



# Oregon

## Oregon Public Defense Commission

198 Commercial St. SE, Suite 205

Salem, Oregon 97301-3489

Telephone: (503) 378-2478

Fax: (503) 378-4463

[www.oregon.gov/opdc](http://www.oregon.gov/opdc)

July 26, 2024

Governor Tina Kotek  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301-4048

Dear Governor Kotek:

The Oregon Public Defense Commission (OPDC) is unwavering in its commitment to ensure that all eligible defendants in Oregon have timely access to counsel. We are working tirelessly to identify and connect attorneys with clients, prioritizing persons in custody on serious charges, persons subject to the *Betschart* ruling, and persons who could pose a public safety risk. The following is a summary of OPDC's plan to eliminate Oregon's unrepresented client crisis in both the short- and long-term, the full plan is attached to this letter.

**It is OPDC's objective to eliminate the in-custody unrepresented list by the end of March 2025 and the out-of-custody list by the end of March 2026<sup>1</sup>. We believe we can accomplish this by implementing the initiatives laid out in the attached plan.**

### Background

OPDC is combatting an entrenched problem: there are too few public defenders to meet the needs of Oregon's criminal justice system. This creates a constitutional crisis where Oregonians who qualify for a public defender do not have access to representation. To address this problem OPDC must create systemic solutions that increase and stabilize our public defense workforce while ensuring that Oregonians right to effective representation is protected. We must, working in partnership with our public safety colleagues, address issues and inefficiencies across the system that stand in the way of this goal.

In 2021, the Legislature amended Oregon's public defense statute to require the Commission to adopt caseloads based on national and regional best practices and adopt a workload plan. As an interim solution, in 2021, the Commission adopted annual caseload maximums—often referred to as Maximum Attorney Caseloads ("MAC"). The adoption of the MAC revealed the true scope of Oregon's public defender shortage. While the MAC was a fiscally conservative solution, and an important first step, it has shortcomings that are exacerbating the crisis. The MAC standard only regulates the number of cases a lawyer may accept annually. It does not account for the number of hours needed for each case. Further, the standard itself is based on caseload models of the 1970s and, therefore, does not reflect the current complexities of public defense work. In short, it does not accurately utilize the attorneys available, does not ensure quality representation, and is an impediment to new attorney recruitment.

---

<sup>1</sup> Calculations dependent on external factors that may increase or decrease the unrepresented list. Please see Appendix A: OPDC Unrepresented Plan Limitations Memo and Appendix B: OPDC Unrepresented Plan Workbook.

To date, OPDC has enacted the following initiatives to address the unrepresented persons crisis<sup>2</sup>:

- Opened three state trial offices with state employees providing direct representation to public defense clients in Oregon’s circuit courts;
- Increased the number of public defenders appointed to represent clients under contracts with OPDC;
- Increased the number of part-time public defenders appointed to represent clients under hourly agreements with OPDC;
- Funded recruitment and retention efforts for contracted public defenders;
- Collaborated with public safety partners to improve coordination and communication regarding unrepresented persons;
- Improved ongoing data collection and sharing.

Despite numerous initiatives, the in-custody list remains consistent, while the out-of-custody list has grown. Thus, although the Commission has taken steps to address the constitutional crisis, the problem remains significant and will only fully improve when we have adequate funding to enact the new caseload and workload standards adopted by the Commission in May 2024. The 2024 standards directly address the short comings of the 2021 MAC in order to allow OPDC to maximize the attorneys available, while also creating a model that supports the recruitment and retention of effective attorneys. Further evidenced by these numbers, is that public safety inefficiencies must be addressed systemwide to promote long-term solutions to the crisis.

That said, OPDC presents below a short-term crisis plan which is a stop gap measure to address the unrepresented crisis as we work towards sustainable reform. It combines no- cost, and low-cost strategies with strategic e-board requests. The objective of this plan is to eliminate the in-custody unrepresented list by March 2025 and the out of custody unrepresented list by March 2026<sup>3</sup>.

### **Crisis Plan**

#### **90 Days**

In the next 90 days<sup>4</sup>, OPDC will enact the following initiatives to reduce the unrepresented numbers:

- Utilize unused HB 4002 attorney capacity and discuss with partners the possibility of redirecting HB 4002 attorneys to prioritize unrepresented in-custody cases
- Work with public safety partners on case resolution dockets;
- Request funding from the Emergency Board to:
  - Extend the policy that pays an increased rate for attorneys representing persons in custody without counsel (THIP) through the end of the biennium
  - Establish a state trial office serving the Southwest;
  - Add assignment coordination staff within OPDC to identify lawyers more quickly for in-custody defendants;
  - Add an additional 25 C-felony qualified Maximum Attorney Caseloads (MAC) positions to existing criminal contracts around the state.

---

<sup>2</sup> See Appendix C: OPDC Unrepresented Initiatives to Date.

<sup>3</sup> Calculations dependent on external factors that may increase or decrease the unrepresented list. Please see Appendix A: OPDC Unrepresented Plan Limitations Memo and Appendix B: OPDC Unrepresented Plan Workbook.

<sup>4</sup> See Appendix D: Unrepresented Crisis Plan Report Summary

In addition to these new initiatives, OPDC will continue effective existing programs and has crafted a series of Policy Option Packages for the next biennium designed to move toward long-term solutions while still supporting the crisis plan above.

**Next Steps**

In the intermediate term, OPDC is requesting the following through Policy Option Packages (POP) for the 2025-2027 biennium:

- Implement Phase 1 of OPDC’s workload model for criminal and juvenile caseloads, including adding support staff to shift non-lawyer work away from lawyers;
- Additional accounts payable and preauthorized expenses staffing;
- Invest in recruitment and retention;
- Increase and stabilize the hourly panel attorney and investigator rates;
- Continue to expand the state trial office divisions to meet the SB 337 requirements.


**6-Year Plan**

OPDC has adopted a 6-year plan<sup>5</sup> to build, stabilize, and maintain the public defense workforce as a long-term solution to these issues. While this letter is focused on immediate and near-term solutions, addressing the underlying problems within Oregon’s public defense system is the only way to fully resolve this crisis. Without investments in long-term solutions, the interventions above will only be stop-gap measures, and the cycle will continue.

**Conclusion**

We greatly appreciate your focus on the public defense crisis in Oregon and your commitment to ensuring that the constitutional rights of all Oregonians are met. As part of creating a solution to this crisis, OPDC believes you are in a unique position to bring public safety partners together to discuss systemwide issues that affect the crisis and the public safety of Oregonians. We ask that you convene a workgroup that includes decision-makers from the legislative, executive, and judicial branches, as well as representatives from ODAA, OPDC, and the CJC, to discuss short- and long-term systemwide solutions to this crisis.

Sincerely,



Jennifer Nash  
Chair  
Oregon Public Defense Commission



Jessica Kampfe  
Executive Director  
Oregon Public Defense Commission

---

<sup>5</sup> [OPDC Six-Year Plan to Reduce the Public Defense Deficit](#)

## Crisis Plan

### 90-Days

#### New Initiatives

Utilize unused HB 4002 attorney capacity and discuss with partners the possibility of redirecting HB 4002 attorneys to prioritize unrepresented in-custody cases

#### Action:

**Utilize unused HB 4002 capacity:** HB 4002 provides OPDC with eight additional C felony qualified state trial attorneys to take on the additional misdemeanor and drug crimes resulting from HB 4002 (2024). As counties implement their HB 4002 programs, OPDC may have additional capacity during the early stages of this ramp-up. OPDC will use any unused capacity to represent in-custody defendants on class C felony and misdemeanor cases.

**Redirect HB 4002 attorneys:** With the support of the Governor and Legislature, OPDC could redirect these resources to the unrepresented list. Before doing this, OPDC would request the Governor's help to bring together legislative leadership and public safety partners to discuss the impacts of this action.

This is a policy question about whether the greatest public safety need is to provide representation for people held in jail pretrial and people charged with person crimes, or to provide representation to people charged with drug crimes. HB 4002 prioritizes representation for people charged with drug crimes. OPDC would need legislative support to use the positions for a different purpose.

**Cost Estimate: None;** funding already allocated.

**Expected Outcomes: Utilize unused HB 4002 capacity:** OPDC does not anticipate large amounts, if any, of unused HB 4002 capacity. However, assuming small amounts (20% decreasing to 10%), HB 4002 state trial division attorneys could accept appointments for 18-22 C felony cases per quarter starting with cases on the in-custody unrepresented list.

**Redirect HB 4002 attorneys:** All C felony and misdemeanor in-custody cases will have appointed attorneys by January 2025. Assuming the rate of persons in-custody charged with crimes that are a C felony or below does not grow and that HB 4002 attorneys are re-directed to be fully dedicated to representing all persons in-custody charged with any C felony or misdemeanors, once fully onboarded, these attorneys could likely manage all persons in-custody charged with C felonies or misdemeanors by January 1, 2025.

In addition to clearing these cases, these newly hired C felony qualified lawyers attorneys would be assigned the lower-level cases that the trial division's higher-qualified attorneys have previously handled. By shifting new minor felony cases to minor felony-qualified lawyers rather than having major felony-qualified lawyers handling these cases, we would also increase the capacity for the major felony-qualified lawyers in our existing workforce to handle more serious cases. This increase in capacity could lead to appointment on an additional 27 high-level felonies per quarter from the in-custody unrepresented list starting January 2025. The tables below show the case growth already seen as the state trial offices have come online and the potential growth should these attorneys be redirected.

Table 1: Cumulative case count by all state trial attorneys through July 25, 2025.

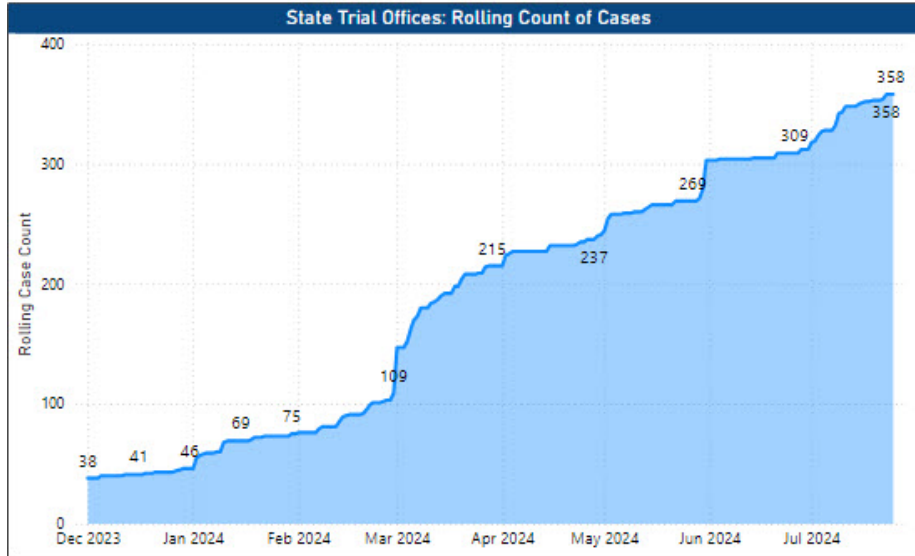
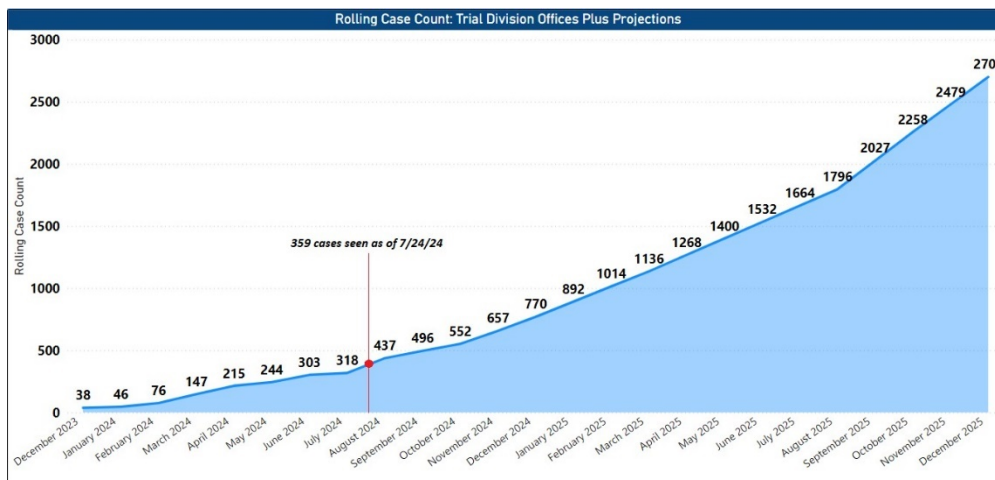


Table 2: Cumulative case count of state trial offices through July 2025, and projected case increase through the redirection of HB 4002 attorneys.



**Timeline: September-March 2025.**

**Barriers: HB 4002 Commitments and Expectations:** These attorneys were funded through HB 4002 with the legislative direction that the staff added under this measure would need to be assigned to regional offices commensurate with the location of caseloads for felony charges for delivery of a controlled substance and drug enforcement misdemeanors. Some counties are setting up deflection programs, and we have already begun to work with them on how state attorneys can help. Statewide, the Criminal Justice Commission is compiling a detailed summary of all HB 4002 proposals. Based on early information, OPDC anticipates that HB 4002 will add many new drug charges to existing case fillings. The legislature directed that these state employees provide targeted representation on drug cases. Using state employees to represent in-custody unrepresented persons deviates from that directive.

**Staffing limitations:** Attorneys will likely be onboarding and training through the end of August. With only three offices, OPDC is continuously challenged to assign cases to Central, Eastern, and the Southern

Coast of Oregon. Those cases require extensive travel time, limiting the total number of cases an attorney can take.

**Supports: Public safety partners:** The courts could support this effort by accommodating out-of-town attorneys through efficiencies like remote appearances, and sheriffs can support this effort by providing remote or telephonic access to defendants in jail.

**Legislature:** OPDC would need the support of legislative leadership to redirect these resources and move forward.

### **Work with public safety partners on case resolution dockets**

**Action:** Case Resolution Dockets are special dockets that a court holds with a singular focus. Drug and driving offenses are the most common type of resolution dockets, and they have successfully addressed large numbers of similar cases quickly. For example, the state trial office in Medford participated in a two-day driving docket in April that removed 24 misdemeanors from Jackson County's out-of-custody unrepresented list.

These dockets require commitments from courts, prosecutors, and defense attorneys. They are most successful when these parties are committed to meaningful participation. OPDC would appreciate the Governor's support in bringing together these stakeholders to implement resolution dockets.

**Cost Estimate: None;** OPDC will work with courts to use hourly or state trial resources to keep costs within current resources and to avoid affecting current contractors' ability to accept new appointments under their contracts. OPDC will also track costs and, if necessary, return to the December e-board for any necessary or unforeseen support.

**Expected Outcome:** Resolution dockets could significantly impact the unrepresented list, primarily the out-of-custody list. Of the 1,593 out-of-custody pretrial misdemeanor cases, 10% are driving charges, including criminal driving while suspended or revoked, driving while using an electronic device, failure to perform duties of a driver- property damage, and reckless driving. A DUII docket could capture up to 32% of the out-of-custody pretrial misdemeanor cases.

However, it is difficult to estimate since non-OPDC stakeholders drive these dockets. We will conservatively estimate one docket will occur every quarter, clearing 25 out-of-custody unrepresented cases.

**Timeline:** OPDC will send a memo to courts about our willingness to fund and participate in resolution dockets. If jurisdictions choose to use these tools, these dockets usually take 2-3 months to set up and execute.

**Barriers: Leadership and coordination:** OPDC does not have the authority to bring together stakeholders to create resolution dockets. It may require direction from the Chief Justice or Governor. Resolution dockets cannot happen without cooperation and initiation from all partners- defense, district attorneys, and courts. Courts would need to create docket time and staffing resources, district attorneys would need to provide discovery and attractive resolutions, and defense attorneys would need to communicate with their clients about the benefits and risks of resolving their cases on these dockets.

**Supports: OJD and local courts:** Several jurisdictions identified resolution dockets as a tool in their crisis plans. OJD and local courts have been supportive in setting up previous resolution dockets.

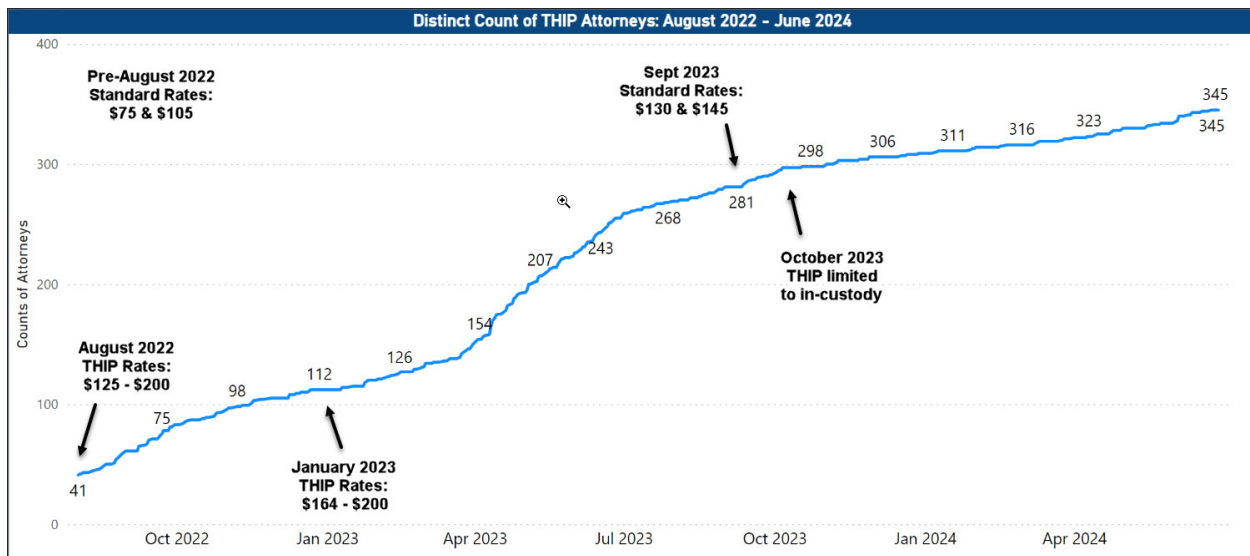
### September Legislative Emergency Board Requests

Extend the policy that pays an increased rate for attorneys representing persons in custody without counsel (THIP) through the end of the biennium

**Action:** In August 2022, OPDC began the Temporary Hourly Increase Program (THIP), which pays attorneys an enhanced hourly rate for taking on unrepresented cases. THIP has successfully brought in new attorneys who would otherwise not take OPDC cases and has been an essential part of the unrepresented response.

THIP was intended to be a temporary program until all unrepresented cases were represented. The long-term solution to this problem is to pay attorneys a more competitive rate to incentivize them to take public defense cases. Through THIP, OPDC has seen a direct increase in the number of attorneys taking hourly cases. As the chart below shows, the number of attorneys taking hourly (THIP) cases has increased more than eightfold since enhanced rates were implemented. This is even after THIP was limited to only in-custody cases in October 2023.

Table 3: Total THIP Attorneys over time.



Before 2022, when the hourly rate was \$75 and \$105/hour, about 1% of OPDC-assigned cases were taken hourly. Today, hourly cases are taken at \$130 and \$145/hour or \$164 and \$200/hour for in-custody unrepresented cases under THIP. Hourly cases now account for nearly 10% of all OPDC-assigned cases.

THIP is set to expire on December 31, 2024. During the 2025 session, OPDC will request funding to **Increase and stabilize the hourly panel attorney and investigator rates** for all attorneys at a two-tiered rate of \$205 and \$230/hour beginning July 2025. This creates a gap in the hourly program where THIP rates would end before the market rates<sup>6</sup> took over. In order to bridge that gap, OPDC will request an extension of THIP from January 1, 2025- June 30, 2025. This extension will allow OPDC to:

- Maintain the hourly attorneys we have now;
- Bridge the gap between the end of THIP in December 2024 and the new hourly rates anticipated in July 2025;

<sup>6</sup> [OPDC Hourly Rate and Economic Study](#)

- Allow for a smooth transition from THIP to an hourly panel of attorneys come July 2025.

Table 4: Comparison of hourly rates under current and proposed rates.

Current Hourly Rate	Current THIP Rate	Proposed Continuation of THIP Rate	POP Stabilized Hourly Rate	Mean Hourly Rate- Private Practice
\$130-\$145	\$164-\$200	\$164-\$200	\$205-\$230	\$334 <sup>7</sup>

THIP has been a successful program, allowing OPDC to establish the beginning of the hourly panel that SB 337 directs OPDC to establish by July 2025. Since its inception, 345 attorneys have taken 6,070 cases representing 4,232 clients through THIP. Since narrowing to only in-custody unrepresented cases, THIP has taken 1,442 cases representing 947 clients directly off of the in-custody unrepresented list.

**Cost Estimate: Immediate Cost: None. Total projected costs amount to \$18,920,249 over a period of three to four years.** Implementing this strategy will likely require a request to the Emergency Board to access the \$6.2 million Expenses Related to Public Defense Special Purpose Appropriation (SPA) for expenses related to THIP and incurred during the 2023-2025 biennium.

Given the billing practices associated with public defense cases, it is expected that OPDC will not receive bills for THIP cases assigned in January 2025 until at least April 2025. Consequently, OPDC will make a request to the appropriate e-board for expenses expected to be incurred between April 2025-June 2025. These expenses are projected to be managed through agency savings and the SPA. Although THIP case assignments are set to conclude in June 2025, these cases will remain open and continue to incur costs until their resolution, which may extend up to four years in some instances.

The roll-up costs will be incorporated into OPDC Policy Option Package 107, which seeks funding for ongoing THIP case expenses for the 2025-2027 biennium. A limited number of cases may continue to incur costs into the 2027-2029 biennium.

**Expected Outcome: Emergency Board Request.** Continuing THIP will ensure that hourly attorneys continue to remove cases from the unrepresented in-custody list. We do not know how many of these attorneys would stop taking cases if the rate returned to the standard rate, but we can assume it would be significant as the standard rate is below the market-lag rate calculated by the economic study. If today’s THIP assignment rate is maintained, OPDC expects to continue to remove 600 cases per quarter from the unrepresented in custody list.

**Timeline:** If funded, rates will be implemented from January 2025 to June 2025.

**Barriers: Funding.** This extension must come from a general fund request to the Emergency Board. While initial costs can come from an SPA, roll-up costs will require additional general funds in the next biennium.

**Establish a state trial office serving the Southwest**

**Action:** OPDC will request funding from the Emergency Board to establish a new state trial office serving Douglas County and the South Coast. OPDC currently has an office in Medford, serving Jackson, Douglas, and Klamath counties. While this office has been successfully taking cases in those counties, they primarily serve Jackson County due to the size of that county’s unrepresented list. Commute time from Medford to Klamath Falls and Roseburg also prevents attorneys from taking on more cases. While

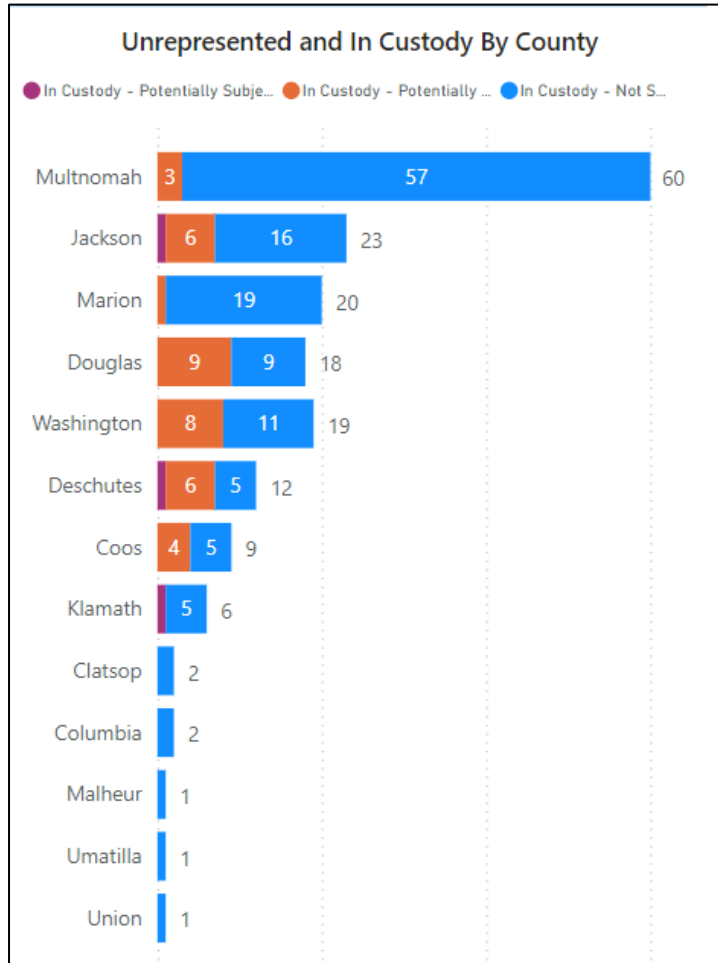
<sup>7</sup> [Oregon State Bar 2022 Economic Survey Report Findings](#)



the pilot program initially grouped these three counties, in practice, Southern Oregon and Southwest Oregon should be separate offices due to both the need in the region and the geographic barriers.

In addition to geographic challenges, Douglas and Coos counties have unrepresented populations disproportionate to their size. This is primarily due to a lack of staffing, the difficulties of recruiting to rural areas, and the significant impact of conflict cases. OPDC anticipates that these staffing challenges will increase in the coming months, and setting up a Southwest office would allow us to prepare for that influx in cases.

Table 5: Unrepresented in-custody cases by county.



**Cost Estimate: \$1,840,926;** would include roll-up costs in future biennium.

**Expected Outcome: September Emergency Board Request.** A permanent office in the Southwest will stabilize the defense bar in a high-risk area and eliminate the region's chronic staffing issues. The in-custody list in Douglas and Coos counties continues to grow as staffing impacts worsen. A Southwest office would likely have to pick up cases handled by departing contract attorneys and take on increasing in-custody numbers. With such a volatile situation, it is hard to predict how quickly a Southwest trial office of 6 attorneys could be assigned to all of the region's in-custody list, but based on growth predictions, it would likely take 3 to 6 months.

In addition to increasing capacity in Douglas and Coos counties, the southern and mid-valley offices would also be able to increase their capacity as they will no longer have to spend significant time driving to Douglas and Coos.

**Timeline: October 2024-March 2025.** Attorneys could start taking cases, prioritizing those on the unrepresented in-custody list, as early as November while the physical office is still being established.

**Add assignment coordination staff within OPDC to identify lawyers more quickly for in-custody defendants**

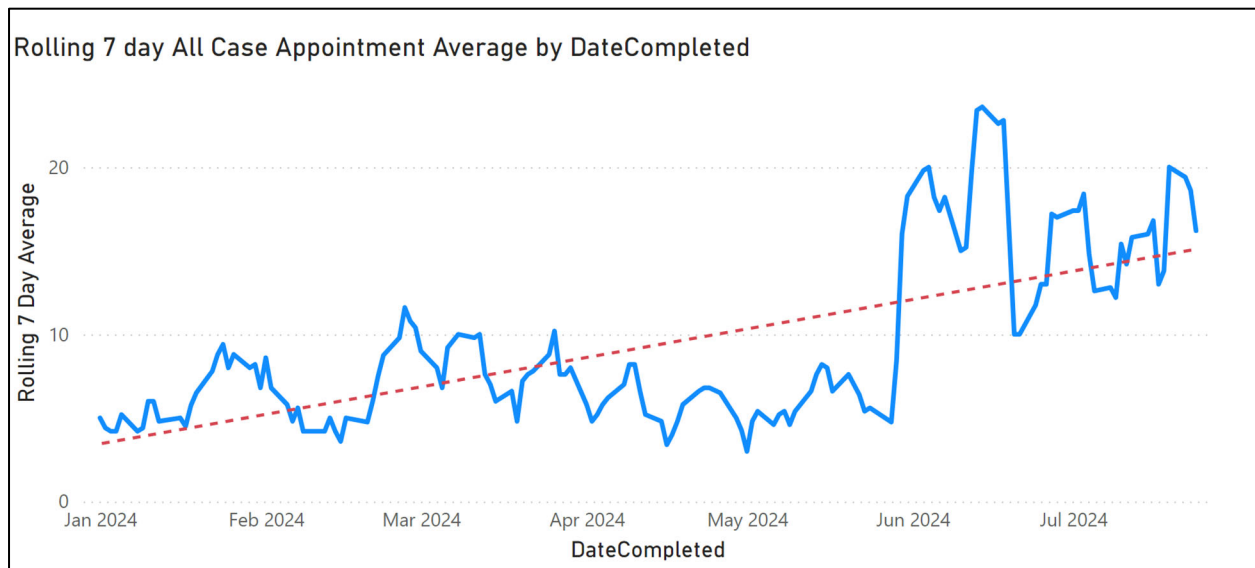
**Action:** OPDC currently has two assignment coordinators and one administrative staff dedicated to finding attorneys for all unrepresented persons across the state. This is an overwhelming task, and all staff members are working at full capacity, even with the process improvements the agency has implemented.

OPDC is requesting funding to add two additional assignment coordinator positions. Each coordinator would be responsible for a different region of the state and would work with the region’s judicial districts to find counsel for any unrepresented persons in the district.

**Cost Estimate: \$189,058;** as these positions are permanent, they would come with roll-up costs.

**Expected Outcome: September E-Board Request.** OPDC estimates a 25% increase, or 150 additional cases per quarter, in the assignment of counsel. With one staff member, OPDC assigned 140 cases in January; after an additional staff member was reassigned to this work in May, OPDC made 240 case assignments in June, a 71% increase in monthly case assignments. That increase reflects the new staffer and the process improvements OPDC implemented in April-June. The chart below shows the rolling 7-day average and the significant increase this program has seen with the addition of staff.

Table 5: Rolling 7-Day Average of OPDC Assigned Cases



**Timeline: November 2024-December 2024.** Full benefits will be seen by January 2025.

**Add an additional 25 C-felony qualified Maximum Attorney Caseloads (MAC) positions to existing criminal contracts around the state**

**Action:** With additional funding, OPDC could add additional attorneys to its current contracts in regions most impacted by the unrepresented crisis. These attorneys would take misdemeanor and C felony cases and provide added capacity in their jurisdiction to take court-appointed cases, preventing them from joining the unrepresented list.

OPDC has contractors who believe they can bring on new attorneys should they be given the funding, including provisional licensees under the Oregon State Bar Supervised Provisional Practice Exam (SPPE)<sup>8</sup> program.

**Cost Estimate: \$4,203,412;** continuing these MAC into the next biennium would have continued funding costs.

**Expected Outcome: September E-Board Request.** Additional MAC increases the public defense capacity in a given jurisdiction. Each additional MAC can be assigned up to 39 C felonies or 75 misdemeanors per quarter, ensuring that up to an additional 975 felony cases or 1,875 misdemeanor cases each quarter would have attorneys assigned to them, keeping those cases off the unrepresented persons list.

**Timeline:** If funded, additional attorneys could join contracts by October 1, 2025.

**Continue effective existing programs**

**Temporary Hourly Increase Program (THIP)**

THIP provides representation for an average of 6 clients on 10 cases daily. The program is limited to unrepresented persons in custody. Continuing this program through December 2024 is a critical tool to secure representation for individuals most likely to be released pretrial pursuant to *Betschart* and those with the most liberty at stake by remaining unrepresented.

**Prioritizing the most serious cases and those subject to Betschart**

Under our current practices, OPDC lawyers are appointed to unrepresented cases in various ways. In our metro region and southern offices, OPDC works directly with court staff to accept appointments on unrepresented cases. However, we are also keeping some flexibility in the lawyers' caseload so that they can be appointed to the most serious cases when no other attorney is available, and the defendant is potentially subject to release pursuant to *Betschart*.

This means that when an attorney cannot be appointed under OPDC contracts, OPDC first works to appoint an hourly provider to the case. Should an hourly provider not be found, OPDC can appoint a state public defender to represent clients charged with person felonies or those potentially subject to pretrial release pursuant to *Betschart*. By holding the state employees back as a last resort, OPDC can strategically utilize state attorneys for the most serious cases.

OPDC strategically uses state employees to reduce the in-custody unrepresented population by working directly with the courts to accept appointments on unrepresented persons' cases. Utilizing surplus capacity from newly hired HB 4002 lawyers provides representation for in-custody unrepresented persons and maintains some flexibility in state employee caseloads. This provides a backstop to appoint counsel on the highest public safety risk cases potentially subject to pretrial release pursuant to *Betschart*.

---

<sup>8</sup> [Oregon State Bar SPPE Program](#)

### Ongoing communication, data collection, and sharing

OPDC works closely with OJD, state public defenders, and our contractors to track and report on the unrepresented persons crisis and to maximize existing resources. This data sharing has allowed OPDC to get the most up-to-date court data and prioritize cases more efficiently. OPDC also meets weekly with OJD and the Oregon District Attorney Association to review *Betschart* cases.

## 2025-2027 Biennium

### Implement Phase 1 of OPDC's workload model for criminal and juvenile caseloads, including adding support staff to shift non-lawyer work away from lawyers

**Action:** The 6-Year Plan provides a road map for how Oregon can implement an appropriately staffed workload model over three biennia. Using this plan, OPDC has developed Policy Option Packages for the 2025 Legislative session that represent the first phase of plan implementation and will be requesting the second and their phase in the 2027-2029 and 2029-2031 biennia, respectively.

POPs 102, Criminal Contracts, 105, Juvenile Contracts, 103, Trial Division Build, and 104, Hourly Rates, focus on bringing more attorneys to the system and appropriately staffing and compensating these attorneys.

**Cost Estimate:** POP costs are still being finalized, but these POPs will require a substantial investment in public defense to move toward a workload model.

**Expected Outcome: Policy Option Package.** These POPs would add 160 attorneys in the next biennium through contracted attorneys (80), hourly panel attorneys (40), and state trial attorneys (40), along with the appropriate support staff. They would also bring Oregon 1/3 of the way towards national workload standards.

**Timeline:** 2025-2027 biennium.

Please see the 6-Year Plan section below for more information.

### Additional accounts payable and preauthorized expenses staffing

**Action:** OPDC will request five (4.4 FTE) additional staff in the accounts payable and preauthorized expenses sections through a POP in 2025. With the increase in hourly providers comes more expense authorization and payments. This work requires additional staff to meet demand.

**Cost Estimate: \$1,264,880;** as these positions are permanent, they would come with roll-up costs.

**Expected Outcome: Policy Option Package.** Additional staff in these sections will ensure timely payments to hourly providers. Without timely payments, providers are hesitant to take OPDC cases.

**Timeline:** Additional staff can be hired and onboarded by September 2025.

### Invest in recruitment and retention

**Action:** Recruitment into public defense in Oregon has many barriers, particularly in rural, coastal, and frontier regions. Effective recruitment into public defense must begin before graduation with a clear pathway to entry after graduation to train and attract new attorneys to this work and to communities across the state. Currently, these efforts are largely delegated to contractors, and their ability to meet recruitment needs is limited by their ability to supervise, train, and compensate new or future law school graduates without funding from OPDC.

We have additionally heard from out-of-state attorneys we hired into the state trial division that the state trial division is highly attractive to experienced out-of-state trial attorneys because those positions are well-compensated with workload and caseload standards that are sustainable. Oregon is an attractive place to live and with bar license reciprocity, experienced trial lawyers can come to Oregon and represent persons within a few months. We need the ability to recruit attorneys out-of-state and we have no positions within OPDC that are dedicated toward recruitment efforts.

Additional funding for recruitment and retention programs would help to create the next generation of public defenders while keeping the ones we have. Please see OPDC's Policy Option Package 108 for more details about these programs.

**Cost Estimate: \$29,278,889**

**Supervised Portfolio Practice Exam Provisional Licensee Funding: \$10,654,250.** The Oregon State Bar has implemented the Supervised Provisional Practice Exam (SPPE) program as an alternative to the bar exam. Those accepted into the program are granted a Provisional License to practice law in a limited capacity under the supervision of a licensed Oregon attorney. Successful completion substitutes for a passing score on the Uniform Bar Exam, allowing the attorney to apply for admission to the Oregon State Bar.

**Law Student Funding/Stipends: \$1,224,000.** OPDC is requesting funding for the OPDC Law Student Scholarship Program, which would provide stipends for law students working in public defense. Eligible host offices must demonstrate a training and supervision plan to host a scholarship recipient. Recipients will have finished their second year of law school and meet the requirements to practice as a Certified Law Student under the Oregon State Bar's requirements.

**Rural Fellowship: \$1,985,530.** OPDC is requesting funding for the OPDC Rural Attorney Fellowship Program, which would provide for five full-time state employee attorneys ("Fellows") deployed to rural and frontier communities not currently served by OPDC's Trial Division. OPDC contractors in those counties would apply to host a program Fellow. Fellows would be newly licensed lawyers who are being hired for their first legal jobs. Each Fellow would receive an annual salary equivalent to the entry-level salary of a lawyer in the Trial Division and standard state employee benefits, including health insurance and retirement. The Fellows would be expected to make a three-year commitment to the program.

OPDC has a legislative mandate to increase the number of state-employed trial-level public defenders in the coming biennia, but it may be difficult to establish new Trial Division offices in these rural areas in the short term. Creating these state employees hosted within existing providers would allow OPDC to learn about these jurisdictions and train attorneys to eventually start or join state offices in those areas.

**Hiring Classes: \$10,654,250.** OPDC seeks funding to support FTE additions for annual hiring classes of new attorneys. This practice not only improves retention by creating cohorts of attorneys at similar points in their careers but also makes Oregon competitive with other states and public defense offices of national repute that hire new attorneys annually.

**New Attorney Training: \$250,312.** OPDC requests funding to adopt the Gideon's Promise model for training new attorneys. Their CORE 101 training is designed for public defenders in their first one to three years of practice. OPDC brought Gideon's Promise trainers to Oregon in the fall of 2023 to work with a cohort of 30 new attorneys for just one week of the CORE 101 training and received enthusiastic feedback from participants.

This training program would complement OPDC's anticipated partnership with the Oregon Criminal Defense Lawyers Association (OCDLA) to provide additional training since CORE 101 is not specific to Oregon law and practice.

**Outreach to Law Schools, Job Fairs, and New Lawyer Programs: \$118,000.** OPDC has funded an expansion of OCDLA's recruitment and retention efforts through the remainder of the current biennium. OPDC would provide continuing funding to expand OCDLA's recruitment and outreach efforts focused on law students, underserved areas, and minority communities. Additionally, the agency has expanded its efforts regarding recruitment by attending new lawyer programs and job fairs, putting on programs designed to bring experienced lawyers into the system, and expanding recruitment efforts focused on bringing in lawyers from out-of-state. This policy package would allow OPDC to continue and expand these recruitment and retention programs.

**Continuation of Law School Misdemeanor Clinical Programs: \$4,392,547.** HB 5204 (2024) authorized the start of misdemeanor defense clinics at Oregon law schools. On a one-time basis, the legislature approved a General Fund appropriation of \$2.1 million for distribution as directed to the three Oregon law schools to train and supervise certified law students to handle misdemeanor cases. While this program is expected to train a combined total of 60 law students to provide public defense services, the program cannot continue without continued funding for these clinics.

**Expected Outcome:** These programs will help recruit and retain the next generation of public defenders and build a pipeline from law school into public defense.

### **Increase and stabilize the hourly panel attorney and investigator rates**

**Action:** Part of the solution to this crisis is to stabilize public defender compensation at a rate competitive with the market. As previously discussed, OPDC has seen a direct correlation between the number of attorneys taking hourly cases and their pay rate (See Table 2 above).

OPDC must stabilize the hourly rate not to lose the progress made in building this hourly attorney panel and increased investigator rates through THIP. OPDC has a POP for 2025 to stabilize the hourly attorney rate for all cases at a two-tiered rate of \$205 and \$230/hour and the investigator rates at \$75 (investigator)/\$85 (mitigator)/hr. This will ensure that we have a sufficient number of hourly paid attorneys and investigators to provide representation for cases.

**Cost Estimate: \$39 million**

**Expected Outcome: Policy Option Package.** While we can't estimate the number of additional attorneys this rate increase will bring in, this hourly rate aligns with the economic study's market rate. OPDC believes this will make public defense hourly work more attractive to more attorneys. Assuming a similar increase to the hourly attorneys we saw with the initial implementation of THIP rates, stabilizing the hourly rate for all cases is estimated to bring in up to 180 additional hourly cases/month. This is in addition to the 90 additional monthly cases gained through the rate increase to THIP proposed through the September 2024 Emergency Board action.

Potentially more importantly, not adopting market rates, combined with the expiration of THIP, would result in the loss of many of the 200 monthly cases currently taken hourly.

**Timeline: 25-27 Biennium.** If funded, new rates would begin in July 2025.

**Barriers: Funding.** The main barrier to this is the cost of increasing rates.

**Supports:** Increasing attorney pay was one of the top recommendations from the Presiding Judges Crisis Reports.

### Continue to expand the state trial office divisions to meet the SB 337 requirements

**Action:** OPDC will request additional trial office attorneys and staff, including regional managers and Operations and Policy Analyst (OPA) positions, through a POP during the 2025 Legislative Session.

**Cost Estimate:** \$21.9 million.

**Expected Outcome: Policy Option Package.** Building the trial office towards SB 337 goals will significantly impact unrepresented cases around the state as new attorneys are brought on. Regional supervisors will also allow OPDC to build the trial division more sustainably and provide better management over regional representation problems. OPAs will help the trial division establish policy and procedures for a quickly expanding division.

**Timeline:** Additional staff can be hired and onboarded by September 2025.

**Barriers:** Availability of attorneys; while state trial positions have proven relatively easy to fill, the pool of attorneys will continue to shrink as the division grows.

## 6 Year Plan

The 6-Year Plan (Plan) provides a road map for how Oregon can implement an appropriately staffed workload model over three biennia. The implementation 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. Through this long-term solution, Oregon will be able to fix the underlying problems within its public defense system, which is the only way to fully resolve this crisis. Without investments in long-term solutions, the interventions above will only be stop-gap measures, and the cycle will continue.

The Plan provides various levers that the Legislature could invest in to eliminate the public defender deficit in Oregon:

1. Add more attorneys;
2. Add more support staff to augment attorneys;
3. Non-public defense interventions impacting the public defender deficit.

Using this plan, OPDC has developed Policy Option Packages for the 2025 Legislative session that represent the first phase of plan implementation and will be requesting the second and their phase in the 2027-2029 and 2029-2031 biennia, respectively.

### Add more attorneys

This baseline six-year staffing and budget plan simply adds 480 attorney FTEs to the current 506 attorney FTEs to eliminate the deficiency. Assuming an annual decrease of 1.4% in caseloads annually, OPDC will need to hire 80 attorneys annually to reach the total needed 986 attorney FTEs and eliminate the Adult Criminal attorney deficiency by 2031.

POP 102, Criminal Contracts, 105, Juvenile Contracts, 103, Trial Division Build, 104, Hourly Rates, and 108, Recruitment and Retention, focus on bringing more attorneys to the system. These POPs request funding for an additional 160 attorneys in the next biennium through contracted attorneys (80), hourly panel attorneys (40), and state trial attorneys (40).

Funding of these POPs will allow OPDC to implement 1/3 of the workload standard. Taking public defense workloads from the current MAC standard, which is 223% of the national workloads<sup>9</sup>, to 166% of national standards.

### **Add more support staff to augment attorneys**

Support staff, including administrative personnel, paralegals, legal assistants, and investigators, can be added to reallocate and augment attorney time. Case support personnel can alleviate the pressure of excessive workloads and contribute to eliminating the public defender deficiency before 2031. OPDC's POPs 102, 105, 103, and 104 all include funding for support staff. In addition to providing better services to clients, investing in support staff is also more cost-efficient than solving the public defender deficiency through attorneys alone.

### **Non-public defense interventions impacting the public defender deficit**

While the Plan aims to eliminate the deficiency by recruiting attorney FTEs and additional funding, several upstream and downstream factors impact the state's ability to eliminate 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 poor people accused of crimes in Oregon.

---

<sup>9</sup> [National Public Defense Workload Study | RAND](#)



Appendix

Appendix A: OPDC Unrepresented Plan Limitations Memo

Appendix B: OPDC Unrepresented Plan Workbook

Appendix C: OPDC Unrepresented Initiatives to Date

Appendix D: OPDC Unrepresented Plan Report Summary

Additional Information and References

[OPDC Six-Year Plan to Reduce the Public Defense Deficit](#)

[OPDC Hourly Rate and Economic Study](#)

[Oregon State Bar 2022 Economic Survey Report Findings](#)

[National Public Defense Workload Study | RAND](#)

[CJC Crisis Report](#)

[OPDC Crisis Guidelines \(August 2023\)](#)

[Public Safety Joint Subcommittee \(November 2023\)](#)



Date: July 24, 2024

To: Governor Tina Kotek

Cc: Jessica Kampfe, Executive Director  
Jennifer Nash, Chair of PDSC  
OPDC Commissioners

From: Lisa Taylor, Government Relations Manager

Re: OPDC Unrepresented Plan Limitations Memo

The Oregon Public Defense Commission (OPDC) submitted the OPDC July 2024 Unrepresented Plan (Plan) to the Governor on July 24, 2024. Accompanying the Plan is the OPDC Unrepresented Plan Workbook (Workbook). The Workbook provides a model for how many cases per quarter OPDC predicts would be removed from the unrepresented list by the various interventions outlined in the Plan. Based on these calculations, should all interventions be funded and implemented, OPDC estimates that they will have found representation for all in-custody unrepresented persons by the end of March 2025 and all out-of-custody persons by the end of March 2026.

However, the underlying list this model is built on is a moving target. As representation is found, additional cases are added. The list changes day by day. For the model to be correct, the underlying list has to remain consistent, continuing the average quarterly growth rate seen over the past two quarters. Should that underlying growth rate increase or decrease due to factors not accounted for, the model will no longer be accurate.

Should these factors change, the unrepresented list will grow, requiring more time for the interventions from the Plan to find representation for all cases on the list. Additionally, this model is relatively basic, with some inherent limitations.

OPDC will be able to track progress on these interventions and any changes in the underlying list and report on any divergence from the initial model.

#### **Unrepresented List Growth Factors**

**Charging Decisions:** OPDC has no control over the inflow of cases into the criminal justice system. The unrepresented list will likely grow if the number of cases filed increases. Factors that increase charging include counties hiring additional Deputy District Attorneys or law enforcement officers, policy changes

in district attorney or law enforcement offices, communities increasing their focus on law enforcement targeting specific crimes, and law changes. Relatedly, new technologies like police body cameras can significantly impact the amount of time it takes to provide representation on a case and reduce the number of cases for which providers can accept appointment.

**HB 4002 and Community Deflection:** HB 4002 has an indeterminate impact on the unrepresented list and will take effect as many of these interventions begin. Should community deflection programs not divert as many individuals away from the court system as initially thought, or more possession and related charges arise from HB 4002 than anticipated, the unrepresented list will grow. This growth would be exacerbated if the intervention of redirecting HB 4002 attorneys is carried out.

**Betschart Cases:** OPDC prioritizes appointing counsel for in-custody defendants potentially subject to pretrial release under the *Betschart* decision. This prioritization minimizes the public safety impacts of pretrial release for individuals for whom the court would not typically offer conditional release. One effect of this prioritization is that in-custody defendants not subject to pretrial release pursuant to *Betschart* are a lower priority. They may wait in jail without representation longer than their counterparts who are subject to the order. Additionally, potential *Betschart* releases are putting increased demand on hourly attorneys to accept appointment rapidly and may result in those attorneys reaching their limits sooner.

**Contractors:** OPDC has limited control over contractor behavior. When a provider loses an attorney, we see significant impacts on the unrepresented list. When an attorney leaves public defense, that provider has to reallocate all of their cases to other attorneys within the firm/non-profit/consortia. This can mean a provider will be at their monthly MAC capacity just by reassigning cases. Additionally, recruiting and onboarding a new lawyer takes time, and they may not be back to full MAC capacity for months. Staffing turnover, especially sudden or unexpected, will increase the unrepresented numbers in a jurisdiction.

Additionally, the Maximum Attorney Caseload is a maximum, not a quota. Attorneys have a duty to provide competent counsel, which includes having enough time and capacity to devote to each case. This means that attorneys may be unable to take more cases for ethical reasons. This is often due to complex cases that require more time than average, often related to clients with mental health or housing needs, which make communication and investigation difficult, or large amounts of video evidence that must be reviewed. OPDC cannot force cases on attorneys, though we can work with providers to remove barriers preventing them from taking additional cases. An increase in complex cases could lead to more ethical shutoffs, increasing the unrepresented numbers.

### **Model Limitations**

**Case type:** The model looks at the total number of cases on the unrepresented list rather than breaking it into individual case types. This could mean lower-level felonies are removed from the list faster than higher-level felonies. For example, some interventions specifically target one case type, and the attorneys would not be qualified to take higher-level cases.

**Location:** The model is not built by jurisdiction. It looks at the unrepresented list statewide, when individual jurisdictions may have unique constraints. This could mean some jurisdictions can clear their unrepresented list faster than others. Jurisdictions with state employees will have more resources, especially with early interventions.

Please review OPDC Unrepresented Plan Limitations Memo before reviewing these numbers.

Total Unrepresented Cases at End of Quarter	Decrease/Increase in Unrepresented Cases Every Quarter	Intervention Category	Hourly	State Employees	State Employees	Other	Hourly	State Employees	Hourly	Contractors	OPDC	Hourly	State Attorneys
		Case Type Targeted	Felony	C Felony and Below	C Felony and Below	Misdemeanors	Felony	Felony	Felony	All	All	All	Felony
		THIP continues Intervention through Dec 2025 (Numbers represent cases taken by intervention)	THIP continues Intervention through Dec 2025 (Case Count/Quarter)	Utilize unused 4002 capacity (Case Count/Quarter)	Redirect 4002 attorneys (Case Count/Quarter)	Resolution dockets (Case Count/Quarter)	E-Board: Extend THIP through June 2025 (Case Count/Quarter)	E-Board: Southwest Trial Office (Case Count/Quarter)	E-Board: Additional assignment coordinators (Case Count/Quarter)	E-Board: Additional 25 MAC (Case Count/Quarter)	POP: Additional AP/PAE staff (Case Count/Quarter)	POP: Stabilize hourly rate (Case Count/Quarter)	POP: Additional state attorneys and staff (Case Count/Quarter)
<b>In custody</b>		6.6											
Jan-March 2024	468	Average Increase per Quarter Jan-June 2024	600										
April-June 2024	491	23	600										
July-Sept 2024	457	-34	600	41									
Oct-Dec 2024	323	-133	600	22	98			20					
Jan-March 2025	-42	-365		18	174		600	30	150				
<b>Out of custody- Pretrial</b>		169.5											
Jan-March 2024	6863	Average Increase per Quarter Jan-June 2024											
April-June 2024	7478	615											
July-Sept 2024	7648	170											
Oct-Dec 2024	7212	-436								605			
Jan-March 2025	6362	-851		20		25				975			
April-June 2025	5313	-1049		38		25		30	150	975			
July-Sept 2025	3068	-2246		38		25		30	150	975		1098	99
Oct-Dec 2025	390	-2678		38		25		30	150	975		1332	297
Jan-March 2026	-2366	-2756		38		25		30	150	975		1410	297

All numbers represent Key: number of cases.

Current initiatives or continuation of current initiatives, prevents list from increasing.	New initiative that remove cases directly from Unrepresented list.	New initiatives that take cases before they are put on the unrepresented list, slowing the lists growth.
--	--	--

**Assumptions**

Once the in-custody numbers have been eliminated, the intervention impact is transferred to the out-of-custody list when intervention is applicable to out-of-custody cases.

The baseline of THIP cases- 600 cases/quarter- is not factored into these numbers, including the hourly numbers starting July 2025. Maintaining THIP is status quo. Should THIP not be extended through the E-Board up to 600 additional cases will be added to the unrepresented list per quarter as hourly providers stop taking cases.

It is difficult to predict unused 4002 capacity, as the need will be driven by charging decisions and deflection programs. We can assume the need will start smaller and grow. These numbers are estimates; it is possible OPDC will have no unused capacity. August 2024 represents capacity of new lawyers completing onboarding before 4002 goes into effect. The out of custody numbers represent the attorney dedicated to Marion Co Deflection Court, who will also be taking probation violations.

4002 provided 8 misdo/C Fel qualified state attorneys. Should all 8 attorneys focus only on C Fels, that's 168 C Fels/Month, however one attorney has already been dedicated to a Marion Co deflection court, so calculations are based on 7 attorneys. Higher qualified state attorneys won't have to pick up the occasional C Fel, providing more capacity to take on high level cases. This new capacity starts in Jan 25 when current C Fels close. Once the in-custody list has been cleared, these attorneys would go back to 4002 work, and are therefore no longer factored in as an intervention.

This assumes a resolution docket is held once a quarter, clearing 25 cases

This continues the status quo, should THIP not be extended we would see up to 600 additional cases on the in custody list per quarter.

6 attorneys, used high level felony workload for calculation.

Estimate a 50% increase in OPDC's ability to assign counsel.

13 C Felonies/MAC/Month. Accounts for ramp up time as attorneys are onboarded. These attorneys will be taking cases before they join the unrepresented list, so the one-to-one correlation is not as direct as shown here. These attorneys could also take Misdemeanors.

Out of Custody: THIP attorneys become hourly attorneys, including the increase seen from the Jan 25 THIP increased rate. Out-of-custody: We see a similar monthly increase as seen during the initial THIP implementation.

12 Senior Deputy Defenders and 16 Deputy Defenders onboarded by Sept. 2025, using high fel and low fel workload standards respectively for estimates. Two additional offices would come online mid 2025 and late 2025.

Impact indeterminate

Appendix C: Oregon Public Defense Commission Unrepresented Interventions To Date

<b>Intervention Category</b>	<b>Intervention</b>	<b>Timeline</b>	<b>Outcome</b>
Providers	Increase MAC	July 2022-Present	OPDC has increased the number of contracted providers by 8.1% in the new contract cycle beginning in July 2023 and 18.2% since July 2022. Increasing MAC continues to be the most direct way to increase capacity.
Hourly	Temporary Hourly Increase Program (THIP)	August 2022-Present	More attorneys took hourly cases at enhanced rates. Due to THIP, an average of 200 cases/month are being removed from the in-custody unrepresented list. Ending THIP prior to stabilizing hourly rates across case types could result in a loss of these case assignments.
Providers	Training, Supervision & Investigation funding	August 2022-Present	The agency is now funding a previously unfunded mandate for providers to support, recruit, and help up-qualify the next generation of public defenders.
Providers	New attorney incentive payment	October 2022 - June 2023	According to follow-up surveys, providers brought on and maintained 18.71 MAC through new attorney incentive bonuses.
Providers	Retention incentives	October 2022 - June 2024	Retention incentives gave providers bonuses for existing attorneys. 80% of survey respondents reported that retention incentives positively impacted their ability to retain attorneys.
OPDC	Redistribute Vacancies	July 2023-Present	Redistributing unfilled vacancies in provider contracts to localities that need additional capacity increases efficiencies and MAC utilization. If a provider cannot fill a vacancy after 60 days, it is removed from their contract and returned to a statewide pool. The OPDC staff reallocates that vacancy to a jurisdiction facing a significant unrepresented problem and to a contractor who purports to have applicants to hire.
Providers	Increased compensation for contracts (8%)	July 2023-Present	This compensation increase was slightly above inflation, and coupled with other investments like training and retention incentives, OPDC has seen an increase in retention, especially among misdemeanor lawyers.
OPDC	Ongoing data collection	July 2023-Present	Include prorated MAC in caseload reporting data to monitor MAC usage by contracted providers
OPDC	Crisis guidance to OJD	August 2023	OPDC produced a high-quality guidance document for the courts to use when developing their crisis plans as directed by SB 337.
Providers	Civil bar program – help with research & writing	September 2023-Present	OPDC staff created and implemented the Supervised Civil Attorney Program to connect public defense attorneys in need of research and writing tasks with civil attorneys willing to complete those tasks for an hourly fee. The program collected 22 civil attorneys/firms and connected attorneys in 10 cases. At least one of the civil attorneys began accepting hourly cases as a direct result of their participation in this program.
Providers	Gideons Promise / Trial College	September 2023-December 2023	Twenty-nine new attorneys participated in a trial skills/public defense intensive hosted by OPDC, OCDLA, and Gideon's Promise. Of those 29 attorneys, 25 are still in the public defense workforce today.
OPDC	OJD Data Share Agreement	November 2023-Present	OPDC has signed a data share agreement with OJD, which allows us to use Odessey data to prioritize the appointment of counsel. We can prepare additional analyses on Unrepresented Persons caseload data and present case records in a way that may better meet the daily business needs of OPDC analysts.
Providers	Demuniz clinic	November 2023	OPDC partnered with former Chief Justice Paul De Muniz to create and host an intensive criminal defense training session for new attorneys or attorneys new to criminal law. Nineteen attorneys and law students participated in the three-day training course and have since accepted representation in at least 1372 cases.
State Employees	Create a State Trial Division	December 2023-Present	State trial offices increase public defense capacity in the state while providing OPDC with more direct access to data and timekeeping. As of July 1, 3 trial offices have opened, taking 274 cases and providing OPDC with direct data and timekeeping.

Appendix C: Oregon Public Defense Commission Unrepresented Interventions To Date

OPDC	THIP Form	May 2024-Present	OPDC created a form for the courts to use for their unrepresented in-custody cases, which is helping the agency process THIP case assignments more efficiently and at a higher volume. This form is now used for Betschart cases and allows courts to provide additional context to cases that may need to be treated as a higher priority.
OPDC	Betschart Prioritization	June 2024-Present	OPDC has been working closely with the Oregon Judicial Department (OJD) to ensure a clear and reliable list of defendants subject to the Betschart ruling. OPDC prioritizes this list based on case type and works to find counsel for the highest priority cases first. Having a shared view of the list has improved communication, but there is still work to be done to ensure that all cases on the OJD list are correct and to improve efficiencies within OPDC's assignment process.
State Employees	Ensure that all state trial attorneys are working at full capacity.	June 2024-Present	Improved efficiencies within the trial divisions' case assignments, potentially identifying additional capacity.
Providers	Audit Maximum Attorney Caseloads and work with providers to identify barriers.	June 2024-Present	Identify barriers preventing providers from taking their 'full' MAC; removing barriers will allow for additional capacity.
OPDC	Work with public safety partners to define an unrepresented in-custody case.	June 2024-Present	More transparent communication and a better understanding of the scope of the crisis.
OPDC	New SPPE policy	June 2024-Present	This new program allows contractors to bring in SPPE provisional licensees. OPDC has had a lot of interest, especially from out-of-state and new law school graduates. OPDC will monitor this program as it is implemented.
Providers	Fund recruitment and retention efforts through the Oregon Criminal Defense Lawyers Association.	August 2024-Present	Expand OCDLA's recruitment and outreach efforts focused on law students, underserved areas, and minority communities. We aim to build the public defense workforce of the future and help retain the attorneys we currently have.

Appendix D: Oregon Public Defense Commission Unrepresented Crisis Plan Report Summary

Type	Intervention	Deliverable	Cost Estimate	Expected Outcome	Timeline
State Employees	Utilize any additional HB 4002 capacity.	OPDC Action	None	OPDC does not anticipate large amounts, if any, of unused 4002 capacity. However, assuming small amounts (20% decreasing to 10%), additional capacity from all 4002 state attorneys could equal 18-33 cases per month.	90 Days
State Employees	Discuss with partners the possibility of redirecting HB 4002 attorneys to prioritize unrepresented in-custody cases.	Leadership Meeting with Partners	None	Redirecting all 4002 attorneys could result in an additional 98 cases/quarter removed from the in-custody list. Elimination of C Felony and below in-custody cases by the end of March 2025, dependent on the continued decay rate of the current list.	90 Days
Partners	Work with public safety partners on case resolution dockets.	Memo to Courts	None	Since non-OPDC stakeholders drive these dockets, it is difficult to estimate. OPDC costs may be covered by existing resources. We assume a docket will happen once a quarter, clearing 25 cases from the out-of-custody list.	90 Days
Hourly	Extend the Temporary Hourly Increase Program through the end of the biennium.	E-Board Request Letter	\$18,920,249 roll up cost over 4 years. \$6.2 million SPA Eboard.	Extending THIP ensures the status quo is maintained and the 600 cases/quarter currently being taken are not lost.	90 Days
State Employees	Establish a state trial office serving the Southwest.	E-Board Request Letter	\$ 1,840,926	30 in-custody cases/quarter. With the growth we expect in the region's unrepresented numbers, a Southwest trial office of 6 attorneys could eliminate the current in-custody list in Coos and Douglas counties within 3-6 months.	90 Days
OPDC	Additional assignment coordination staff within OPDC.	E-Board Request Letter	\$ 189,058	25% increase in the monthly assignment of counsel, equating to 150 additional cases per quarter. The saturation of hourly attorneys throttles this rate and could increase should the hourly rate increase.	90 Days
Providers	Additional C felony qualified MAC.	E-Board Request Letter	\$ 4,203,413	Each additional MAC should prevent 39 C Felonies or 75 misdemeanor cases from joining the in-custody unrepresented list every month. While some unrepresented cases are taken through contracted MAC, cases under contract are usually assigned by the court before a case becomes unrepresented. This slows the growth of the unrepresented list.	25-27
OPDC	Additional accounts payable and preauthorized expenses staffing.	POP	\$ 1,264,880	Timely payments increase trust in OPDC and increase attorneys' willingness to take on OPDC work. OPDC is unable to assign a case count to this effort. (4.4 FTE)	25-27
Providers	Invest in recruitment and retention.	POP	\$ 27,307,860	Various programs would have different impacts on recruiting the next generation of attorneys. OPDC would track these outcomes.	25-27
Hourly	Stabilize the hourly attorney rate.	POP	\$ 39,000,000	In addition to maintaining the 600 THIP cases currently taken each quarter, stabilizing the hourly rate for all cases is estimated to bring in up to 540 additional hourly cases/quarter. This is in addition to the 270 additional quarterly cases gained through the rate increase to THIP.	25-27
State Employees	Additional state trial office attorneys and staff.	POP	\$ 21,900,000	297 cases per quarter once the first round of attorneys is onboarded. Additional cases will be taken once additional offices are established in 2026 and beyond.	25-27

Appendix D: Oregon Public Defense Commission Unrepresented Crisis Plan Report Summary

Intervention	2024					2025											
	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December
Temporary Hourly Increase Program (current action).	Fully Operational/Taking Cases																
Strategically utilize state attorneys for the most serious cases (current action).	Fully Operational/Taking Cases																
Ongoing communication, data collection, and sharing (current action).	Fully Operational/Taking Cases																
Utilize any additional HB 4002 capacity.	Fully Operational/Taking Cases																
Discuss with partners the possibility of redirecting HB 4002 attorneys to prioritize unrepresented in-custody cases.	Planning/Implementation			Fully Operational/Taking Cases													
Work with public safety partners on case resolution dockets.	Planning/Implementation				Fully Operational/Taking Cases												
Establish a state trial office serving the Southwest.			Planning/Implementation		Fully Operational/Taking Cases												
Additional assignment coordination staff within OPDC.			Planning/Implementation			Fully Operational/Taking Cases											
Additional C felony qualified MAC.					Fully Operational/Taking Cases												
Extend the Temporary Hourly Increase Program through the end of the biennium.					Fully Operational/Taking Cases												
Stabilize the hourly attorney rate.												Fully Operational/Taking Cases					
Invest in recruitment and retention.												Fully Operational/Taking Cases					
Additional accounts payable and preauthorized expenses staffing.												Planning/Implementation			Fully Operational/Taking Cases		
Additional state trial office attorneys and staff.												Planning/Implementation			Fully Operational/Taking Cases		

Planning/Implementation  
Fully Operational/Taking Cases