024 forecast and the impact estimates for this bill have not changed, the changes exhibited in the October forecast were due to the following three factors:

- Remediation of modeling errors in the April forecast
- The inclusion of recent actuals into the model
- Changes in descriptors such as criminal activity and population growth.

For four case categories (Adult Post-conviction Relief, Adult Habeas Corpus, Juvenile Dependency and Juvenile Delinquency), errors in modeling resulted in missing case counts or double counting of cases. Fixing these errors is the predominant factor in the differences between the latest and previous forecasts for these categories.

The April forecast was based on data through February 2024. For the October forecast, March through July data were added. For the remainder of the models, the incorporation of new actuals explains nearly all of the change in the forecast.

As described in the methodology above, demographic data affect the outer years of each model. Due to how demographic data are released and the nature of population changes over time, significant changes in the forecast due to these descriptive inputs should not occur very frequently.

Future Work

As this is the first year of the public defense caseload forecast produced by the Office of Economic Analysis, significant updates and improvements are expected. Additional case types were discussed by the review team, including civil guardianships.

In addition, the current circuit court dataset extends back only to January 2017. With the pandemic occurring just a few years into the historical timeframe and the recovery a mere three years in progress, this limits the kinds of statistical analysis that are available. However, as more observations are added to the history and assuming that the data exhibit some degree of stability, additional modeling possibilities may present themselves.

Finally, the office is looking into formalizing and expanding the advisory process for the forecast. Given the breadth of the forecast across criminal and civil, adult and juvenile systems, greater representation and input is needed to inform the forecast adequately.

Appendix

Forecast Values

A more detailed spreadsheet is available in Excel spreadsheet format from the Office of Economic Analysis web site, along with a copy of this report.

https://www.oregon.gov/das/oea/Pages/Public-defense-caseload-forecast.aspx