



ADOPTED REPORT

Oregon Public Defense Commission
SIX-YEAR PLAN TO REDUCE REPRESENTATION DEFICIENCY

October 2024

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THE OREGON PUBLIC DEFENSE COMMISSION SIX- YEAR PLAN TO REDUCE REPRESENTATION DEFICIENCY

**A follow up to the findings in “The Oregon Project – An Analysis of the
Oregon Public Defense System And Attorney Workload Standards,”
published January 2022**

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This report was produced by Moss Adams. For over 30 years, Moss Adams has operated a full-service government consulting practice serving government agencies including state, county, city, tribal, federal, and special purpose district governments. The Moss Adams project team included Scott Simpson, CPA, Partner; Jessie Lenhardt, PMP, Senior Manager; Emily Hayes, CIA, Manager; and Annie Fadely, Senior Consultant. Scott has practiced public accounting since 1997 and was the lead partner on The Oregon Project. He was also the lead partner on The New Mexico Project and the following New Mexico 5-Year Plan.

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I. EXECUTIVE SUMMARY

“More than 90 percent of people charged with crimes in Oregon depend on a public defender.”

— Oregon Justice Resource Center

This report provides a two-pronged approach to form a strategy to eliminate excessive workloads for public defenders who manage the full spectrum of Adult Criminal case types by 2031. The two critical categories that drive the six-year plan include:

 **People and budget strategy**
People factors address the strategy of adding to, and reallocating, resources within, and contracted by, OPDC.

 **Policy strategy**
Policy factors address actions that can either reduce or increase caseloads.

Enactment of the plan will produce reasonable workloads, optimize costs, and most critically, enable the state’s public defenders to fulfill their ethical and constitutionally mandated duty to provide effective defense services.

A. ADULT CRIMINAL ATTORNEY DEFICIENCY CALCULATION

The Oregon Project analysis, completed in January 2022, outlined the need for an additional 1,296 full-time attorneys to manage the full scope of Adult Criminal and Juvenile type cases annually.

Adult Criminal cases represent the majority of cases by count (79%) and the highest volume of hours for public defenders (54%). The first step in the analysis was to update this deficiency calculation and narrow it to reflect the focus of this report on Adult Criminal cases. While this plan focuses on Adult Criminal caseloads, the model and strategies outlined in this plan can be applied to future Juvenile defender deficiency reduction efforts.

The average annual Adult Criminal caseload projection was updated with new data provided by the Office of Economic Analysis (OEA), which is both more recent and more reliable than the data that was available at the time of The Oregon Report. In May of 2024, the Oregon Public Defense Commission (OPDC) adopted the National Public Defense Workload Standards (NPDWS) for Adult Criminal cases. This standard was applied to the projected annual caseload data to update the public defender shortage analysis. The deficiency analysis multiplies the projected annual caseload by the time needed by case type as defined by the NPDWS Delphi panels. This produces the total hours needed to provide reasonably effective assistance of counsel pursuant to prevailing professional norms for the year examined. The total annual hours needed are translated into full-time equivalent (FTEs) by dividing the total hours needed by the 2023 adopted Oregon Department of Justice (ODJ)

annual casework hours for one FTE, which is 1,578 hours.¹ This produces the number of attorney FTEs needed to cover the projected Adult Criminal caseload. The number of needed attorney FTEs is then compared to existing attorney FTEs to calculate whether an attorney staffing deficit or excess exists and the extent of that deficit or excess.

Using the projected annual caseloads as a starting point, currently OPDC needs 922 attorney FTEs to address its Adult Criminal caseload. In 2023, OPDC contracts or employs 506 attorney FTEs; therefore, OPDC needs an additional 416 attorney FTEs to properly address its current Adult Criminal caseloads. In other words, OPDC currently has only 55% of the FTE attorneys needed to provide reasonably effective assistance of counsel pursuant to prevailing professional norms in Oregon to its Adult Criminal clients. Based on historical trends, the six-year plan assumes an increase of 1.0% in Adult Criminal caseloads annually. This incrementally increases the total need today from 922 FTEs to 980 FTEs over six years, resulting in an increase in the calculated attorney deficiency from 416 to 474 attorney FTEs by 2031.² The total attorney FTE need in 2031 is rounded down to the nearest whole FTE.

B. STAFFING AND BUDGET STRATEGY

Adult Criminal Attorney Staffing Strategy

This baseline six-year staffing and budget plan adds 474 attorney FTEs to the current 506 attorney FTEs to eliminate the deficiency by 2031. To remedy its attorney staffing deficiency, OPDC will need to hire approximately 79 attorneys per year to reach the total needed 980 attorney FTEs by 2031 (Table 1).

The analysis does not take into consideration the average annual turnover of attorneys resulting from retirements, voluntary or involuntary departures, or availability of contract staff. Rather it assumes all vacancies in existing attorney FTEs are filled as they arise. Changes in actual FTEs counts per year are expected to fluctuate. The analysis also assumes that all current Adult Criminal attorneys (506 FTE) would continue to be funded on an ongoing basis.

TABLE 1: SIX-YEAR ADULT CRIMINAL ADDITIONAL STAFFING STRATEGY

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Adult Criminal Staffing Impacts							
Additional Funded Attorney FTE	0	79	79	79	79	79	79
Running Total Additional Attorney FTE	0	79	158	237	316	395	474

¹ Ellen F. Rosenblum, [2023 Joint Committee on Ways & Means Subcommittee Presentation \(pdf\)](#), at Slide 14 (January 2023)

² Historical trends are calculated by averaging the percent change in Adult Criminal caseloads year over year going back to 2017. The calculation does not include 2020 caseload changes, nor is it reflective of legislative actions resulting from the 2024 session. This trend is not guaranteed. The impacts of legislative actions are described further in [Interventions Impacting the Public Defender Deficit](#).

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Adult Criminal Attorney FTE Need. ³	922	931	941	950	960	970	980
Current Adult Criminal FTEs. ⁴	506	585	664	743	822	901	980
Adult Criminal Attorney FTE Deficiency at End of Year	416	346	277	207	138	69	0
Percent Adult Criminal Attorney Deficiency at End of Year	45%	37%	29%	22%	14%	7%	0%

Budget Impacts

The second step in our analysis was calculating the cost to fund the needed attorneys over the next six years. To build the six-year budget impact, a baseline increase was applied to future biennial budget years (labeled OPDC Total Operating Trend, Table 2). This was calculated by applying the historical average increase in biennial budgets from FY2017–FY2025 (23%) to future biennial budget years. This results in an estimated baseline operating budget for FY2029–FY2031 of \$1.08 billion.

The cost needed to fund additional attorney FTEs was then calculated by taking the annual average cost per attorney FTE (\$241,218)⁵ and multiplying it by the added attorney FTEs outlined in the baseline staffing plan (Table 1). The total funding needed by year is then the baseline operating budget plus the cost to fund the additional attorney FTEs.

To address the public defender deficit by exclusively hiring attorneys to manage Adult Criminal cases, OPDC’s operating budget would need to increase from its baseline forecast of \$1.08 billion to \$1.30 billion in FY2029–FY2031 (Table 2).

TABLE 2: BUDGET IMPACTS OF THE SIX-YEAR PLAN

	Fiscal Year			
	2023–2025	2025–2027	2027–2029	2029–2031
OPDC Total Operating Budget Trend	\$576,276,124	\$709,626,419	\$873,833,972	\$1,076,039,153
Cost to Fund Additional Attorney FTE	-	\$76,224,888	\$152,449,776	\$228,674,664
Total Funding Needs by Year	\$576,276,124	\$785,851,307	\$1,026,283,748	\$1,304,713,817
Percent Additional Budget Need	-	11%	17%	21%

³ Adult Criminal Attorney FTE Need is increased year-over-year as a result of an estimated 1.0% increase in caseloads annually, based on historical trends.

⁴ Current Adult Criminal FTEs are based on the contract summary for FY2023–2025. It does not include budgeted vacancies of any duration, supervisors, or investigators.

⁵ Based on the average funding rate across attorney 1, 2, 3, and 4 categories established in the OPDC 2023 contract.

C. INTERVENTIONS IMPACTING THE ATTORNEY DEFICIT REDUCTION STRATEGY

A number of factors could impact—positively or negatively—the need for additional attorney FTEs, projected above, and therefore impact the Agency’s attorney deficit reduction strategy. Any increase in crime or sentencings would likely increase Adult Criminal caseloads requiring additional attorney FTEs and associated costs. Reductions in crime or sentencings would concurrently reduce caseloads requiring fewer attorney FTEs and associated costs. In this section, we review interventions that could impact the Agency’s attorney deficit reduction strategy.

Legislative Actions

Different legislation can impact the total needed attorney FTEs, described further in this section.

Decriminalization

Around the country, jurisdictions are considering decriminalizing crimes that are non-violent or have no victim. Decriminalization of these charges in Oregon would reduce the demand on the criminal justice system, which would, in turn, reduce the need for additional attorney FTEs. Recommended decriminalization of Low-Level Misdemeanors (as defined in the 2022 Oregon Project) that are non-violent or have no victim include:

- Driving with a Suspended License
- Failure to Carry and Present a License
- Failure to Appear (FTA)
- Possession Drug Charges
- Criminal Trespass
- Criminal Mischief 3

Other non-violent or victimless offenses that could be decriminalized by the legislature include:

- Hit And Run Where the State is the Victim
- Theft 3 When the Item Stolen is Food or Basic Needs
- Failure To Register if the Person Complies With Registration Upon Arrest

Table 3 outlines the estimated reduction in number of case filings⁶, with an overall estimated reduction to annual caseloads of about 8%. This caseload reduction would, in turn, reduce the needed attorney FTEs by 162 FTEs every year.

TABLE 3: OVERVIEW OF ESTIMATED IMPACT OF DECRIMINALIZATION BASED ON 2022 CHARGES FILED

Offense	Number of Filings	% of Total 2022 Filings
Decriminalization Impact on Attorney FTE		
Total 2022 Charges Filed	293,205	
Subtotal Recommended Decriminalization + Reduced Other Crimes	23,157	7.9%

⁶ Case filings are based on 2022 Oregon Project case data.

Offense	Number of Filings	% of Total 2022 Filings
Estimated Total Reduced by 20% <i>The reduction accounts for variability in overall decriminalization estimates</i>	18,526	6.3%
Reduced Defense FTE <i>(18,526 x 13.8 hrs. per case/1,578 hrs. per FTE)</i>	162 FTE	

Sentencing Reform

The promise of Measure 11—that significantly increased length of sentences would produce significant reductions in violent crime rates—simply did not occur. Measure 11 also has cost impacts on public defense. By repealing or reforming Measure 11, Oregon could not only reduce needed attorney FTEs but also provide funding for the remaining FTEs needed through savings on incarceration.

Between 2017–2022, 80% of Oregon’s High-Level Felony cases resulted from Measure 11. High-Level Felony cases have the second-highest number of hours required per case. An evaluation of High-Level Felony, Measure 11 case types identified the following charges that would most clearly be reassigned as Mid-Level Felony charges, based on the description provided by NPDWS:

- Assault in the Second Degree
- Kidnapping in the Second Degree
- Robbery in the First Degree
- Robbery in the Second Degree
- Sexual Abuse in the First Degree

If the above case types were to become Mid-Level Felonies, it would reduce the total average caseload hours by 20,622 annually (using the NPDWS hours). This excludes cases of the above where a firearm is involved. This caseload reduction would, in turn, reduce the needed attorney FTE by 13 FTEs. The associated budget reduction from this reform would be \$3.1 million annually. There are additional Measure 11 case types that could be included in a sentencing reform strategy. Were the state to consider additional sentencing reforms, or repeal of Measure 11, this would contribute to further reductions in annual case hours and required attorney FTE needs.

Repealing the Measure 11 provisions that unnecessarily lengthen prison terms and artificially prop up the prison population, would also significantly reduce the projected prison population and result in additional considerable cost savings on incarceration (Table 4).

TABLE 4: SUMMARY OF OREGON CRIMINAL JUSTICE SYSTEM COST SAVINGS FROM REFORMS

Description	AMOUNT
Total Current Criminal Justice System Costs	\$8,280,000,000
Estimated Savings Due to Sentencing Reform	\$240,000,000
Estimated Increased Costs for Probation	\$25,000,000
Net Reduction	\$215,000,000

2024 Oregon Legislative Session Outcomes

The 2024 Oregon Legislative Session saw the passage of several bills that will impact public defense. The most significant was the passage of House Bill 4002, repealing parts of Measure 110 and recriminalizing most unlawful possession of a controlled substance offenses. The recriminalization of these non-violent offenses will increase the need for Adult Criminal attorney FTEs in Oregon. Analysis provided by OPDC estimates that an additional 51 Adult Criminal attorneys will be needed to cover anticipated increases in caseloads.⁷ These additional 51 FTEs are not included in the analysis of annual attorney FTE needs, as the law passed while this report was in progress.

During the 2023 session, the Oregon Legislature also passed:

- House Bill 4043
- House Bill 4145
- House Bill 4146
- House Bill 4156
- Senate Bill 1553
- Senate Bill 1574
- Senate Bill 1580

These bills either create a new crime or increase the penalty of conviction—thereby increasing the total annual attorney FTE needed.

Support Staff

A staffing strategy that focuses exclusively on recruiting and hiring attorneys has the highest cost and requires the longest timeframe to achieve the deficiency reduction goal. Other factors can reduce the staffing deficiency with less hiring of Adult Criminal attorneys, and with greater cost efficiency. This includes recruitment of case support personnel such as paralegals, investigators, social workers, case managers, interpreters, and administrative personnel. These personnel can address some of the work currently conducted by attorneys. Incorporating support staff into OPDC's deficiency reduction strategy will have significant and long-lasting impacts, not only helping to eliminate the public defender deficiency more quickly, but building much needed resilience to the public defender career pipeline and improving service delivery.

Based on an analysis of Oregon Project case tasks and the Delphi panel's estimated time per task, 18.5% of total annual attorney case hours could be shifted to case-support personnel. Applying 18.5% to the updated total annual attorney case hours needed (based on NPDWS), and the same annual hours standard of 1,578 hours per FTE, would reduce the attorney need to 181 FTE by 2031. To achieve this, support staff personnel would need to be hired to conduct this work. Assuming such support staff were hired at a single rate,⁸ the difference between support staff costs and attorney costs would produce an estimated savings of \$29.4 million in 2031.

⁷ OPDC had previously calculated that 39 attorney FTEs were required to provide legal services for the increased caseload. The 39 attorney FTE calculation was based on 2,080 casework hours per FTE. Based on the DOJ's annual casework hours of 1,578, which was adopted at the request of the Commission, the need is now 51 attorney FTEs.

⁸ An annual salary of \$78,750 was used for this calculation. This is based on an average of current contractor rates and used for modeling purposes only. The hiring of specific types of needed support staff were not included in this plan's staffing strategy and budget, as the actual hiring strategies, competencies, and salaries for these roles will vary widely, introducing too many unforeseeable variables to make forecasting realistic.

Aggregate Impact of Interventions

Together, the aggregate impact of policy and staffing interventions that could both reduce and increase Adult Criminal attorney caseloads is illustrated in Table 5. Oregon should consider these interventions as levers that can either help eliminate the Adult Criminal public defender deficiency ahead or behind the target 2031 date, as well as the estimated cost impact of each intervention.

TABLE 5: AGGREGATE IMPACT OF POLICY AND STAFFING INTERVENTIONS ON ATTORNEY NEED

Description	Annual Attorney FTE Need Impact	Estimated Cost Impact
Forecasted 2031 Attorney and Funding Needs	980	\$1,304,713,817
Decriminalization of non-violent Low-Level Misdemeanors and non-violent other charges	162 reduction	\$39,079,957 savings
House Bill 4002	51 addition	\$12,302,118 cost
Other legislation <i>(likely to result in increased attorney need)</i>	unknown	unknown
Impact of repealing Measure 11 on certain crimes	13 reduction	\$3,135,834 savings
Case support personnel <i>(cost of 181 attorney FTEs minus cost of 181 non-attorney FTEs)</i>	181 reduction	\$29,406,708 savings
Updated 2031 Attorney and Funding Needs	676	\$1,245,393,436
Difference between 2031 Forecast and Impact of Policy and Staffing Interventions	305 reduction	\$59,320,381 savings

These aggregated strategies and the associated impact on attorney FTEs and costs do not account for other potential cost savings, including savings on appeals, post-conviction cases, wrongful litigation, and litigation over failure to properly fund and staff indigent defense. Additionally, while Table 5 describes the impacts on OPDC's operating budget, it should be noted that policy changes above that reduce reliance on the criminal justice system could lead to significant downstream cost savings, particularly on incarceration (\$215 million, Table 4).

II. INTRODUCTION

“Everyone – defendants, victims, attorneys, courts, and the wider community – is harmed by inadequate defense.”

— Ben Haile, Special Counsel, Oregon Justice Resource Center

A. BACKGROUND

In 2019, Oregon became the seventh state to undergo a workload assessment of its public defenders by the American Bar Association Standing Committee on Legal Aid and Indigent Defense culminating in The Oregon Project – An Analysis of the Oregon Public Defense System and Attorney Workload Standards.⁹ The Oregon Project workload study found that the state’s public defenders have over three times the number of cases they can ethically handle. In response to these findings, Oregon is now the second state to seek a multiple-year implementation plan to address the very serious problem of excessive public defense workloads. This six-year plan identifies feasible strategies to systematically reduce public defender workloads. With this six-year plan, the state is better positioned to take advantage of proposed federal legislation under consideration to support the constitutionally mandated—and costly—service of public defense.

The cost of effective public defense is substantial; however, the cost of an overburdened public defense system is even greater. People in need of constitutionally required legal services are denied or delayed the assignment of an attorney. Attorneys are forced to triage cases, sacrificing time spent with one client for another client with similarly urgent needs. As a result, public defenders are at greater risk of foregoing critical steps required to provide reasonably effective assistance of counsel. Attorneys face immense stress knowing they may be unable to deliver the services they are ethically bound to provide, amplifying the cycle of burnout, staffing shortages, and even greater workloads. Further, persistently excessive workloads place the state at heightened risk of legal exposure over its constitutional failure to provide effective public defense services.

An overburdened public defense system also results in delays in adjudication. While waiting for a case to progress through the court system, people accused of crimes are at increased risk of losing wages, employment, housing, and custody of their children. Prolonged case timelines are also more likely to significantly disrupt the structure and support for individuals managing addiction, as well as other physical and mental health burdens. In the face of case delays, many may choose a plea deal to hasten the process, without knowing whether additional investigation or research would yield viable defenses. As a result, the state faces rising costs of its public safety system, directly related to increased detention levels.

⁹ Moss Adams LLP, “The Oregon Project, An Analysis of the Oregon Public Defense System and Attorney Workload Standards” (On behalf of American Bar Association’s Standing Committee on Legal Aid and Indigent Defendants, January 2022).

The Oregon Project analysis showed that, based on the average annual caseload, the state needed an additional 1,296 full-time attorneys—more than two times its current level—to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment to the US Constitution.

The first step in our analysis was to update this deficiency calculation and narrow it to reflect the focus of this report on Adult Criminal.

Adult Criminal cases represent the majority of cases by count (79%), the highest volume of hours for public defenders (54%), and are at the core of the Sixth Amendment right to counsel. Analysis of the combination of Juvenile cases and Adult Criminal cases together does not clarify the key drivers of deficits for either case type. For example, in Oregon, 10 of the 27 judicial districts are in the Parent-Child Representation Program (PCRP). PCRP limits the open caseload of providers within the program and provides some additional non-lawyer staffing to assist with cases. Between the differing programs and the length of time it takes to get most Juvenile cases to final resolution, the factors contributing to the representation deficit are dissimilar enough that including Juvenile cases in this discussion is not appropriate.

While this plan focuses on Adult Criminal caseloads, the same methodology can be used to develop a similar strategy to address the Juvenile Dependency and Delinquency attorney deficiency.

The cost to eliminate the constitutional risk related to excessive public defender workloads is substantial. As detailed in this report, hiring the attorneys needed to address the deficit for Adult Criminal cases would require OPDC to nearly double its Total Operating Budget over the next six years.

The baseline six-year plan details the costs required to exclusively fund additional attorney FTEs. However, there is a very real opportunity to enact policy changes and case support staffing strategies that could significantly reduce costs to the criminal justice system and reduce the need for additional public defenders with no risk to public safety. Many of these reforms would lead to substantial savings on incarceration costs, which could be used to fund the additional staffing needed by OPDC to recruit personnel.

B. OVERVIEW OF THE OREGON PUBLIC DEFENSE SYSTEM

The OPDC is an independent body charged with establishing and maintaining a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution, the Rules of Professional Conduct, and Oregon and national practice standards.

OPDC provides counsel to individuals in Adult Criminal, Juvenile Delinquency, Juvenile Dependency,¹⁰ Civil Commitment, Contempt, Habeas Corpus, Post-Conviction Relief, Guardianship,

¹⁰ OPDC is responsible for representation of both children and parents in Juvenile Dependency proceedings. This arrangement is somewhat unusual and prone to creating administrative challenges, as attorneys from the same organization or law firm generally are prohibited by the Rules of Professional Responsibility from representing two parties in the same case. As a result, a dependency case in which there is one child and two parents may require lawyers from three different contracting entities. For more on models of representation in dependency proceedings and suggestions for best practices, see Mimi Laver

and other proceedings at the trial level, as well as in direct appeals from these cases. Historically, OPDC has contracted with providers of different types—public defender offices, law firms, consortia, non-profit organizations, and individual attorneys (collectively known as contractors)—to provide public defense services. Oregon is the only state that historically provided trial-level counsel primarily through a contracting system.¹¹

OPDC is moving toward a model with more full-time public defenders working at both OPDC and non-profit public defender offices. The remaining public defense services will be provided by a panel of attorneys who work at an hourly rate.

and Cathy Krebs, “The Case for a Centralized Office of Legal Representation in Child Welfare Cases” (American Bar Association, *Child Law Practice Today*, December 2020).
https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2020/the-case-for-a-centralized-office-for-legal-representation-in-ch/.

¹¹ By contrast, appellate services in Oregon are provided primarily through the Appellate Division of OPDC. Attorneys in this office are full time employees of OPDC. Contract services are used for appeals only when the appellate division is not able to accept a case or client due to conflict or lack of capacity.

III. ADULT CRIMINAL DEFICIENCY ANALYSIS UPDATE

A. ADULT CRIMINAL CASELOAD DATA UPDATES

Since its original calculation in 2022, the Oregon Justice Department (OJD) has partnered with OEA to make significant updates to its caseload tracking dataset to inform future deficiency calculations, budgets, and staffing strategies.¹² Based on improved data, and to align with forecasts developed by OEA, the following is an update to the estimated Annual Adult Criminal caseload using 2023 data. Applying the NPDWS categories and hours per case, OPDC’s annual estimated needed hours to address Adult Criminal Cases in 2023 was 1,455,270 (Table 6).

TABLE 6: 2023 UPDATED WORKLOAD ANALYSIS FOR ADULT CRIMINAL CASE TYPES

Adult Criminal			
Case Type	NPDWS Hours Per Case ¹³	Estimated Annual Caseload ¹⁴	Total Hours
Probation/Parole Violations	13.5	33,953	458,336
Misdemeanor-Low	13.8	15,176	209,429
Misdemeanor-High	22.3	2,984	66,543
DUII-Low	19	6,263	118,997
DUII-High	33	182	6,006
Felony-Low	35	6,450	225,750
Felony-Mid	57	2,650	151,050
Felony-High-Other	99	985	97,515
Felony-High-Sex	167	602	100,534
Felony-High-Murder	248	85	21,080
Felony-High-LWOP	286	-	-
Total	-	69,330	1,455,270

¹² The updated information specifically provides additional detail including but not limited to 1) A Statute column showing the statute for the most serious charge on the case. This column denotes civil commitment and some procedural matters in cases that do not have charges. 2) The criteria for post-disposition appointments are updated to better distinguish between appointments for probation violations and appointments due to the case being reinstated or remanded on appeal. Multiple post-disposition appointments on the same case are now represented, as defendants may have multiple probation violations. 3) The data excludes orders appointing appellate attorneys. 4) Post-disposition appointments on civil commitment cases are categorized as either Reinstated/Remand on Appeal or Continued Commitment/Trial Visit Revocation, as commitment cases may come back to court post-disposition for either reason. 5) For cases that were assigned to a specialty court, the dataset now shows the OPDC Category associated with the most serious charge for the case (Misdemeanor, Minor Felony, etc.) rather than Specialty Court.

¹³ Per the National Public Defense Workload Study (NPDWS).

¹⁴ Based on the average opened cases per year for the respective Case Type.

B. CURRENT ADULT CRIMINAL ATTORNEY DEFICIENCY CALCULATION

To perform the deficiency analysis, the projected caseload is multiplied by the time needed by case type, as determined by NPDWS to produce the hours needed annually to provide reasonably effective assistance of counsel pursuant to prevailing professional norms.



The hours needed are then translated into FTEs and compared to the number of FTEs currently available to calculate whether an attorney staffing deficit or excess exists and the extent of that deficit or excess.



At 2023 caseloads, OPDC is deficient 416 attorney FTEs for its Adult Criminal caseloads. In other words, OPDC currently has only 55% of the FTE attorneys needed to provide reasonably effective assistance of counsel pursuant to prevailing professional norms in Oregon to its Adult Criminal clients.



Looking at the deficiency through the lens of caseloads, where one caseload for a full-time attorney is 1,578 case hours annually, having only 55% of the needed Adult Criminal attorneys means that each attorney would have to work 1.82 caseloads annually to meet current demands (2,874 hours). Over six years, as more attorneys are recruited, this ratio will go down (Table 7) until one attorney is able to work one caseload to meet demand.

This model is another way of understanding the impact of the deficiency. It outlines the number of hours and related caseloads that each attorney would have to work in order to meet demands. It is not expected that attorneys work these hours. This is a representation that while progress will be made over six years to reduce the deficiency, there will be ongoing challenges resulting from the shortage.

TABLE 7: ANNUAL CASELOAD PER ATTORNEY FTE

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Total Annual Caseload Hours	1,455,270	1,469,329	1,484,450	1,499,726	1,515,159	1,530,751	1,546,504
Number of Attorneys	506	585	664	743	822	901	980
Working Hours	1,578	1,578	1,578	1,578	1,578	1,578	1,578
Attorney FTE Caseload Hours	2,874	2,513	2,237	2,020	1,844	1,700	1,579
Attorney FTE Caseload Ratio	1.82	1.59	1.42	1.28	1.17	1.08	1.00

ABA workload studies assume, absent contrary evidence such as timekeeping, that each FTE attorney can spend 2,080 hours annually on casework, which is equivalent to 40 hours per week, 52 weeks per year on cases. This assumption does not consider vacation, sick time, or holidays. Nor does it consider the attorney's non-casework obligations, such as continuing education requirements, administrative tasks, or community outreach efforts. The 2,080 annual hours assumption was intended to be beyond reproach and prohibit any argument over whether attorneys accepting public defense cases were working hard enough.¹⁵ It was also unrealistic.

In every jurisdiction that has calculated full-time expectations for a position, including considerations of paid leave and non-case functions, the total time available for casework is substantially less than 2,080 hours annually. For example, in the 2016 Oregon Judicial Workload Study, the Judiciary calculated that judges in Oregon have between 76,758 minutes and 77,979 minutes available for casework each year.¹⁶ This translates to between 1,279 hours and 1,300 hours per year. Similarly, the Oregon Department of Justice assumes that attorneys have 3,155 hours per biennium to spend on casework, or 1,578 hours per year.¹⁷ This estimation is similar to the calculation of annual available hours adopted by the Washington State Bar Association (1,650 case-related hours available per FTE per year).¹⁸ This study adopts the Oregon Department of Justice standard of 1,578 case work hours per FTE per year.

¹⁵ The 2,080-hour case work year was also consistent with large firm billable hours requirements in 2014 when the ABA workload studies began. See [Billable Hours](#), NALP Bulletin (May 2016). Billable hours requirements have declined, even in large law firms since then.

¹⁶ [National Center for State Courts, Oregon Circuit Court Judicial Officer Workload Assessment Study \(pdf\)](#), at pages 4-5, 8-9, Appendix C, Line 28 (May 2016)

¹⁷ Ellen F. Rosenblum, [2023 Joint Committee on Ways & Means Subcommittee Presentation \(pdf\)](#), at Slide 14 (January 2023)

¹⁸ Washington State Bar Association, [Standards for Indigent Defense Services](#), at 3(J) (March 8, 2024) (“The maximum number of case credits for fully supported, full-time public defense attorneys each calendar year is based on an assumed 1,650-hour ‘case-related hours’ available each year. This number represents the assumed time an attorney in Washington has available each year to devote to public defense clients’ representation. It excludes annual time for leave (for example, vacation, sick, PTO, FMLA) holidays, CLEs and training, supervision, and other time that is not ‘case related.’”).

Impact of the Attorney Deficiency on Current FTE:

The attorney FTE deficiency has a profound impact on the existing attorneys working in public defense in Oregon. Having only 55% of the needed Adult Criminal attorneys means that each current attorney would have to work 1.82 caseloads annually to meet current demands (2,874 hours). This is impossible. To try to cope under such caseloads requires attorney to turn down some cases—leading to some people going unrepresented. It also leads to triage, or having to prioritize the most urgent work over other work that should be done. Engaging in such triage has significant downstream impacts, including increased backlogs, appeals, and post-conviction claims. Further, asking attorneys to maintain such high caseloads often causes increased stress and morale problems, contributing to decreased retention. Attorney departures in turn costs the agency, not only in terms of loss of institutional knowledge and experience, but also increased recruitment and training costs.

Over six years, if Oregon addresses the attorney deficit according to this plan, the excess caseload of each existing attorney FTE will go down until each attorney has only one caseload. However, until the state can achieve a 1:1 caseload to attorney ratio, it will continue to experience challenges with backlog, burnout, and service delivery.

IV. BASELINE STAFFING AND BUDGET STRATEGY

A. ATTORNEY FTE STAFFING STRATEGY

OPDC faces a current Adult Criminal public defender deficiency of 416 attorney FTEs as detailed in the [Adult Criminal Deficiency Analysis](#) section. Using the projected annual caseloads as a starting point, OPDC needs 922 attorney FTEs to address its Adult Criminal caseload. In 2023, OPDC contracted or employed 506 attorney FTEs; therefore, OPDC needs an additional 416 attorney FTEs at present to properly address its current Adult Criminal caseloads.

Over the six-year period of this plan, the total number of cases and associated hours estimates are not predicted to stay the same. The six-year strategy accounts for a 1.0% increase in caseloads each year. This percentage is based on the average annual change in caseload between 2017 and 2023. Changes for 2020 are excluded due to the acute impacts of the global pandemic, which temporarily drove down caseloads. Based on the anticipated increase in in Adult Criminal cases, the actual attorney FTEs needed to eliminate the deficiency is incrementally increased from 922 to 980 FTEs over six years through 2031. This increases the calculated deficit from 416 to 474 by 2031.

To meet the total calculated attorney FTE need in 2031, and close the Adult Criminal attorney deficiency, OPDC would need to hire an additional 474 attorney FTEs over the next six years (Table 8). The total attorney FTE need in 2031 is rounded down to the nearest whole FTE.

TABLE 8: SIX-YEAR ATTORNEY-ONLY STAFFING STRATEGY

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Adult Criminal Caseload Hours							
Total Adult Criminal Caseload Hours <i>(in thousands, with a 1.0% increase)</i>	1,455k	1,470k	1,485k	1,500k	1,516k	1,531k	1,547k
Adult Criminal Staffing Impacts							
Additional Funded Attorney FTE		79	158	237	316	395	474
Total Impact On Adult Criminal Attorney Deficiency							
Adult Criminal Attorney FTE Need	922	931	941	950	960	970	980
Current Adult Criminal FTEs. ¹⁹	506	585	664	743	822	901	980
Adult Criminal Attorney FTE Deficiency at End of Year	416	346	277	207	138	69	0
Percent Adult Criminal Attorney Deficiency at End of Year	45%	37%	29%	22%	14%	7%	0%

¹⁹ Current Adult Criminal FTEs are based on the contract summary for FY2023–2025. It does not include budgeted vacancies of any duration, supervisors, or investigators.

B. HISTORICAL OPERATING BUDGET TRENDS

OPDC operations are funded via two primary methods: an appropriation from the Oregon State Legislature known as General Funds (96% of the total operating budget), and additional Other Funds awards (4% of the total operating budget). Over the past eight years, the Oregon legislature has increased funding for OPDC’s General Fund by an average of 23% per biennium. The total OPDC General Fund request for FY2023–FY2025 is approximately \$576 million. The OPDC Operating Budget Trend chart (Table 9) builds off the eight-year average increase of 23% to establish a baseline budget forecast for the next six years.

TABLE 9: OPDC OPERATING BUDGET TREND

Biennium	General Fund	Percent Change
2017–2019	\$309,985,014	-
2019–2021	\$353,399,570	14%
2021–2023	\$445,411,261	26%
2023–2025	\$576,276,124	29%
2025–2027	\$709,626,419	23%
2027–2029	\$873,833,972	23%
2029–2031	\$1,076,039,153	23%

C. COST FOR ADDITIONAL BUDGETED ROLES BY TYPE

The compensation rate for agency attorneys will likely drive the rate for all full-time public defenders, including agency, non-profit public defenders, and panel attorneys. To improve its ability to accurately reflect the budget impact of this workforce model transition, OPDC has completed a market study to update its hourly rate compensation data. The final hourly rate determination will be integrated into future budget requests. In addition to updated annual compensation data for attorneys, the hourly study provides wage information for all eight of the case support roles identified in [Additional Resources to Support Workload](#). As OPDC carries out its deficiency reduction strategy, this will provide essential information to inform budget adjustments.

For this report, the cost of attorney and case support FTEs is based on averages derived from the OPDC’s 2023 contract terms. Included in the contract terms is a 5% administration fee. This has been included in the FTE amounts to demonstrate a fully burdened FTE cost per biennium (Table 10).

TABLE 10: AVERAGE ATTORNEY AND INVESTIGATOR COSTS

Description	Amount
Average cost per attorney FTE per biennium	\$482,436
Average cost of contract investigator FTE per biennium	\$157,500

D. OPERATING BUDGET IMPACT

To reduce the public defender deficiency and restore reasonable workloads, OPDC’s operating budget will need to increase. The state has historically increased OPDC’s budget by 23% per biennium. Table 11 calculates the average additional biennium increase, outlining the cost to fully fund the additional attorney FTEs over the next six years.

To recruit the additional recommended attorneys and eliminate the public defender deficiency by 2031, OPDC will need to pursue additional funding each budget cycle on top of its historical average increase of 23%, which will result in an estimated operating budget of \$1.30 billion by 2031 (Table 11). Additional funds could come from general fund appropriations from the state, award funds, or a combination of both.

TABLE 11: BUDGET IMPACTS OF THE ATTORNEY STAFFING STRATEGY

	Fiscal Year			
	2023–2025	2025–2027	2027–2029	2029–2031
OPDC Total Operating Budget Trend	\$576,276,124	\$709,626,419	\$873,833,972	\$1,076,039,153
Cost to Fund Additional Attorney FTE	-	\$76,224,888	\$152,449,776	\$228,674,664
Total Funding Needs by Year	\$576,276,124	\$785,851,307	\$1,026,283,748	\$1,304,713,817
Percent Additional Budget Need	-	11%	17%	21%

E. ATTORNEY RECRUITMENT, RETENTION, AND DEVELOPMENT CONSIDERATIONS

Exclusively funding additional attorney FTE is the costliest way to reduce the public defender deficiency. It also may not succeed even if fully funded. For reasons including compensation, level of debt, desire to work remotely, persistently high workloads, and focus on the national crisis, public defenders and prosecutor offices—nationally—are facing significant challenges recruiting and retaining qualified lawyers.²⁰ This landscape presents significant challenges for OPDC and makes it challenging to solve the public defender shortage by solely funding and hiring attorney FTEs.

While the state may increase its funding for Adult Criminal public defenders, there must be available and qualified individuals to fill these new positions to effectively achieve deficiency reductions. Oregon has three law schools, each with an average class size of 145 students. OPDC would need to hire approximately 18% of students each year to achieve its recruitment target, assuming that the entire class graduates, recruitment focused solely on new attorneys, and that OPDC would not need to back-fill any attorney FTEs that were lost due to retirement or turnover.

²⁰ Disha Raychaudhuri and Karen Sloan, “Prosecutors Wanted: District Attorneys Struggle to Recruit and Retain Lawyers” (Reuters, April 23, 2022).

To improve OPDC's ability to effectively recruit new and experienced lawyers, OPDC must improve working conditions and pay to increase the appeal of the public defense profession. Enhanced recruitment, such as creating law school-to-public-defense pipelines, loan forgiveness opportunities, and programs to attract lawyers to underserved parts of the state would benefit Oregon's public defense system in the long term. However, investments in these areas have a long maturation period. OPDC may not see the results of its investment until after the six-year plan period.

Improvements to the state-wide training and qualification programs can also help recruitment and retention efforts. Access and availability of required training, defined competencies, and observation or oversight determine whether an attorney has sufficient expertise to transition to increasingly complex cases. OPDC currently requires only nine months of experience before an attorney can move from misdemeanor to felony cases. OPDC, alongside other organizations, has made investments in improving training and oversight programs, but there are opportunities to further optimize the program. If efforts to improve training and supervision occur, and the program is fully funded, attorneys will be better qualified and more supported when advancing to complex cases, ultimately improving recruitment, retention, and service delivery, which would help to reduce excessive workloads for complex cases. It's important to recognize that despite the availability of training, in an overburdened environment, dedicating time to training is not always feasible.

Retention of attorneys is a top concern for the workforce. Unequivocally, the deficiency emphasizes that Oregon must retain its current public defense workforce to not further contribute to increasing workloads. While tactics such as fair compensation and incentives can be effective measures for retention, there is little that OPDC can do in the face of a growing contingent of retirement-eligible public defenders and labor pool shortages. Excessive caseloads among public defense attorneys significantly contribute to high turnover rates, and one of the most effective measures to improve retention is by hiring additional attorneys to reduce the attorney deficit.

Hiring attorney FTEs is not the only way to close the current public defense deficit. Outlined in [Interventions Impacting the Public Defender Deficit](#), recruitment of case support personnel, decriminalization of Low-Level Non-Violent Misdemeanors, and repealing minimum and maximum sentencing can significantly contribute to faster reductions in excessive workloads at far less cost to the state and public.

V. INTERVENTIONS IMPACTING THE PUBLIC DEFENDER DEFICIT

“There are serious financial and social consequences to inadequate staffing. Clients pay the costs of representation that is not meaningful. The criminal legal system pays the costs of delayed resolutions. The public has less reason to have confidence that ...results are reliable and valid.”

— National Association for Public Defense (NAPD)

While this study aims to eliminate the Adult Criminal public defender deficiency through recruitment of attorney FTEs and additional funding, several upstream and downstream factors impact the state’s ability to achieve its goal of eliminating the Adult Criminal public defender deficiency by 2031. Policies that reduce public defense caseload burdens can reduce needed attorney FTE, decreasing needed budget expenditures. At the same time, policies that increase caseload burdens will increase attorney FTE needs, and with it, the budget required to provide constitutionally required services to indigent defendants in Oregon. Strategic recruitment of case support personnel can also alleviate public defender workloads while contributing to a more resilient workforce.

A. DECRIMINALIZATION

In response to the growing body of data that recognizes the social inequalities perpetuated by criminal sanctions for victimless crimes, national decriminalization efforts are continually emerging.

COVID-19 and Measure 110.²¹ reduced the number of arrests and criminal case filings for Low-Level, Non-Violent Misdemeanor crimes. Despite these significant changes, there remain large numbers of people arrested and charged with relatively minor crimes in Oregon that could be removed from the criminal courts. Low-level, Non-Violent Misdemeanor crimes are proven to disproportionately impact individuals who are minorities or experiencing homelessness or poverty. Table 12 shows crimes that should no longer be treated as criminal and the estimated impact on criminal case filings each year, based on the number of charges filed in 2022.

TABLE 12: ESTIMATED IMPACT OF DECRIMINALIZATION BASED ON 2022 CHARGES FILED

Offense	Number of Filings	% of Total 2022 Filings
Recommended Decriminalization of Low-Level Non-Violent Misdemeanors		
Driving with a Suspended License	3,711	1.3%
Failure to Appear (FTA)	2,021	0.7%
Criminal Trespass	6,550	2.2%

²¹ In March 2024, the state legislature passed House Bill 4002 repealing parts of Measure 110.

Offense	Number of Filings	% of Total 2022 Filings
Failure to Carry and Present License	194	0.1%
Possession Drug Charges	2,260	0.8%
Criminal Mischief 3	7,558	2.6%
Subtotal of Recommended Decriminalization:	22,294	7.6%
Other Crimes to be Revised by Legislature		
Hit and Run Where the State Is the Victim	22	0.0%
Theft 3 When the Item Stolen Is Food or Basic Needs	3,263	1.1%
Failure to Register If the Person Complies with Registration upon Arrest	1,030	0.4%
Subtotal of Other Crimes:	4,315	1.5%
“Other Crimes” Subtotal Reduced by 80%:	863	0.3%
Decriminalization Impact on Attorney FTE		
Total 2022 Charges Filed:	293,205	
Subtotal Recommended Decriminalization + Reduced “Other Crimes”	23,157	7.9%
Estimated Total Reduced by 20% <i>The reduction accounts for variability in overall decriminalization estimates</i>	18,526	6.3%
Reduced Defense FTE <i>(18,526 x 13.8 hrs. per case/1,578 hrs. per FTE)</i>		162 FTE

The analysis shows a total reduction of over 18,000 cases from the criminal courts annually. Using the estimated 13.8 hours, as set by the NPDWS project for Low-Level Misdemeanors, this results in a reduced need of 162 attorney FTEs. These estimates should be viewed as conservative as they discount the decriminalization analysis by 20% and the other crimes for which precise information is not available by 80%. The discount factor recognizes that some percentage of the cases will not be impacted by the reform due to the discretion law of enforcement and the courts in making charging decisions.

Decriminalization is a significant trend impacting public defenders nationally. Coupled with adequate social support, there are proven benefits to systematic decriminalization efforts beyond public defender workloads. Were Oregon to pursue additional decriminalization, it would expedite eliminating the public defender deficiency. However, as discussed further in the following section, pursuing recriminalization and enacting new crimes could prolong and exacerbate the public defense crisis.

B. SENTENCING REFORM

Minimum and maximum sentences are often linked to the classification of various crimes. Long sentences are a clear driver of the hours required for public defenders. Changes to offense classifications are outside OPDC’s direct control. However, changes to crime classification and sentencing lengths impact the public defender deficiency on an ongoing basis. Were Oregon to pursue sentencing reform, OPDC could reach its targeted elimination of excessive workloads earlier than 2031.

For example, between 2017–2022, 80% of Oregon’s High-Level Felony cases (as defined in the 2022 Oregon Project) were Measure 11.²² The following table represents an analysis of the impact of repealing Measure 11, or exempting certain charges from Measure 11 sentencing, which would result in the reclassification of those offenses from High-Level Felony to Mid-Level Felony.²³ Further, the analysis outlines the impact of reclassifying these crimes based on attorney FTE need and associated costs.

TABLE 13: MEASURE 11 REDUCTION ANALYSIS AND IMPACT

Measure 11 Cases Recommended for Reduction	Average Number of Cases without Firearms	M11 Case Type as a % of Annual Total Cases
Assault in the Second Degree	3,589	29%
Kidnapping in the Second Degree	369	3%
Robbery in the First Degree	1,497	12%
Robbery in the Second Degree	1,094	9%
Sexual Abuse in the First Degree	1,213	10%
Total Percent of Measure 11 Cases That Could Be Reduced to Mid-Level-Felonies		62%

NPDWS Impact Analysis of Reclassification	
NPDWS – Hours Comparison per Case	
High-Level Felony (Other)	99
Mid-Level Felony	57
Difference (Hours Savings) per Case	42

²² High-Level Felony cases include Measure 11 felonies (excluding homicide cases), sex cases (excluding sex cases with potential for 25+ years), and gun minimum cases. While this report focuses on Adult Criminal caseloads, note that Juveniles as young as 15 can be judicially waived for Measure 11 offenses, and for select Measure 11 offenses as young as 12.

²³ These are charges which, based on charge alone, would likely fall into the Mid-Level Felony category, but fall into the High-Level Felony category because of the additional sentencing at stake under Measure 11. These are the charges, for example, where an attorney is most likely to seek relief from Measure 11, which requires substantial additional attorney time in preparation, motion practice, court preparation, and court time.

NPDWS Impact Analysis of Reclassification	
Number of Cases Comparison	
Average Number of High-Level Felony Cases	985
Measure 11 Cases as a Percent of Total High-Level Felony Cases (80%)	789
Number of Measure 11 Cases Recommended for Reduction (62%)	491
Totals	
Total Hours Savings for Average Annual Caseload <i>(hours savings x number of Measure 11 cases recommended for reduction)</i>	20,622
Annual FTE Savings <i>(total hours savings/1,578)</i>	13
Annual Cost Savings²⁴ <i>(annual FTE savings x average annual attorney contract rate)</i>	\$3,135,834

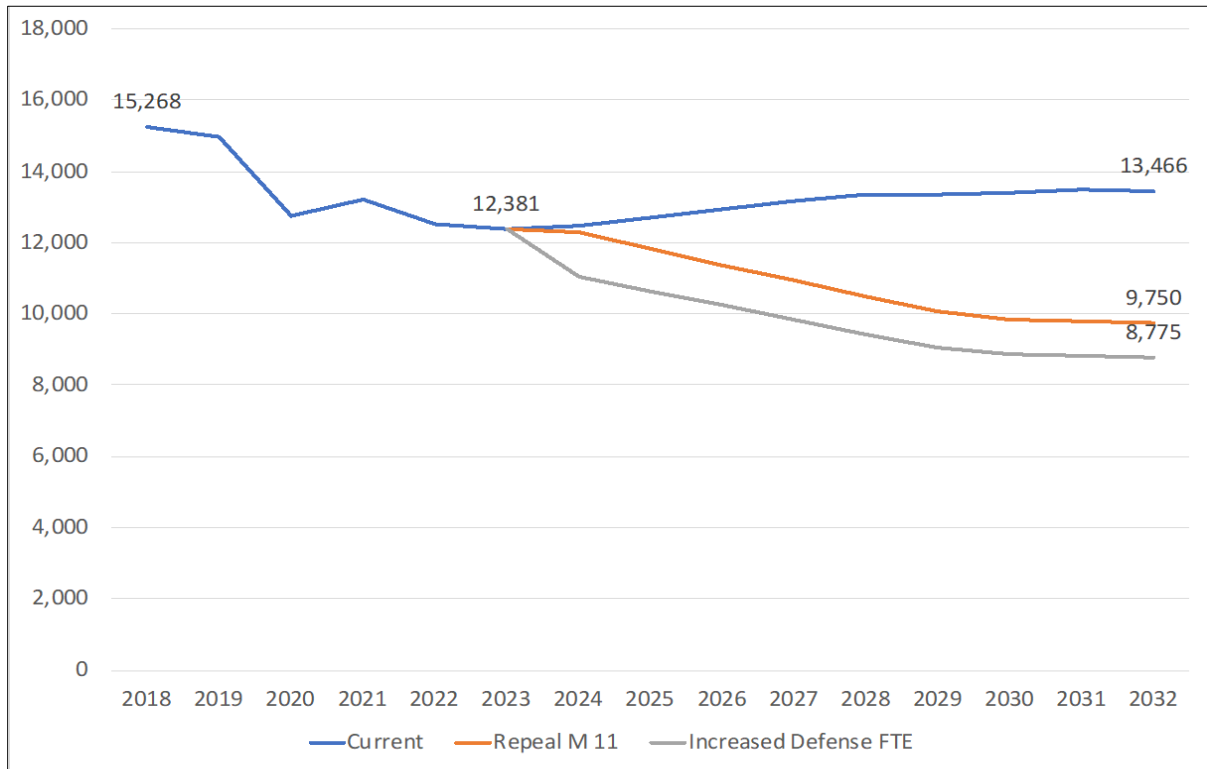
The cases above represent 62% of Measure 11 High-Level Felony cases. High-Level Felony cases have the second-highest number of case hours required. If these cases were exempted from Measure 11 sentencing, they would instead be classified as Mid-Level Felony. This would result in a reduction of total average caseload hours by 20,622 annually, reducing the attorney FTE need by 13 FTE. The reduction in caseload hours excludes cases in Table 13 where a firearm is involved. The associated budget reduction from reduced attorney FTE need would be \$3.1 million annually.

Repealing Measure 11 provisions that unnecessarily lengthen prison terms and artificially prop up the prison population will also significantly reduce the projected prison population (Figure 1) and result in considerable cost savings (Table 14).²⁵

²⁴ Annual cost savings are calculated by rounding to the nearest whole attorney FTE and multiplying this by the annual cost per attorney FTE.

²⁵ Lauren-Brooke Eisen, James Austin, Ph.D., James Cullen, Jonathan Frank, and Inimai M. Chettiar, "How Many Americans Are Unnecessarily Incarcerated?" (Brennan Center for Justice, December 9, 2016). <https://www.brennancenter.org/our-work/research-reports/how-many-americans-are-unnecessarily-incarcerated>.

FIGURE 1: CURRENT AND ALTERNATIVE PRISON POPULATION FORECASTS



Altogether, repealing Measure 11 would lower prison and post-prison supervision costs by about \$240 million per year with no impact on violent or property crime rates.²⁶ At the local level, pretrial jail populations will also decline, producing more savings. Oregon can expect an increase in the probation population of about 10%, as more people are sentenced to probation in lieu of prison sentences. The estimated increase in probation costs would be about \$25 million per year, assuming the newly diverted probationers would be initially placed on high supervision at a cost of \$21.95 per day.²⁷ Overall, there would be a net reduction of about \$215 million (Table 14).²⁸

TABLE 14: SUMMARY OF OREGON CRIMINAL JUSTICE SYSTEM COST SAVINGS FROM REFORMS

Description	Amount
Total Current Criminal Justice System Costs	\$8,280,000,000
Estimated Savings Due to Sentencing Reforms	\$240,000,000
Estimated Increased Costs for Probation	\$25,000,000
Net Reduction to Criminal Justice Systems Costs	\$215,000,000

²⁶ Ibid.

²⁷ Oregon Department of Corrections, Community Corrections Division, “Evaluating Oregon’s Community Corrections Act 2021–23,” (public report, January 2023). <https://www.oregon.gov/doc/Documents/community-corrections-act-report-2021-23.pdf>.

²⁸ Based on the 2017 costs of Oregon criminal justice system as estimated by the Bureau of Justice Statistics, U.S. Department of Justice with 20% inflation between 2017 and 2023.

Reducing sentences in this manner would not likely impact public safety. A report published by the Brennan Center for Justice evaluates the impact on public safety against three sentence length reduction scenarios: 10%, 25%, and 50%. The report concludes that lawmakers should consider reducing sentence maximums and minimums defined in criminal statutes and sentencing guidelines by 25%.²⁹

C. ADDITIONAL RESOURCES TO SUPPORT WORKLOAD

“Public defenders who do not have the investigator, social worker, administrative and paralegal assistance to support their representation have far less capacity to provide meaningful representation to each client.”

— National Association for Public Defense

Case support personnel can alleviate the pressure of excessive workloads and contribute to eliminating the public defender deficiency ahead of 2031. Effectively deploying the full suite of resources available on a case team can begin to shift total caseload hours from public defenders to other team members, reducing overall attorney FTE need. Identifying and mapping support opportunities to available resources can help facilitate the delegation of duties and balance workloads. [Appendix A: Additional Resources for Case Support Analysis](#) outlines the support type by resource to illustrate the task and impacted category used in workload standards and calculations by case type.³⁰

Further, when a public defense organization engages administrative personnel, paralegals, legal assistants, investigators, social workers, and mitigation specialists, and then provides career development benefits, it can create career ladders, contributing to a stronger public defender pipeline. Indeed, this could help build a pipeline to law school for people with public defense experience and interest and help OPDC overcome attorney recruiting hurdles.

Reallocation of Attorney Time to Case Support Staff

Within each case type, there are common case tasks that align with the phases of a criminal case, including:

²⁹ Lauren-Brooke Eisen, James Austin, Ph.D., James Cullen, Jonathan Frank, and Inimai M, Chettiar, "How Many Americans Are Unnecessarily Incarcerated?" (Brennan Center for Justice, December 9, 2016). <https://www.brennancenter.org/our-work/research-reports/how-many-americans-are-unnecessarily-incarcerated>.

³⁰ Miscellaneous administrative work is not included in past or present deficit calculations. This work is in addition to workload calculations. Depending on the office structure, this work is often performed by public defenders.

- Attorney Investigation/Interviews
- Client Communication
- Client Support Services
- Court Prep
- Court Time
- Discovery/Case Prep
- Experts
- Legal Research, Motions Practice
- Negotiations
- Post-Judgment
- Sentencing/Mitigation

The Delphi Method used in the 2022 Oregon Project study calculates the amount of time that attorneys should expect to spend on a particular case task for particular case types, considering both the Strickland standard (reasonably effective assistance of counsel) and the applicable ethical and substantive professional standards discussed earlier in this report (prevailing professional norms). However, within each case task there are activities that, while currently handled by attorneys, could be undertaken by non-attorney staff if such staff were available. For example, Client Support Services, Attorney Investigation/Interviews, and Sentencing/Mitigation are all tasks with sub-activities that could be supported by non-attorney personnel such as investigators or paralegals. Based on background and experience, case support personnel such as investigators may outperform attorneys in these tasks.

Before the Commission adopted the NPDWS standards, an analysis of the total time that could be reallocated from attorneys to case-support staff was conducted using data from the Oregon Project. NPDWS has similar enough case tasks to those used in the Oregon Project, that the percent of time that could be transitioned to case-support personnel annually, as determined by the Oregon Project Analysis, could reasonably be applied to the updated total annual caseload hours. This would generate an estimate of potential reduced attorney time, and therefore FTE need annually. However, this attorney time, and concurrent FTE reduction, is only possible if OPDC is empowered to hire the support staff necessary to conduct the work required.

To understand the amount of attorney time that could be shifted to case-support staff, attorneys with public defense experience in Oregon examined each case task by case type in the Oregon Project. For each case task in each case type, they identified a reasonable portion of the allocated time that could be conducted by non-attorney case support personnel, effectively reducing attorney workloads. For some case tasks, such as “court time,” no time can be shifted to case-support personnel. However, for other case tasks, such as “client support services,” the analysis found that a significant percentage of time could reasonably be shifted to non-attorney case-support staff.

The results of the analysis are provided in [Appendix B: Workload Reduction Analysis](#), which revealed that 18.5% of total case hours could be transitioned to legal assistants, paralegals, investigators, social workers, or mitigation specialists. Applying this analysis to the updated annual caseload estimates means that, by 2031, the number of additional attorneys needed to address caseload demands could be reduced from 474 to 293 by hiring 181 case support personnel.

To estimate the budgetary impacts, the cost of 181 case-support personnel, is calculated against the savings from the 181 attorney FTE reduction (Table 15).

TABLE 15: COST ANALYSIS OF CASE SUPPORT PERSONNEL

Staff Type	Number of FTE	FTE Cost	Total
Attorney	-181	\$241,218	\$43,660,458
Case Support FTE	181	\$78,750. ³¹	\$14,253,750
Calculated Savings	-	-	\$29,406,708

Managing cases efficiently requires a holistic approach, engaging not only public defenders but also non-attorney professionals involved across the ecosystem of a case. Case team composition can vary greatly depending on team structures that may or may not include the following supportive personnel:

- Paralegal or legal assistant
- Investigators
- Interpreters
- Social workers
- Mitigation specialists
- Tech-support
- Office administrative support

As OPDC continues to update its workforce model and seeks to build an internal team, it should be mindful of building its workforce strategy with a mix of attorney and case support personnel. There are several advantages to engaging a diverse case team beyond workload balancing. There is likely a better labor pool to hire supportive personnel such as paralegals, administrative support, investigators, caseworkers, and case navigators. When developing a multi-year strategy to reduce the public defender deficiency, the availability of supportive personnel to build a case team will be a critical determinant of success or failure in this area.

It's important to note that the skills, abilities, and competencies of each individual will determine their suitability to successfully support the case team. It is possible that individuals could provide additional support beyond the items listed in the Appendix A. Additionally, an individual such as a paralegal may provide support across several areas including file documentation, technology, and motion filing.

Staffing Ratios

Case Support

The NAPD issued a policy statement in 2020.³² providing useful guidance on minimum staffing of case support staff to attorneys (Table 16). To support the transition of case hours to non-attorney FTE, any non-attorney FTE recruitment strategy should consider alignment with NAPD's ratios.

³¹ This is based on the average annual contract amount for non-attorney case support personnel and is not representative of the variable cost impacts based on differing roles. Additional segmentation was not feasible with available data.

³² "Standards for Indigent Defense Services in Non-Capital Cases," National Association for Public Defense, May 28, 2020, https://publicdefenders.us/app/uploads/2023/10/NAPD_Policy-Statement-on-Public-Defense-Staffing.pdf.

TABLE 16: CASE STAFFING RATIOS

Staff Type	Ratio (Case Support: Attorney)
Investigator	1:3
Mental Health Professional (often a Social Worker)	1:3
Supervisor	1:10
Paralegal	1:4
Admin Assistant	1:4

Operating Staff Ratios

As OPDC’s total agency employee count grows, additional administrative staff will be required. Operating staffing ratios and workload indicators can be used to help OPDC proactively manage operational staffing needs as staffing numbers grow (Table 17).

TABLE 17: OPERATIONAL STAFFING RATIOS

Staff Type	Ratio operation staff : total employee count
HR ³³	2:125
IT ³⁴ (for organizations less than 500)	1:18
Finance ³⁵	
This metric is often associated with either revenue or operating budget alongside employee count.	
	Number of Finance Team FTE
\$100M–500M (251–500 employees)	11.9–14.7
\$500M–\$1B (501–1,000 employees)	14.8–19.2

It’s important to note that operating staff ratios are highly dependent on the sophistication of OPDC’s operating environment. The number of manual and paper-based versus automated processes; the tenure and competencies of staff; and the number of systems, hardware, and equipment under management can significantly influence the actual number of staff needed. As the majority of OPDC’s Adult Criminal attorneys are contracted, there is not enough data to develop a case support staffing strategy and associated budget impacts. For these reasons, case support personnel were not included in the baseline plan.

³³ “Human Capital Report: Government,” Society of Human Resources Benchmarking, accessed February 25, 2024, <https://www.shrm.org/topics-tools/research/shrm-benchmarking#accordion-a5599cb1d9-item-b5dbc3c3b3>.

³⁴ “Ratio of IT Staff to Employees,” Workforce.com, April 10, 2023, <https://workforce.com/news/ratio-of-it-staff-to-employees>.

³⁵ “How Big Should Your Finance Team Be as You Grow,” GrowCFO, accessed February 25, 2024, <https://www.growcfo.net/2022/11/16/how-big-should-your-finance-team-be-as-you-grow/>.

By actively recruiting case support personnel including investigators, paralegals, social workers, and administrative personnel, OPDC can eliminate excessive workloads for public defenders ahead of the six-year deadline and achieve a conservative cost savings of \$29.4 million annually in 2031. This multi-pronged approach can help OPDC achieve its strategic goals earlier, build a more resilient team, and strengthen its public defender pipeline.

D. AGGREGATED IMPACT OF POLICY AND STAFFING INTERVENTIONS ON THE SIX-YEAR PLAN

Together, the aggregate impact of policy interventions that both reduce and increase Adult Criminal attorney caseloads is illustrated in Table 18, alongside the impact of recruiting case support personnel on attorney needs. Oregon should consider these interventions as levers that can either help eliminate the Adult Criminal public defender deficiency ahead or behind the 2031 target.

TABLE 18: AGGREGATE IMPACT OF POLICY AND STAFFING INTERVENTIONS ON ATTORNEY NEED

Description	Annual Attorney FTE Need Impact	Estimated Cost Impact
Forecasted 2031 Attorney and Funding Needs	980	\$1,304,713,817
Decriminalization of non-violent Low-Level Misdemeanors and non-violent other charges	162 reduction	\$39,079,957 savings
House Bill 4002	51 addition	\$12,302,118 cost
Other legislation <i>(likely to result in increased attorney need)</i>	unknown	unknown
Impact of repealing Measure 11 on certain crimes	13 reduction	\$3,135,834 savings
Case support personnel <i>(cost of 181 attorney FTEs minus cost of 181 non-attorney FTEs)</i>	181 reduction	\$29,406,708 savings
Updated 2031 Attorney and Funding Needs	676	\$1,245,393,436
Difference between 2031 Forecast and Impact of Policy and Staffing Interventions	305 reduction	\$59,320,381 savings

Estimated cost impacts are a calculation of the average annual attorney contract amount and the number of attorney FTEs. It does not reflect the fully burdened³⁶ cost of increases or decreases to attorney FTEs. The estimated cost impact for case support personnel is calculated by subtracting the savings from the attorney FTE reduction and adding the cost to fund an additional 181 non-attorney FTEs. Non-attorney personnel costs are not differentiated by role.

This calculation does not account for other potential cost savings including savings on appeals, post-conviction cases, wrongful litigation, and litigation over failure to properly fund and staff indigent

³⁶ A fully burdened rate accounts for basic wage or salary as well as additional costs associated with employing that worker either mandatory (such as payroll or other type taxes) or voluntary (such as bonus or incentives) inclusions.

defense. Additionally, while Table 18 describes the impacts on OPDC’s operating budget, the policy changes above could lead to significant downstream cost savings (\$215 million, Table 4) across Oregon’s criminal justice system.

E. IMPACT ON THE CRIMINAL JUSTICE SYSTEM

In the last two decades, there has been an emerging national and bipartisan consensus, supported by evidence-based studies conducted by highly respected nonpartisan research institutions, that the nation’s criminal justice, prison, and jail systems continue to need serious reform.

Right on Crime is a national campaign that supports conservative solutions to reducing crime, restoring victims, reforming offenders, and lowering taxpayer costs. In Texas, it supported an investment of \$241 million into alternative sentencing, expanded access to parole, and evidence-based programs aimed at improving the success rate for those reentering society or on supervision.

As a result, 11 prisons closed while simultaneously reducing crime to the lowest rates since the 1960s. Instead of spending \$2 billion, Texas saved \$4 billion. The Brennan Center for Justice, a nonpartisan law and policy institute focused on reducing mass incarceration while lowering crime rates, developed a national blueprint for reducing the prison population by 25% with no impact on the crime rate.

This kind of smart-on-crime reform has happened in many other states including New York, Illinois, and California, all of which have reduced their prison populations by over 35% with no increase in crime rates. The plan developed in this report is a way forward for Oregon to reduce costs, increase public safety, and strengthen the state’s constitutionally mandated duty to provide effective public defense.

Increasing the level and quality of criminal justice defense representation likely will have several positive impacts on the size and costs of Oregon’s criminal justice system. By ensuring that Adult Criminal public defenders are able to maintain reasonable workloads, the state can experience significant benefits in the following areas:

- **Reducing the size of the pretrial jail population.** It has been well recognized that the jail population, which consists primarily of people in pretrial status, is being driven by the frequent use of continuances often requested by defense counsel due to excessive caseloads. The National Center of State Courts found in its research that continuances were the greatest obstacle to “timely justice.”³⁷ Such requests are often needed for defense counsel to adequately investigate the charges against their clients, prepare for court appearances, and negotiate reasonable plea agreements with prosecutors. Given that most continuances are 30 days in length, eliminating just one unnecessary continuance would reduce the defendant’s length of stay by 30 days. For people charged with serious felony cases who make up the bulk of the pretrial population, this would reduce the pretrial population by about 10%. A recent test of such reforms in Brooklyn found significant reductions in the time to disposition without negatively impacting the defendant’s final court outcomes.³⁸

³⁷ Brian J. Ostrom, Ph.D. Lydia E. Hamblin, Ph.D. Richard Y. Schauffler, and Nial Raaen, “Timely Justice in Criminal Cases: What the Data Tells Us,” (National Center for State Courts, 2020).
https://www.ncsc.org/data/assets/pdf_file/0019/53218/Timely-Justice-in-Criminal-Cases-What-the-Data-Tells-Us.pdf

³⁸ Joanna Weill, Michael Rempel, Krystal Rodriguez, and Valerie Raine, “Reducing Felony Case Delay in Brooklyn. Evaluation of Jail Reduction Strategies Implemented in 2019,” (New York: Center for Court Innovation, March 2021).

- **Increased use of probation and other non-prison sentences.** Adequate representation will also result in a higher number of probation sentences as opposed to prison terms. As noted in [Appendix C: Oregon Crime Trends](#), the state's probation rate per 100,000 population is well below the national rate, showing there is a considerable opportunity to increase the use of probation terms.
- **Reducing the prison and post-prison supervision populations.** Increasing the use of probation will have a direct impact on reducing the number of prison admissions, which will reduce the size of the prison population. Additionally, when public defenders are able to dedicate sufficient time to a case, they are more likely to negotiate appropriate sentences with prosecutors, leading to a reduction in prison sentence lengths. As both prison admissions and prison sentences are reduced, the post-prison supervision population and associated costs are lowered. The estimate is that, at a minimum, prison admissions would decline by 5% and length of stay by another 5% due to shorter sentences, for a combined prison reduction of 10%. One would expect fewer people to be placed on post-prison supervision as the prison population declines.

Every state has an obligation under the Sixth Amendment to provide reasonably effective assistance of counsel to those accused of crime who cannot afford to hire an attorney. Oregon faces a critical juncture in addressing its public defender deficiency. The strategies outlined in this report offer viable pathways toward fulfilling this obligation. Whether through hiring additional attorneys or a combination of more moderate attorney recruitment alongside decriminalization efforts, sentencing reforms, and non-attorney support staff, Oregon has the opportunity to rectify its current shortcomings. By recognizing the multifaceted nature of the issue and presenting comprehensive solutions, this report empowers policymakers to make informed decisions that will shape the future of public defense in Oregon.

By implementing the recommendations laid out in this six-year plan, Oregon can move towards a more ethical, equitable, and effective public defense system. However, success will hinge on sustained commitment and collaboration among policymakers, stakeholders, and communities.

APPENDIX A: ADDITIONAL RESOURCES FOR CASE SUPPORT ANALYSIS

The following is an analysis of the activities that could reasonably be managed by each case support resource. The analysis is based on an understanding of the skills, competencies, and requirements for each task, and the associated known competencies of case support personnel such as paralegals, investigators, case navigators, and administration. The analysis is informed by a public defense expert reviewer, representatives at OPDC, and a third-party reviewer.

TABLE 19: CASE SUPPORT ROLES AND RESPONSIBILITIES ANALYSIS

Support Resource	Support Type	Impacted Task Category	Case Type
Paralegal/Legal Assistant	<ul style="list-style-type: none"> Point of contact with family/friends/defense witnesses Supplement attorney/client visits. Initiate and compose client and case-related correspondence for attorney approval 	Client Communication	All Case Types
	<ul style="list-style-type: none"> Preparing Court Support Services authorizations as needed 	Client Support Services	All Case Types
	<ul style="list-style-type: none"> Assemble trial notebooks, preparation for motion hearings, marking of exhibits. Prepare defense subpoenas and collect all proof of service. Coordinate witness appearances 	Court Prep	All Case Types
	<ul style="list-style-type: none"> Discovery management Obtaining discovery Keeping discovery log, if needed Redaction of discovery for client Uploading and organizing discovery, including reformatting to meet needs. Review, summarize, and note significant events in discovery. 	Discovery/Case Preparation	All Case Types
	<ul style="list-style-type: none"> Research possible experts. Ensure experts have all the materials needed as determined/approved by the attorney. Coordinate and set up expert witness scheduling/payment. 	Experts	All Case Types
	<ul style="list-style-type: none"> E-filing documents 	Legal Research	All Case Types

Support Resource	Support Type	Impacted Task Category	Case Type
	<ul style="list-style-type: none"> Editing/formatting motions Legal research 		
	<ul style="list-style-type: none"> Communication with representatives of opposing parties and court officials as requested by attorney 	Negotiations Court Prep	All Case Types
	<ul style="list-style-type: none"> Opening and maintaining client files and case management system Assistance during trial Maintain calendars 	Miscellaneous Administrative Work	All Case Types
Investigators	<ul style="list-style-type: none"> Supplement attorney/client visits 	Client Communications	Adult Criminal and Juvenile Dependency Case Types
	<ul style="list-style-type: none"> Write reports as directed by the attorney. Point of contact (as appropriate) with family/friends/defense witnesses. Serve subpoenas as needed 	Court Prep	Adult Criminal and Juvenile Dependency Case Types
	<ul style="list-style-type: none"> Ensure experts have all materials needed as determined/approved by the attorney 	Experts	Adult Criminal and Juvenile Dependency Case Types
	<ul style="list-style-type: none"> Meet with client and attorney to develop an investigation plan 	Miscellaneous Administrative Work	Adult Criminal and Juvenile Dependency Case Types
	<ul style="list-style-type: none"> Meet/interview witnesses at the direction of the attorney. Develop sources of information 	Attorney Investigation/ Interviews	Adult Criminal and Juvenile Dependency Case Types
Interpreters	<ul style="list-style-type: none"> Having an in-house interpreter (or bilingual staff) allows for improved client contact. Without in-house interpreters, lawyers must schedule time with an interpreter for every client contact. In rural areas, this causes significant delays (or no interpreter an inappropriate interpreter is used). Point of contact (as appropriate) with family/friends/defense witnesses as needed. 	Client Communication	All Case Types

Support Resource	Support Type	Impacted Task Category	Case Type
	<ul style="list-style-type: none"> Attend interviews with attorneys and/or investigators as needed. Help with incoming phone calls if other staff is unable to communicate. 	Miscellaneous Administrative Work	All Case Types
	<ul style="list-style-type: none"> Help interpret simple written documents 	Discover/Case Preparation	All Case Types
Social Workers	<ul style="list-style-type: none"> Perform assessments, as needed for entry into services/programs etc. 	Client Support Services	All Case Types
Mitigation Specialists	<ul style="list-style-type: none"> Investigate all aspects of the client's life, including gathering all of the client's records. Write a life story of the client 	Sentencing/Mitigation Discovery/Case Preparation	Adult Criminal and Juvenile Delinquency Case Types
	<ul style="list-style-type: none"> Work with attorney/defense team on making mitigation part of case-in-chief 	Case Prep	Adult Criminal and Juvenile Delinquency Case Types
	<ul style="list-style-type: none"> Supplement attorney/client visits. Point of contact (as appropriate) with family/friends/defense witnesses 	Client Communication	Adult Criminal and Juvenile Delinquency Case Types
	<ul style="list-style-type: none"> Make sure relevant expert has relevant mitigation information 	Expert	Adult Criminal and Juvenile Delinquency Case Types
Tech Support	<ul style="list-style-type: none"> Assist with technology issues. Assist with technology needs during trial. Training of all lawyers and support staff on software capabilities 	Miscellaneous Administrative Work	All Case Types
	<ul style="list-style-type: none"> Prepare electronic evidence/displays for trial 	Court Prep	All Case Types
Office Support	<ul style="list-style-type: none"> Point of contact (as appropriate) with family/friends/defense witnesses, court staff 	Client Communication	All Case Types
	<ul style="list-style-type: none"> Billing Timekeeping, if needed Case reporting Preparing CSS requests as needed Point of contact with OPDC 	Miscellaneous Administrative Work	All Case Types

APPENDIX B: WORKLOAD REDUCTION ANALYSIS

The following is a complete analysis of the estimated workload reduction for attorneys through the hiring of support staff personnel. The analysis shows reductions by case task per case type using the 2022 Oregon Project case type categories and workload assumptions. The analysis is based on an understanding of the skills, competencies, and requirements for each task, and the associated known competencies of case support personnel such as paralegals, investigators, case navigators, and administration. The estimates are highly conservative and may vary from actual reductions based on competencies per individual. Some individuals may be highly tenured and offer more support than depicted in the analysis. Conversely, less experienced individuals may provide less support. The analysis is informed by a public defense expert reviewer, representatives at OPDC, and a third-party reviewer.

TABLE 20: ESTIMATE OF CASE OUTCOMES AND IMPACTED CASELOADS BY TYPE

Case Type	Estimated Annual Caseload (Case Weight)	% Should Plea/ Otherwise Resolve	% Should Go to Trial	# Should Plea/ Otherwise Resolve	# Should Go to Trial
Low-Level Misdemeanor	23,683	69%	31%	16,341	7,342
Complex Misdemeanor	8,919	55%	45%	4,906	4,014
Low-Level Felony	18,419	70%	30%	12,893	5,526
Mid-Level Felony	2,088	80%	20%	1,671	418
High-Level Felony	2,030	75%	25%	1,522	507
Homicide and Sex Cases	161	67%	33%	108	53
Probation Violations	17,523	70%	30%	12,266	5,257

TABLE 21: ESTIMATE OF WORKLOAD REDUCTION PER CASE TASK BY CASE TYPE AND CASE OUTCOME

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Go to Trial	Low-Level Misdemeanors	Client Communication	6.00	100%	6.00	25%	11,013
Go to Trial	Low-Level Misdemeanors	Client Support Services	1.70	75%	1.28	50%	4,699
Go to Trial	Low-Level Misdemeanors	Discovery/Case Prep	5.50	100%	5.50	20%	8,076
Go to Trial	Low-Level Misdemeanors	Attorney Investigation/ Interviews	2.40	84%	2.02	60%	8,898
Go to Trial	Low-Level Misdemeanors	Experts	2.70	26%	0.70	25%	1,285
Go to Trial	Low-Level Misdemeanors	Legal Research, Motions Practice	4.10	100%	4.10	10%	3,010
Go to Trial	Low-Level Misdemeanors	Negotiations	1.00	100%	1.00	0%	-
Go to Trial	Low-Level Misdemeanors	Court Prep	10.00	100%	10.00	25%	18,355
Go to Trial	Low-Level Misdemeanors	Court Time	12.50	100%	12.50	0%	-
Go to Trial	Low-Level Misdemeanors	Sentencing/Mitigation	1.20	100%	1.20	60%	5,286
Go to Trial	Low-Level Misdemeanors	Post Judgment	80%	100%	80%	15%	881
Plea/Otherwise Resolve	Low-Level Misdemeanors	Client Communication	3.20	100%	3.20	30%	15,688
Plea/Otherwise Resolve	Low-Level Misdemeanors	Client Support Services	1.00	75%	0.75	75%	9,192
Plea/Otherwise Resolve	Low-Level Misdemeanors	Discovery/Case Prep	1.80	100%	1.80	10%	2,941
Plea/Otherwise Resolve	Low-Level Misdemeanors	Attorney Investigation/ Interviews	1.20	40%	0.48	75%	5,883

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea/Otherwise Resolve	Low-Level Misdemeanors	Experts	1.80	24%	0.43	25%	1,757
Plea/Otherwise Resolve	Low-Level Misdemeanors	Legal Research, Motions Practice	2.10	40%	0.84	10%	1,373
Plea/Otherwise Resolve	Low-Level Misdemeanors	Negotiations	0.75	100%	0.75	0%	-
Plea/Otherwise Resolve	Low-Level Misdemeanors	Court Prep	1.00	100%	1.00	10%	1,634
Plea/Otherwise Resolve	Low-Level Misdemeanors	Court Time	1.50	100%	1.50	0%	-
Plea/Otherwise Resolve	Low-Level Misdemeanors	Sentencing/Mitigation	0.75	100%	0.75	60%	7,354
Plea/Otherwise Resolve	Low-Level Misdemeanors	Post Judgment	0.50	100%	0.50	15%	1,226
Go to Trial	Complex Misdemeanors	Client Communication	6.00	100%	6.00	25%	6,021
Go to Trial	Complex Misdemeanors	Client Support Services	2.00	75%	1.50	50%	3,010
Go to Trial	Complex Misdemeanors	Discovery/Case Prep	8.00	100%	8.00	15%	4,816
Go to Trial	Complex Misdemeanors	Attorney Investigation/ Interviews	3.00	90%	2.70	55%	5,960
Go to Trial	Complex Misdemeanors	Experts	3.50	75%	2.63	25%	2,639
Go to Trial	Complex Misdemeanors	Legal Research, Motions Practice	6.00	100%	6.00	10%	2,408
Go to Trial	Complex Misdemeanors	Negotiations	1.25	100%	1.25	0%	-
Go to Trial	Complex Misdemeanors	Court Prep	12.00	100%	12.00	25%	12,041
Go to Trial	Complex Misdemeanors	Court Time	18.00	100%	18.00	0%	-

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Go to Trial	Complex Misdemeanors	Sentencing/Mitigation	2.00	100%	2.00	60%	4,816
Go to Trial	Complex Misdemeanors	Post Judgment	1.00	100%	1.00	15%	602
Plea/Otherwise Resolve	Complex Misdemeanors	Client Communication	3.00	100%	3.00	30%	4,415
Plea/Otherwise Resolve	Complex Misdemeanors	Client Support Services	1.30	75%	0.98	75%	3,606
Plea/Otherwise Resolve	Complex Misdemeanors	Discovery/Case Prep	3.00	100%	3.00	10%	1,472
Plea/Otherwise Resolve	Complex Misdemeanors	Attorney Investigation/ Interviews	1.75	50%	0.88	65%	2,806
Plea/Otherwise Resolve	Complex Misdemeanors	Experts	2.50	50%	1.25	25%	1,533
Plea/Otherwise Resolve	Complex Misdemeanors	Legal Research, Motions Practice	2.00	75%	1.50	10%	736
Plea/Otherwise Resolve	Complex Misdemeanors	Negotiations	1.00	90%	0.90	0%	-
Plea/Otherwise Resolve	Complex Misdemeanors	Court Prep	1.50	100%	1.50	10%	736
Plea/Otherwise Resolve	Complex Misdemeanors	Court Time	1.50	100%	1.50	0%	-
Plea/Otherwise Resolve	Complex Misdemeanors	Sentencing/Mitigation	2.00	100%	2.00	60%	5,887
Plea/Otherwise Resolve	Complex Misdemeanors	Post Judgment	0.75	100%	0.75	15%	552
Go to Trial	Low-Level Felony	Client Communication	7.00	100%	7.00	25%	9,670
Go to Trial	Low-Level Felony	Client Support Services	2.50	80%	2.00	50%	5,526
Go to Trial	Low-Level Felony	Discovery/Case Prep	10.00	100%	10.00	10%	5,526

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Go to Trial	Low-Level Felony	Attorney Investigation/ Interviews	3.50	90%	3.15	55%	9,573
Go to Trial	Low-Level Felony	Experts	3.50	55%	1.93	25%	2,666
Go to Trial	Low-Level Felony	Legal Research, Motions Practice	8.00	100%	8.00	10%	4,420
Go to Trial	Low-Level Felony	Negotiations	1.50	100%	1.50	0%	-
Go to Trial	Low-Level Felony	Court Prep	15.00	100%	15.00	20%	16,577
Go to Trial	Low-Level Felony	Court Time	24.00	100%	24.00	0%	-
Go to Trial	Low-Level Felony	Sentencing/Mitigation	2.50	100%	2.50	60%	8,288
Go to Trial	Low-Level Felony	Post Judgment	1.25	100%	1.25	10%	691
Plea/Otherwise Resolve	Low-Level Felony	Client Communication	4.00	100%	4.00	25%	12,893
Plea/Otherwise Resolve	Low-Level Felony	Client Support Services	1.75	75%	1.31	60%	10,134
Plea/Otherwise Resolve	Low-Level Felony	Discovery/Case Prep	4.50	100%	4.50	10%	5,802
Plea/Otherwise Resolve	Low-Level Felony	Attorney Investigation/ Interviews	2.00	80%	1.60	60%	12,377
Plea/Otherwise Resolve	Low-Level Felony	Experts	2.50	45%	1.13	25%	3,642
Plea/Otherwise Resolve	Low-Level Felony	Legal Research, Motions Practice	4.50	85%	3.83	10%	4,938
Plea/Otherwise Resolve	Low-Level Felony	Negotiations	1.50	100%	1.50	0%	-

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea/Otherwise Resolve	Low-Level Felony	Court Prep	1.50	100%	1.50	10%	1,934
Plea/Otherwise Resolve	Low-Level Felony	Court Time	1.50	100%	1.50	0%	-
Plea/Otherwise Resolve	Low-Level Felony	Sentencing/Mitigation	2.50	100%	2.50	60%	19,340
Plea/Otherwise Resolve	Low-Level Felony	Post Judgment	0.75	100%	0.75	15%	1,450
Go to Trial	Mid-Level Felony	Client Communication	9.00	100%	9.00	25%	940
Go to Trial	Mid-Level Felony	Client Support Services	3.00	80%	2.40	50%	501
Go to Trial	Mid-Level Felony	Discovery/Case Prep	12.00	100%	12.00	10%	501
Go to Trial	Mid-Level Felony	Attorney Investigation/ Interviews	4.50	100%	4.50	30%	564
Go to Trial	Mid-Level Felony	Experts	5.00	70%	3.50	25%	365
Go to Trial	Mid-Level Felony	Legal Research, Motions Practice	13.00	100%	13.00	10%	543
Go to Trial	Mid-Level Felony	Negotiations	3.00	100%	3.00	0%	-
Go to Trial	Mid-Level Felony	Court Prep	20.00	100%	20.00	15%	1,253
Go to Trial	Mid-Level Felony	Court Time	24.00	100%	24.00	0%	-
Go to Trial	Mid-Level Felony	Sentencing/Mitigation	2.50	100%	2.50	30%	313
Go to Trial	Mid-Level Felony	Post Judgment	1.25	100%	1.25	10%	52
Plea/Otherwise Resolve	Mid-Level Felony	Client Communication	5.00	100%	5.00	25%	2,088

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea/Otherwise Resolve	Mid-Level Felony	Client Support Services	2.50	75%	1.88	60%	1,884
Plea/Otherwise Resolve	Mid-Level Felony	Discovery/Case Prep	8.00	100%	8.00	10%	1,336
Plea/Otherwise Resolve	Mid-Level Felony	Attorney Investigation/ Interviews	3.00	90%	2.70	30%	1,353
Plea/Otherwise Resolve	Mid-Level Felony	Experts	3.00	60%	1.80	25%	752
Plea/Otherwise Resolve	Mid-Level Felony	Legal Research, Motions Practice	5.00	100%	5.00	10%	835
Plea/Otherwise Resolve	Mid-Level Felony	Negotiations	2.50	100%	2.50	0%	-
Plea/Otherwise Resolve	Mid-Level Felony	Court Prep	2.50	100%	2.50	10%	418
Plea/Otherwise Resolve	Mid-Level Felony	Court Time	3.00	100%	3.00	0%	-
Plea/Otherwise Resolve	Mid-Level Felony	Sentencing/Mitigation	2.50	100%	2.50	30%	1,253
Plea/Otherwise Resolve	Mid-Level Felony	Post Judgment	1.00	100%	1.00	15%	251
Go to Trial	High-Level Felony	Client Communication	30.00	100%	30.00	25%	3,806
Go to Trial	High-Level Felony	Client Support Services	7.00	100%	7.00	50%	1,776
Go to Trial	High-Level Felony	Discovery/Case Prep	60.00	100%	60.00	10%	3,045
Go to Trial	High-Level Felony	Attorney Investigation/ Interviews	16.00	100%	16.00	30%	2,436
Go to Trial	High-Level Felony	Experts	15.00	95%	14.25	25%	1,808

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Go to Trial	High-Level Felony	Legal Research, Motions Practice	35.00	100%	35.00	10%	1,776
Go to Trial	High-Level Felony	Negotiations	6.00	100%	6.00	0%	-
Go to Trial	High-Level Felony	Court Prep	50.00	100%	50.00	15%	3,806
Go to Trial	High-Level Felony	Court Time	40.00	100%	40.00	0%	-
Go to Trial	High-Level Felony	Sentencing/Mitigation	8.00	100%	8.00	30%	1,218
Go to Trial	High-Level Felony	Post Judgment	3.00	100%	3.00	10%	152
Plea/Otherwise Resolve	High-Level Felony	Client Communication	14.00	100%	14.00	25%	5,328
Plea/Otherwise Resolve	High-Level Felony	Client Support Services	5.00	95%	4.75	50%	3,615
Plea/Otherwise Resolve	High-Level Felony	Discovery/Case Prep	24.00	100%	24.00	10%	3,653
Plea/Otherwise Resolve	High-Level Felony	Attorney Investigation/ Interviews	10.00	100%	10.00	30%	4,567
Plea/Otherwise Resolve	High-Level Felony	Experts	9.00	90%	8.10	25%	3,083
Plea/Otherwise Resolve	High-Level Felony	Legal Research, Motions Practice	22.00	100%	22.00	10%	3,349
Plea/Otherwise Resolve	High-Level Felony	Negotiations	4.00	100%	4.00	0%	-
Plea/Otherwise Resolve	High-Level Felony	Court Prep	8.00	100%	8.00	10%	1,218
Plea/Otherwise Resolve	High-Level Felony	Court Time	7.00	100%	7.00	0%	-
Plea/Otherwise Resolve	High-Level Felony	Sentencing/Mitigation	5.00	100%	5.00	30%	2,283

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea/Otherwise Resolve	High-Level Felony	Post Judgment	2.00	100%	2.00	10%	304
Go to Trial	Homicide and Sex Cases	Client Communication	80.00	100%	80.00	25%	1,060
Go to Trial	Homicide and Sex Cases	Client Support Services	20.00	100%	20.00	50%	530
Go to Trial	Homicide and Sex Cases	Discovery/Case Prep	180.00	100%	180.00	10%	954
Go to Trial	Homicide and Sex Cases	Attorney Investigation/ Interviews	40.00	100%	40.00	30%	636
Go to Trial	Homicide and Sex Cases	Experts	45.00	100%	45.00	25%	596
Go to Trial	Homicide and Sex Cases	Legal Research, Motions Practice	120.00	100%	120.00	10%	636
Go to Trial	Homicide and Sex Cases	Negotiations	16.00	100%	16.00	0%	-
Go to Trial	Homicide and Sex Cases	Court Prep	180.00	100%	180.00	15%	1,431
Go to Trial	Homicide and Sex Cases	Court Time	140.00	100%	140.00	0%	-
Go to Trial	Homicide and Sex Cases	Sentencing/Mitigation	35.00	100%	35.00	30%	556
Go to Trial	Homicide and Sex Cases	Post Judgment	6.00	100%	6.00	10%	32
Plea/Otherwise Resolve	Homicide and Sex Cases	Client Communication	60.00	100%	60.00	25%	1,614
Plea/Otherwise Resolve	Homicide and Sex Cases	Client Support Services	13.00	100%	13.00	50%	699
Plea/Otherwise Resolve	Homicide and Sex Cases	Discovery/Case Prep	100.00	100%	100.00	10%	1,076
Plea/Otherwise Resolve	Homicide and Sex Cases	Attorney Investigation/ Interviews	27.00	100%	27.00	30%	871

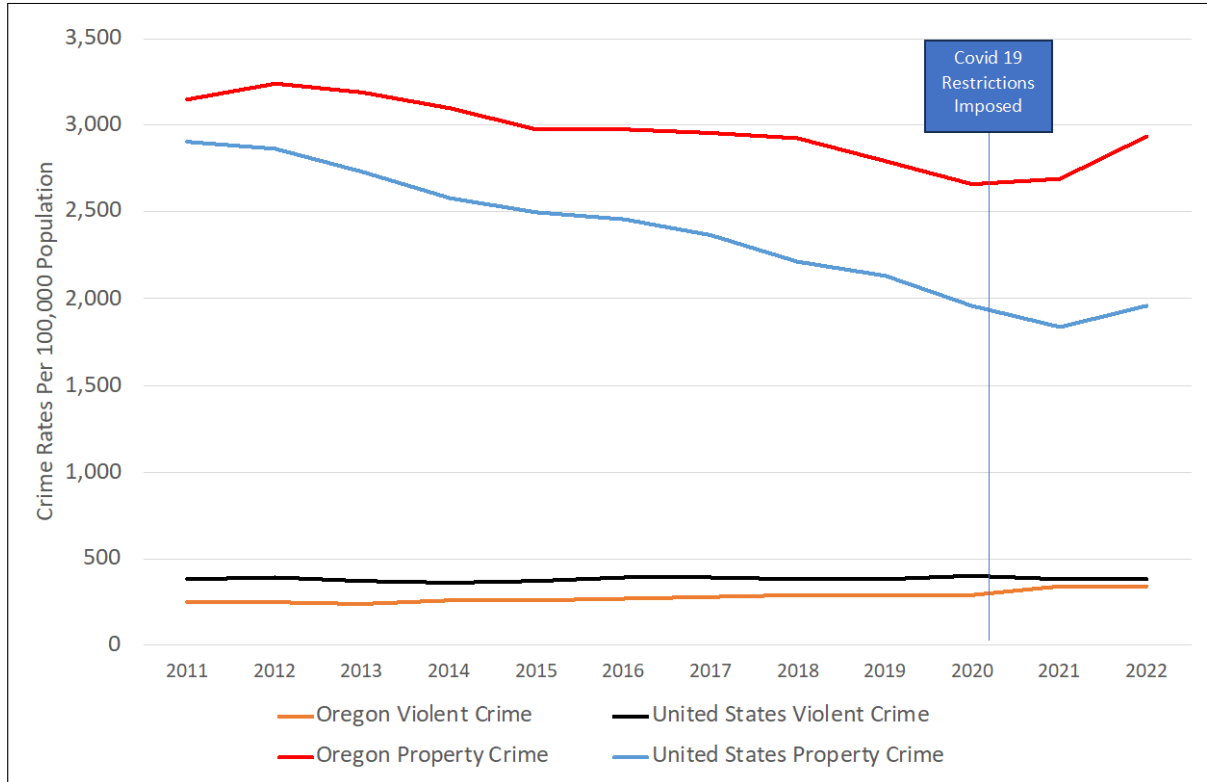
Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea/Otherwise Resolve	Homicide and Sex Cases	Experts	30.00	100%	30.00	25%	807
Plea/Otherwise Resolve	Homicide and Sex Cases	Legal Research, Motions Practice	80.00	100%	80.00	10%	861
Plea/Otherwise Resolve	Homicide and Sex Cases	Negotiations	12.00	100%	12.00	0%	-
Plea/Otherwise Resolve	Homicide and Sex Cases	Court Prep	25.00	100%	25.00	10%	269
Plea/Otherwise Resolve	Homicide and Sex Cases	Court Time	23.00	100%	23.00	0%	-
Plea/Otherwise Resolve	Homicide and Sex Cases	Sentencing/Mitigation	25.00	100%	25.00	30%	807
Plea/Otherwise Resolve	Homicide and Sex Cases	Post Judgment	5.00	100%	5.00	10%	54
Go to Trial	Probation Violations	Client Communication	1.90	100%	1.90	25%	2,497
Go to Trial	Probation Violations	Client Support Services	1.00	90%	0.90	50%	2,366
Go to Trial	Probation Violations	Discovery/Case Prep	1.50	100%	1.50	10%	789
Go to Trial	Probation Violations	Attorney Investigation/ Interviews	1.10	75%	0.83	30%	1,309
Go to Trial	Probation Violations	Experts	1.00	25%	0.25	25%	329
Go to Trial	Probation Violations	Legal Research, Motions Practice	1.00	85%	0.85	10%	447
Go to Trial	Probation Violations	Negotiations	0.75	100%	0.75	0%	-
Go to Trial	Probation Violations	Court Prep	1.50	100%	1.50	15%	1,183
Go to Trial	Probation Violations	Court Time	1.75	100%	1.75	0%	-

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Go to Trial	Probation Violations	Sentencing/Mitigation	0.75	100%	0.75	30%	1,183
Go to Trial	Probation Violations	Post Judgment	50%	100%	0.50	10%	263
Plea/Otherwise Resolve	Probation Violations	Client Communication	1.40	100%	1.40	25%	4,293
Plea/Otherwise Resolve	Probation Violations	Client Support Services	0.80	75%	0.60	50%	3,680
Plea/Otherwise Resolve	Probation Violations	Discovery/Case Prep	1.00	100%	1.00	10%	1,227
Plea/Otherwise Resolve	Probation Violations	Attorney Investigation/ Interviews	0.75	55%	0.41	50%	2,515
Plea/Otherwise Resolve	Probation Violations	Experts	1.00	13%	0.13	25%	399
Plea/Otherwise Resolve	Probation Violations	Legal Research, Motions Practice	0.75	25%	0.19	10%	233
Plea/Otherwise Resolve	Probation Violations	Negotiations	0.50	100%	0.50	0%	-
Plea/Otherwise Resolve	Probation Violations	Court Prep	0.75	100%	0.75	10%	920
Plea/Otherwise Resolve	Probation Violations	Court Time	0.75	100%	0.75	0%	-
Plea/Otherwise Resolve	Probation Violations	Sentencing/Mitigation	0.75	100%	0.75	30%	2,760
Plea/Otherwise Resolve	Probation Violations	Post Judgment	0.50	100%	0.50	10%	613
Total Annual Hours Reduction							410,969
Reduction as a Percent of Total Annual Caseload Hours							18.5%

APPENDIX C: OREGON CRIME TRENDS

Over the past ten years, Oregon’s crime rates have varied by the types of crimes reported to police. Property crime rates (crimes per 100,000 population) steadily declined until 2022 when there was an uptick. The 2022 rates were well below the 2011 rate (Figure 2). However, it is noteworthy that Oregon property crime rates have always been higher than the US property rate, which is driven by higher theft and motor vehicle rates. The latter had significant increases beginning in 2016.

FIGURE 2: OREGON V. U.S. CRIME RATES (2011 – 2022)



Notably, the increase in 2022 property crime rates has been reversed. In the first nine months of 2023, there were significant decreases in all crimes, which researchers attribute to declining inflation rates, stabilization in the economy, and other facets of social life as the COVID-19 restrictions were removed (Table 22). Assuming the numbers for the first nine months of 2023 continue, one would expect significant declines in 2023 (Figure 3).

TABLE 22: CRIMES REPORTED TO OREGON POLICE AGENCIES³⁹

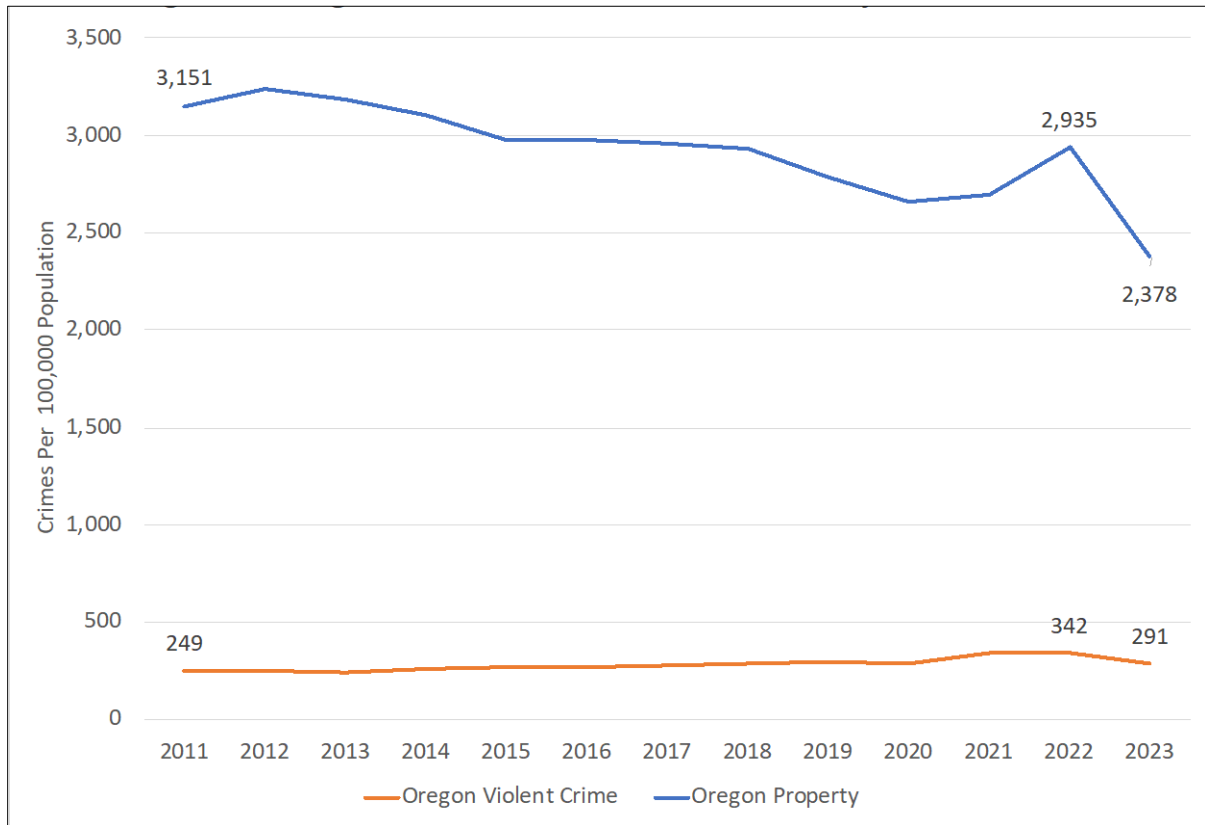
First Nine Months in 2022 versus 2023.⁴⁰

Crime	2022	2023	Difference
Violent	5,748	5,041	-707
Murder	95	72	-23
Rape	532	411	-121
Robbery	1,431	1,249	-182
Agg. Assault	3,690	3,309	-381
Property	46,027	40,056	-5,971
Burglary	5,514	5,229	-285
Larceny-Theft	29,629	26,212	-3,417
Motor Vehicle Theft	10,884	8,615	-2,269
Arson	455	473	18
Total Crime	51,775	45,097	-6,678

³⁹ Based on data from Portland, Salem, Eugene, Bend, Gresham, and Hillsborough Police Departments.

⁴⁰ Source: <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.

FIGURE 3: OREGON CRIME RATES (2011 – 2022 AND PROJECTED FOR 2023)



The decline in 2023, which is occurring nationally, is directly linked to two highly related major socio-economic factors: the recovery from the COVID-19 pandemic and the declining inflation rate. It has been well established that there is a strong association between inflation rates and crime rates.⁴¹ Along with other demographic factors (declining birth rates, reduced household size, an aging population, and declining Juvenile arrest rates), one can reliably project that Oregon’s crime rates will not approach the high crime rate levels that existed in the 1990s and will either remain at the 2023 levels or slightly decline independent of any changes in criminal justice policies.

Oregon Arrests

One of the major consequences of the COVID-19 pandemic was the sharp decline in arrests (Figures 4 and 5). Prior to 2020, there were about 140,000 arrests per year in the state. The largest category by far is “other,” which consists largely of non-violent, minor misdemeanor-level offenses. Law enforcement has reprioritized the need to enforce and or arrest people for these types of crimes. It also appears that based on current trends there will be an effort to reverse these policies. In effect, COVID-19 has served to decriminalize many crimes that are no longer being processed by the criminal justice system.

⁴¹ James Austin and Richard Rosenfeld, “Forecasting US Crime Rates and the Impact of Reductions in Imprisonment: 1960–2025” (New York: Harry Frank Guggenheim Foundation, 2023).

FIGURE 4: OREGON ARRESTS (2018 – 2021)

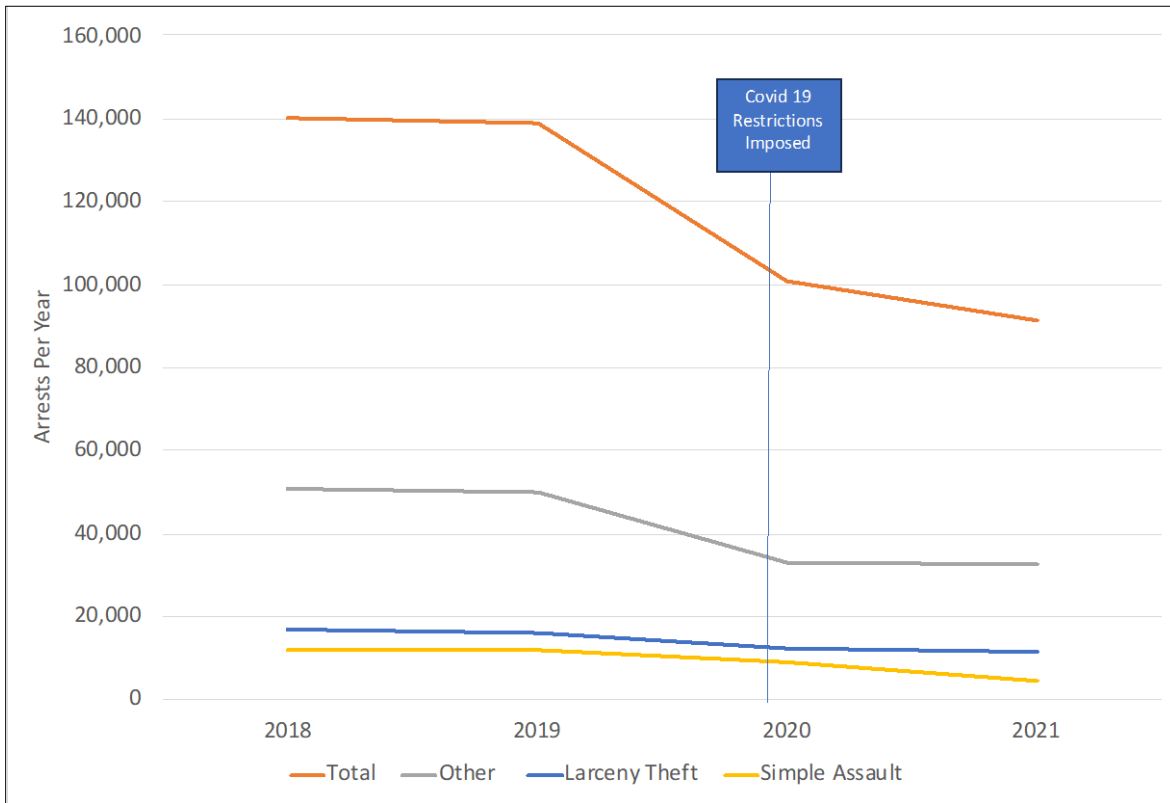
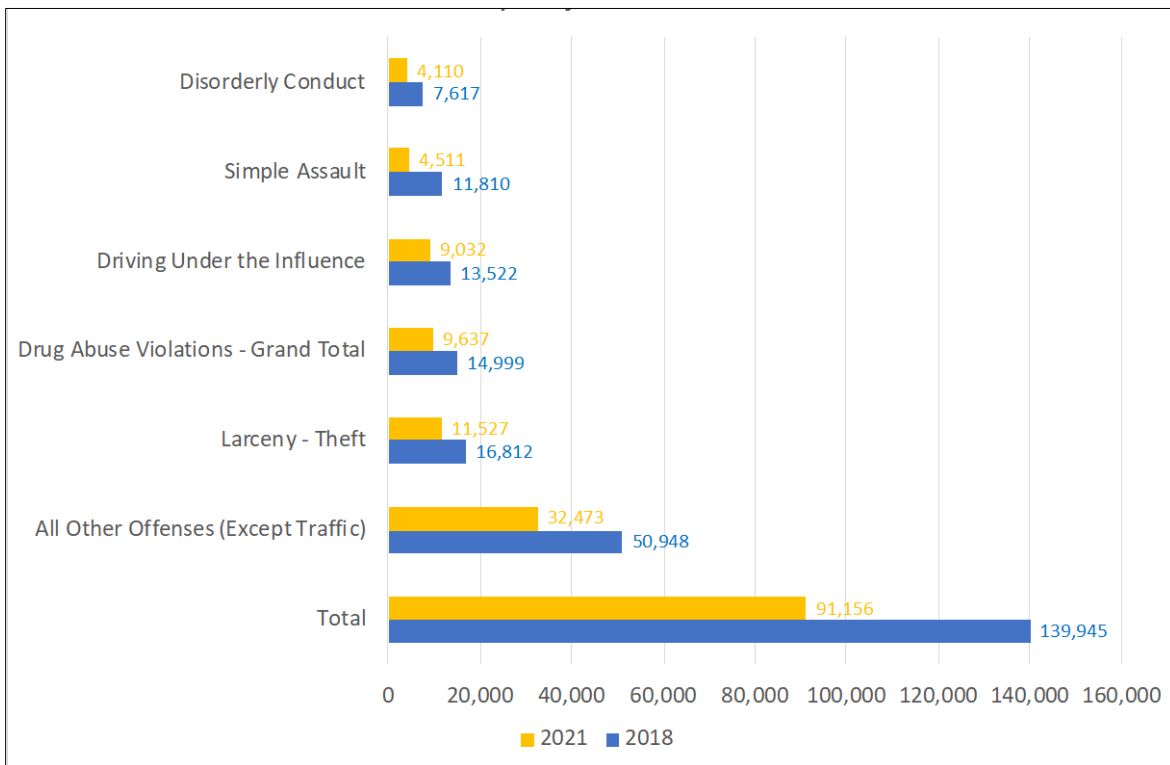


FIGURE 5: OREGON ARRESTS (2018 – 2021) BY MAJOR CRIMES



Passed in 2021, Measure 110 makes possession of small amounts of cocaine, heroin, LSD, and methamphetamine, among other drugs, punishable by a civil citation and a \$100 fine. This legislation should also serve to further reduce arrests and court filings and may also reduce probation and post-prison supervision violations.

Criminal Court Trends

Consistent with the decline in arrests, there has been a significant decline in criminal court filings (Figure 6). The largest numeric drops were for violations of court orders (from 222,231 to 132,636), parking violations (234,761 to 125,805), and misdemeanor crimes (from 48,418 to 36,678). In total, there were 219,931 fewer criminal court filings between 2017 and 2022.

FIGURE 6: CRIMINAL AND OTHER COURT FILINGS 2017 – 2022

Year	2017		2018		2019		2020		2021		2022	
	Cases Filed	1-Yr % Change	Cases Filed	1-Yr % Change	Cases Filed	1-Yr % Change	Cases Filed	1-Yr % Change	Cases Filed	1-Yr % Change	Cases Filed	1-Yr % Change
Civil	130,194		130,487	0.2%	130,294	-0.1%	80,030	-38.6%	86,062	7.5%	96,289	11.9%
▢ Civil	55,380		58,144	5.0%	55,528	-4.5%	45,968	-17.2%	48,582	5.7%	43,212	-11.1%
▢ Landlord Tenant	19,095		18,250	-4.4%	18,675	2.3%	6,119	-67.2%	7,947	29.9%	18,900	137.8%
▢ Small Claims	55,719		54,093	-2.9%	56,091	3.7%	27,943	-50.2%	29,533	5.7%	34,177	15.7%
Criminal	544,812		578,483	6.2%	520,744	-10.0%	311,622	-40.2%	340,525	9.3%	324,881	-4.6%
▢ Felony	31,506		26,265	-16.6%	26,598	1.3%	24,283	-8.7%	22,096	-9.0%	21,921	-0.8%
▢ Misdemeanor	48,418		54,459	12.5%	51,536	-5.4%	40,143	-22.1%	36,977	-7.9%	36,678	-0.8%
▢ Parking	234,761		271,796	15.8%	238,514	-12.2%	87,081	-63.5%	117,748	35.2%	125,805	6.8%
▢ Procedural Matters	7,796		7,692	-1.3%	7,565	-1.7%	6,626	-12.4%	7,678	15.9%	7,841	2.1%
▢ Violation	222,331		218,271	-1.8%	196,531	-10.0%	153,489	-21.9%	156,026	1.7%	132,636	-15.0%
Domestic Relations	43,592		44,177	1.3%	42,250	-4.4%	38,774	-8.2%	40,670	4.9%	41,249	1.4%
▢ Dissolution	16,207		16,462	1.6%	16,136	-2.0%	14,196	-12.0%	14,911	5.0%	14,250	-4.4%
▢ Other Domestic Relations	12,447		11,825	-5.0%	9,921	-16.1%	9,341	-5.8%	9,022	-3.4%	8,754	-3.0%
▢ Protective Order	14,938		15,890	6.4%	16,193	1.9%	15,237	-5.9%	16,737	9.8%	18,245	9.0%
Other	30,949		29,281	-5.4%	28,623	-2.2%	26,187	-8.5%	26,642	1.7%	27,740	4.1%
▢ Civil Commitment	7,693		7,243	-5.8%	7,084	-2.2%	7,872	11.1%	7,386	-6.2%	8,010	8.4%
▢ Juvenile	11,150		10,178	-8.7%	9,449	-7.2%	7,087	-25.0%	5,892	-16.9%	6,036	2.4%
▢ Probate	12,106		11,860	-2.0%	12,090	1.9%	11,228	-7.1%	13,364	19.0%	13,694	2.5%
Total	749,547		782,428	4.4%	721,911	-7.7%	456,613	-36.7%	493,899	8.2%	490,159	-0.8%

Correctional Population Trends

The large declines in reported crimes, arrests, and criminal court filings have been associated with declines in the probation, prison, and jail populations. The post-prison supervision population has declined, but at a much slower pace (Table 23).⁴²

TABLE 23: OREGON CORRECTIONAL POPULATIONS 2016–2023

Year	Probation	Post-Prison Supervision	Prison	Jails	Total
2016	35,938	24,077	15,166	NA	NA
2017	36,658	24,992	15,218	NA	NA
2018	35,732	24,183	15,268	6,766	81,949

⁴² Statewide local and state probation populations data come from the U.S. Department of Justice Bureau of Justice Statistics (BJS) while the jail population data come from the Oregon Crime Commission.

Year	Probation	Post-Prison Supervision	Prison	Jails	Total
2019	35,732	23,832	14,961	6,406	80,931
2020	35,732	24,183	12,753	3,677	76,345
2021	29,818	22,528	13,198	4,261	69,805
2022	-	-	12,518	4,655	-
2023	-	-	12,143	4,714	-

Another way to look at these populations is the rate per 100,000 population and compare the Oregon rates with the US rates, as well as the crime rates. As shown in Table 24, the prison rate is slightly below the US rate while the probation rate is well below the US rate. The post-prison supervision population rate is almost three times the US rate while the jail rate is well below the US rate.

TABLE 24: OREGON VS. US CORRECTIONAL POPULATION AND CRIME RATES PER 100,000 POPULATION

Correctional Description	Oregon	US
Prison	300	315
Probation	878	1,138
Post-prison supervision	663	270
Jails	112	199
Total	1,953	1,922

Crime Rate Description	Oregon	US
Violent	342	381
Property	2,935	1,954
Total	3,277	2,335

What this data suggest is that probation is being under-utilized at the expense of higher prison and post-prison supervision rates. The higher prison and post-prison supervision rates are due in large part to the passage of Ballot Measure 11, which created mandatory minimums and longer prison sentences. Table 24 also shows the 2022 crime rates for Oregon as compared to the US. Significantly, the overall crime rate for Oregon is virtually the same as the US, with a higher property and lower violent crime rate.

Passage of Measure 11 had a predictable increase in the prison and post-prison supervision populations and was supposed to have a major impact on violent crime rates. While there has been a decrease in crime rates, that decline is similar to national crime reductions including in states that did

not implement measures like Measure 11 (Figure 4). A comprehensive study by RAND was unable to conclude that Measure 11 had any impact on violent crime rates because there needs to be a control state that is comparable to Oregon in terms of socio-economic factors that did not implement legislation like Measure 11.⁴³ For example, California has reduced its prison population by 80,000 (from 178,000 to 94,000) and crime rates have declined. Similarly, New York has reduced its prison population from 73,000 to 32,000 even as crime rates have declined. In fact, since 2013, Oregon's violent crime rate has been increasing while the US rate has been stable (Figure 4).

The primary reason Measure 11 has not had an impact on violent crime is that its principal effect was to increase the length of stay (LOS) rather than to increase the probability of receiving a prison sentence. There is overwhelming scientific evidence that increasing (or lowering) the LOS does not impact recidivism rates and thus cannot impact aggregate crime rates.^{44, 45}

This finding also applies to Oregon where prison recidivism rates have not changed since Measure 11 was passed (Figure 5). The only accomplishment of Measure 11 since its passage has been a dramatic increase of over 4,000 inmates in the Oregon prison system (Figures 7–9). Today about 5,600 prisoners, or nearly half, have been sentenced under Measure 11.

Based on the current annual cost of \$51,400 per year,⁴⁶ Measure 11 is now costing about \$205 million per year with no measurable impact on recidivism or violent (or even property) crime rates.

⁴³ Nancy Merritt, Terry Fain, and Susan Turner, "Oregon's Measure 11 Sentencing Reform: Implementation and System Impact," (RAND Corporation, TR-142-NIJ, 2004).

⁴⁴ William Rhodes, Gerald G. Gaes, Ryan Kling, and Christopher Cutler, "Relationship Between Prison Length of Stay and Recidivism: A Study Using Regression Discontinuity and Instrumental Variables with Multiple Break Points." *Criminology & Public Policy*. Vol 17, No 3, 2018, 731-769.

⁴⁵ James Austin, Todd R. Clear, Roger Ocker, and David Olson, "The Impact of Reducing Length of Stay on the Illinois Prison Population and Associated Cost Benefits" (JFA Institute, October 15, 2019).

⁴⁶ "Issue Brief," Oregon Department of Corrections, October 2022, <https://www.oregon.gov/doc/Documents/agency-quick-facts.pdf>.

FIGURE 7: OREGON AND U.S. VIOLENT CRIME RATES (1995 – 2022)

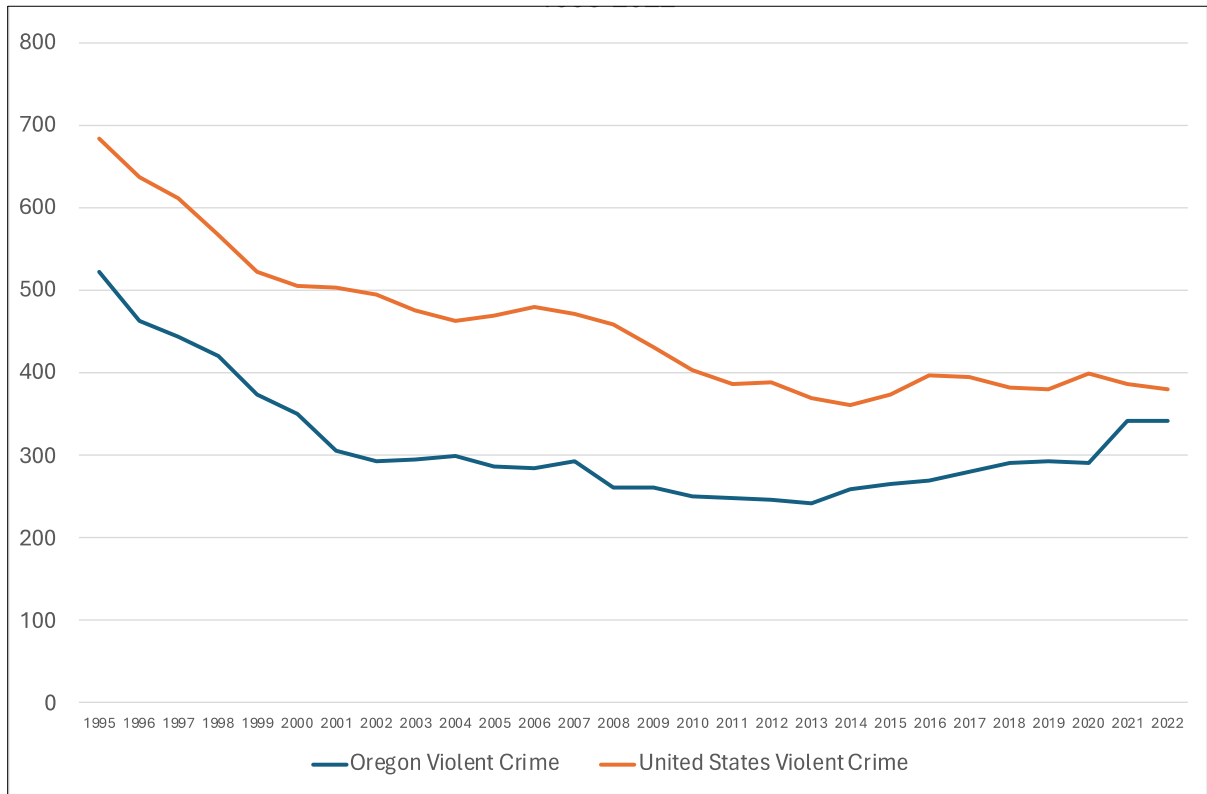


FIGURE 8: OREGON THREE-YEAR RECIDIVISM RATES FOR RELEASED PRISONERS (1998 – 2020)

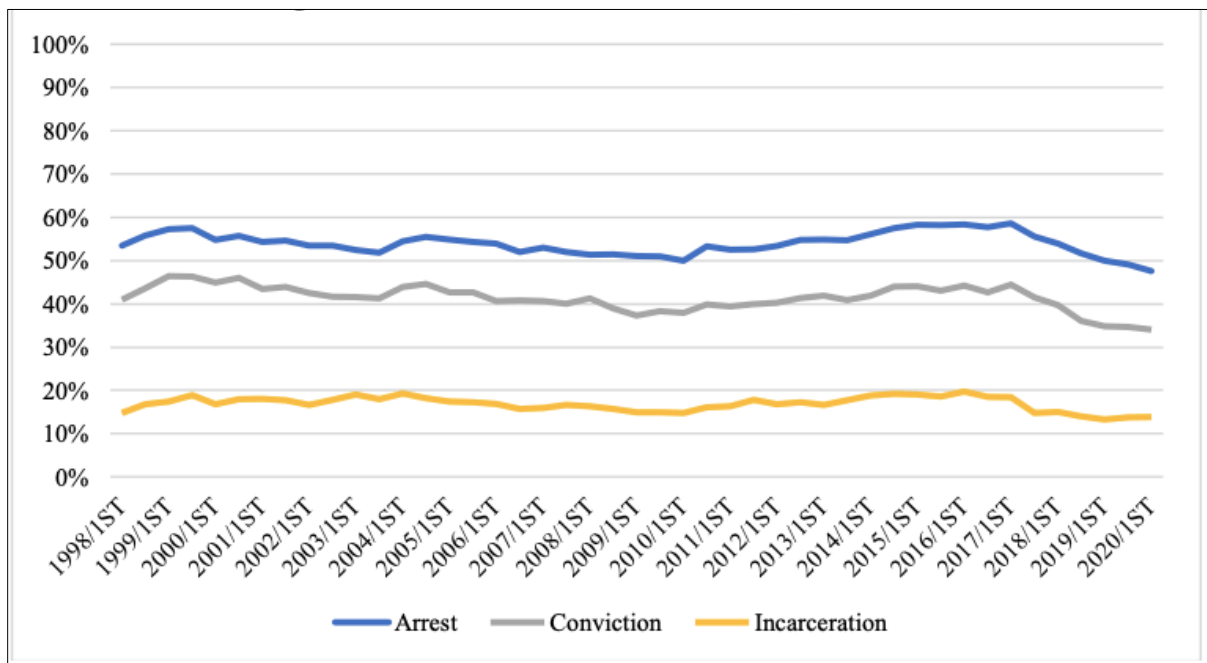


FIGURE 9: OREGON PRISON POPULATION (1960 – 2023)

