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 Jasmine Wright
 Rep. Paul Evans
 Sen. Floyd Prozanski

Executive Director:

Jessica Kampfe

Oregon Public Defense Commission

*Meeting will occur virtually.
 Wednesday, July 24, 2024
 9:00 AM – approx. 2:00 PM PST
 Via Zoom**

AGENDA

Approx. Time	Item	Lead(s)
9:00–9:05	Welcome	Chair Nash
9:05-9:20	Public Comment	Chair Nash
9:20-9:30	Update: Unrepresented Persons in Oregon Courts	Jessica Kampfe
9:30-9:45	Action Item: Unrepresented Governors report page 13	Adrian Smith, Jessica Kampfe & Lisa Taylor
9:45-10:00	Discussion: Budget Update	Jessica Kampfe Ralph Amador
10:00-10:30	Action Item: Notice of Intent to request E-Board Funding page 33	Jessica Kampfe Lisa Taylor
10:30-11:45	Update & Action Item: Draft Policy Option Package Narratives for 2025 Agency Budget Request page 37 Additional documents added: <ul style="list-style-type: none"> • POP 103 – page 128 • OPDC 2025-27 POP List page 141 	Jessica Kampfe Ralph Amador
11:45–12:00	**Break**	
12:00-12:30	Briefing: Presentation from Judge Greenlick	Judge Greenlick
12:30-12:45	Update: Appellate	Ernie Lannet Shannon Storey
12:45-1:00	Update: FCMS page 143	David Martin

1:00-1:05	Update: Director's Update	Jessica Kampfe
2:00	***Adjourn***	

**To join the Zoom meeting, click this link <https://zoom.us/j/98369754000> . This meeting is accessible to persons with disabilities or with additional language service needs. Our Zoom virtual meeting platform is also equipped with Closed Captioning capabilities in various languages, which agency staff can assist you with setting up ahead of meetings. Requests for interpreters for the hearing impaired, for other accommodations for persons with disabilities, or for additional interpreter services should be made to opds.state@opds.state.or.us. Please make requests as far in advance as possible, and at least 48 hours in advance of the meeting, to allow us to best meet your needs. Listed times are an estimate, and the Chair may take agenda items out of order and/or adjust times for agenda items as needed.*

***The commission welcomes public comment in written form and will review submitted written comment prior to the meeting. There will also be a limited amount of time to provide public comment during the meeting, with each commenter allowed up to three minutes. If you are interested in providing public comment virtually to the OPDC, or if you want to submit written comment, please email opds.info@opds.state.or.us. The deadline to submit interest is 5:00 PM PT July 22, 2024. Please include your full name, organization/entity name, email, and phone number. Public comment may be limited per person if time constraints require.*

Next meeting: August 21, 2024, 9am – 1pm

Meeting dates, times, locations, and agenda items are subject to change by the Commission; future meetings dates are posted at: <https://www.oregon.gov/opdc/commission/Pages/meetings.aspx>



Oregon Judicial Department

Unrepresented Crisis – July 2024 Update

Key Insights

[Unrepresented Trends](#)

The total number of unrepresented individuals decreased slightly from May to June; however, the number of unrepresented misdemeanor cases continues to rise. ([Figure 1](#)). Deschutes County continues to experience sharp growth in its unrepresented population ([Figure 2](#)). Daily updates are available at the OJD [Unrepresented Dashboard](#) web page.

[Betschart Federal Court Order](#)

The Ninth Circuit's appellate mandate in *Betschart et al. v. Garrett et al.*, issued on June 24, 2024, and U.S. District Judge McShane's November 14, 2023 injunction is in effect. Going forward, any state defendant who has been in custody unrepresented for seven days after their initial appearance and for whom an exception to the seven-day timeline does not apply must be released from custody. In response, OJD modified its Unrepresented Individuals data dashboard, displaying cases labeled as Potentially Subject To or Not Subject to Betschart. While the data on the dashboard should not be used to precisely identify the individuals and cases to whom the Betschart order applies, it is intended to be a tool to assist OPDC, the courts, policymakers, and the public.

OPDC staff have been able to find attorneys for many defendants subject to this order before the release timeline was reached. OJD is working with OPDC staff to disseminate and try to automate the Nintex forms used to request priority appointments.

[Average Time Unrepresented](#)

The amount of time people in custody are unrepresented has dropped to an average of 10 days. ([Figure 3](#)). People who are out of custody with pending felony cases continue to wait longer, on average, than people who are out of custody with misdemeanor cases.

[Unrepresented by County](#)

The crisis continues to be most severe in Jackson, Marion, Multnomah, Washington, and Douglas counties and is growing more severe in Clatsop, Deschutes, Coos, and Klamath counties ([Figure 4](#)).

[OPDC Trial Division Offices](#)

The OPDC Trial Division Offices continue to ramp up. Nine attorneys have taken 268 appointments since December 2023, primarily in Jackson and Multnomah counties and on misdemeanor and minor felony cases ([Figure 5](#) and [Figure 6](#)).

[Data Share Update](#)

In June 2024, OPDC transitioned from using OJD-created dashboards for attorney appointments, unrepresented data, and public defense caseloads to directly accessing the data from the OJD Data Warehouse. The OJD and OPDC data teams continue to meet biweekly to collaborate on enhancing data quality and creating efficiencies.

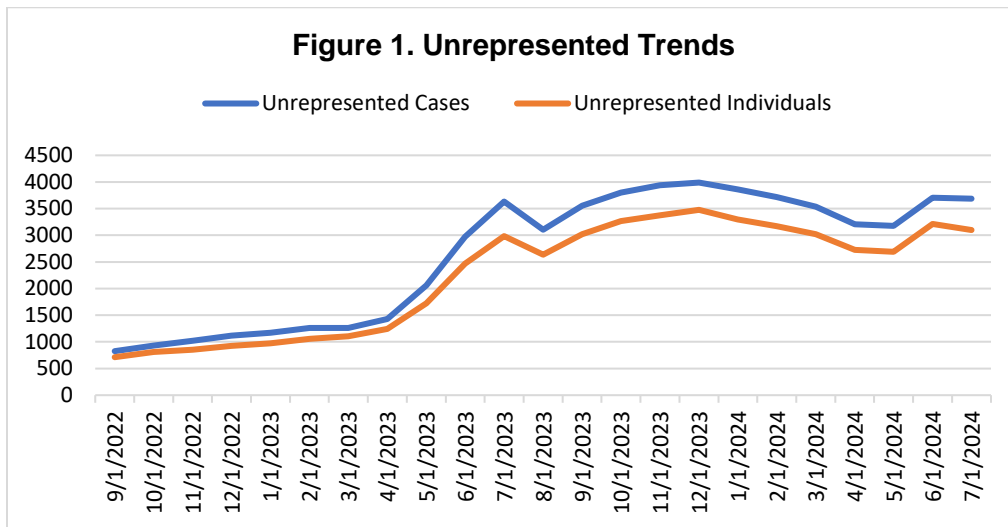
Local Court Spotlights

Multnomah County has consistently had one of the more severe crises in the state, and one of the longest, starting in January 2022. While the number of in-custody unrepresented individuals has decreased, the court continues to struggle with a growing number of out-of-custody unrepresented cases. The vast majority of unrepresented out-of-custody cases in Multnomah County are felony level, and the average time it takes to assign an attorney to those cases has been increasing since September 2022.

Unrepresented Trends

Figure 1 shows the number of unrepresented individuals has decreased slightly. While there are fewer unrepresented felony cases and non-criminal cases, the number of unrepresented misdemeanor cases continues to climb.

- As of 4/1/2024, there were 2,671 unrepresented individuals with 3,110 unrepresented cases:
 - 1,693 misdemeanors,
 - 1,305 felonies, and
 - 112 non-criminal cases.
- As of 5/1/2024, there were 2,747 unrepresented individuals with 3,184 unrepresented cases:
 - 1,769 misdemeanors,
 - 1,340 felonies, and
 - 75 non-criminal cases.
- As of 6/1/2024, there were 3,210 unrepresented individuals with 3,707 unrepresented cases:
 - 2,082 misdemeanors,
 - 1,552 felonies, and
 - 73 non-criminal cases.
- As of 7/1/2024, there were 3,097 unrepresented individuals with 3,685 unrepresented cases:
 - 2,217 misdemeanors,
 - 1,414 felonies, and
 - 54 non-criminal cases.

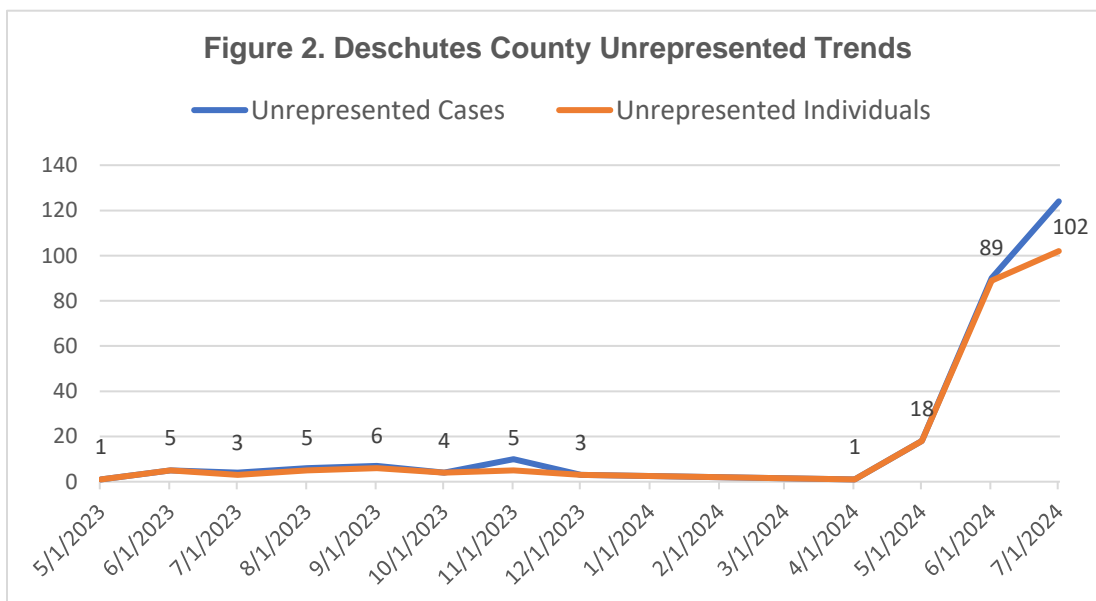


Source: OJD Odyssey Data (eCourt).

Deschutes County lost six public defense attorneys in May and now has a spike in its unrepresented population. Four of the vacant positions have since been filled; however, the new attorneys are only qualified to take misdemeanor cases.

As of 7/1/2024, Deschutes County had 102 unrepresented individuals with 124 unrepresented cases:

- 87 misdemeanors, and
- 37 felonies.

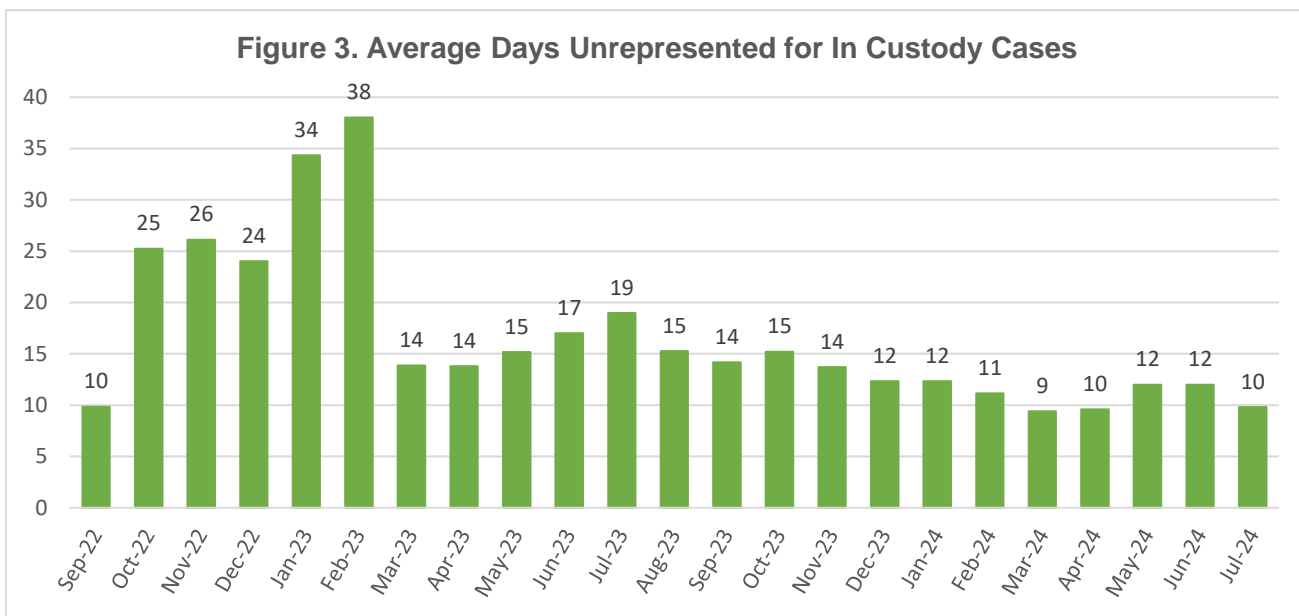


Source: OJD Odyssey Data (eCourt).

Average Time Unrepresented

People who are out of custody with felony cases are waiting an average of more than three months for an attorney. Out-of-custody people with misdemeanor cases are waiting an average of more than two months for an attorney. There are 94 cases that have been on the unrepresented list for at least six months and the defendant has not failed to appear in the case.

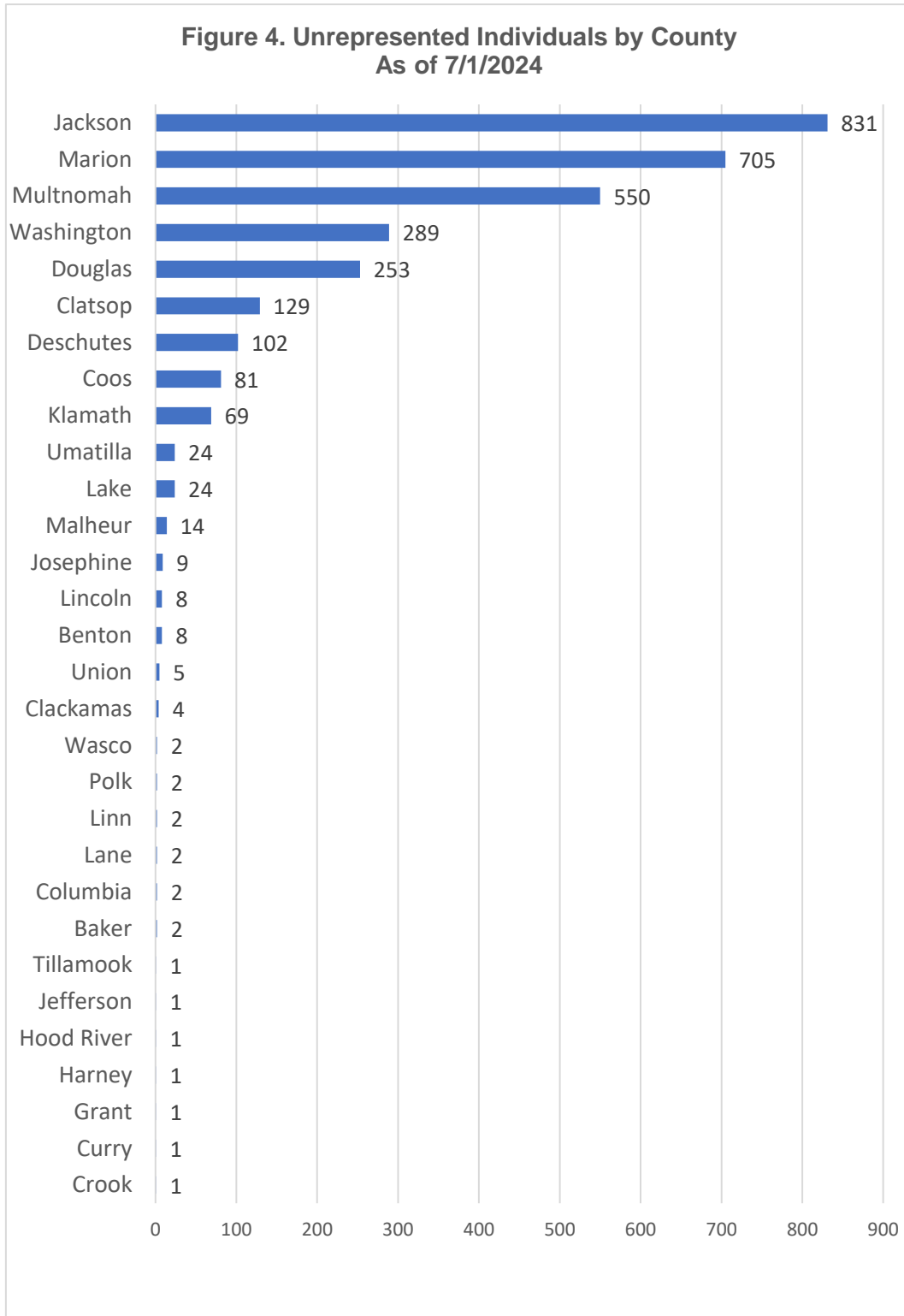
Figure 3 shows that the average time an unrepresented person has waited in custody before an attorney has been appointed has improved since February 2023. Because the *Betschart* order went into effect on June 24, 2024, it is too early to identify trends resulting from *Betschart* on the average time an unrepresented person waits in custody for counsel to be appointed.



Source: OJD Odyssey Data (eCourt).

Unrepresented by County

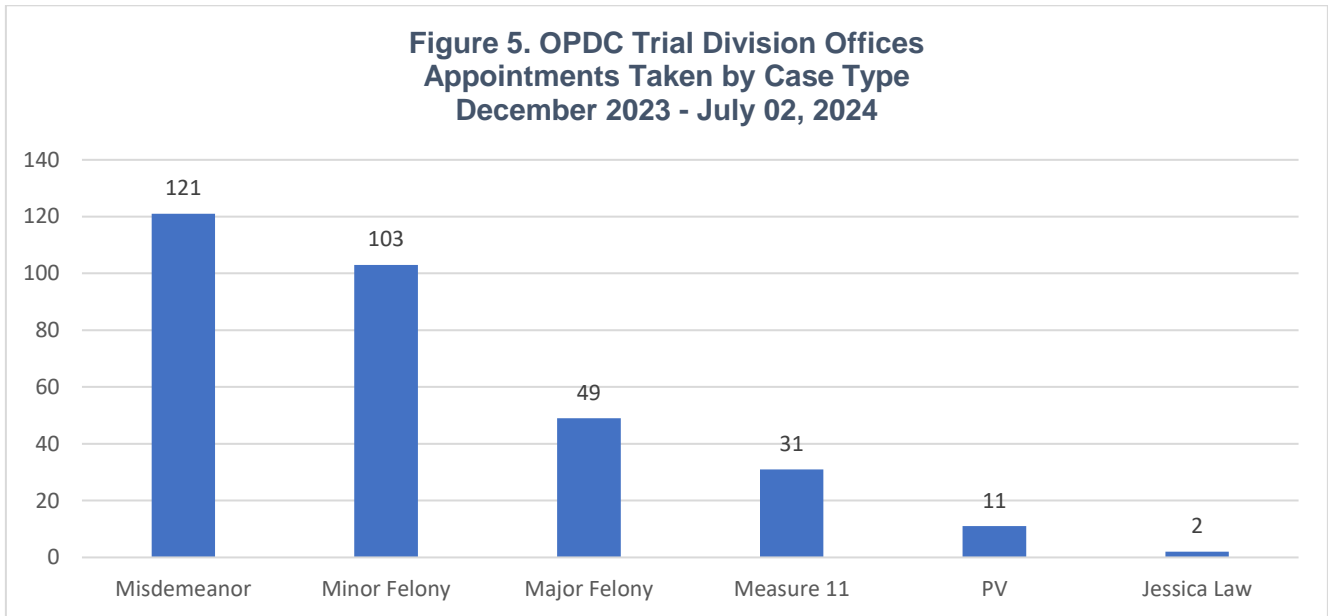
Figure 4 shows the number of unrepresented individuals by county. The OPDC regional trial division offices are primarily taking appointments in Jackson and Multnomah counties on misdemeanor and minor felony cases. While some counties have seen a decrease in the number of unrepresented persons since June 1, 2024, other counties have seen an increase. For example, Coos County had 36 unrepresented individuals on June 1, 2024, and as of July 1 has 81 unrepresented individuals. The Coos County public defender office recently lost four attorneys.



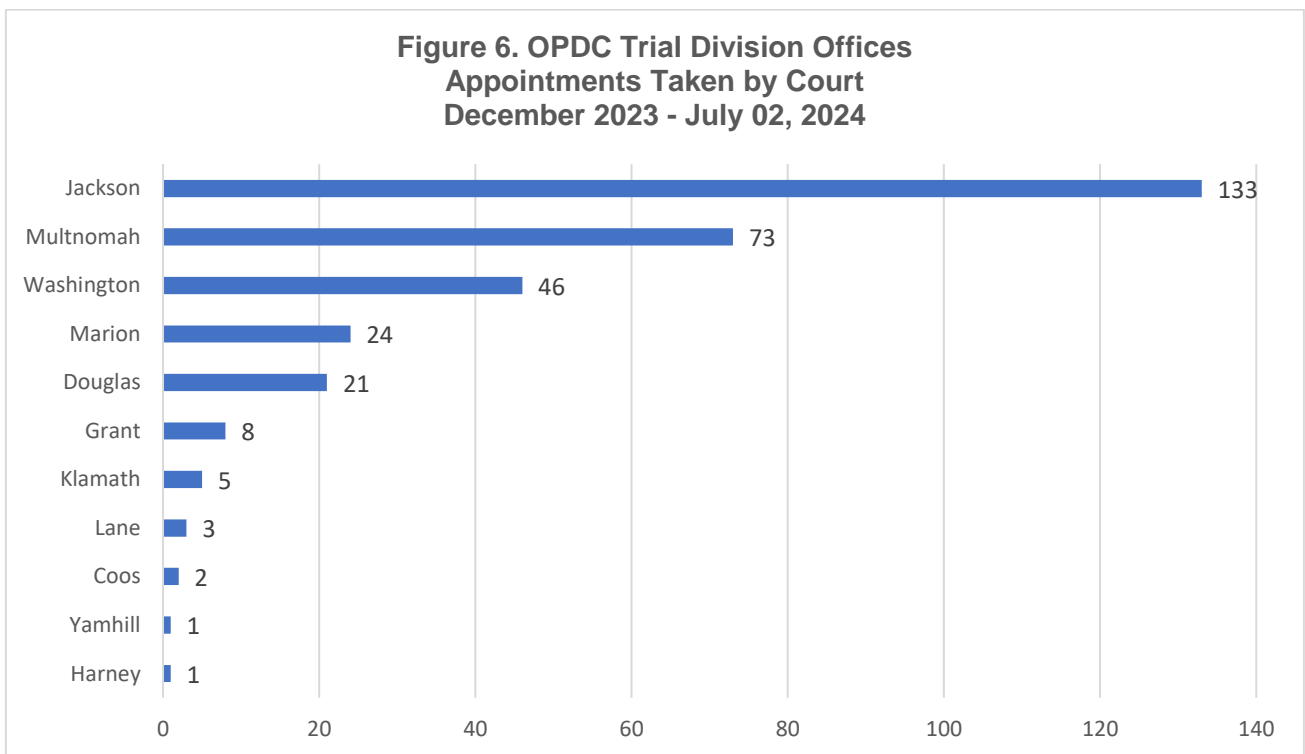
Source: OJD Odyssey Data (eCourt).

OPDC Trial Division Offices

Figure 5 and Figure 6 show the **268** new appointments taken since the first regional office opened in December 2023. The nine attorneys in the OPDC Trial Division regional offices service the Northwest and Southern Oregon regions, and Marion County. Trial division attorneys have also taken some cases outside of their regions, including cases subject to the *Betschart* order.



Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).

Data Share Update

In June 2024, OPDC transitioned from using OJD created dashboards for attorney appointments, unrepresented data, and public defense caseloads to directly accessing the data from the OJD Data Warehouse. OJD and OPDC continue to meet biweekly to collaborate on enhancing data quality and creating efficiencies.

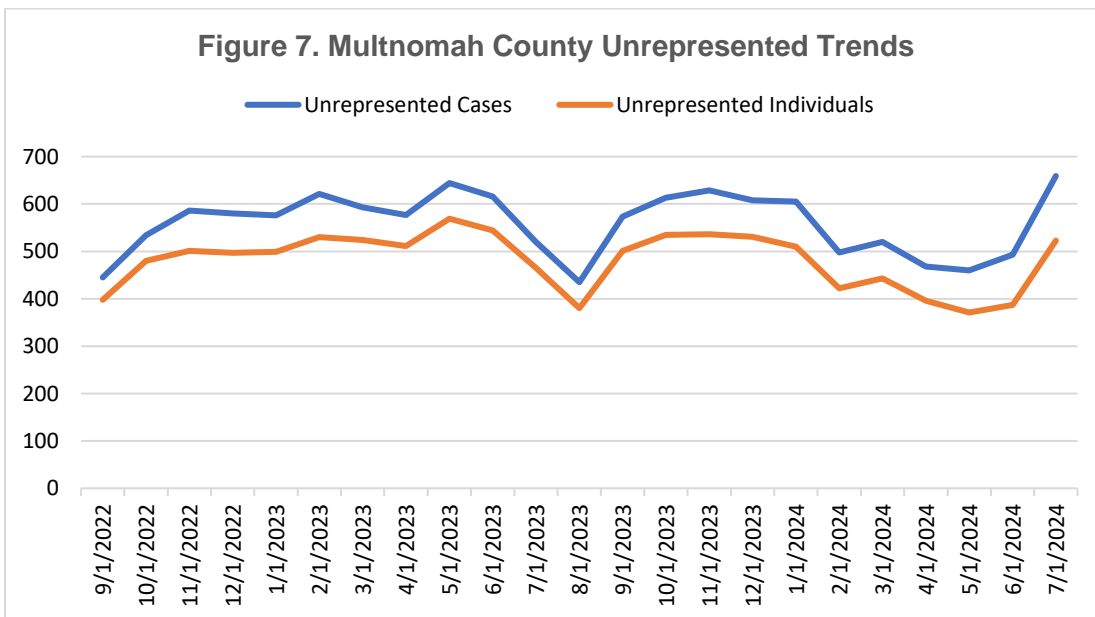
Local Court Spotlight

Multnomah Unrepresented Trends

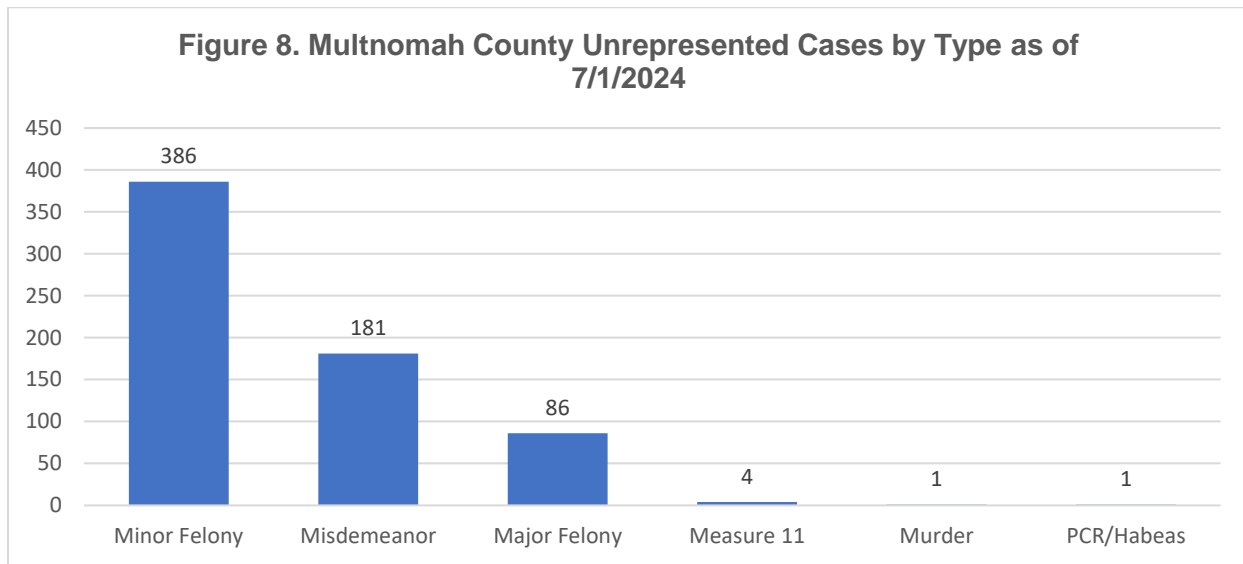
In January 2022, two public defense firms in Multnomah County announced they would temporarily cease taking appointments on felony cases. In April 2022, the firms also ceased taking misdemeanor appointments. At that time there were more than 600 unrepresented individuals. Since then, the court has taken numerous actions to address the crisis, including restructuring dockets, cross-training and adding new OJD staff, bringing in senior (retired) judges for settlement conferences, increasing the use of remote appearances, and expanding resolution dockets.

The court has dismissed some cases when an unrepresented individual has appeared numerous times with no attorney available to appoint. In many instances, the Multnomah County District Attorney’s office brought those cases back to a grand jury, secured an indictment, and refiled criminal charges. A case may have come off the unrepresented list, and later be added back if charges are refiled and no attorney is available to be appointed.

As of 7/1/2024, Multnomah County had 523 unrepresented individuals with 659 unrepresented cases, consisting of 477 felonies, 181 misdemeanors, and 1 PCR/Habeas case. This contrasts with the statewide trend where most unrepresented cases are misdemeanors.

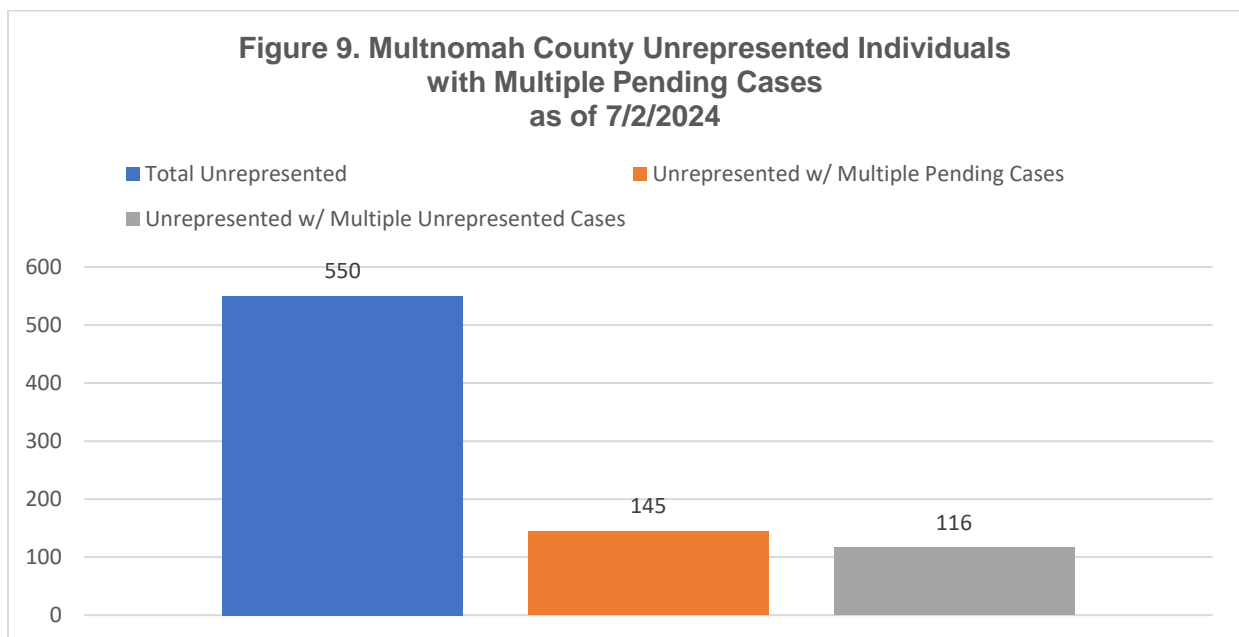


Source: OJD Odyssey Data (eCourt).



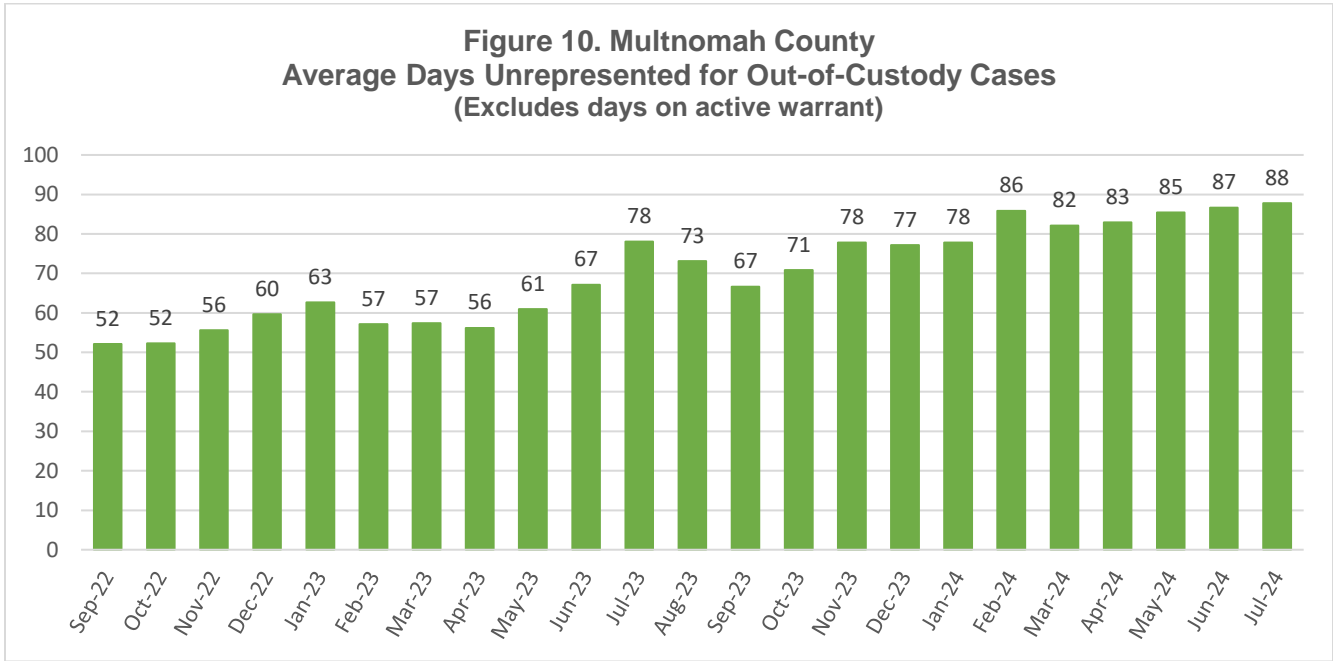
Source: OJD Odyssey Data (eCourt).

Figure 9 shows the number of unrepresented persons with multiple pending cases and the number of persons with multiple unrepresented cases. At times a defendant with multiple different case types will be represented on one case but not another. For instance, a defendant may have an attorney on a misdemeanor case but not on a separate minor felony case. The court also has noticed occasions when a defendant has multiple attorneys from the same office on different cases. For instance, one attorney will be assigned to a minor felony case and a different attorney will be assigned to a separate misdemeanor case for the same defendant.

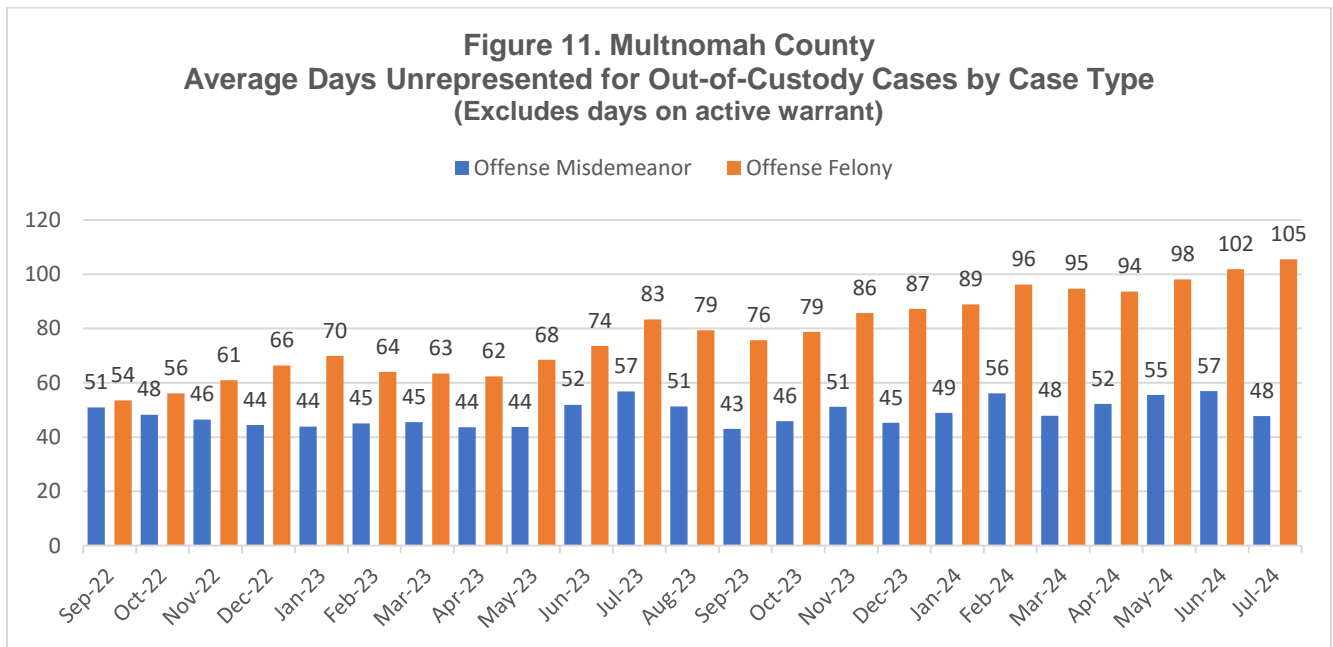


Source: OJD Odyssey Data (eCourt).

Figures 10 and 11 show the average time for an attorney to be assigned to an out-of-custody case in Multnomah County, excluding time in active warrant status. The average time for an out-of-custody felony case to be assigned an attorney has steadily increased since September 2022, and has more than doubled to a current average of three-and-a-half months before an attorney is assigned. The time for attorney appointments in misdemeanor cases has remained comparatively stable during the same period.



Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).



Oregon

Oregon Public Defense Commission

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July 24, 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 access to counsel. We are working tirelessly to identify and connect attorneys with clients, prioritizing those in custody on serious charges, those subject to the *Betschart* ruling, and those who could pose a public safety risk.

OPDC believes that by enacting all of the initiatives laid out in this plan, we can eliminate the in-custody unrepresented list by the end of March 2025 and the out-of-custody list by the end of March 2026¹.

Background

OPDC is combatting the entrenched problem of too few public defenders to meet the need in Oregon and the ensuing constitutional crisis of unrepresented persons who qualify for a public defender but do not have access to representation. This systemic problem requires robust solutions to stabilize our public defense workforce through caseload and workload standards that allow for constitutionally adequate representation and competitive wages.

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. Following this guidance, the Commission first adopted annual caseload maximums, later Maximum Attorney Caseload (MAC), in 2021. This revealed the true scope of Oregon's public defender shortage.

The Commission and policymakers have taken steps to address the constitutional crisis by improving Oregon's public defense system. However, the problem remains significant and will only fully improve when we have caseload and workload standards that allow public defenders to provide constitutionally adequate representation to their clients at a competitive wage.

¹ 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 initiatives²:

- 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.

Crisis Plan

In the next 90 days³, OPDC will enact the following initiative to reduce the unrepresented numbers:

- Utilize any additional HB 4002 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.

OPDC will request funding from the Emergency Board to:

- Extend and increase the Temporary Hourly Increase Program through the end of the biennium;
- Establish a state trial office serving the Southwest;
- Add assignment coordination staff within OPDC;
- Add 25 C felony qualified Maximum Attorney Caseloads (MAC);

In addition to these new initiatives, OPDC will continue effective existing programs.

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

- Additional accounts payable and preauthorized expenses staffing;
- Invest in recruitment and retention;
- Stabilize the hourly attorney rate;
- Additional state trial office attorneys and staff.

² See Appendix C: OPDC Unrepresented Initiatives to Date.

³ See Appendix D: Unrepresented Crisis Plan Report Summary

Finally, OPDC is working on finding long-term solutions to prevent this crisis in the future. OPDC has built a 6-year plan⁴ to build, stabilize, and maintain the public defense workforce. During the 2025 Legislative session, OPDC will bring forward POP 102 and 105 to address the first implementation phase of the six-year plan for contract providers. These POPs would bring in additional attorneys to build toward or meet the adopted caseload and workload standards, provide funding to meet the economic analysis rates, and provide support staff so attorneys can focus on the legal work. While this report is focused on immediate and near-term solutions, fixing the underlying problems within Oregon’s public defense system is the only way to fully resolve this crisis.

We appreciate your focus on this problem and welcome your help in bringing together public safety partners to implement short- and long-term solutions to this crisis.

Sincerely,

Jennifer Nash
Chair
Oregon Public Defense Commission

Jessica Kampfe
Executive Director
Oregon Public Defense Commission

⁴ [OPDC Six-Year Plan to Reduce the Public Defense Deficit](#)

Crisis Plan

90-Days

New Initiatives

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

Action:

Utilize unused 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 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. 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 Outcome:

Utilize unused 4002 capacity: OPDC does not anticipate large amounts, if any, of unused 4002 capacity. However, assuming small amounts (20% decreasing to 10%), 4002 state attorneys could take from 6-11 C felony cases per month.

Redirect 4002 attorneys: Assign all C felony and misdemeanor in-custody cases by January 2025. Assuming the in-custody list for C felonies and below does not grow and 4002 attorneys are fully dedicated to handling in-custody C felonies and misdemeanors, once fully onboarded, these attorneys could manage all current in-custody C felonies and misdemeanors by January 1, 2025.

In addition to clearing these cases, these attorneys would take lower-level cases OPDC's higher-qualified attorneys have previously handled. OPDC's highly qualified attorneys currently carry mixed caseloads, including major and minor felonies. By shifting new minor felony cases to minor felony qualified lawyers hired pursuant to HB 4002, we would also increase capacity in our existing workforce to take more serious cases. This increase in capacity could lead to an additional nine high-level felonies per month starting January 2025.

Timeline: September-January 2025.

Barriers: 4002 Commitments and Expectations: These attorneys were funded through 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 4002 proposals. Based on early information, OPDC anticipates that 4002 will add many new drug charges to existing case filings. 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.

Unrepresented List Changes: The unrepresented list is a moving target; while it has 82 C Felonies today, that will change tomorrow and a month from now. State attorneys can clear the backlog, but more cases will join the list as that happens. This could be further impacted by C Felony rates increasing as 4002 goes into effect or future disruptions to regional public defense providers like the staffing problems we've seen in Deschutes and Coos counties.

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 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: Varies; some costs can be absorbed within the current budget, while others may require additional funding. OPDC will work with courts to use hourly or state trial resources to keep costs within current resources and avoid using Maximum Attorney Caseload.

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 a docket will occur every three months, clearing 25 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 bandwidth or 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.

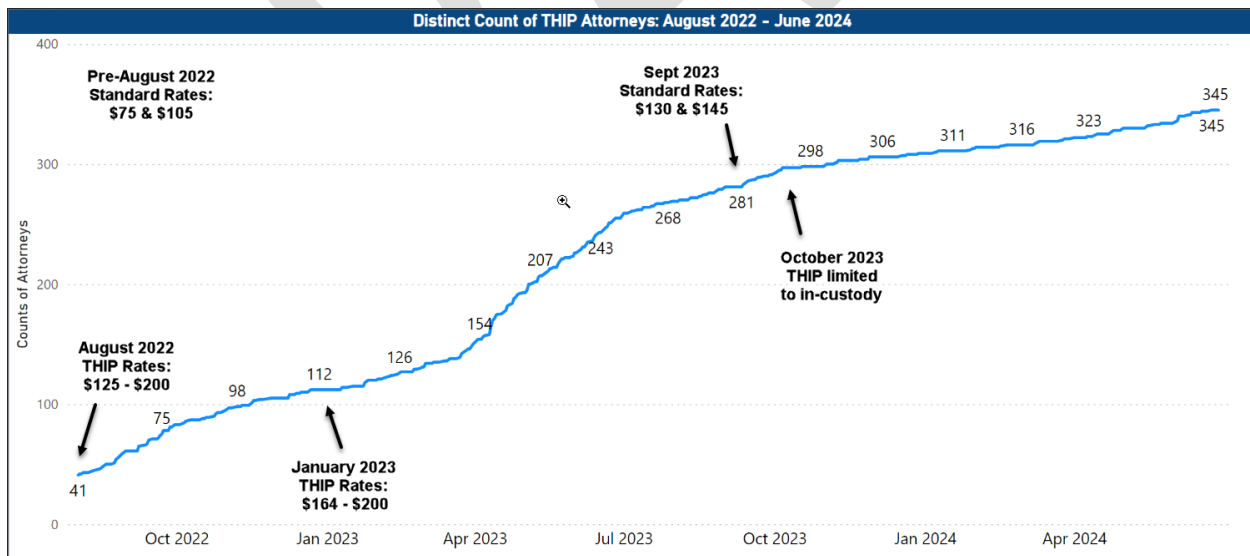
September Legislative Emergency Board Requests

Extend and increase the Temporary Hourly Increase Program 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 the unrepresented cases were represented. The long-term solution to this problem is to pay attorneys a 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 and the hourly rate. 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 1: 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 stabilize hourly attorney 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 rates⁵ took over. OPDC will request an extension of THIP through the end of the biennium at the same rate as the stabilized hourly rate proposed in the POP. This extension and increase will allow OPDC to:

- Bring in more hourly attorneys with an increased rate;
- 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;
- Allow for a smooth transition from THIP to an hourly panel of attorneys come July 2025.

Table 2: Comparison of hourly rates under current and proposed rates.

Current Hourly Rate	Current THIP Rate	Proposed New THIP Rate	POP Stabilized Hourly Rate	Mean Hourly Rate- Private Practice
\$130-\$145	\$164-\$200	\$205-\$230	\$205-\$230	\$334 ⁶

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: \$21,074,463; would create potential future biennium costs through cases assigned under THIP that do not close within the 23-25 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 remove 120 clients and 200 cases per month 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.

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 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

⁵ [OPDC Hourly Rate and Economic Study](#)

⁶ [Oregon State Bar 2022 Economic Survey Report Findings](#)

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.

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-October 2025. Six months to establish the office and six months to assign all of the in-custody backlog.

Add assignment coordination staff within OPDC

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 50 additional cases per month, 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.

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

Add 25 C felony qualified Maximum Attorney Caseloads (MAC)

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)⁷ program.

⁷ [Oregon State Bar SPPE Program](#)

Cost Estimate: \$4,203,412; continuing these MAC into the next biennium would have roll-up costs.

Expected Outcome: September E-Board Request. Additional MAC increases the public defense capacity in a given jurisdiction. For every additional MAC, 13 C felonies or 25 misdemeanors would be taken before joining the unrepresented list. This would slow the growth of the out-of-custody 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*.

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

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.

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.

[Stabilize the hourly attorney rate](#)

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 through THIP. OPDC has a POP for 2025 to stabilize the hourly rate for all cases at a two-tiered rate of \$205 and \$230/hour. This will keep the attorneys taking hourly cases and bring in new attorneys while incentivizing attorneys to take cases before they become unrepresented.

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.

Additional state trial office attorneys and staff

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: Cost Estimate of POP 103 to be inserted before sending to Governor.

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.

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](#)

[CJC Crisis Report](#)

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

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

DRAFT



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	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	Felony	Felony	All	All	All
		THIP continues Intervention through Dec 2025 (Numbers represent cases taken by intervention)	THIP continues 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: Increase 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)
In custody		6.6												
Jan-March 2024	468	Average Increase per Quarter	600											
April-June 2024	491	23	600											
July-Sept 2024	457	-34	600	41										
Oct-Dec 2024	343	-113	600	22	98									
Jan-March 2025	-106	-449		18	174		600	114			150			
Out of custody- Pretrial		169.5												
Jan-March 2024	6863	Average Increase per Quarter												
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	5303	-1059		48		25			30	150	975			
July-Sept 2025	3648	-1656		48		25			30	150	975	1098	99	
Oct-Dec 2025	1560	-2088		48		25			30	150	975	1332	297	
Jan-March 2026	Appendix A: C	#VALUE!		48		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.
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Assumptions

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

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 200 additional cases will be added to the unrepresented list per month as hourly providers stop taking cases.

4002 provided 8 misdo/C Fel qualified state attorneys. Should all 8 attorneys focus only on C Fels, that's 56 C Fels/Month, however one attorney has already been dedicated to a Marion Co deflection court. 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 ever 3 months, clearing 25 cases

This continues the status quo, should we would see 200 additional cases on the in custody list/month.

This is the same request as the extension of THIP, but the increase has unique impacts, so it has been split out. It assumes we will see half of the increase in hourly attorneys we saw from the initial THIP rate implementation.

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.

Impact indeterminate

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.

Appendix C: Oregon Public Defense Commission Unrepresented Interventions To Date

Intervention Category	Intervention	Timeline	Outcome
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	Varies/Indeterminate	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 and increase the Temporary Hourly Increase Program through the end of the biennium.	E-Board Request Letter	\$ 21,074,463	Extending THIP ensures the status quo is maintained and the 600 cases/quarter currently being taken are not lost. Enhancing the rate will bring in additional attorneys if we see half of what the initial THIP rates brought in, that 114 additional cases in the first quarter, potentially increasing in future quarters.	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	Cost Estimate of POP 103 to be inserted before sending.	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

Intervention	2024					2025											
	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
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 and increase 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



Date: July 24, 2024

To: Jennifer Nash, Chair of PDSC
OPDC Commissioners

Cc: Jessica Kampfe, Executive Director

From: Lisa Taylor, Government Relations Manager

Re: Notice of Intent for September Emergency Board

Nature of Presentation: Action Item.

Background: OPDC has several requests for the Emergency Board during September Legislative Days, September 23-25, 2024. The requests pertain to both OPDC's organizational structure and the unrepresented crisis. Requests for funding to address the unrepresented crisis align with the plan submitted to the Governor. The first step in sending a request to the emergency board for funding is to provide notice of intent. That notice is due by August 19th. The second step is to provide a detailed letter requesting emergency board funding. The OPDC commissioners will review the agency's letters during the meeting on August 21st, and the agency will submit the letters to the legislature on August 24th.

OPDC staff is requesting approval to include the following items in our notice of intent for submission to the Emergency Board, with the understanding that the Commission will have further input on the submitted letters.

1. **OPDC Organizational Structure.**

Cost Estimate: \$860,316

This request will be the first step in implementing an organizational structure that aligns with agency standard practices. It will allow OPDC to separate the work contract analyst and procurement, create a clearer delineation of roles,

and set OPDC up for success in the coming budget year. The request includes:

- a. Moving miscategorized positions to their correct place;
- b. Moving positions to new sections to better meet the needs of the agency;
- c. Creating new sections within existing divisions to better define work;
- d. Reclassing positions within the agency at a net zero cost;
- e. Request positions with cost savings from reclass (potential cost would come from Executive Transfer SPA);
- f. Request funding for a compensation and classification study to meet Executive Branch expectations (\$50,000);
- g. Request funding for backfill and continue temporary staff brought on for Accounts Payable and Preauthorized Expenses (\$810,316).

2. Fund the legislatively approved extension of the Temporary Hourly Increase Program (THIP) from June-December 2024.

Cost estimate: \$18,920,249

The May Emergency Board approved a continuation of THIP from June to December 2024. Rather than fund it at that time, OPDC was directed to make a funding request to the September Emergency Board, as we would have better cost estimates then. The request would backfill THIP expenditures since June 2024 and anticipated expenses until the end of December 2024, when THIP is set to expire.

3. Extend and increase the Temporary Hourly Increase Program (THIP) through the end of the biennium.

Cost estimate: \$21,074,463

THIP is set to expire on December 31, 2024. During the 2025 session, OPDC requests funding to stabilize hourly attorney rates for all attorneys at a two-tiered rate of \$205 and \$230/hour beginning July 2025. OPDC's current standard hourly rates are significantly lower than the THIP rates. In the 2025-27 biennium, OPDC is requesting a policy option package to stabilize our standard hourly rates at \$205 and \$230 an hour for attorneys, which is the market match rate, as well as increasing the hourly rates for core staff. With THIP expiring in December 2024 and the new rates not beginning until the next fiscal biennium, public defense will experience a gap where the increased hourly rates for in-custody unrepresented cases would end before the agency implements new stabilized hourly rates. OPDC will request an extension of THIP from the Emergency Board through the end of the biennium at the same rate as the stabilized hourly rate proposed in the POP,

\$205 and \$230/hour and \$75/hour for investigators. Only in-custody unrepresented cases will be eligible for THIP. This extension and increase will allow OPDC to:

- Bring in more hourly attorneys with an increased rate;
- 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;
- Allow for a smooth transition away from THIP to an hourly panel of attorneys come July 2025.

4. Establish a state trial office serving the Southwest region.

Cost estimate: \$1,840,926

OPDC will request funding to open a state trial office for six attorneys and support staff in the Southwest, serving Douglas and Coos counties. Currently, Douglas County is served by the Southern office in Medford. However, that office is primarily taking cases from Jackson County as that county's unrepresented numbers are very high. Drive times from Medford to Roseburg also take up attorney time that could be spent on cases. Additionally, without an office in Coos County, Salem state attorneys have to drive to Coos when serious cases face release under Betschart, and no other attorney can be found. We are experiencing staffing issues in Coos public defender offices and expect their unrepresented list to grow.

5. Additional assignment coordination staff within OPDC.

Cost estimate: \$189,058 for the remainder of the biennium.

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.

6. 25 additional C felony-qualified Maximum Attorney Caseloads (MAC).

Cost Estimate: \$4,203,412

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 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.

Agency Recommendation: The Agency recommends that the Commission approve the five items above for submission as a notice of intent to the Legislative Fiscal Office for the September Emergency Board.

Fiscal Impact: \$47,088,424 in requests to the Emergency Board.

Agency Proposed Motion: I move that the Commission submit a notice of intent to the Legislative Fiscal Office for the September Emergency Board for the following items:

1. OPDC Organizational Structure;
2. Fund the legislatively approved extension of the Temporary Hourly Increase Program (THIP) from June-December 2024;
3. Extend and increase the Temporary Hourly Increase Program (THIP) through the end of the biennium;
4. Establish a state trial office serving the Southwest region;
5. Additional assignment coordination staff within OPDC;
6. Add additional C felony-qualified Maximum Attorney Caseload (MAC).



**Oregon
Public
Defense
Commission**

Date: July 24, 2024

To: Jennifer Nash, Chair
Susan Mandiberg, Vice-Chair
OPDC Commissioners

From: Jessica Kampfe, Executive Director
Ralph Amador, Budget Director

Re: '25-'27 Agency Budget Request

Action: Update, discussion, and vote.

Background: The agency is funded on a biennial budget process, and the agency's requested budget (ARB) must be submitted to the executive branch by August 31, 2024. The ARB includes funding for the agency's current service level (CSL) and its policy option packages (POPs). ORS 151.213 requires the voting members of the commission to approve, by majority vote, the budget before it is submitted to the legislature.

Since its inception, this commission has inherited a public defense crisis that has required divided attention between short-term and long-term strategies. The commission has engaged issues such as public defender workload and caseload, compensation, and workforce development. It has discussed staffing gaps at the agency and the challenges that arise from those gaps. And it has heard the call for technology improvements to allow for better data gathering and improved business practices. Additionally, SB 337 (2023) directs the agency to change the public defense service delivery model.

The proposed POPs are responsive to those concerns and directives. POP 101 is a budget request for continued planning, procurement, and implementation of a an integrated financial and case management system. POPs 102, 103, 104, and 105 are directed toward the caseload, compensation, and service delivery mandates of SB 337, and they incorporate the caseload and compensation decisions made by the Commission as a part of the Six-Year Plan and are informed by the hourly rate and economic survey conducted by Moss Adams. POP 106 is focused on the agency's staffing needs. POP 107 is a budget request for funds to continue to compensate attorneys and investigators who were appointed to THIP cases this biennium. POP 108 is aimed at workforce development, recruitment, and retention.

The commission first heard these concepts at its meetings on June 13 and June 20. The agency has continued to develop the POPs as directed by the commission. The commission will meet again on August 21, 2024 for final approval of the ARB.

Agency Recommendation:

OPDC staff is recommending the Commission review the attached POP narratives and approve those concepts in draft form.

Fiscal Impact:

The POPs would have a fiscal impact on the agency if funded by the legislature.

Agency Proposed Motions:

Move to approve the POPs in draft form and direct the agency to report back to the commission in August with the completed ARB.

Oregon Public Defense Commission 2025-27 Policy Package

Division: Administrative Services Division
Program: Financial and Case Management System (FCMS)
Policy package title: Financial and Case Management System (FCMS)
Policy package number: 101
Related legislation: SB 337 (2023)

Summary statement: A budget request for continued resources for planning, procurement, and implementation of an integrated Financial and Case Management System (FCMS).

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Policy package pricing:	\$3.7 million	\$10.5 million	\$0	\$14.2 million	8	8.00

Oregon Public Defense Commission: 2025-27 Policy Package

Purpose

1. Why does OPDC propose this policy package and what issue is OPDC trying to fix or solve?

The Oregon Public Defense Commission (OPDC) proposes an integrated financial and case management system (FCMS) to enhance efficiency and accountability in Oregon's public defense services around timekeeping, case management and financial process'. This system will reduce manual data entry, keep record of time spent on cases, streamline payment management, and improve caseload monitoring and analysis. Without it, evaluating public defense services is difficult, affecting case management and data collection.

The FCMS will standardize data collection, improve contract monitoring, ensure financial accountability, and comply with national best practices. It will facilitate timely payments, detailed financial reporting, and audits. The system will provide comprehensive data on attorney qualifications, caseloads, and more, aiding decision-making for the Oregon Legislature, Governor's office, and stakeholders. This initiative is essential for meeting Oregon's public defense needs and ensuring timely legal services for eligible individuals.

This POP would also address the critical problem of being understaffed in key resources that are needed for the FCMS project to be able to stay on track and deliver a timely solution for OPDC. We are currently understaffed in key areas of project management, a chief data officer, business analysts, a systems analyst, and a data analyst that all have important project deliverables due within the next few months. It is vital that we secure these additional resources to staff FCMS appropriately as well as bring in a chief data officer to oversee the critical piece of data migration for FCMS.

1 Office of Public Defense Services. (2016). Public Defense Services Commission Strategic Plan 2016-2021. Strategic Plan: Mission Statement. Retrieved from <https://www.oregon.gov/opds/commission/reports/PDSCStrategicPlan2016-2021.pdf>. 2 Department of Administrative Services. (2018). Oregon Accounting Manual. Retrieved from <https://www.oregon.gov/das/Financial/Acctng/Documents/15%20Accounting%20and%20Financial%20Reporting%20search.pdf>. 3 New York Office of Indigent Legal Services. (2016). A Determination of Caseload Standards pursuant to § IV of the Hurrell-Harring v. the State of New York. 4 Department of Administrative Services. (2019). Oregon Accounting Manual. Chapter 15. Salem, Oregon. Retrieved from <https://www.oregon.gov/das/Financial/Acctng/Documents/15%20Accounting%20and%20Financial%20Reporting%20search.pdf>.

2. What would this policy package buy and how and when would it be implemented?

Oregon Public Defense Commission: 2025-27 Policy Package

OPDC is requesting funds to purchase a new cloud-hosted financial and case management system (FCMS) and start the contract with a vendor by early 2025. The agency is requesting \$14.2 million in one-time funds and authorized eight positions (8.0 FTE) for planning this project.

A budget note in the budget report and measure summary to Senate Bill 337 (2023) provides that “the commission must report to the Joint Legislative Committee on Information Management and Technology and the Joint Committee on Ways and Means during the Emergency Board hearing in the September 2024 session, including a business case, project timeline, and cost estimates, following the Stage Gate process or similar.”

The project team is currently drafting a system request for proposal (RFP) to be released in mid-2024, allowing for vendor selection and implementation to begin by 2025.

3. How does this policy package further OPDC’s mission and align with its strategic plan?

OPDC aims to ensure timely legal services for eligible individuals, following Oregon's justice standards. To achieve this, OPDC adheres to values and strategies from its 2016-2021 strategic plan.

The Financial and Case Management System (FCMS) will:

- Ensure competent, client-centered representation (**Goal I**);
- Maintain a sustainable and accountable statewide public defense system (**Goal II**); and
- Offer tools to monitor outcomes, client satisfaction, caseloads, demographics, financial accountability, time keeping, and contract performance. This will help ensure qualified attorneys, improve contract oversight, maintain fiscal integrity, and support long-term stability (**Goal III**).

4. Is this policy package being requested because of an Oregon Secretary of State or internal audit? If so, provide further information.

No.

Oregon Public Defense Commission: 2025-27 Policy Package

Quantifying results

5. How will OPDC measure the success of this policy package?

The FCMS's success will be measured by its 24/7 operational availability (excluding maintenance) and its ability to provide a permissions-based system for report generation and detailed analyses. This includes tracking case outcomes, attorney qualifications, caseloads, contract oversight, case milestones, event data, and time keeping.

The system will enable OPDC to compile data for legislative requests, compare outcomes with national standards, and ensure transparency in public defense services. Additionally, it will modernize OPDC's operations with improved data management, payment processing, and dashboards, supporting the agency's strategic goals and the needs of Oregon's public defense system.

6. Is this policy package tied to a legislative Key Performance Measure (KPM) and/or an OPDC performance measure? If yes, identify the performance measure(s).

Yes, FCMS will link to KPM's directly:

- Appellate Case Processing: FCMS will allow faster process time and better data management.
- Customer Service: FCMS will streamline many functions in accounts payable, finance, and case management.
- Best Practices for Boards and Commissions: FCMS is a foundational system that will enhance data management, time keeping, and finance processes, thereby improving accountability.
- Trial Level Representation: FCMS will bolster the data integrity for trial level representation as well as allow accurate allocation of work, case load management and time tracking to improve accuracy of Trial Case Management practices.
- Parent Child Representation Program: FCMS will allow for accurate data to be stored for parent child representation and in effect strengthen the overall program metrics and KPM's of that program as well.
- OPDC does want to leverage FCMS to allow for a move towards performance measures with accurate data, IT modernization and measurable data across time keeping and case management that will drive metrics for KPM's in the future.

Oregon Public Defense Commission: 2025-27 Policy Package

7. What are the long-term desired outcomes?

Three functional areas are in a new FCMS that will build a foundation for OPDC: Time Keeping, Case Management and Finance operations within a scalable solution. A cloud-hosted FCMS will provide OPDC with a modern, reliable technology platform that ensures quality, accurate, and effective work. By purchasing a COTS product, OPDC will benefit from reduced development time, timely feature upgrades, and a single product investment (excluding maintenance fees). Regular upgrades will keep the system current and minimize downtime.

The FCMS will help OPDC inform decision-makers about public defense outcomes, collect and analyze data, monitor and evaluate payment requests, and process all public defense payments and reimbursements.

8. What would be the adverse effects of not funding this policy package?

- OPDC's current database structures are inadequate for daily operations and collecting valuable public defense data, relying instead on monthly reports from providers and data share agreements with judicial partners.
- The FCMS is essential for OPDC to implement the service delivery model changes required by SB 337, meet legislative reporting requirements, ensure effective indigent defense counsel, and provide accurate and timely payments to contractors and providers.
- Without the FCMS, OPDC cannot effectively evaluate and ensure that internal and external operations meet key performance measures and statutory requirements.

How achieved

9. What actions have occurred to resolve the issue prior to requesting a policy package?

- OPDC has focused on minimizing system downtime rather than resolving underlying system issues.
- The agency has implemented platforms like Nintex, PowerBI, and SQL databases to meet reporting needs and improve operations.
- Despite these efforts, the current platforms are not robust enough to meet all requirements or address recent data integrity concerns effectively.

Oregon Public Defense Commission: 2025-27 Policy Package

10. What alternatives were considered and what were the reasons for rejecting them?

- In 2017, OPDC initially requested funding for a trial-level case management system but withdrew the request. Subsequent discussions with LFO and OJD led to funding for a financial and case management system with OJD providing project management support using a stage gate methodology.
- During the initiation stage, OPDC purchased Nintex as an interim solution to support workflows that existing systems couldn't handle. While helpful, Nintex is not as robust as a full FCMS and is only a temporary solution.
- OPDC has migrated several outdated Access databases to SQL, allowing simultaneous work processing and improving operations. However, these modifications are not long-term solutions.

11. Does this policy package require any changes to existing statute(s) or require a new statute? If yes, identify the statute and the legislative concept.

No

12. What other state, tribal, and/or local government agencies would be affected by this policy package? How would they be affected?

- Data share agreements with other government agencies will enable OPDC to compare internal FCMS data with external data, providing a comprehensive view of public defense data.
- Analyses from these data comparisons can highlight deficiencies in external partners' data and inform them of areas for improvement.
- These insights can help Oregon's criminal justice decision-makers develop new approaches and policies for more effective criminal justice execution.

13. What other agencies, programs or stakeholders are collaborating on this policy package?

- CIO-Chief Information Officer started in April to collaborate on this POP.
- Enterprise Architect, Senior Project Manager roles are hired and active in the FCMS project.
- Business Analyst Contractor is staffed in the FCMS project.

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14. How does this policy package help, or potentially hinder, populations impacted by inequities or disproportionalities from achieving health, well-being and independence?

- Provides a secure data and financial and time keeping hub for defense outcomes to aid client representation.
- It provides data and research functions to inform public defense decision-makers about policy-impacting issues.
- By leveraging the FCMS, PDSC ensures that indigent Oregonians receive competent and effective counsel, fulfilling its core mission.

Staffing and fiscal impact

Implementation date(s): July 1, 2025

End date (if applicable): June 30, 2027

15. What assumptions affect the pricing of this policy package?

- A fully executed solution is expected to be ready by the end of the 2025-2027 biennium. High-level cost estimates to implement an integrated financial and case management system were developed through estimated market comparisons.
- Data gathered from various vendors and other advanced technical projects was used to generate projection models for a COTS solution hosted by either OJD or the selected System Vendor.
- It is estimated that by utilizing OJD for hosting services the total project cost savings is roughly \$750,000.00.
- Assuming a fully staffed operational team for the implementation of FCMS and ongoing operations have been factored in to the \$14,000,000 rounded estimate.

16. Will there be new responsibilities for OPDC? Specify which programs and describe their new responsibilities.

- This policy package will affect all internal programs, especially Compliance, Audit, and Performance (CAP), Contracts, Budget and Accounts Payable (AP), and Appellate programs, requiring significant organizational change management.
- Each program will have specific workflows within the system, with some crossover, impacting internal processes and procedures.

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- The project team needs to fill critical permanent positions below to support FCMS through the life of the project and after:
 - ITS4 - System Architect - (Limited to Perm) 1.0 FTE This resource is needed to continue the architect work for the project.
 - OPA3 Project Manager X2 - (Limited to Perm) 2.0 FTE Project Managers are needed to continue project management of FCMS.
 - OPA2 Business Analyst X2 – (Limited to Perm) 2.0 FTE Business Analysts will be utilized to provide project artifacts for DAS and also will be the main resources to manage FCMS long-term in the future after FCMS is live.
 - ITS2 Systems Analyst – (Perm) 1.0 FTE A systems analyst will be integral to the FCMS project to deliver technical project management deliverables and contribute significantly to the development and testing phase of the project. Long term, they will be a key resource in maintaining the FCMS system in tech.
 - ITS2 Data Analyst –(Perm) 1.0 FTE The Data Analyst will be overseeing the data migration work of FCSM which is critical to this project. Long term, they will be a critical technical resource to manage data needs as they arise in the agency.
 - Manager 3 – Chief Data Officer (Perm) 1.0 FTE The Chief Data Officer will build a foundation for data management and data integrity at OPDC which is critical to its long-term success as an agency.

17. Will there be changes to client caseloads or services provided to population groups? Specify how many in each relevant program.

- This request aims to provide a unified system for managing caseloads and payment schedules, benefiting both internal and external (contracted) attorneys, and eliminating the need for contractors to supply their own case management solutions.
- The system ensures consistency and ease of access to case information across the state, enhancing the quality of counsel public defense attorneys can offer their clients.
- While it cannot predict changes in caseloads, the system offers robust online and offline functionalities, enabling real-time client representation and providing OPDC with valuable data to monitor public defense success in Oregon.

18. Describe the staff and positions needed to implement this policy package, including whether existing positions would be modified and/or new staff would be needed.

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OPDC is requesting, in addition to standard costs that are ongoing as noted in the section below: new funds for this policy package to fund technical and operational resourcing needs and new staff for the in-flight FCMS information technology project namely:

- ITS4 - System Architect - (Limited to Perm) 1.0 FTE
 - This resource is needed to continue the architect work for the project.
- OPA3 Project Manager X2 - (Limited to Perm) 2.0 FTE
 - Project Managers are needed to continue project management of FCMS.
- OPA2 Business Analyst X2 – (Limited to Perm) 2.0 FTE
 - Business Analysts will be utilized to provide project artifacts for DAS and also will be the main resources to manage FCMS long-term in the future after FCMS is live.
- ITS2 Systems Analyst – (Perm) 1.0 FTE
 - A systems analyst will be integral to the FCMS project to deliver technical project management deliverables and contribute significantly to the development and testing phase of the project. Long term, they will be a key resource in maintaining the FCMS system in tech.
- ITS2 Data Analyst –(Perm) 1.0 FTE
 - The Data Analyst will be overseeing the data migration work of FCSM which is critical to this project. Long term, they will be a critical technical resource to manage data needs as they arise in the agency.
- Manager 3 – Chief Data Officer (Perm) 1.0 FTE
 - The Chief Data Officer will build a foundation for data management, strategy, governance, and data integrity at OPDC which is critical to its long-term success as an agency.

The following budget note was also adopted:

BUDGET NOTE: The Public Defense Services Commission is directed to report to the Joint Legislative Committee on Information Management and Technology and the Joint Committee on Ways and Means during the 2024 legislative session on the status of the re-initiation of the planning phase of the Financial/Case Management System (F/CMS) information technology project. The report shall include: a detailed business case, project timeline, and cost estimates. The Commission is to follow the Stage Gate or a similar disciplined process related to information technology projects, including development of key artifacts and independent quality assurance oversight.

OPDC has already begun to meet the requirements of HB 5202 with the hiring one Project Manager, one Business Analyst, one IT Systems Architect. Currently the Project Managers are submitting the Business Case and Project Charter to DAS EIS for Stage 1 Endorsement to meet the remaining requirements of HB 5202. OPDC has also contracted an RFP expert who is writing a System Request for Proposal (RFP) to be released in the Summer 2024. The release of the RFP at this time will allow for a vendor to be selected and procured to begin the implementation process with the selected vendor as early as Feb/March 2025.

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It is expected that each underfill position will require approximately \$1800 for one year.

19. What are the start-up and one-time costs?

The following table represents estimated totals and will be revised upon signed contract agreement with the selected system vendor.

Item	July 2020- Jun-21	Biennium 2020/21	July 2021- Jun-22	July 2022 Jun-23	Biennium 2021/23	July 2023- Jun-24	July 2024- Jun-25	Biennium 2023/25	Jul-25 26-Jun	26-Jul 27-Jun	Biennium 2025 /27	TOTAL	Total - Statewide
Core Case Management System (CMS) - Vendor	\$0.00	\$0.00	\$0.00	\$800,000.00	\$800,000.00	\$160,000.00	\$160,000.00	\$320,000.00	\$160,000.00	\$160,000.00	\$320,000.00	\$1,120,000.00	\$1,120,000.00
Electronic Content Management - eServices	Inc	\$0.00	Inc	Inc	\$0.00			\$0.00			\$0.00	\$0.00	\$0.00
Financial Management System Module	Inc	\$0.00	Inc	Inc	\$0.00			\$0.00			\$0.00	\$0.00	\$0.00
Project Management - Vendor	\$122,133.20	\$122,133.20	\$122,133.20	\$122,133.20	\$244,266.40	151937.5	151937.5	\$303,875.00	151937.5	151937.5	\$303,875.00	\$974,149.60	\$974,149.60
System Architecture	\$13,360.00	\$13,360.00	\$13,360.00	\$13,360.00	\$26,720.00			\$0.00			\$0.00	\$40,080.00	\$40,080.00
Report Management Configuration / Customization - Vendor / R*STARS	\$0.00	\$0.00	\$135,000.00	\$150,000.00	\$285,000.00			\$0.00			\$0.00	\$285,000.00	\$285,000.00
Contingency	\$130,857.00	\$130,857.00	\$130,857.00	\$130,857.00	\$261,714.00	\$130,857.00	\$0.00	\$130,857.00	\$130,857.00	\$0.00	\$130,857.00	\$523,428.00	\$610,000.00

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Data Migration Services - Vendor	\$75,000.00	\$75,000.00	\$245,000.00	\$0.00	\$245,000.00			\$0.00		\$0.00	\$0.00	\$320,000.00	\$320,000.00
Customization/Configuration - Limited - Vendor	\$0.00	\$0.00	\$125,000.00	\$50,000.00	\$175,000.00	\$50,000.00	\$50,000.00	\$100,000.00	\$50,000.00	\$50,000.00	\$100,000.00	\$275,000.00	\$275,000.00
Network Infrastructure	\$0.00	\$0.00	\$125,040.00	\$0.00	\$125,040.00			\$0.00			\$0.00	\$125,040.00	\$125,040.00
Implementation / Configuration Services - Vendor	\$100,000.00	\$100,000.00	\$140,000.00	\$0.00	\$140,000.00			\$0.00			\$0.00	\$240,000.00	\$450,000.00
Internal-Based Hosting	\$0.00	\$0.00	\$140,000.00	\$60,000.00	\$200,000.00	\$120,000.00	\$120,000.00	\$240,000.00	\$120,000.00	\$120,000.00	\$240,000.00	\$440,000.00	\$440,000.00
Integration Backbone	\$0.00	\$0.00	\$52,500.00	\$52,500.00	\$105,000.00			\$0.00			\$0.00	\$105,000.00	\$105,000.00
System Hardware	\$0.00	\$0.00	\$130,000.00	\$0.00	\$130,000.00		\$60,000.00	\$60,000.00		\$60,000.00	\$60,000.00	\$190,000.00	\$340,000.00
Quality Assurance - Vendor	\$196,285.50	\$196,285.50	\$196,285.50	\$196,285.50	\$392,571.00	\$196,285.50		\$196,285.50	\$196,285.50		\$196,285.50	\$785,142.00	\$1,285,694.00
Project Management OPDS	\$408,000.00	\$408,000.00	\$408,000.00	\$408,000.00	\$816,000.00			\$0.00			\$0.00	\$1,224,000.00	\$2,040,000.00
Technical Team	\$35,000.00	\$35,000.00	\$50,000.00	\$25,000.00	\$75,000.00	\$-	\$1,486,606.00	\$1,486,606.00	\$1,486,606.00	\$1,486,606.00	\$2,973,212.00	\$4,569,818.00	\$4,569,818.00
Training - Vendor/OPDS	\$50,000.00	\$50,000.00	\$275,000.00	\$45,000.00	\$320,000.00			\$0.00			\$0.00	\$370,000.00	\$540,000.00
Travel - Vendor/OPDS	\$35,000.00	\$35,000.00	\$45,000.00	\$5,000.00	\$50,000.00			\$0.00			\$0.00	\$85,000.00	\$150,000.00
Overhead	\$5,000.00	\$5,000.00	\$5,000.00	\$10,000.00	\$15,000.00			\$0.00			\$0.00	\$20,000.00	\$50,000.00

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Change Management	\$25,000.00	\$25,000.00	\$80,000.00	\$90,000.00	\$170,000.00	\$50,000.00	\$15,000.00	\$65,000.00	\$50,000.00	\$15,000.00	\$65,000.00	\$260,000.00	\$395,000.00
Long Term Storage of Current Data	\$0.00	\$0.00	\$0.00	\$15,000.00	\$15,000.00	\$5,000.00	\$5,000.00	\$10,000.00	\$5,000.00	\$5,000.00	\$10,000.00	\$25,000.00	\$25,000.00
Total All Funds	\$1,195,635.70	\$1,195,635.70	\$2,418,175.70	\$2,173,135.70	\$4,591,311.40	\$712,142.50	\$410,000.00	\$2,912,623.50	\$2,350,686.00	\$2,048,543.50	\$4,399,295.00	\$11,976,657.60	\$14,139,781.60

20. What are the ongoing costs?

See detailed cost estimates above.

21. What are the potential savings?

The potential savings are not fully understood as the agency’s contracting has the probability of being impacted from the information gleaned from proper data and research capabilities as well as informing the agency of matters impacting public defense. Many of the savings do not appear to be monetary, but rather foundational as it will assist the agency with rebuilding Oregon public defense.

22. What are the sources of funding and the funding split for each one?

General Fund- \$3.7 million estimate; Bond Fund-\$10.5 million estimate.

Total for this policy package

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Personal Services	\$0	\$0	\$0	\$14,139,781.60	8	8.00
Services & Supplies						
Capital Outlay						
Special Payments						

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Other						
Total	\$0	\$0	\$0	\$0	0	0.00

Fiscal impact by program

	Program 1	Program 2	Program 3	Program 4	Total
General Fund					\$3.7 million
Bond Funds					\$10.5 million
Federal Funds					\$0
Total Funds					\$0
Positions					0
FTE					0.00

DRAFT

Oregon Public Defense Commission 2025-27 Policy Package

Division: Adult Trial
Program: Criminal Contracts
Policy package title: Criminal Contracts
Policy package number: 102
Related legislation: SB 337 (2023)

Summary statement: A budget request to support OPDC’s implementation of a workload model for representation in criminal proceedings and remediation of the public defense representation deficiency in Oregon through (1) funding for additional attorney FTE, (2) funding for core support staff for public defense contractors, and (3) increased compensation rates for contract attorneys.

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Policy package pricing:	\$446,303,164	\$0	\$0	\$446,303,164	0	0.00

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Purpose

1. Why does OPDC propose this policy package and what issue is OPDC trying to fix or solve?

High caseloads for public defenders have contributed to challenges in recruiting and retaining attorneys in public defense in Oregon, which has contributed to the number of persons who are eligible for a public defender but for whom there is no qualified attorney available to handle their case. At least in part in recognition of these challenges, the legislature has, through ORS 151.216, directed OPDC to:

- Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.
- Ensure caseloads are in accordance with national best practices.
- Adopt a statewide workload plan based upon the caseload policies.

Oregon has proven that workload models are effective in delivering constitutionally competent and effective public defense. Notably, OPDC first implemented a workload model for juvenile representation in the 10 jurisdictions that have the Parent Child Representation Program (PCRP), which also includes access to contracted case managers as one of the program's core components. The PCRP has shown benefits for clients, public defenders, and the system as a whole. Building on the knowledge we learned through PCRP, OPDC endeavors to stabilize and improve the delivery of criminal public defense through a workload model.

The Commission has adopted a Six-Year Plan to Reduce Representation Deficiency that accounts for and incorporates the legislative directives and moves toward implementation of a workload model, similar to PCRP, for all public defense representation as outlined in Moss Adams LLP, *Six-Year Plan to Reduce Representation Deficiency* (DRAFT Mar 2024) (*Six Year Plan*). Policy Package 102 is one component of that

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Six-Year Plan, which focuses on fulfilling these goals with respect to attorneys providing public defense representation in criminal proceedings.

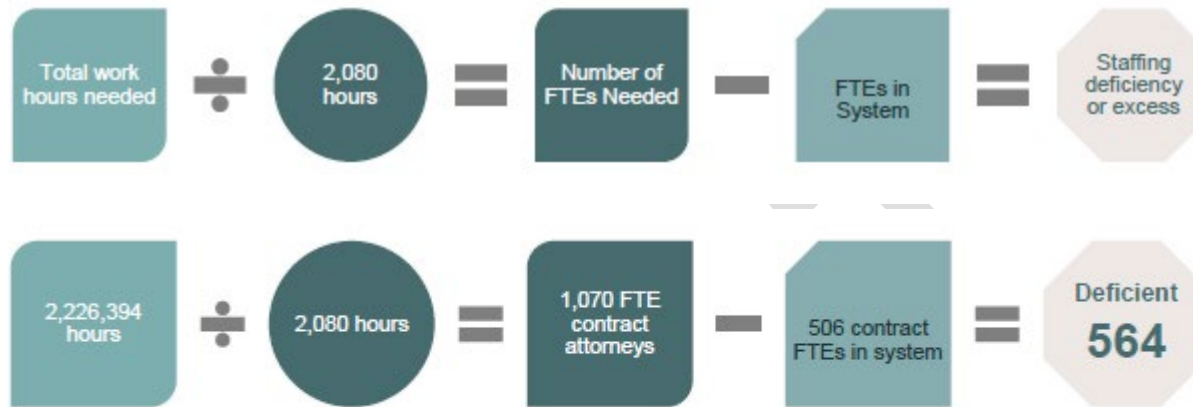
2. What would this policy package buy and how and when would it be implemented?

OPDC adopted a Six-Year Plan to address the deficiencies in public defense representation and bring the agency into compliance with ORS 151.216. That plan calls for adding an additional 80 attorneys per year for representation in criminal proceedings over the next six years, as well as core support staff to do work associated with legal representation that does not require an attorney, such as investigation and document preparation and filing.

Package 102 will begin the agency's build-up to a full workload model for representation in criminal proceedings and contains three components: (1) funding for additional attorney FTE; (2) funding for core support staff, and (3) funding to raise compensation rates to market levels.

- 1) This Policy Package will add funding for 80 attorney FTE, in addition to the attorney FTE needed to maintain current service level, and transition to a workload model for representation in criminal proceedings. OPDC has worked with Moss Adams to create an estimated attorney FTE requirement in order to meet expected caseloads under the National Public Defense Workload Study over the next budget cycle and through the next 6 years. The study used an equation to determine the deficiency in the number of attorneys currently in the system. The total amount of hours needed in the system, calculated using the Delphi method, divided by the number of working hours in a year yields the number of needed FTE attorneys. Subtracting the number of FTE currently in the system then yields the needed FTE to bring the system to an equilibrium where the number of attorneys meets the need for attorneys.

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Source: Six Year Plan, p 12

The resulting projection is that OPDC should add 564 new FTE attorneys. Using numbers from the Office of Economic Analysis (OEA), the agency predicts a decrease in the number of cases filed to correspond with decreasing levels of crime which brings the overall need down to 480 attorneys. Adding that many new attorneys to the system at one time is financially prohibitive and practically impossible. Therefore, the agency has divided the request into a more manageable number of new FTEs (160 FTE per biennium) over three biennia in order to meet the demands of both the expected new cases filed and the back log of unrepresented cases. Package 102 will add 80 of those attorneys to those funded under public defense services contracts and agreements.

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	YEAR 0	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6
ADULT CRIMINAL STAFFING IMPACTS							
Additional Funded Attorney FTE		80	80	80	80	80	80
Running Total Attorney FTE		80	160	240	320	400	480
TOTAL IMPACT ON ADULT CRIMINAL ATTORNEY DEFICIENCY							
Adult Criminal Attorney FTE Need ²	1,070	1,056	1,041	1,027	1,013	999	986
Current Adult Criminal FTEs ³	506	586	666	746	826	906	986
Adult Criminal Attorney FTE Deficiency at End of Year	564	470	375	281	187	93	0
Percent Adult Criminal Attorney Deficiency at End of Year	53%	45%	36%	27%	18%	9%	0%

² Adult Criminal Attorney FTE Need is reduced year-over-year as a result of an estimated 1.4% decrease in caseloads annually, based on historical trends.

³ 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.

Figure 1: Taken from Table 1 of the Oregon Six Year Plan, page 2.

The Six-Year Plan makes certain assumptions about attorney workload, for instance that attorneys will work 2080 hours per year of which 1578 hours will be case specific work. These hourly numbers are also used in calculating the agency’s proposed attorney workload.

- 2) In addition to increasing the number of attorneys providing public defense representation, the agency is seeking funds to provide additional support staff for attorneys, which is more expeditious and cost-effective in remedying the current representation deficiency than focusing solely on adding attorneys to

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the public defense system. Support staffing will alleviate the pressure of high workloads and contribute to eliminating the public defender shortage. An attorney’s office with a full staff can handle more cases per attorney than an attorney without staff. According to the National Association of Public Defense, best practice for support staffing includes the following 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

Figure 2, Six Year Plan, Table 14, page 24

OPDC is requesting funding in this policy package to add 30.02 FTE attorney supervisors, 100.05 FTE investigators, 100.05 FTE case managers, and 75.04 FTE paralegals and legal assistants in the 2025-2027 biennium. This represents 46% of the expected budgetary request. The funding to meet the remaining 56% of OPDC’s projected needs for support staff for contracted attorneys providing criminal representation will be requested for funding for Preauthorized Expenses (PAE). The split corresponds to the split between non-profit offices which will access this contract funding and consortia which will access similar funding through OPDC’s Preauthorized Expenses division.

- 3) Finally, this package raises attorney rates up to a level consistent with the market rates as determined by the *Moss Adams Oregon Public Defense Commission Hourly Rate and Economic Survey*, May 8, 2024.

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After conducting a market rate survey and analysis, Moss Adams created a formula for calculating the compensation rate for hourly attorneys. The formula accounts for an attorney's take home rate, which means it includes total payments, overhead costs, other deductions to calculate what the agency must pay in order to be competitive in the attorney marketplace. The formula is:



Relying upon that formula, OPDC's requesting funding to reimburse 1.0 attorney FTEs at \$343,616 per year.

3. How does this policy package further OPDC's mission and align with its strategic plan?

OPDC's mission is to ensure constitutionally competent and effective representation for all individuals who are eligible for a public defender. Historically, Oregon has not had a sufficient number of defense attorneys to consistently fulfill that mission. The creation and implementation of a workload model that includes support staffing and competitive compensation for attorneys are all key to OPDC's plans to increase recruitment and retention of attorneys and systematically reduce the number of people who are eligible for a public defender but for whom qualified counsel is unavailable.

4. Is this policy package being requested because of an Oregon Secretary of State or internal audit? If so, provide further information.

No.

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Quantifying results

5. How will OPDC measure the success of this policy package?

OPDC tracks the number of FTE attorneys providing public defense representation under contracts, and an increase in the overall number of attorney FTE providing public defense will likely be one indicator of this package's success. In addition, the success of the POP can be tracked by the reduction of cases being added to the OJD Unrepresented List.

As OPDC moves toward a workload model, the agency will gather and evaluate data regarding the time attorneys spend on cases, which will likely provide other indicators of the success of this package.

6. Is this policy package tied to a legislative Key Performance Measure (KPM) and/or an OPDC performance measure? If yes, identify the performance measure(s).

No

7. What are the long-term desired outcomes?

OPDC expects the long-term effects of this package, combined with other agency efforts at recruitment and retention, to be a significant step toward remedying the current representation deficiency in Oregon and the agency fulfilling its mission. Reducing attorney caseloads, increasing compensation, and adding core support staff makes a career in public defense competitive with other legal practice areas both in and outside Oregon. These efforts ultimately lead to improved recruitment and retention in public defense and an increase in the overall number of attorneys providing public defense representation.

8. What would be the adverse effects of not funding this policy package?

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If this package is not funded, then OPDC will not be able to meet legislative mandates in ORS 151.216 by transitioning to a workload model and ensuring a public defense system consistent with the federal and state constitutions and regional and national best practices. In order to properly make that transition, there will need to be an investment in attorneys to meet the current and expected future needs of the system as well as to clear the backlog of cases currently without representation. With the current number of attorneys, the inability to fund support staff, and the inability to offer competitive market rates, OPDC predicts that there will continue to be a shortage of public defense attorneys despite the agency's other efforts.

How achieved

9. What actions have occurred to resolve the issue prior to requesting a policy package?

The public defense crisis has been building for decades and the response to the crisis has been ongoing. The agency has implemented a Temporary Hourly Increase Program (THIP), which has provided increased hourly rates for cases in which a person has been identified as “unrepresented.” The agency has also distributed incentive payments to contractors for recruiting and retaining attorneys, as well as implementing a Supervised Civil Attorney Program, which seeks to partner civil attorneys interested in public defense work with experienced public defenders. These efforts have all been directed at attracting new attorneys to the public defense system and/or retaining existing attorneys in the system.

The changes made to the agency in SB 337 (2023) are new and have necessitated broad changes in the delivery public defense services. Additional long-term investments are needed to meet those statutory requirements.

10. What alternatives were considered and what were the reasons for rejecting them?

This package is in response to specific legislative direction. While there are no viable alternatives which address every aspect of this package, one potential alternative to funding core support staff is to fund additional

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attorneys. OPDC is pursuing funding core staff because it is less expensive than funding attorneys to do non-legal tasks that could be done by support staff. The compensation rate for attorneys is higher than support staff and funding support staff will allow attorneys to accept representation in an increased number of cases. Additionally, OPDC has considered several different workload standards and compensation rates for attorneys and support staff. Other workload levels were rejected because they did not conform with national and regional best practices, as directed by the statute. Various compensation levels were discussed before settling upon the requested rate. The agency's desire to be competitive in the market, both within Oregon and with other states, drove the choice of rates. Without a competitive rate the agency expects to lose attorneys to other areas of law as well as other states such as Washington State. Washington State is particularly of note because of its proximity to Oregon and the public defense caseload reform efforts it has undertaken.

11. Does this policy package require any changes to existing statute(s) or require a new statute? If yes, identify the statute and the legislative concept.

No.

12. What other state, tribal, and/or local government agencies would be affected by this policy package? How would they be affected?

No other agencies would be directly affected by this package, however all agencies which interact with the criminal court system would benefit indirectly from an increasingly robust public defense system. For instance, the Oregon Judicial Department would experience improvement in their time to disposition numbers because fewer cases would languish without attorneys.

13. What other agencies, programs or stakeholders are collaborating on this policy package?

None.

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14. How does this policy package help, or potentially hinder, populations impacted by inequities or disproportionalities from achieving health, well-being and independence?

Data from the Criminal Justice Commission shows that our criminal and juvenile justice systems disproportionately impact low-income and minority populations, which means those populations are most susceptible to harm from the existing public defense crisis. A significant portion of public defense clients experience houselessness, addiction, extreme poverty, and lack consistent access to food, transportation, health care, and mental health treatment.

Staffing and fiscal impact

Implementation date(s): July 1, 2025

End date (if applicable): _____

15. What assumptions affect the pricing of this policy package?

This package is based upon the work done to establish national workload standards, staffing ratios, and the agency's economic forecasting. In compliance with the express language of ORS 151.216, OPDC has relied on the national standards for workloads and staffing rates.

16. Will there be new responsibilities for OPDC? Specify which programs and describe their new responsibilities.

Implementing a workload model that includes funding for support staff will increase OPDC's responsibilities related to monitoring and oversight of contracted public defense providers. A workload model is a method of monitoring and limiting attorney caseloads and other work (administrative, training, etc.) to ensure that

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attorneys have the time needed to provide competent and effective legal representation to each of their clients. Inherent in implementing a workload model are ongoing responsibilities for the agency to collect and monitor data regarding the work public defenders are doing. In addition, OPDC currently does not fund support staff, and this package would add that responsibility for the agency, as well as likely related oversight responsibilities related to this funding for support staff.

17. Will there be changes to client caseloads or services provided to population groups? Specify how many in each relevant program.

OPDC’s statutory direction is to bring public defense workloads in line with national and regional best practices. OPDC has elected to target National Standards for criminal workload levels. Those standards from the RAND National Public Defense Workload Study are:

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Case Type	Case Weight (Hours per Case)	Annual Caseload Standard
Felony–High–LWOP	286.0	7
Felony–High–Murder	248.0	8
Felony–High–Sex	167.0	12
Felony–High–Other	99.0	21
Felony–Mid	57.0	36
Felony–Low	35.0	59
DUI–High	33.0	63
DUI–Low	19.0	109
Misdemeanor–High	22.3	93
Misdemeanor–Low	13.8	150
Probation/Parole Violations	13.5	154

NOTE: Annual caseload standards were calculated using an assumption of 2,080 hours available annually to a defender for case-related work.

These represent a significant change from current service levels and are consistent with the legislature’s directives. OPDC recognizes that it will take significant investments over several years in order to reach these standards.

18. Describe the staff and positions needed to implement this policy package, including whether existing positions would be modified and/or new staff would be needed.

The staff and positions associated with this policy package that are needed are set out and described in Policy Package 106.

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19. What are the start-up and one-time costs?

None. There are no start-up costs as this is an active program. There are no one-time costs as this is a continuing mandated caseload.

20. What are the ongoing costs?

The ongoing costs of this POP will be a sustained increase in funding for public defense, namely the funding needed each biennium to ensure a sufficient number of attorneys and support staff to fulfill the agency’s mission. The funding for support staff will reduce the overall funding needed for attorneys.

21. What are the potential savings?

OPDC expects to see a significant savings from the discontinuation of the Temporary Hourly Increased Program (THIP) due to the increase in the number of contractor and hourly attorneys regularly available in the system. THIP has been an expensive program for the agency, and while it has been worthwhile and effective in covering the surplus criminal cases, discontinuing the program and replacing it with contracted attorneys paid at standard rates and state employees will result in a net savings for the agency compared to continuing and expanding the enhanced rate program.

22. What are the sources of funding and the funding split for each one?

Response. The funding for this program is 100% General Fund.

Total for this policy package

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Personal Services	\$0	\$0	\$0	\$0	0	0.00
Services & Supplies	446,303,164			446,303,164		

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Capital Outlay						
Special Payments						
Other						
Total	\$446,303,164	\$0	\$0	\$446,303,164	0	0.00

Fiscal impact by program

	Adult Trial	Pre-Authorized Expense	Program 3	Program 4	Total
General Fund	416,417,501	29,885,663			\$446,303,164
Other Funds					\$0
Federal Funds					\$0
Total Funds	416,417,501	29,885,663			\$446,303,164
Positions					0
FTE					0.00

Oregon Public Defense Commission 2025-27 Policy Package

Division: Adult Trial
Program: Hourly Panel
Policy package title: Panel Attorneys, Investigators, and Mitigators
Policy package number: 104
Related legislation: SB 337 (2023)

Summary statement:
 A budget request for funding for the agency to procure 40 attorneys for the new hourly panel program; to increase hourly rates for those attorneys; and to increase hourly rates for investigators and mitigators.

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Policy package pricing:	\$38,919,169	\$0	\$0	\$38,919,169	0	0.00

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Purpose

1. Why does OPDC propose this policy package and what issue is OPDC trying to fix or solve?

POP 104 is a budget request to move the agency toward compliance with the compensation and service delivery mandates of ORS 151.216 and SB 337. Effective July 1, 2025, OPDC is required to establish a panel of public defense attorneys who undergo a process for certification and periodic review. Effective July 1, 2027, OPDC must compensate those attorneys no less than the hourly rate recommended by the survey and economic analysis. Additionally, OPDC is required to:

- Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.
- Ensure caseloads are in accordance with national best practices.
- Adopt a statewide workload plan based upon the caseload policies.

The Commission has adopted a Six-Year Plan to implement the caseload and workload mandates of SB 337. POP 104 is one component of that Six-Year Plan.

2. What would this policy package buy and how and when would it be implemented?

POP 104 includes funding for the following components:

- Funding for the equivalent of 40 new panel attorneys.
- Funding to increase the hourly rate for all panel attorneys.
- Funding to increase the hourly rate for investigators and mitigators authorized through the PAE process.

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If funded, the agency would implement rate increases at the beginning of the '25-'27 biennium.

3. How does this policy package further OPDC's mission and align with its strategic plan?

POP 104 is directly responsive to the mandates in SB 337 (2023) and ORS 151.216, along with the Commission's direction to implement those mandates over a Six-Year Period.

4. Is this policy package being requested because of an Oregon Secretary of State or internal audit? If so, provide further information.

No.

Quantifying results

5. How will OPDC measure the success of this policy package?

The success of POP 104 will be measured by the number of panel attorneys, investigators, and mitigators the agency can procure to work public defense cases.

6. Is this policy package tied to a legislative Key Performance Measure (KPM) and/or an OPDC performance measure? If yes, identify the performance measure(s).

No.

7. What are the long-term desired outcomes?

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POP 104 is a component of a Six-Year Plan to ensure compliance with SB 337. Ultimately, those legislative mandates will stabilize the public defense workforce and ensure every eligible person has timely access to an effective public defender by:

- Ensuring caseloads and workloads are in accordance with national best practices;
- Providing attorneys with access to necessary non-legal support staff and vendors;
- Establishing compensation rates for attorney and non-attorneys that are competitive with the market.

8. What would be the adverse effects of not funding this policy package?

Delayed implementation of SB 337 would continue the instability of the status quo and the ongoing public defense crisis.

How achieved

9. What actions have occurred to resolve the issue prior to requesting a policy package?

The Commission has had ongoing discussions in public meetings about raising the hourly rates for attorneys, investigators, and mitigators in order to attract people to the workforce. Recently, OPDC procured an economic and salary survey as required by SB 337, and the survey showed that current OPDC rates are below market rates.

Since 2022, the agency has authorized an elevated hourly rate for some cases in which a person is eligible for public defense counsel has been placed on the OJD list of unrepresented persons. Increasing the hourly rate has been one of the few effective tools to increase the public defense workforce.

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10. What alternatives were considered and what were the reasons for rejecting them?

No alternatives to the general policy were considered. The agency did spend time evaluating the specific number of panel attorneys to be funded in the POP, along with the specific hourly rates for attorneys, investigators, and mitigators.

11. Does this policy package require any changes to existing statute(s) or require a new statute? If yes, identify the statute and the legislative concept.

No.

12. What other state, tribal, and/or local government agencies would be affected by this policy package? How would they be affected?

No.

13. What other agencies, programs or stakeholders are collaborating on this policy package?

None.

14. How does this policy package help, or potentially hinder, populations impacted by inequities or disproportionalities from achieving health, well-being and independence?

Data from the Criminal Justice Commission shows that our criminal and juvenile justice systems disproportionately impact low-income and minority populations, which means those populations are most susceptible to harm from the existing public defense crisis. A significant portion of public defense clients experience houselessness, addiction, extreme poverty, and lack consistent access to food, transportation, health care, and mental health treatment.

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Staffing and fiscal impact

Implementation date(s): July 1, 2025

End date (if applicable): _____

15. What assumptions affect the pricing of this policy package?

Assumptions for this policy:

- Number of attorneys to be added to the public defense workforce over 6 years.
- Percentage of additional attorneys needed that should go to the hourly attorney panel.
- 1,578 billable hours for panel attorney per year.
- Hourly rate of \$205 and \$230 for attorneys; \$75 for investigators, \$85 for mitigators.

16. Will there be new responsibilities for OPDC? Specify which programs and describe their new responsibilities.

The creation of a panel, as mandated by SB 337, requires additional oversight of public defense providers. There will be more front-end scrutiny of attorney qualifications in order for an attorney to receive appointments to public defense cases, and there will be ongoing oversight of those attorneys to ensure adherence to the agency's performance standards. This will be a function of the CAP Division.

17. Will there be changes to client caseloads or services provided to population groups? Specify how many in each relevant program.

Yes. POP 104 is part of OPDC's Six-Year Plan to establish caseload and workload standards in accordance with SB 337. The Commission had adopted the caseload standards from the National Public Defense

Oregon Public Defense Commission: 2025-27 Policy Package

Workload Study for criminal cases and the ABA's Oregon Report for juvenile cases. The Commission has directed OPDC staff to phase in these standards over 6 years, utilizing 1,578 hours of case specific work per year.

18. Describe the staff and positions needed to implement this policy package, including whether existing positions would be modified and/or new staff would be needed.

Additional staffing is detailed in POP 106.

19. What are the start-up and one-time costs?

None.

20. What are the ongoing costs?

The costs are all ongoing costs as they are predicated upon hourly billing on cases going forward.

21. What are the potential savings?

Establishing a robust panel of private bar attorneys who accept appointments to public defense cases will, over time, expand the public defense workforce and better ensure all eligible persons have timely access to an attorney.

22. What are the sources of funding and the funding split for each one?

The funding source for this request is 100% General Fund. There may be an opportunity to request federal funds participation through the Oregon Department of Human Services with the Title IV-E program. While

Oregon Public Defense Commission: 2025-27 Policy Package

this request is for General Fund should it be approved there is an opportunity to request funding or qualified juvenile expenditures at the approximate rate of \$0.25 for each dollar spent.

Total for this policy package

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Personal Services	\$0	\$0	\$0	\$0	0	0.00
Services & Supplies	38,919,169			38,919,169		
Capital Outlay						
Special Payments						
Other						
Total	\$38,919,169	\$0	\$0	\$38,919,169	0	0.00

	Attorney Expense	Investigation/Mitigation	Total
General Fund	33,588,949	5,330,220	\$38,919,169
Other Funds			\$0
Federal Funds			\$0
Total Funds	33,588,949	5,330,220	\$38,919,169
Positions			0
FTE			0.00

Oregon Public Defense Commission 2025-27 Policy Package

Division: Juvenile
Program: Juvenile Contract
Policy package title: Juvenile Contract
Policy package number: 105
Related legislation: SB 337 (2023)

Summary statement: A budget request to support OPDC’s implementation of a workload model for representation in juvenile dependency and delinquency proceedings through (1) funding for additional Attorney FTE, (2) funding for core support staff for public defense contractors, and (3) increased compensation rates for contract attorneys.

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Policy package pricing:	\$176,908,058	\$0	\$0	\$176,908,058	0	0.00

Oregon Public Defense Commission: 2025-27 Policy Package

Purpose

1. Why does OPDC propose this policy package and what issue is OPDC trying to fix or solve?

High caseloads for public defenders have contributed to challenges in recruiting and retaining attorneys in public defense in Oregon, which has contributed to the number of persons who are eligible for a public defender but for whom there is no qualified attorney available to handle their case. At least in part in recognition of these challenges, the legislature has, through ORS 151.216, directed OPDC to:

- Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.
- Ensure caseloads are in accordance with national best practices.
- Adopt a statewide workload plan based upon the caseload policies.

Notably, OPDC has implemented a workload model for juvenile representation in the 10 jurisdictions that have the Parent Child Representation Program (PCRP), which also includes access to contracted case managers as one of the program's core components. In the ten years of PCRP's existence, the workload for lawyers practicing under this program has leveled out to better allow sufficient time for lawyers to provide competent and effective representation to their clients. Policy Package 105 is intended to account for and incorporate the legislative directives and move toward a PCRP-like model that includes lower caseloads, funding for support staff, and improved compensation, for representation provided under contract in all juvenile court proceedings in Oregon.

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2. What would this policy package buy and how and when would it be implemented?

This Policy Package will begin the agency's build-up to a full workload model for representation in juvenile proceedings, as required by ORS 151.216, and contains three components: (1) funding for additional attorney FTE; (2) funding for core support staff, and (3) funding to raise contract compensation rates to market levels.

- 1) This Policy Package will add funding for an additional 100.59 attorney FTE in order to transition to a workload model for representation in juvenile proceedings. In May 2024, OPDC adopted the caseload standards for juvenile cases set out in *The Oregon Project: An Analysis of the Oregon Public Defense System and Attorney Workload Standards* (2022). Unlike the national caseload and workload standards adopted by OPDC for criminal cases, *The Oregon Project* includes standards for representation in juvenile cases and is one of the only public defense caseload and workload studies to do so.

Juvenile caseloads are forecasted to remain relatively stable. To move to a workload model for representation in those cases, though, OPDC will need to add attorney capacity to reduce the number of cases each individual FTE attorney handles. OPDC has projected the attorney FTE needed by applying the workload standards in *The Oregon Project* (that is, the average number of hours required to provide effective representation for each type of case) to the projected juvenile caseload numbers. That number is then divided by the number of working hours in a year to determine the attorney FTE needed to cover the projected caseloads. Subtracting the number of FTE currently in the system then yields the needed FTE to bring the system to an equilibrium where the number of attorneys meets the need for attorneys.

The resulting projection is that an additional 302 attorney FTE will be needed over the next six years (the period over which the agency is planning to implement a comparable workload model for representation in criminal proceedings, *see* Policy Package 102) in order to transition to a workload model for representation in juvenile proceedings in all 27 judicial districts in Oregon. Adding that many new

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attorneys to the system at one time is financially prohibitive and practically impossible, OPDC intends to work toward this workload model over the next three biennia. Package 105 will add one-third of the needed attorney capacity, or 100.59 attorney FTE, in the 2025-2027 biennium.

- 2) In addition to increasing the number of attorneys providing public defense representation, the agency is seeking funds to provide additional support staff for attorneys, which is more expeditious and cost-effective in remedying the current representation deficiency than focusing solely on adding attorneys to the public defense system. Support staffing will help alleviate the pressure of high workloads and contribute to eliminating the public defender shortage. An attorney’s office with full staff can handle more cases per attorney than an attorney without staff. According to the National Association of Public Defense, best practice for support staffing includes the following 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

Figure 1, Moss Adams LLP, Six Year Plan to Reduce Representation Deficiency (DRAFT Mar 2024), Table 14, page 24.

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OPDC is requesting funding in this policy package to add 7.44 FTE attorney supervisors, 24.79 FTE investigators, 24.79 FTE case managers, and 18.59 FTE paralegals and legal assistants in the 2025-2027 biennium. This represents 46% of the expected budgetary request. The funding to meet the remaining 56% of OPDC’s projected needs for support staff for contracted attorneys providing juvenile representation will be requested for funding for Preauthorized Expenses (PAE). The split corresponds to the split between non-profit offices which will access this contract funding and consortia which will access similar funding through OPDC’s Preauthorized Expenses division.

- 3) Finally, this package will raise attorney rates up to a level consistent with the market rates as determined by the *Moss Adams Oregon Public Defense Commission Hourly Rate and Economic Survey*, May 8, 2024. After conducting a market rate survey and analysis, Moss Adams created a formula for calculating the compensation rate for hourly attorneys. The formula accounts for the attorney’s take home rate, which means it includes total payments, overhead costs, other deductions to calculate what the agency must pay in order to be competitive in the attorney marketplace. The formula is:



Relying upon that formula, OPDC’s requesting funding to reimburse 1.0 attorney FTE’s at \$343,616 per year.

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3. How does this policy package further OPDC's mission and align with its strategic plan?

OPDC's mission is to ensure constitutionally competent and effective representation for all individuals who are eligible for a public defender. Historically, Oregon has not had a sufficient number of defense attorneys to meet that mission. The creation and implementation of a workload model that includes support staffing and competitive compensation for attorneys are all key to OPDC's plans to increase recruitment and retention of attorneys and reduce the potential unavailability of qualified counsel for financially eligible individuals.

This policy package moves the agency toward that goal in regard to juvenile cases. A more manageable workload is necessary to establish quality control, retention, and supervision efforts, all needed for OPDC to meet the obligations as set forth by the Oregon Legislature. The agency seeks to expand the success that PCRCP has had in the 10 judicial districts where that program is currently operating to the rest of the judicial districts in Oregon. This will ensure that all juvenile lawyers will be on the same footing, eliminating the disparities that have existed in regard to compensation, the availability of additional support staff in the form of case managers, and caseload and workload limits.

4. Is this policy package being requested because of an Oregon Secretary of State or internal audit? If so, provide further information.

No.

Quantifying results

5. How will OPDC measure the success of this policy package?

OPDC tracks the number of FTE attorneys providing public defense representation under contracts, and an increase in the overall number of attorney FTE providing public defense will likely be one indicator of this package's success. Additionally, as caseloads decrease and lawyers are able to spend more time advocating for

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their parent, child, and youth clients, OPDC expects to see improvements in quality of representation for parents and children in juvenile court proceedings.

As OPDC moves toward a workload model, the agency will gather and evaluate data regarding the time attorneys spend on cases, which will likely provide other indicators of the success of this package.

6. Is this policy package tied to a legislative Key Performance Measure (KPM) and/or an OPDC performance measure? If yes, identify the performance measure(s).

No.

7. What are the long-term desired outcomes?

OPDC expects the long-term effects of this package, combined with other agency efforts at recruitment and retention, to be an increase in the number of attorneys appointed to public defense cases. Reducing the caseloads of attorneys who are representing parents, youth, and children in juvenile cases has already shown, through the successes of the PCRCP, to improve attorney retention and satisfaction as well as improving the outcomes for their clients. This POP would move the agency closer to having all attorneys handling juvenile cases compensated at a market-rate level as well as moving all contracted attorneys to a workload model like PCRCP. The agency will be making this shift in the non-PCRCP judicial districts while maintaining and strengthening the established success of PCRCP in the judicial districts that already have been transferred to this program.

8. What would be the adverse effects of not funding this policy package?

If this package is not funded, then OPDC will not be able to meet legislative mandates in ORS 151.216 by transitioning to a workload model and ensuring a public defense system consistent with the federal and state

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constitutions and regional and national best practices. In order to properly make that transition, there will need to be an investment in attorneys to meet the current and expected future needs of the system. With the current number of attorneys, inability to fund support staff, and inability to offer competitive market rates OPDC anticipates that there will continue to be a shortage of public defense attorneys despite the agency's other efforts. Additionally, efforts to improve the quality of representation for the clients will be difficult to enact and enforce, costing the state financially, but also potentially causing life-altering consequences for Oregonians.

How achieved

9. What actions have occurred to resolve the issue prior to requesting a policy package?

The PCRCP began in August 2014 in Linn and Yamhill counties. The program has been successful and has expanded to 10 counties, to include Benton (2021), Clatsop (2021), Columbia (2016), Coos (2018), Douglas (2021), Lincoln (2018), Multnomah (2020), and Polk (2021). While the current PCRCP caseload limit needs adjustment, given the Commission's adoption of the standards set out in *The Oregon Project*, PCRCP attorneys have successfully been moved to a workload model that has reduced caseloads for the attorneys. This factor and the increased compensation combined with investment in case managers to support the attorneys has improved the retention of experienced lawyers and likely contributes to improved outcomes for clients.

The changes made to the agency's obligations under ORS 151.216, through SB 337 (2023), are new and have necessitated broad changes in the delivery public defense services. Additional long-term investments are needed to meet those statutory requirements.

10. What alternatives were considered and what were the reasons for rejecting them?

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This package is in response to specific legislative direction. While there are no viable alternatives to address every aspect of this package, OPDC has considered several different workload and compensation rates for attorney and support staff. Other workload levels were rejected because they did not conform with national and regional best practices, as required by statute. Various compensation levels were considered before settling upon the requested rate. The agency's desire to be competitive in the market, but within Oregon and with other states, drove the choice of rates. Without a competitive rate the agency expects to lose attorneys to other areas of law as well as other states.

A lack of movement toward a workload model for the non-PCRCP counties will likely have an effect on retention in those counties. The providers in non-PCRCP counties have seen peers in PCRCP counties have lower caseloads and higher compensation with additional staff resources since 2014 while handling the same type of cases. Additionally, the unrepresented person crisis has rightly resulted in significant increase of resources being put into policies that are focused on criminal cases.

11. Does this policy package require any changes to existing statute(s) or require a new statute? If yes, identify the statute and the legislative concept.

No

12. What other state, tribal, and/or local government agencies would be affected by this policy package? How would they be affected?

No other agencies would be directly affected by this package, however all agencies which interact with the juvenile court system would benefit indirectly from an increasingly robust public defense system. For example, attorneys who have sufficient time to provide competent and effective representation to their clients are more likely to contribute to a reduced need for foster care for children in dependency cases and shorter stays in foster care when it is needed, reducing the overall costs associated with foster care.

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13. What other agencies, programs or stakeholders are collaborating on this policy package?

None

14. How does this policy package help, or potentially hinder, populations impacted by inequities or disproportionalities from achieving health, well-being and independence?

OPDC's primary goal is to provide legal representation to eligible populations in Oregon. OPDC fulfilling that obligation will help populations impacted by systemic inequities and/or disproportionalities.

Oregon Department of Human Services reports that in 2022, the last year that has reported data, a disproportionate number of Black/African American and American Indian/Alaska Native children were reported to be victims of child abuse, a disproportional number of these minority groups were served by ODHS in the home, and a disproportional number of the children in these minority groups were placed in foster care. *2022 Child Welfare Data Book*, Oregon Department of Human Services (Dec 2023).

The Oregon Youth Authority reports that as of January 2024, African American and Native American youth both on community supervision and in close custody facilities were disproportionately represented with African American youth represent 4% of all Oregon youth but 13% of the youth on OYA Community Supervision and 12% of the youth placed in an OYA close custody facility. Native American youth represent only 1% of all Oregon youth but 4% of the youth on Community Supervision and 6% of the youth placed in a close custody facility. *Oregon Youth Authority Quick Facts*, Oregon Youth Authority (Jan 2024).

By ensuring ethical and competent representation to the eligible parents, youth, and children in the juvenile court system, OPDC can join the statewide effort to reduce the impact that the juvenile court system has on populations impacted by inequities or disproportionalities.

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Staffing and fiscal impact

Implementation date(s): 7/1/25

End date (if applicable): _____

15. What assumptions affect the pricing of this policy package?

This package is based upon the work done to establish workload standards specific to Oregon and the agency’s economic and projected case forecasting, as well as and staffing ratios recognized as “best practice” nationally. In compliance with the direct language of the statute OPDC has relied on regional standards for workloads and national best practice staffing rates.

16. Will there be new responsibilities for OPDC? Specify which programs and describe their new responsibilities.

Implementing a workload model that includes funding for support staff will increase OPDC’s responsibilities related to monitoring and oversight of contracted public defense providers. A workload model is a method of monitoring and limiting attorney caseloads and other work (administrative, training, etc.) to ensure that attorneys have the time needed to provide competent and effective legal representation to each of their clients. Inherent in implementing a workload model are ongoing responsibilities for the agency to collect and monitor data regarding the work public defenders are doing. In addition, OPDC currently does not fund support staff, and this package would add that responsibility for the agency, as well as likely related oversight responsibilities related to this funding for support staff.

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17. Will there be changes to client caseloads or services provided to population groups? Specify how many in each relevant program.

OPDC's statutory direction is to bring public defense workloads in line with national and regional best practices. OPDC has adopted the workload levels set out for representation in juvenile proceedings in *The Oregon Project*. These represent a significant change from current service levels and are consistent with the legislature's directives. OPDC recognizes that it will take significant investments over several years in order to reach these standards.

18. Describe the staff and positions needed to implement this policy package, including whether existing positions would be modified and/or new staff would be needed.

The staff and positions associated with this policy package that are needed are set out and described in Policy Package 106.

19. What are the start-up and one-time costs?

None. There are no start-up costs as this is an active program. There are no one-time costs as this is a continuing caseload.

20. What are the ongoing costs?

The ongoing costs of this POP will be a sustained increase in funding for public defense, namely the funding needed each biennium to ensure a sufficient number of attorneys and support staff to fulfill the agency's mission. The funding for support staff will reduce the overall funding needed for attorneys.

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21. What are the potential savings?

Although the costs to OPDC would increase with this policy package, OPDC anticipates that these investments in representation for parents, youth, and children in juvenile court proceedings would result in systemic savings to both the Oregon Judicial Department and Department of Human Services through an overall reduced need for foster care and associated litigation.

22. What are the sources of funding and the funding split for each one?

The Juvenile program has the ability to request participation from the Oregon Department of Human Services leveraging Title IV-E federal funds. This POP does not request any federal participation and only requests General Fund as the Juvenile caseload is not a mandated caseload. If this POP is approved there will be a subsequent request for federal participation which could replace General Funds dollars at the approximate rate of \$0.25 for each dollar spent.

Total for this policy package

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Personal Services	\$0	\$0	\$0	\$0	0	0.00
Services & Supplies	176,908,058			176,908,058		
Capital Outlay						
Special Payments						
Other						
Total	\$176,908,058	\$0	\$0	\$176,908,058	0	0.00

Fiscal impact by program

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	Juvenile	Pre-Authorized Expense	Program 3	Program 4	Total
General Fund	156,933,103	19,974,955			\$176,908,058
Other Funds					\$0
Federal Funds					\$0
Total Funds	156,933,103	19,974,955			\$176,908,058
Positions					0
FTE					0.00

DRAFT

Oregon Public Defense Commission 2025-27 Policy Package

Division: Administration Services Division and others
Program: Several
Policy package title: Administration
Policy package number: 106
Related legislation: SB 337 (2023)

Summary statement: A budget request to increase agency administrative staffing to account for current workload and necessary programmatic growth.

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Policy package pricing:	\$4,433,377	\$0	\$0	\$0	15	13.20

Oregon Public Defense Commission: 2025-27 Policy Package

Purpose

1. Why does OPDC propose this policy package and what issue is OPDC trying to fix or solve?

For two decades, the Oregon Public Defense Commission (hereinafter “the commission” or “OPDC”) (formerly known as the Public Defense Services Commission or Office of Public Defense Services) was largely divided into three parts—namely, the Appellate Division, Contract and Business Services Division, and the professional services account. Amid the coronavirus pandemic, the state of public defense in Oregon began to deteriorate rapidly, the volume unrepresented persons started to mount, and the commission came under the scrutiny of the legislature. Indeed, the Sixth Amendment Center found, among other things, that the case credit service delivery model was a “complex bureaucracy”; that the application of standards and qualifications to contract or private, independent attorneys was “relatively minimal”; and that the commission’s method to compensate defense counsel, service providers, and other partners might have negatively contributed to the effective assistance of counsel. Soon after the center published its study, the 81st Legislative Assembly adopted a comprehensive reform of the agency’s budget and organization in House Bill 5030 (2021). Passed in tandem to House Bill 2003, the governance, management, and programming of the agency was thrust into an uncharted path with direction to emerge as a robust, mature administrator of public resources. This was a pivotal change for the agency moving from what were ostensibly pass-through activities a more modern and familiar organ with expanded programmatic expectations.

Between 2021 and 2024, the agency endured a tremendous amount of administrative change and turmoil. Five executive directors, two deputy directors, two budget directors, two human resource directors, two government relations managers, and two chief information officers in the short span of three years. Moreover, the agency struggles to find and retain talented analysts, paraprofessionals, and attorneys. In addition to the agency’s serious attrition, the governing body was administratively disbanded and reconstituted twice by law. The impact on the agency has been debilitating and corrosive to retaining talent and for remaining staff with the changing leadership, there are two key issues addressed by this policy package. First, the agency is flat with high-level leadership and

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staff with little depth of structure. As a result, the agency is at risk in many areas because departments are one deep without backups or succession planning. Second, the agency doesn't have the support structure, staffing with the needed skill set to move projects and programs forward. This has led to high-level staff with subject matter expertise in public defense being asked to develop programs, write and develop policies and processes, write and lead legislative reports and all other manner of governmental work, including a large portion of their duties centering around admin level work. Because some staff are wearing multiple hats resulting in an overburdened workload, the agency has been left vulnerable when key staff are absent.

With the growth of the agency and the expectations of House Bill 5030 (2021) and Senate Bill 337 (2023), OPDC's programmatic obligations have changed significantly. The agency's obligations now include increased standard setting for public defense providers; training providers on those standards; qualification standards, measuring performance related to those standards and qualifications. Building a trial division of state employed public defenders with regional offices across the state. The agency is also transitioning to the executive branch of government with shifting expectations and requirements regarding procurement, human resources, information technology, administrative rulemaking, policy, and budgeting.

The agency lacks the key resources and staff to effectively carry out the legislative direction and implement programs. To accomplish this each division has been reviewed to identify where there is a lack of agency staff or the need of realignment of positions to provide the support that is needed to implement policies and procedures. Many of the staffing needs for each division have been identified where the agency is lacking and where there is the need to realign positions and hire staff to carry out the mission of the agency and the commission.

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2. What would this policy package buy and how and when would it be implemented?

This would be implemented as soon as the positions are approved in a strategic manner to alleviate the burden on key programs and projects.

This package provides authority for fifteen new positions and 13.20 full-time equivalents (FTE). The package adds positions the commission’s administrative organs such as human resources, budget, and accounting. Meanwhile, the package augments the Appellate Division and the Compliance, Audit, and Performance Division. With respect to the latter, the division depends on robust growth in policy making and leadership. With respect to the agency’s appellate function, deputy and senior deputy defenders’ burdens will be shared by talented new administrative professionals. Finally, the package provides position authority for an ombudsman to hear and investigate complaints to make recommendations to the commission.

<i>Function</i>	<i>Classification</i>	<i>Quantity</i>	<i>Role</i>
I. EXECUTIVE DIVISION			
Administration	Manager 4	1	Chief of staff
	Executive assistant	1	Assistant to executive leadership
Policy	Operations and policy analyst 4	1	Enterprise planning, coordination, and administration
II. COMPLIANCE, AUDIT, AND PERFORMANCE DIVISION (CAP)			
Policy	Manager 3	1	Data and research manager
	Operations and policy analyst 2	2	CAP coordinators

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III. ADMINISTRATIVE SERVICES DIVISION			
Human Resources	Human resource analyst 3	1	Labor relations; performance management; and employee engagement
	Manager 3	1	Budget and finance manager
	Manager 3	1	Preauthorized and Court Mandated expenses manager
	Fiscal analyst 2	1	Administrative budget analyst
	Fiscal (research) analyst 3 (4)	1	Financial analytics and reporting analyst
	Accountant 1	1	Accounts payable reviewer
	Accountant 3	3	Financial controlling; general ledger and reconciliation operations; accounting systems analysts

3. How does this policy package further OPDC’s mission and align with its strategic plan?

By building out the agency with robust layers of infrastructure, the agency would benefit from the fruit of succession planning layers of staff that can function as back up with the resources to move programs and projects forward. Additionally, the agency would have the workforce to move from a crisis culture toward a planning and development and risk management culture.

OPDC is working with a consultant in the creation of a strategic plan to ensure that foundational elements are aligned to transition to the executive branch as they implement SB 337. When realigning the agency, it is vital that the agency request or reclassify current staff positions with a universal understanding of roles and responsibilities, and that they align with the strategic plan and are based on policy. Many of the agency’s position needs have been

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identified; and, as the organization grows, positions will continue to be marshaled to emerging responsibilities to improve the agency's efficiency.

As the strategic plan comes into focus, the commission, agency leadership, staff, and stakeholders will work together to improve the decision-making processes and a commitment to continuous improvement to ensure that agency programs are coordinated and operating efficiently, resulting in a more positive public perception of the agency as transparent, accountable, and mission driven.

4. Is this policy package being requested because of an Oregon Secretary of State or internal audit? If so, provide further information.

N/A

Quantifying results

5. How will OPDC measure the success of this policy package?

This package ensures the agency maintains a sustainable statewide public defense system that provides quality representation to eligible clients in trial and appellate matters.

It provides the support the agency needs to lay the groundwork in collaboration with human resources to offer cross sectional support for existing and new staff. The agency's human resources department offers the tools and resources to coordinate the hiring and onboarding of staff across all sections of the agency in increments to support existing staff's capacity.

Ensuring the agency's governance framework is up to date and compliant, OPDC conducts periodic reviews of budget, financial, and account policies and procedures ensures that the agency is aligned with best practices. The

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budget and accounting section is in the need of additional staffing to discharge the myriad financial responsibilities of the commission. The additional staff will ensure efficient client services are met in a timely manner.

The majority of staff for appellate and trial matters is attorneys. The agency does not have suitable positions to hire staff to provide the needed support to assist the attorneys. The attorneys are having to complete ministerial functions, which impact their productivity and attention to their caseloads. The addition of support staff positions would alleviate the attorneys' work capacity to provide effective representation of their clients.

6. Is this policy package tied to a legislative Key Performance Measure (KPM) and/or an OPDC performance measure? If yes, identify the performance measure(s).

No.

7. What are the long-term desired outcomes?

Additional staff will assist existing staff in balancing their workloads, be more productive, and improve morale.

8. What would be the adverse effects of not funding this policy package?

Not investing in agency infrastructure could lead to even worse attrition, poor job satisfaction, and fatigue. Inability to meet demands, if the infrastructure can't handle current or projected future demand due to lack of funding, may lead to disruption of services to clients, vendors, and partners.

How achieved

9. What actions have occurred to resolve the issue prior to requesting a policy package?

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The commission previously requested some positions in interim emergency board meetings. However, SB 337 changes the way the agency does business require additional support to deliver on transition and new trial division.

10. What alternatives were considered and what were the reasons for rejecting them?

There are no other alternatives. Staff demonstrated that, without additional support positions, we cannot meet legislative expectations in SB 337.

11. Does this policy package require any changes to existing statute(s) or require a new statute? If yes, identify the statute and the legislative concept.

No.

12. What other state, tribal, and/or local government agencies would be affected by this policy package? How would they be affected?

No.

13. What other agencies, programs or stakeholders are collaborating on this policy package?

No.

14. How does this policy package help, or potentially hinder, populations impacted by inequities or disproportionalities from achieving health, well-being and independence?

With the aid of new position authority, the commission is better suited to being an effective administrator of resources and a robust vehicle to provide constitutionally competent and effective legal representation to indigent criminal defendants in the state.

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Staffing and fiscal impact

Implementation date(s): October 1, 2025

End date (if applicable): _____

15. What assumptions affect the pricing of this policy package?

This pricing depends on authority for fifteen positions established in the biennium. A nominal amount of generic or administrative services and supplies is applied to each position as a proportion of each position's full-time equivalent. In future biennia and to the extent the positions are not limited duration, the positions will be promoted to twenty-four months of funding.

16. Will there be new responsibilities for OPDC? Specify which programs and describe their new responsibilities.

No.

17. Will there be changes to client caseloads or services provided to population groups? Specify how many in each relevant program.

No.

18. Describe the staff and positions needed to implement this policy package, including whether existing positions would be modified and/or new staff would be needed.

See question 2.

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19. What are the start-up and one-time costs?

\$4,400,750 to fund fifteen positions and 13.20 full-time equivalents.

20. What are the ongoing costs?

The ongoing costs

21. What are the potential savings?

There are no savings except for those realized as a result of vacancies.

22. What are the sources of funding and the funding split for each one?

Funding for the positions is subscribed to the state's General Fund.

Total for this policy package

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Personal Services	\$4,034,512	\$0	\$0	\$4,034,512	15	13.20
Services & Supplies	398,865	0	0	\$398,865	-	-
Capital Outlay	-	-	-	-	-	-
Special Payments	-	-	-	-	-	-
Other	-	-	-	-	-	-
Total	\$4,433,377	\$0	\$0	\$4,433,377	15	13.20

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	Executive Division	Compliance, Audit, and Performance	Administrative Services Division	Total
General Fund	\$972,935	\$849,068	\$2,611,374	\$4,433,377
Other Funds	0	0	0	\$0
Federal Funds	0	0	0	\$0
Total Funds	\$972,935	\$849,068	\$2,611,374	\$4,433,377
Positions				15
FTE				13.20

DRAFT

Oregon Public Defense Commission 2025-27 Policy Package

Division: Adult Trial
Program: Temporary Hourly Increase Program (THIP)
Policy package title: THIP Funding Continuation
Policy package number: 107
Related legislation: None

Summary statement: A budget request for additional funding for the agency to compensate attorneys assigned under the Temporary Hourly Increase Program (THIP), which authorizes an elevated hourly rate for cases on the OJD Unrepresented List. OPDC does not intend to continue the program in the '25-'27 biennium, but it must continue making payments for THIP cases assigned during the '23-'25 biennium.

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Policy package pricing:	\$12,705,100	\$0	\$0	\$12,705,100	0	0.00

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Purpose

1. Why does OPDC propose this policy package and what issue is OPDC trying to fix or solve?

Historically, the Oregon Public Defense Commission (OPDC) has relied primarily on contract attorneys to provide public defense services and did not have a robust hourly attorney program. Over the previous two years, Oregon has seen an increasing number of cases in which an individual is eligible for a public defender but no attorney is available to accept appointment. As part of its efforts to increase public defense attorney capacity and provide attorneys for these individuals, particularly those who are in custody, OPDC launched the Temporary Hourly Increase Program (THIP) beginning in August 2022. THIP authorized elevated hourly attorney rates that are more competitive with the market and has helped in reducing the number of unrepresented persons. An attorney accepting appointment to a client and case under THIP has agreed to do so with the enhanced THIP rate continuing through the conclusion of the attorney's work on that case. The agency does not intend to continue THIP into the next biennium. However, many of these cases, the attorneys' work on them, and the costs associated with that work, will continue beyond the sunset of THIP. This POP would provide funding to ensure that OPDC is able to meet these financial obligations in the next biennium.

2. What would this policy package buy and how and when would it be implemented?

THIP was always intended to be a temporary program, and it is currently set to end December 31, 2024. However, the increased hourly rates apply for the entire length of the case, and representation on many of those cases will continue after the program ends (see below for the agency's predictive models). For instance, an attorney who accepts a case under THIP on December 28, 2024, will continue working on that case, often for up to a year, and the agency will continue to accrue expenses that we are obligated to pay.

The agency is seeking funds under this POP to assure that the funds necessary to pay the costs incurred under THIP prior to its expiration are available after the program's conclusion. The agency built a Cost Per Case

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measure using OPDC’s historical spending data on hourly cases to create an Expected Cost of THIP up to and beyond its expiration date on December 31, 2024, where the Expected Cost (weighted by Case Category) is:

$$\text{Expected Cost} = [\text{Case Count}] * [\text{Cost Per Case}]$$

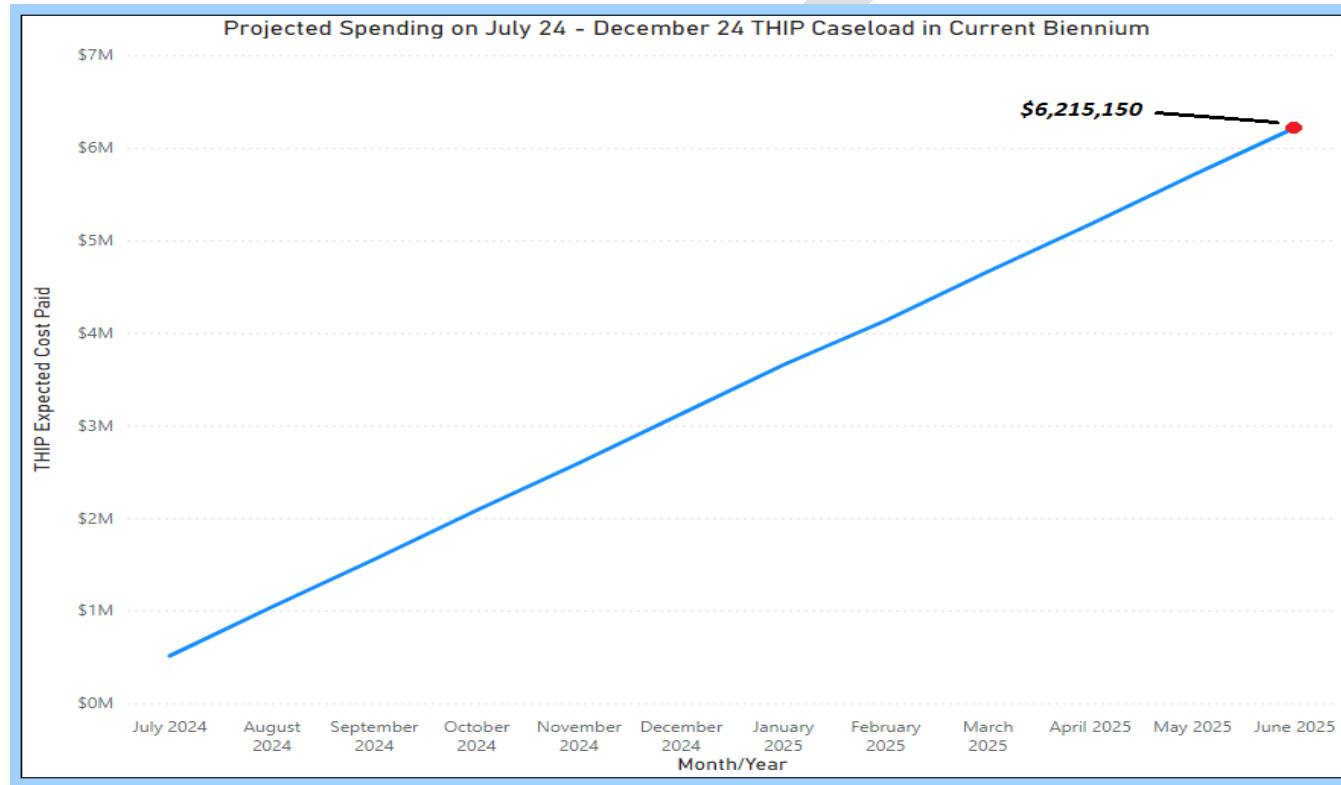
For the cases approved at THIP rates as of June 2024, OPDC estimates their Expected Cost will be paid out in full by April 2025. The agency projects THIP caseloads and their Expected Costs between July 1 and Dec 31, 2024, to be as follows:

Case Category	Projection	Attorney Cost	Investigator Cost	PAE Cost	Same Rates, Same Program
Minor Felony	407	\$1,535,581	\$213,728	\$282,935	\$2,032,243
Misdemeanor	656	\$1,612,530	\$98,325	\$131,100	\$1,841,955
Measure 11	221	\$2,782,080	\$828,000	\$1,019,213	\$4,629,293
Probation Violations-Criminal	138	\$181,056	\$10,350	\$11,868	\$203,274
Major Felony	117	\$841,628	\$140,760	\$148,267	\$1,130,655
Murder	48	\$3,477,600	\$1,141,088	\$2,684,224	\$7,302,912
PCR/Habeas	14	\$169,740	\$33,120	\$271,736	\$474,596
Delinquency	14	\$70,159	\$9,315	\$20,120	\$99,595
Jessica Law	28	\$678,960	\$198,720	\$251,602	\$1,129,282
Civil Commitment	14	\$11,316	\$0	\$428	\$11,744
Dependency/Termination	7	\$57,712	\$1,553	\$5,437	\$64,701
	1664	\$11,418,362	\$2,674,959	\$4,826,930	\$18,920,250

The projected caseloads were derived from recent THIP approval trends based on recent process improvements and the addition of a second Unrepresented Persons Analysts working to process case assignments. Of the \$18,920,250 in Expected Costs of these cases, we projected the timeline of their billing based on a daily rate of spending of THIP cases approved since October 1, 2023 (when the program returned to In-Custody cases

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only). By the end of June 2025, OPDC anticipates that \$6,215,150 will be paid out on these cases, as seen below:



To produce a result of the Expected Carry Over Cost, we see that:

$$\text{Carry Over Cost} = [\text{Expected Cost of Projected Caseload}] - [\text{Expected Billed in Period}]$$

$$\mathbf{\$12,705,100} = [\$18,920,250] - [\$6,215,150].$$

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3. How does this policy package further OPDC's mission and align with its strategic plan?

The goal of the Oregon Public Defense Commission is to provide competent and effective representation to people who are eligible for appointed counsel. The Commission has used THIP to increase the number of attorneys accepting appointed cases. THIP will have costs associated with it beyond its expiration that the agency will be responsible for due to the unavoidable length of litigation within the court system. The agency will be responsible for those costs and this POP will let the agency pay that debt without reducing the funds available for other programs. It meets the agency's overall goal of providing effective representation.

4. Is this policy package being requested because of an Oregon Secretary of State or internal audit? If so, provide further information.

No.

Quantifying results

5. How will OPDC measure the success of this policy package?

OPDC routinely tracks invoices submitted and invoices paid as part of its normal business process. The success of this Policy Package will be determined by OPDC's ability to continue to pay the obligations it has incurred under THIP.

6. Is this policy package tied to a legislative Key Performance Measure (KPM) and/or an OPDC performance measure? If yes, identify the performance measure(s).

No.

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7. What are the long-term desired outcomes?

POP 107 is not part of a long-term plan. Rather, the POP allows the agency to continue to make the THIP payments it is obligated to pay in the short-term.

8. What would be the adverse effects of not funding this policy package?

OPDC is contractually obligated to pay THIP rates for any case taken under the program through the resolution of the case. If this package is not funded, OPDC will still be obligated to pay attorneys THIP rates for representation and the funds to pay those attorneys will likely need to be taken from other programming that the agency is developing as long-term solutions to the unrepresented crisis and the improvement of public defense in Oregon. Reducing funding to long-term programming will undoubtedly hamper the agency's efforts to achieve its core mission of providing competent and effective representation to all individuals eligible for a public defender.

How achieved

9. What actions have occurred to resolve the issue prior to requesting a policy package?

As noted, THIP was established as a temporary, stop-gap measure to mitigate the number of persons eligible for a public defender but for whom qualified counsel is not available. The agency has, at various times, utilized savings across its budget to ensure funding for THIP. However, additional funding is needed to reduce or eliminate the potential impact on other programs and ensure that the agency can fulfill its statutory obligations over future biennia.

10. What alternatives were considered and what were the reasons for rejecting them?

THIP has been set to sunset on several occasions, which would likely have avoided the need for this policy package. However, the program has been viewed as effective in remedying the unrepresented persons crisis,

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and the Commission has continued the program several times to allow more time for the development and implementation of programs to replace THIP and to increase the number of attorneys willing to accept public defense cases.

11. Does this policy package require any changes to existing statute(s) or require a new statute? If yes, identify the statute and the legislative concept.

No.

12. What other state, tribal, and/or local government agencies would be affected by this policy package? How would they be affected?

None.

13. What other agencies, programs or stakeholders are collaborating on this policy package?

None.

14. How does this policy package help, or potentially hinder, populations impacted by inequities or disproportionalities from achieving health, well-being and independence?

OPDC's primary goal is to provide legal representation to indigent populations in Oregon. OPDC successfully fulfilling its mission will help populations impacted by inequities or disproportionalities. These populations are disproportionately represented amongst those charged with crimes, and criminal charges generally impact an individual's ability to pursue health, well-being, and independence by making it more difficult for them to successfully acquire housing and employment.

Staffing and fiscal impact

Implementation date(s): _____

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End date (if applicable): _____

15. What assumptions affect the pricing of this policy package?

The funding requested in this package is built upon the above assumptions of the number and types of cases accepted under the THIP program as well as the number of hours each case will require prior to resolution. The estimates are described in section 2 above.

16. Will there be new responsibilities for OPDC? Specify which programs and describe their new responsibilities.

No, OPDC is currently responsible for all aspects of this program.

17. Will there be changes to client caseloads or services provided to population groups? Specify how many in each relevant program.

There will not be changes to the current programs under this package.

18. Describe the staff and positions needed to implement this policy package, including whether existing positions would be modified and/or new staff would be needed.

The current accounts payable staff will be responsible for implementing this policy through payments to hourly attorneys and investigators. Program staff will also be needed to verify rates prior to payment. Existing positions are currently engaged in these activities and will not need to be modified to meet this package.

19. What are the start-up and one-time costs?

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The program is ongoing, and this package would allow the agency to close the program down. As such, the funding for this package should generally be one-time costs.

20. What are the ongoing costs?

None, or extremely limited costs, in that most cases in which THIP rates have been or will be approved are anticipated to resolve in the 2025-2027 biennium.

21. What are the potential savings?

None.

22. What are the sources of funding and the funding split for each one?

General Fund

Total for this policy package

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Personal Services	\$0	\$0	\$0	\$0	0	0.00
Services & Supplies	\$12,705,100			\$12,705,100		
Capital Outlay						
Special Payments						
Other						
Total	\$0	\$0	\$0	\$0	0	0.00

Fiscal impact by program

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	Court Mandated	Pre-Authorized Expense	Program 3	Program 4	Total
General Fund	\$7,623,060 (60%)	\$5,082,040 (40%)			\$12,705,100
Other Funds					\$0
Federal Funds					\$0
Total Funds	\$7,623,060	\$5,082,040			\$12,705,100
Positions					0
FTE					0.00

DRAFT

Oregon Public Defense Commission 2025-27 Policy Package

Division: Adult Trial
Program: Workforce Development, Recruitment & Retention
Policy package title: Workforce Development, Recruitment, & Retention
Policy package number: 108
Related legislation: _____

Summary statement: Budget request to fund several programs directed at workforce development and improving the recruitment and retention of public defense attorneys in Oregon.

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Policy package pricing:	29,278,889	\$0	\$0	\$29,278,889	5	5.00

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Purpose

1. Why does OPDC propose this policy package and what issue is OPDC trying to fix or solve?

Recruitment into public defense in Oregon has many barriers, particularly in rural, coastal, and frontier regions. There is a shortage of training and supervision resources outside of non-profit public defender offices, which have a work model substantially centered around training new attorneys. The majority of jurisdictions in the state do not have nonprofit public defender offices, and attorneys and organizations providing public defense representation in those jurisdictions face significant challenges in attracting new attorneys to public defense practice. OPDC is seeing career public defenders retire in these jurisdictions without attorneys present and able to take their place, exacerbating the already insufficient public defense attorney capacity in these areas.

Oregon's public defense attorney shortage will continue so long as there is a shortage of attorneys willing and able to take cases. The barriers to entering public defense of lower pay and high student debt are exacerbated in rural, coastal and frontier areas of the state where housing is both scarce and expensive, travel distances are greater, and new attorneys lack existing ties to the area. 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.

2. What would this policy package buy and how and when would it be implemented?

This package would provide funding for a variety of programs, described more fully below, aimed at recruiting students and new attorneys into public defense and retaining existing public defenders in the system.

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Supervised Portfolio Practice Exam Provisional Licensee Funding

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.

This change to bar admission is especially popular with law school graduates and out-of-state attorneys who have set career goals and want to begin working in a particular area of the law immediately. SPPE requires that employers pay licensees salary and benefits comparable to those provided to other recent law school graduates.

Requests to OPDC to fund SPPE Provisional Licensees are largely coming from these areas, not the Portland-metro area – particularly, Central, Southern, and Eastern Oregon. SPPE is therefore creating pathways for new attorney development in these areas that are desperately needed to support public defense.

In June 2024, OPDC a policy to allow public defense contractors to fill 1.0 FTE attorney vacancies with SPPE provisional licensees. If additional funding for SPPE Provisional Licensees was approved, OPDC could implement expansion of this program.

Law Student Funding/Stipends

OPDC is requesting full funding approval for the OPDC Law Student Scholarship Program, which would provide stipends for law students working in public defense. Eligible host offices would be required to 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.

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The training of supervised certified law students (or “CLS’s”) is a vital part of recruiting capable, new attorneys that can quickly contribute and support an office or firm once licensed. Offices that hire law student interns dedicate uncompensated time and resources to train and supervise, with the long-term goal of creating a future hiring pool of attorneys.

Due to the limited resources of public defense offices, the majority of these law students are hired for unpaid positions and must depend on small outside grants, student loans, or personal resources to meet their living expenses while training as a public defense CLS. This inability to provide paid internships disincentivizes students from pursuing a public defense internship over other paid positions. Further, this financial barrier limits access to public defense internships to those who have personal resources or backgrounds that allow them to take unpaid work, hindering inclusion of those from disadvantaged or diverse backgrounds.

This program will ensure that OPDC enhances recruitment of law students into Oregon’s public defense system and ensures adequate training and supervision for them, thereby expanding the number of young, qualified attorneys seeking public defense work after graduation. Taking away the financial barriers to interning in a public defense office will support greater variety and diversity in the law student applicant pool. Moreover, the availability of these scholarships to public defense offices across the state will assist with recruitment of high-quality students in underserved jurisdictions.

Rural Fellowship

OPDC is requesting full funding approval for the OPDC Rural Attorney Fellowship Program, which would provide for five fulltime state employee attorneys (“Fellows”) who would be 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

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Division as well as 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 state-employed trial-level public defenders in the coming biennia, but it may be difficult to stand up new Trial Division offices in these rural areas in the short term. Creating these state employees hosted within existing providers would create an inroad for OPDC to learn about these jurisdictions and train attorneys to eventually start or join state offices in those areas.

Hiring Classes

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 would also make Oregon competitive with other states and public defense offices of national repute that do new attorney hiring on an annual basis.

Currently, nonprofit offices and other firms are only able to hire when they have vacancies and generally need to fill those within 60 days. This makes it difficult to recruit new law graduates who are applying for public defense starting positions in the fall of their third year of law school.

The following state systems and regional offices were recruiting for post-graduation public defense positions in October 2023:

- Alaska Public Defender Agency,
- Bronx Defenders,
- Brooklyn Defender Services,
- Charleston County Public Defender,
- Clark County (NV) Public Defender,

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- Defender Association of Philadelphia,
- El Paso Public Defender,
- Federal Defender of Northern Florida, San Diego, Western Washington, and others,
- many Florida Judicial Circuits 'Public Defender offices,
- Georgia Public Defender,
- Hamilton County Public Defender,
- Kalamazoo Defender,
- King County Department of Public Defense,
- Legal Aid Bureau of Buffalo,
- Legal Aid Society of New York,
- Los Angeles Dependency Lawyers,
- Maryland Office of the Public Defender,
- Mecklenburg County Public Defender's Office,
- Miami-Dade Public Defender's Office,
- Missouri State Public Defender,
- Monroe County Public Defender's Office,
- Neighborhood Defender Service of Harlem,
- New Hampshire Public Defender,
- New Jersey Office of the Public Defender,
- New Mexico Law Offices of the Public Defender,
- North Carolina Judicial Branch Office of Indigent Defense Services,
- Colorado State Public Defender,
- Office of the State Public Defender for California,
- Orleans Public Defender,

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- Public Defender Service for the District of Columbia,
- Rhode Island Public Defender,
- San Diego County Office of the Public Defender,
- Shelby County Public Defender,
- Solano County Public Defender,
- Texas Rio Grande Legal Aid,
- Vermont Public Defender,
- Virginia Indigent Defense Commission,
- Wisconsin State Public Defender's Office,
- Yuma County Legal Defender

Third year law students are able to apply for these positions and secure job offers in time to apply for bar admission in that state. For example, to begin practicing law in Oregon in the fall of 2024 (new admittees are typically sworn into the Bar in October), one would have had to apply in April to take the July 2024 bar exam. In order to effectively recruit new attorneys, Oregon public defense providers need to be able to extend offers in the winter or spring for new attorneys to start the following fall. This practice would also create a reliable influx of attorneys to grow the public defense bar every year. Implementation of this program could begin in the fall of 2025.

New Attorney Training

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. This training is beyond trial skills and is not something currently available in Oregon. CORE 101 works to instill a client-centered value system, provide training, and build a network of public defenders nationwide to improve the field of public defense. Gideon's Promise partners with dozens of offices nationwide, as well as the entire statewide public

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defense systems of Texas and Maryland. 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 compliment 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

OPDC has funded an expansion of OCDLA’s recruitment and retention efforts through the remainder of the current biennium. OPDC would provide continuing funding for expansion of OCDLA’s recruitment and outreach efforts focused on law students, underserved areas, and minority communities. Additionally, the agency has expanded its own 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

HB 5204 (2024) authorized the start of misdemeanor defense clinics in each of the three Oregon law schools. The legislature approved, on a one-time basis a General Fund appropriation of \$2.1 million for distribution as directed to the three Oregon law schools—University of Oregon, Willamette, and Lewis & Clark—to provide training and supervision of 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.

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3. How does this policy package further OPDC's mission and align with its strategic plan?

OPDC's mission is to ensure constitutionally competent and effective representation for all individuals who are who are eligible for a public defender. Currently, Oregon has persons in custody who have not been appointed a lawyer to help them due to a shortage of lawyers. This policy package is one of the long-term solutions to this issue.

Additionally, OPDC is tasked with ensuring the quality of public defense providers. This policy package helps OPDC ensure that Oregon public defense lawyers have sufficient training, supervision, and support at the beginning of their public defense career.

4. Is this policy package being requested because of an Oregon Secretary of State or internal audit? If so, provide further information.

No.

Quantifying results

5. How will OPDC measure the success of this policy package?

OPDC will monitor the number of new attorneys that are taking public defense cases. Success of this policy package will show an increase of new lawyers in the system and a reduced number of lawyers leaving public defense practice.

6. Is this policy package tied to a legislative Key Performance Measure (KPM) and/or an OPDC performance measure? If yes, identify the performance measure(s).

No.

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7. What are the long-term desired outcomes?

This suite of proposals will establish a recruiting pipeline into public defense. Beginning with funding law students to attract them to this area of work and establishing competitive hiring timelines to support their commitment to Oregon public defense prior to graduation. After graduation, OPDC will provide continued support through funding for SPPE provisional licensees working in public defense and provide newer public defenders with the client-centered training and support they need to remain in public defense. By thoughtfully distributing these resources throughout the state, OPDC will strengthen the legal communities in rural, frontier and coastal areas. These programs will also serve to establish and support a statewide community of public defenders to grow the practice and improve long term retention.

8. What would be the adverse effects of not funding this policy package?

Oregon needs to increase the number of public defense providers, and OPDC cannot meet the ongoing need by trying to hire from out-of-state or encouraging current members of the Oregon State Bar to take public defense cases. The long-term solution is to bring more young lawyers into public defense. This will take investment in coordinated efforts like those outlined in this policy package.

Not funding this policy package will hamper OPDC's efforts to grow the public defense bar in all areas of Oregon, leaving OPDC struggling to have enough lawyers to cover all of the public defense cases in the state.

How achieved

9. What actions have occurred to resolve the issue prior to requesting a policy package?

Workforce Development Workgroup

An informal workgroup was established in April 2022 to discuss creating better pathways towards careers in public defense. Membership evolved to include representatives from all three law schools, supervisors at non-

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profit public defense offices, consortia members, and law students from across the state. Three sub-groups were formed focusing on law schools, core (non-attorney) staff, and rural workforce development. This workgroup allowed for all stakeholders to brainstorm on how to improve workforce development of the public defense bar and what each stakeholder group could contribute to the effort.

Supervision

In its 2022-23 contracts, the Public Defense Services Commission (PDSC), predecessor to OPDC, for the first time provided funding for supervision in its contracts with non-profit public defender offices. In its 2023-25 contracts, OPDC has worked toward standardizing that funding by doing so at a ratio of 1 FTE Supervisor per 10 FTE Attorneys, consistent with standards developed by the National Association for Public Defense (NAPD). This funding has helped to improve recruitment and retention in these offices.

Law Student Recruitment

Law School Clinics

One-time funding was granted to the three Oregon law schools to support public defense law clinics for the 2024-2025 school year.

Law Student Stipends

In 2023, OPDC received access to Byrne JAG grant funding to support several initiatives, including stipends for law students working in public defense offices. Between July 2023 and June 2024, OPDC distributed approximately \$448,000 to 15 entities in 13 jurisdictions to provide stipends to over 85 students working in public defense. This included third-year and recently graduated Certified Law Students, law clerks (typically first- and second-year law students), and some undergraduate students. Because of the timing of the receipt of these funds, they were used to support offices that had already recruited students to work for them, often in

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unpaid internships until this funding became available. A more robust, predictable program to fund law students would allow a broader range of firms to attract a larger and more diverse population of law students, supporting pipeline from law schools into public defense.

New Attorney Recruitment

Job Posting

OPDC began posting public defense provider job openings on the OPDC website in spring 2022. Previously, there was no way for a job seeker to see all public defense job opportunities in Oregon in one place. Instead, openings were posted on each individual firm’s website or with other job posting services. Job seekers unfamiliar with Oregon’s unique public defense structure (and even those who are) found this difficult to navigate and might not have realized there were job opportunities outside those OPDC staff position openings posted on the OPDC website. This job posting service has provided a free, central location for contractors to recruit statewide. It has also created a useful reference tool for recruitment events or meeting prospective public defenders to quickly show current job opportunities.

Employment Interest Card

Along with job postings, job seekers may fill out an “Employment Interest Card” that specifies both their qualifications (*i.e.* law student, out of state attorney, Oregon attorney) and job specifics (regions, practice area). Information from this form is periodically shared with contract administrators and has led to several hirings.

New Attorney Events

We received feedback that it is difficult for providers to travel to recruiting events. This is especially true for providers in rural areas as these events are often located in the Portland Metro or Willamette Valley areas.

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OPDC has increased efforts to attend recruiting events on behalf of Oregon public defense generally. This has included the Oregon State Bar Swearing In Ceremony as well as several job fairs. The Job Postings website and Employment Interest Card have been a helpful recruitment tool at these events.

New Attorney Training

Gideon's Promise

Another project funded with Byrne JAG grant funding was a partnership between OPDC and Gideon's Promise to provide a week-long intensive training for thirty public defenders in their first 5 years of practice. Gideon's Promise is a nationally recognized non-profit public defender organization that focuses on training and supporting public defenders in client-centered representation and building a community to support and inspire them. This training was a small portion of their flagship Core 101 training. The selected attorneys were approximately one-third each from the Portland metro area, the Willamette Valley, and rural areas. Surveys conducted of the participants during and after the training were favorable. Many attorneys have expressed what a difference the experience meant for them—not only the skills training, but the community created within this cohort of 29 newer attorneys. Being able to offer new public defender training on an annual basis will be a strong recruitment tool as well as a way for OPDC to ensure all attorneys entering this work have necessary baseline training.

OCDLA Trial Skills Partnership

The Gideon's Promise training was followed by a multi-day Trial Skills Training program in partnership with the Oregon Criminal Defense Lawyers Association (OCDLA). The training followed the format of the Trial Skills College offered by OCDLA annually, including a combination of large group demonstrations, lectures, and small group break-out sections. One notable advantage to trainings put on by OCDLA versus national

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organizations is the connections forged between new attorneys and prominent, experienced attorneys in the Oregon defense community.

25 of the 29 participants in the Gideon's Promise/OCDLA Trial Skills training program are still in public defense.

Justice De Muniz Misdemeanor Attorney Bootcamp

Former Chief Justice Paul De Muniz approached the agency about hosting a special three-day training in Marion county for newer attorneys. Participants were offered the training for no charge and were qualified for misdemeanor representation under the OPDC guidelines as a result of their participation. In exchange for participation in the training, the participants agreed to accept appointment on five misdemeanor cases for which OPDC paid them the standard hourly rate. Many of the participants have accepted representation in more than the required number of cases, adding to the pool of available public defenders.

Other Outreach

OPDC has connected with law schools, the Oregon New Lawyers Division, and several groups such as the high school Civics Learning Project to promote connecting students and new lawyers to public defense.

Supervised Civil Attorney Program

OPDC created a special program to recruit civil attorneys to help public defense attorneys with their cases. When a public defense attorney requests assistance on research, motion writing, or other discrete case tasks, one of the civil attorneys in the pool can agree to aid with that case. They are paid on an hourly rate and are associated with the case; however, they are not considered co-counsel. The program has been moderately successful and well regarded by attorneys who have participated in it.

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10. What alternatives were considered and what were the reasons for rejecting them?

OPDC has been trying all alternatives to enhance recruitment and retention of public defense providers. The ones outlined in the policy package have either already been successful or are based on programs that have been successful in other states.

11. Does this policy package require any changes to existing statute(s) or require a new statute? If yes, identify the statute and the legislative concept.

No.

12. What other state, tribal, and/or local government agencies would be affected by this policy package? How would they be affected?

No other agencies would be directly affected by this package, however all agencies which interact with the public defense system would benefit indirectly from an increasingly robust public defense system that includes a sufficient number of attorneys to provide competent and effective representation for all individuals eligible for a public defender.

13. What other agencies, programs or stakeholders are collaborating on this policy package?

If funded, OPDC would be collaborating with OCDLA, Oregon law schools, the Oregon State Bar, and Gideon's Promise to implement this policy package.

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14. How does this policy package help, or potentially hinder, populations impacted by inequities or disproportionalities from achieving health, well-being and independence?

The impact of this package on populations with disproportionate representation in criminal and juvenile court proceedings is somewhat attenuated. However, increasing the number of attorneys available to provide public defense representation helps to ensure that all individuals have competent and effective legal representation, which is linked to improved outcomes.

Staffing and fiscal impact

Implementation date(s): July 1, 2025

End date (if applicable): _____

15. What assumptions affect the pricing of this policy package?

The assumptions for this pricing are contingent upon partnership with OCDLA, Universities and partner agencies.

16. Will there be new responsibilities for OPDC? Specify which programs and describe their new responsibilities.

No, the programs described in section 2 would likely, at most, require only expansion of existing responsibilities with respect to oversight or and training for public defense providers.

17. Will there be changes to client caseloads or services provided to population groups? Specify how many in each relevant program.

No.

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18. Describe the staff and positions needed to implement this policy package, including whether existing positions would be modified and/or new staff would be needed.

Any additional workload for OPDC resulting from this package should be covered by existing staff and staff requested in Policy Package 106.

19. What are the start-up and one-time costs?

There are no start-up costs for this package. Most of these costs are decision points for the Commission and the Legislature.

20. What are the ongoing costs?

Any and all of these programs could have ongoing costs if continued in subsequent biennia.

21. What are the potential savings?

There are no potential savings to be earned from these packages. Each of these has the potential to make the system better. Without these packages, the systems do not improve overall.

22. What are the sources of funding and the funding split for each one?

General Fund

Total for this policy package

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Personal Services	\$1,833,590	\$0	\$0	\$1,833,590	5	5.00

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Services & Supplies	27,445,299			27,445,299		
Capital Outlay						
Special Payments						
Other						
Total	\$29,278,889	\$0	\$0	\$29,278,889	5	5.00

Fiscal impact by program

	Adult Trial			Total
General Fund	29,278,889			\$29,278,889
Other Funds				\$0
Federal Funds				\$0
Total Funds	29,278,889			\$29,278,889
Positions	5			5
FTE	5.00			5.00

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Division: Legal Representation Division
Program: Trial Division
Policy package title: Direct Representation Investment
Policy package number: 103
Related legislation: Senate Bill 337 (2023), House Bill 4002 (2024), Senate Bill 5701 (2024)

Summary statement: A budget request to continue the buildout of the newly created Trial Division by adding 40 attorneys and corresponding core support staff over the next biennium. The POP also adds support staff to the Appellate Division.

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Policy package pricing:	\$21,863,302	\$0	\$0	\$21,863,302	111	64.33

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Purpose

1. Why does OPDC propose this policy package and what issue is OPDC trying to fix or solve?

The commission is required by Senate Bill 337 (2023) to appoint public defenders as state employees over the next decade, with a mandate that twenty percent of the public defense workforce is employed by the agency by 2031, and that thirty percent of the public defense workforce is employed by the agency by 2035.

2. What would this policy package buy and how and when would it be implemented?

This proposal will add forty new public defenders, forty-six support staff, nine managers, and two administrative staff to the agency by both expanding our three existing offices and adding three new offices in areas where the unrepresented crisis is acute and there is lack of attorney capacity to meet that demand. These positions and offices would be added in stages during the 2025-2027 biennium. The agency is appropriated position authority for nineteen attorneys and twenty-four support staff by SB 337 and Senate Bill 5701 (2024). The table below demonstrates how the agency has allocated those resources across the three trial offices.

<i>Office / Region</i>	<i>Attorneys</i>	<i>Legal paraprofessionals</i>	<i>Investigators</i>	<i>Other</i>
I. SENATE BILL 337 (2023) POSITION AUTHORITY				
Northwest (Portland)	5	2	2	0
Central Valley (Salem)	0	0	0	0
Southern (Medford)	3	2	2	0
Subtotal SB 337	9	4	4	0

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<i>Office / Region</i>	<i>Attorneys</i>	<i>Legal paraprofessionals</i>	<i>Investigators</i>	<i>Other</i>
II. SENATE BILL 5701 (2024) POSITION AUTHORITY				
Northwest (Portland)	1	1	1	1
Central Valley (Salem)	1	0	0	1
Southern (Medford)	1	1	1	1
Subtotal SB 5701	3	2	2	3
III. HOUSE BILL 5204 (2024) POSITION AUTHORITY				
Northwest (Portland)	4	2	0	2
Central Valley (Salem)	4	1	0	2
Southern (Medford)	3	1	0	2
Subtotal HB 5204	11	4	0	6
Total Positions	23	12	6	6

By the end of the 2025-2027 Biennium, these additions would grow the Trial Division to fifty-nine attorneys and sixty-six support staff across six offices for a total of 125 attorneys and support staff.

The package also calls for an additional two chief deputy defender positions. These positions will allow the six offices to be divided into three regions – north, central, and south – for the purposes of supervision, with one chief deputy defender supervising the two offices in their region. The new chief deputy defender for the north region would supervise the northwest (Portland) and north coast (Clatsop) office. The current chief deputy defender would

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supervise the central region. The table below reveals how the agency would allocate those new resources across the state.

This package adds an additional forty attorneys and forty-one support staff over the 2025-2027 biennium in the following locations:

- Northwest (Portland) – 7 attorneys, 2 legal secretaries, 2 investigators, and 2 case managers
- Central Valley (Salem) – 7 attorneys, 2 legal secretaries, 2 investigators, and 2 case managers
- Southern (Medford) – 7 attorneys, 2 legal secretaries, 2 investigators, and 2 case managers
- South Coast (Coos Bay-Roseburg) – 6 attorneys, 2 legal secretaries, 2 investigators, 2 case managers, 1 receptionist, and 1 discovery clerk
- North Coast (Clatsop) – 6 attorneys, 2 legal secretaries, 2 investigators, 2 case managers, 1 receptionist, and 1 discovery clerk
- Klamath (Klamath Falls) – 6 attorneys, 2 legal secretaries, 2 investigators, 2 case managers, 1 receptionist, and 1 discovery clerk
- Total = 40 attorneys and 41 support staff

<i>Office / Region</i>	<i>Attorneys</i>	<i>Legal paraprofessionals</i>	<i>Investigators</i>	<i>Other</i>
Northwest (Portland)	7	3	2	2
Central Valley (Salem)	7	3	2	2
Southern (Medford)	7	3	2	2
South Coast (Coos Bay)	7	4	2	3

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<i>Office / Region</i>	<i>Attorneys</i>	<i>Legal paraprofessionals</i>	<i>Investigators</i>	<i>Other</i>
North Coast (Clatsop)	6	4	2	3
Klamath Falls	6	4	2	3
Total Package Positions	40	27	12	15

Finally, recruiting forty attorneys over two years is going to require a significant investment in advertising. The most effective recruitment tool thus far is posting the positions nationally through the Oregon State Bar at a cost of \$1,200 per posting. We are also testing targeted classified advertisements in state and local bar publications that range from \$100 to \$400 per posting. We would also like to test using a recruitment agency to target candidates in other states. To that end, this policy package includes a request for a \$20,000 recruitment budget.

3. How does this policy package further OPDC’s mission and align with its strategic plan?

The mission of the Oregon Public Defense Commission (OPDC) is to ensure that eligible individuals have timely access to legal services, consistent with Oregon and national standards of justice and to maintain a sustainable statewide public defense system that provides quality representation to eligible clients in trial and appellate court proceedings. The agency will support this mission with the following goals:

- **Goal I:** Ensure competent, client-centered representation from forty new public defenders.
- **Goal II:** Reduce the unrepresented persons crisis by adding three new trial division offices.
- **Goal III:** Meet SB 337 standards for a state-wide trial division with state hired trial attorneys by 2031 and 2035.

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4. Is this policy package being requested because of an Oregon Secretary of State or internal audit? If so, provide further information.

No.

Quantifying results

5. How will OPDC measure the success of this policy package?

- The division's hiring statistics for SB 337 positions are one-hundred percent of posted positions filled. We would measure further success by ensuring hiring ratios of open to filled positions remain at eighty percent as we expand during the biennium.
- Another measure is the number of fully staffed and running offices throughout Oregon. Establishing six fully staffed and running offices during the biennium would indicate the POP was successful.

6. Is this policy package tied to a legislative Key Performance Measure (KPM) and/or an OPDC performance measure? If yes, identify the performance measure(s).

There are no KPMs assigned to the division. We will be developing KPMs during upcoming strategic planning and future reviews of current KPMs. However, the division will be adhering to interim OPDC performance measures of:

- One-hundred percent staff hired and trained by June 30, 2027.
- One-hundred offices fully operational by June 30, 2027.

7. What are the long-term desired outcomes?

- Achieve the growth of the division as mandated in SB 337.

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- Create trial offices with public defenders in each region of the state.
- Reduce the number of unrepresented persons and ensure each eligible person receives timely access to a public defender.

8. What would be the adverse effects of not funding this policy package?

Delayed implementation of SB 337 would continue the instability of the status quo and the ongoing public defense crisis.

How achieved

9. What actions have occurred to resolve the issue prior to requesting a policy package?

- The division hired eleven attorneys and twelve support staff since December 2023.
- The division requested and received funding for eight new attorneys and twelve support staff in July 2024 as provided by House Bill 5204 (2024).
- The commission hired Moss Adams to help resolve strategic alignment issues for the Trial Division while observing the American Bar Association's standards for public defense and the mandates of SB 337.

10. What alternatives were considered and what were the reasons for rejecting them?

The commission considered adding eighty attorneys in the next biennium, but the agency was not certain it had the capacity for that level of expansion.

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11. Does this policy package require any changes to existing statute(s) or require a new statute? If yes, identify the statute and the legislative concept.

The Ninth Circuit's opinion in *Betschart v. Garrett* accelerated the need for additional attorneys to represent in custody defendants in our current jurisdictions. Budget notes may be needed to clarify priorities for the attorney positions that were funded in response to House Bill 4002 (2024).

12. What other state, tribal, and/or local government agencies would be affected by this policy package? How would they be affected?

The number of unrepresented persons should decrease. The public defense system would move closer to sustainability. Other interacting agencies that rely on OPDC for services in division would see increased balance and stabilization.

13. What other agencies, programs or stakeholders are collaborating on this policy package?

None.

14. How does this policy package help, or potentially hinder, populations impacted by inequities or disproportionalities from achieving health, well-being and independence?

The division currently accepts appointments to cases for indigent defendants who were previously unrepresented. A significant portion of our clients are experiencing houselessness, addiction, extreme poverty, and lack consistent access to food, transportation, health care, and mental health treatment. Data from the state's Criminal Justice Commission reveals that our criminal justice system tends to disproportionately impact low-income and minority

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populations, which means those populations are most susceptible to harm from the existing public defense crisis. The agency's attorneys and support staff will endeavor to improve these and other conditions for our clients.

Staffing and fiscal impact

Implementation date(s): July 1, 2025

End date (if applicable): _____

15. What assumptions affect the pricing of this policy package?

There are sufficient numbers of attorneys who will transition to from practicing criminal defense in other states to Oregon, return to public defense from other practice areas in Oregon, or begin their public defense career with OPDC.

16. Will there be new responsibilities for OPDC? Specify which programs and describe their new responsibilities.

Yes, attorneys will have these new responsibilities and programs to adhere to in the Trial Division across state offices: adhering to the ABA's National Standards for Public Defense, utilizing a centralized case management system, timekeeping, and coordinating with case managers to offer wraparound services to clients.

17. Will there be changes to client caseloads or services provided to population groups? Specify how many in each relevant program.

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Yes, the commission adopted RAND's *National Public Defense Workload Standards for Public Defense*. We will also use our case management software to track client needs (health care, substance abuse treatment, mental health care, access to benefits, etc.) and track what services we are able to connect our clients with.

18. Describe the staff and positions needed to implement this policy package, including whether existing positions would be modified and/or new staff would be needed.

No current positions will be modified. The positions needed to implement this policy package are:

- 6 permanent full-time Senior Deputy Defender positions to support the Northwest Region (Portland)
- 6 permanent full-time Senior Deputy Defender positions to support the Central Valley Region (Salem)
- 8 permanent full-time Senior Deputy Defender positions to support the Southern Region (Medford)
- 8 permanent full-time Senior Deputy Defender positions to stand up and operationalize the South Coast Region (Coos-Douglas)
- 6 permanent full-time Senior Deputy Defender positions to stand up and operationalize the Klamath Region (Klamath Falls)
- 6 permanent full-time Senior Deputy Defender positions to stand up and operationalize the North Coast Region (Clatsop)

- 2 permanent full-time Legal Secretaries to support the Northwest Region (Portland)
- 2 permanent full-time Legal Secretaries to support the Central Valley Region (Salem)
- 2 permanent full-time Legal Secretaries to support the Southern Region (Medford)
- 2 permanent full-time Legal Secretaries to stand up and operationalize the South Coast Region (Coos-Douglas)
- 2 permanent full-time Legal Secretaries to stand up and operationalize the Klamath Region (Klamath Falls)
- 2 permanent full-time Legal Secretaries to stand up and operationalize the North Coast Region (Clatsop)

- 2 permanent full-time Program Analyst 2 positions to support the Northwest Region (Portland)
- 2 permanent full-time Program Analyst 2 positions to support the Central Valley Region (Salem)
- 2 permanent full-time Program Analyst 2 positions to support the Southern Region (Medford)
- 2 permanent full-time Program Analyst 2 positions to stand up and operationalize the South Coast Region (Coos-Douglas)
- 2 permanent full-time Program Analyst 2 positions to stand up and operationalize the Klamath Region (Klamath Falls)
- 2 permanent full-time Program Analyst 2 positions to stand up and operationalize the North Coast (Clatsop)

- 2 permanent full-time Case Manager positions to support the Northwest Region (Portland)

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- 2 permanent full-time Case Manager positions to support the Central Valley Region (Salem)
- 2 permanent full-time Case Manager positions to support the Southern Region (Medford)
- 2 permanent full-time Case Manager positions to stand up and operationalize the South Coast Region (Coos-Douglas)
- 2 permanent full-time Case Manager positions to stand up and operationalize the Klamath Region (Klamath Falls)
- 2 permanent full-time Case Manager positions to stand up and operationalize the North Coast Region (Clatsop)

- 2 permanent full-time Administrative Specialist 2 to stand up and operationalize the South Coast Region (Coos-Douglas)
- 2 permanent full-time Administrative Specialist 2 to stand up and operationalize the Klamath Region (Klamath Falls)
- 2 permanent full-time Administrative Specialist 2 to stand up and operationalize the North Coast Region (Clatsop)

- 2 permanent full-time Office Specialist 2 to stand up and operationalize the South Coast Region (Coos-Douglas)
- 2 permanent full-time Office Specialist 2 to stand up and operationalize the Klamath Region (Klamath Falls)
- 2 permanent full-time Office Specialist 2 to stand up and operationalize the North Coast Region (Clatsop)

- 1 permanent full time Regional Chief Deputy Defender to stand up attorney/staff supervision for the Portland and Clatsop offices
- 1 permanent full time Regional Chief Deputy Defender to stand up attorney/staff supervision for Medford and Klamath offices

- 1 permanent full-time Manager 1 to supervise office support staff in the Northwest Region (Portland)
- 1 permanent full-time Manager 1 to supervise office support staff in the Central Valley Region (Salem)
- 1 permanent full-time Manager 1 to supervise office support staff in the Southern Region (Medford)
- 1 permanent full-time Manager 1 to supervise office support staff in the South Coast Region (Coos-Douglas)
- 1 permanent full-time Manager 1 to supervise office support staff in the Klamath Region (Klamath Falls)
- 1 permanent full-time Manager 1 to supervise office support staff in the North Coast Region (Clatsop)

- 4 permanent full-time Administrative Specialist 2 positions in the Appellate Division
- 4 permanent full-time Paralegal positions in the Appellate Division
- 2 permanent full-time Legal Secretary positions in the Appellate Division
- 1 permanent full-time Executive Assistant in the Appellate Division

19. What are the start-up and one-time costs?

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Start-up costs include costs associated with opening new law offices, including costs associated with facilities and information technology.

20. What are the ongoing costs?

All costs associated with this POP will become ongoing costs.

21. What are the potential savings?

The state could see savings going forward, when more of the services are provided by employees rather than contractors.

22. What are the sources of funding and the funding split for each one?

General Fund.

Total for this policy package

	General Fund	Other Funds	Federal Funds	Total Funds	Pos.	FTE
Personal Services	\$19,645,740	\$0	\$0	\$19,645,740	111	64.33
Services & Supplies	2,217,563	0	0	2,217,563	0	0
Capital Outlay						
Special Payments						
Other						
Total	\$21,863,302	\$0	\$0	\$21,863,302	111	64.33

Fiscal impact by program

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	Legal Representation Division	Appellate Division			Total
General Fund	\$19,578,525	\$2,284,777			\$21,863,302
Other Funds	0	0			\$0
Federal Funds	0	0			\$0
Total Funds	\$19,578,525	\$2,284,777			\$21,863,302
Positions	100	11			0
FTE	54.65	9.68			0.00

DRAFT

POP Number	Title	Summary	Fiscal Impact	Positions / FTE
101	FCMS	Request to support the agency's implementation of a statewide financial and case management system (FCMS) for public defense providers. The FCMS will integrate OPDC's relationship with its providers to effectuate authorization of funding requests and compensation to providers. It will also allow for enhanced data gathering and measuring to further the state's goals of transparency and accountability.	\$14.2 million	8 / 8.00
102	Criminal Contracts	Request to move the agency toward compliance with ORS 151.216. As background, the agency's calculated current service level, based upon the DAS caseload forecast, calls for an additional 65.49 attorney FTE to meet existing needs. POP 102 is a request for additional resources and contains three components: <ul style="list-style-type: none"> • Additional attorneys to build towards or meet the adopted caseload standards. • Additional funding to compensate providers consistent with the economic analysis. • Support staff to build towards or meet the support staff ratios. 	\$447 million	0 / 0.00
103	Trial Division Build	Request to grow the OPDC Trial Division over the next biennium in compliance with SB 337. The agency must have OPDC staff attorneys provide 20% of trial-level representation by 2031 and 30% by 2035. POP 103 would add 40 attorneys and corresponding core support staff to OPDC's trial division over the next two years, with the positions staggered throughout the biennium.	\$21.9 million	111 / 64.33
104	Hourly Rates	Request to move the agency toward compliance with the compensation and service delivery mandates of ORS 151.216 and SB 337. Effective July 1, 2025, OPDC is required to establish a panel of public defense attorneys who undergo a process for certification and periodic review. Effective July 1, 2027, OPDC must compensate those attorneys no less than the hourly rate recommended by the survey and economic analysis. POP 104 includes funding for the following components: <ul style="list-style-type: none"> • Funding for the hourly equivalent of 40 new panel attorneys. • Funding to increase the hourly rate for all panel attorneys. • Funding to increase the hourly rate for investigators and mitigators authorized through the PAE process. 	\$39 million	0 / 0.00
105	Juvenile Contract	Request to move the agency toward compliance with ORS 151.216. Based on the DAS caseload forecast, the agency's calculated current service level for the combined Juvenile and PCRCP need is approximately 209.9 or 1.7 FTE more than last biennium. POP 105 is a request for additional resources and contains three components: <ul style="list-style-type: none"> • Additional attorneys to build towards or meet the adopted caseload standards. • Additional funding to meet the adopted workload standards and economic analysis. • Support staff to build towards or meet the support staff ratios. 	\$177 million	0 / 0.00
106	Administration	Request to increase agency administrative staffing to account for current workload and necessary programmatic growth. As a result of SB 337, OPDC's programmatic obligations have changed significantly. The agency's obligations now include increased standard setting for public defense providers; training providers on those standards; and measuring performance related to those standards. The agency is also transitioning to the executive branch of government where there will be different expectations regarding procurement, information technology, administrative rulemaking, policy, and budgeting.	\$4.4 million	15 / 13.20
107	THIP \$\$ Continuation	Request for additional funding for the agency to continue making payments for cases in the Temporary Hourly Increase Program (THIP) into the 2025-27 biennium. OPDC provides some attorney services to eligible persons by compensating attorneys at an hourly rate, with those attorneys billing the agency during the ongoing representation and at the completion of the case.	\$12.7 million	0 / 0.00

108	Recruitment/Retention	<p>Request to enhance the recruitment and retention of public defense attorneys. Funding in this request would enable the agency to do the following:</p> <ul style="list-style-type: none">• Continue the law school misdemeanor clinical program authorized by the legislature in HB 5204 (2024).• Provide stipends to law students employed by public defense providers.• Provide training programs to new attorneys.• Conduct outreach to law schools, job fairs, and new lawyer programs.• Expand options for utilizing Supervised Portfolio Practice Examination program.	\$29.3 million	5 / 5.00
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Oregon Public Defense Commission

**FCMS OPDC Project Status
Report**

July 24th, 2024

Financial & Case Management System



FCMS Accomplishments

- FCMS Requirements – Completed 7/10.
- Stage Gate 1 Endorsement – Received 7/11.
- Policy Option Package 101 Draft– Completed 7/10.

FCMS Next Steps

Project Deliverables

- Legal Sufficiency RFP Review. Target 7/31.
- Stage 2 Artifacts First Batch - Project Team Drafts. Target 7/15.
- Stage 2 Artifacts iQMS First Batch Review. Target 7/26.
- Stage 2 Artifacts Second Batch – Project Team Drafts. Target 7/26.
- Stage 2 Artifacts iQMS Second Batch Review. Target 7/31.
- Stage 2 Artifacts submission to P3. Target 7/31-8/9.
- Bond Funding submission. Target 7/31.

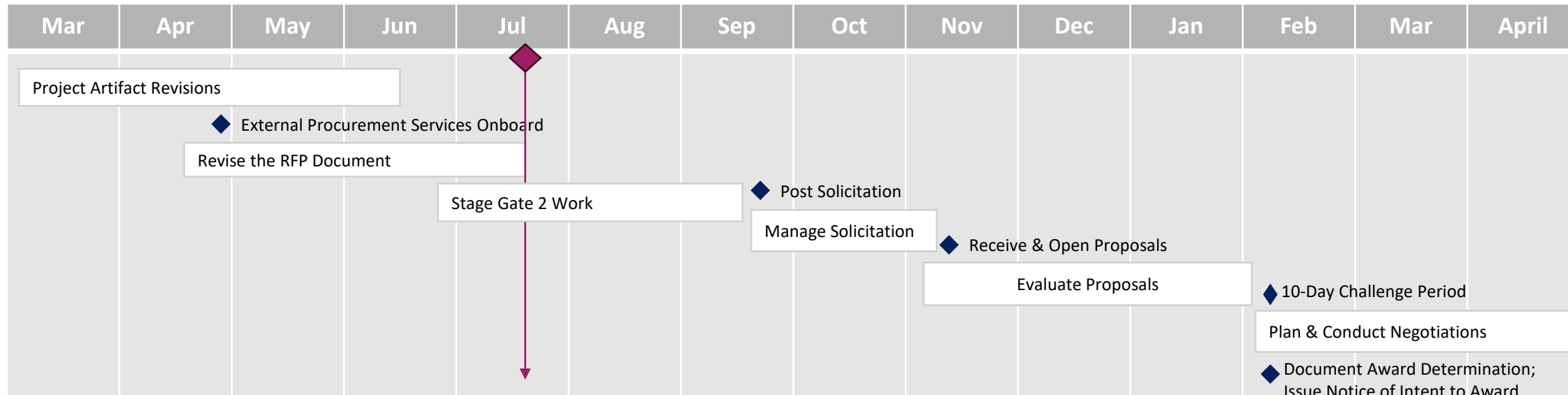
Procurement Timeline

Request for Proposal Milestones

- Round 1 - Score Tabulation Meeting: 11/4
- Round 2 - Vendor Demonstrations: 11/9 – 12/20
- Round 2 - Score Tabulation Meeting: 1/3
 - Determine whether Round 3 is needed
- Round 3 - if needed: 1/6 – 1/10, with scoring tabulation meeting 1/13

Dependencies

- Requires external Procurement service are in place
- Large sets of requirements take more time to score
- Timeline may shorten if a 3rd round is not needed
- Stage Gate 2 Approval Needed prior to RFP Send



Labor Timeline

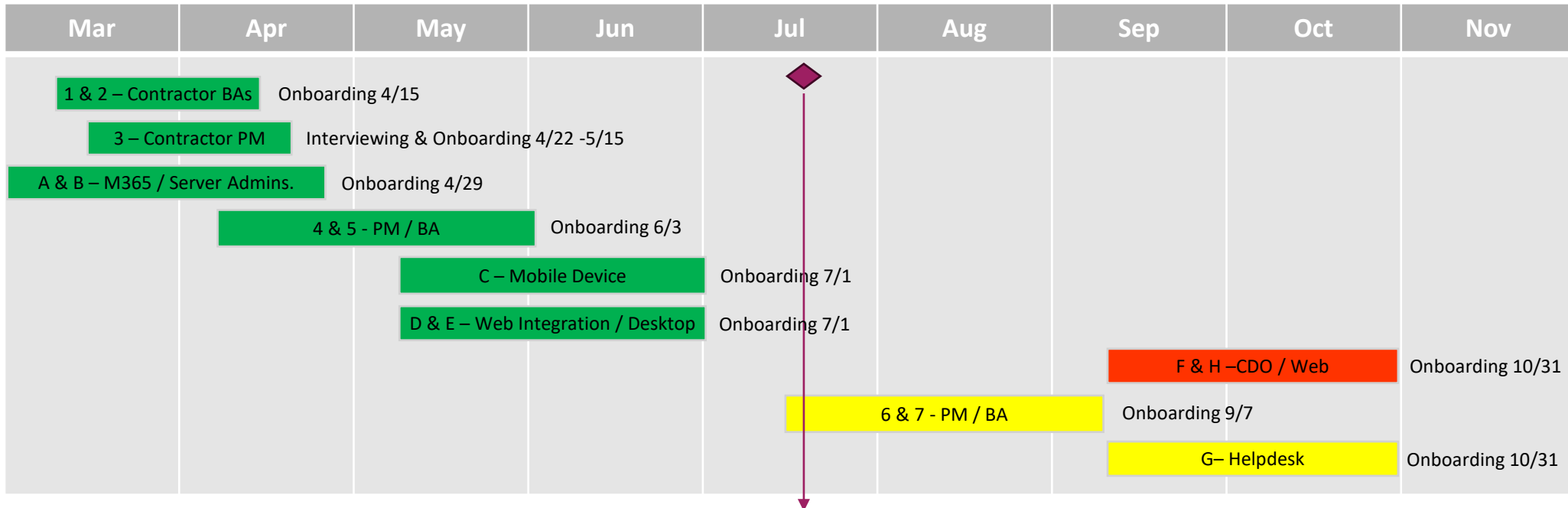
- April Hires
- July Hires

Order	FCMS Contractor Position
1	Business Analyst
2	Business Analyst
3	Project Manager

Order	FCMS Staff Position
4	Project Manager (OPA3)
5	Business Analyst (OPA2)
6	Business Analyst (OPA2)
7	Project Manager (OPA3)

Order	FCMS Contractor Position
A	M365 Administrator (ITS4)
B	Server Administrator (ITS4)
C	Mobile Device (ITS3)
D	Web Integration (ITS3)

Order	FCMS Staff Position
E	Desktop Support (ITS2)
F	Chief Data Officer (MGR3)
G	Helpdesk (ITS1)
H	Web (ITS3)



FCMS Risks & Mitigation Report

ID	RISK TITLE	DESCRIPTION	APPROACH	TYPE	PRIORITY	TARGET RESOLUTION	STATUS	PROBABILITY	IMPACT
RS-001	Timeline to Obtain RFP Vendor Contract	Goal : Send RFP to FCMS vendors in mid April. Work likely only to start in late June after Contract approval and Vendor resource commitment. IT work for move from Judicial to Executive may increase delays.	Aggressively manage timeline and request/follow up from PM perspective. Ensure State of Oregon IT Procurement is on board throughout the process. e e e g finalized.	Mitigate	Critical	March 31	In Progress	HIGH	RFP Delay
RS-013	Staffing	There is a risk that project milestones are delayed or missed due to project understaffing. This risk in Q1 and Q2 2024 is around the hiring of Business Analysts and procurement position and then also ensuring that the staff provide the required time allotment to the project	Hire additional Business Analyst, Project Manager, and Data Analyst.	Mitigate	Critical	July 31st	In Progress	HIGH	Stage Gate 2 Delay; Procurement Delay.

Status

FCMS Project Status Ratings - July	
Project Status – Medium Risk	Yellow
Budget Status – Medium Risk	Yellow
Schedule Status - High Risk *Multiple resources with planned vacation that was not factored into original schedule will likely impact Procurement Timeline/iQMS Stage 2 Timeline	Red
Resources Status - Medium High Risk *Resource capacity strained for Stage 2 Artifacts for BA Capacity.	Orange
Scope Status - Medium Risk	Yellow
iQMS Project Status Ratings – May 31 st	
Quality Assurance Project Status - overall health Medium High Risk	Orange
Quality Assurance Budget Status - Medium Risk	Yellow
Quality Assurance Schedule Status - Medium Risk	Yellow
Quality Assurance Resources Status- Medium Risk	Yellow
Quality Assurance Scope Status- Medium Risk	Yellow

Thank you

