

Members:

Jennifer Nash, Chair
Susan Mandiberg, Vice Chair
Peter Buckley
Robert Harris
Alton Harvey, Jr.
Tom Lininger
Jennifer Parrish Taylor
Robert Selander
Addie Smith



Nonvoting Member:

Brook Reinhard
Jasmine Wright
Rep. Paul Evans
Sen. Floyd Prozanski

Executive Director:

Jessica Kampfe

Oregon Public Defense Commission

****Amended to add Executive Session****

Meeting will occur virtually. Wednesday, August 21, 2024

9:00 AM – approx. 2:00 PM PST

Via Zoom*

Administrative Announcement

This is a public meeting, subject to the public meeting law and it will be recorded. Deliberation of issues will only be conducted by Commission members unless permitted by the Chair. Individuals who engage in disruptive behavior that impedes official business will be asked to stop being disruptive or leave the meeting. Additional measures may be taken to have disruptive individuals removed if their continued presence poses a safety risk to the other persons in the room or makes it impossible to continue the meeting.

AGENDA

| Approx. Time | Item | Lead(s) |
|--------------|--|---|
| 9:00–9:05 | Welcome | Chair Nash |
| 9:05-9:20 | Public Comment | |
| 9:20 – 9:30 | Update: Unrepresented Persons in Oregon Courts | Jessica Kampfe |
| 9:30-9:55 | Discussion: Budget & Accounts Payable Update | Ralph Amador |
| 9:55-10:10 | Action Item: Approve Agency Request Budget | Jessica Kampfe Ralph Amador |
| 10:10-10:35 | Action Item: Approve September E-Board Requests | Jessica Kampfe |
| 10:35-10:55 | Action Item: Approve Legislative Reports (for Leg Days) | Jessica Kampfe, Lisa Taylor & Adrian Smith |
| 10:55-11:15 | Briefing: Organizational Chart | Jessica Kampfe Chris Henderson |

| | | |
|-------------|--|-----------------------------------|
| 11:15-11:25 | ****Break**** | |
| 11:25-11:40 | Update: Trial Data Report | Jessica Kampfe Maddie Ferrando |
| 11:40-11:45 | Briefing: Draft Policy on Federal Public Service Loan Forgiveness (PSLF) Rule Changes | Eric Deitrick |
| 11:45-12:05 | Briefing: Service Delivery Transition Planning | Eric Deitrick |
| 12:05-12:20 | Briefing: Judge Guptill | Judge Guptill |
| 12:20-12:35 | Briefing: Executive Director Performance Review Plan | Susan Mandiberg |
| 12:35-12:45 | Update: FCMS | David Martin |
| 12:45-12:50 | Update: Director's Update | Jessica Kampfe |
| 1:00-2:00 | Executive Session ** | Chair Nash |

**To join the Zoom meeting, click this link <https://zoom.us/j/99822719776> . 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 August 19, 2024**. Please include your full name, organization/entity name, email, and phone number. Public comment may be limited per person if time constraints require.*

**** The Oregon Public Defense Commission will hold an executive session under ORS 192.660(2)(i) to discuss the job performance of an employee.** The executive session will be held at approximately 1:00 pm and will last for approximately 60 minutes. Representatives of the news media and designated staff shall be allowed to attend the executive session. All other participants may not attend. Representatives of the news media are specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of executive session, we will return to open session and welcome the audience back into the meeting.

Next meeting: [September 18, 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>



Date: August 14, 2024

To: Jennifer Nash, Chair

From: Jessica Kampfe, Executive Director

RE: OPDC Prioritization Method for Unrepresented Criminal Cases

The Oregon Public Defense Commission (OPDC) has implemented the case prioritization set out in this memo in an effort to manage limited attorney resources for criminal cases at both a state and county level in an equitable and transparent manner. Juvenile, PCR, PCR, and other statewide cases are prioritized separately. Using the Oregon Judicial Department's (OJD) Unrepresented Persons Dashboard, aka "The Dashboard," as well as available data, and input from various system partners, OPDC staff categorizes potential clients into one of four tiers for appointment priority and searches for attorneys to assign to cases using those tiers.

OPDC will review this process and prioritization every three months with the first review occurring in November 2024. Any comments or suggestions may be sent to: OPDS.Unrepresented.Persons@opds.state.or.us with the subject line: OPDC Unrepresented Prioritization Method.

Arraignment Process:

OPDC requests that courts continue to follow local appointment practices when assigning cases. When no contractor is available for appointment, the court should add OPDC as a placeholder in the Oregon eCourt Case Information System (OECS) so that the case appears on The Dashboard. OPDC relies on The Dashboard to know which cases need attorneys and identify in-custody unrepresented cases that are eligible for enhanced rates under [OPDC's Temporary Hourly Increase Policy](#). If there are inaccuracies on The Dashboard they can be reported by emailing OJD at report.request@ojd.state.or.us. OPDC requests that courts continue to follow local PJOs or other agreements for case assignments from this list and notify OPDC when assignments are made.

Nothing in the agency's policy prevents the Court from exercising its power under ORS 135.240 *et seq* regarding pre-trial release from custody. OPDC recognizes that courts and sheriffs will continue to make release decisions according to their local

practices, current need for and availability of jail beds, and other factors within their discretion.

OPDC Appointment Tier System:

Oregon's criminal court system has a backlog of people with criminal charges in need of attorneys and adds new cases daily from around the state. OPDC staff are acutely aware of the need for attorneys on *all* criminal cases, however the available supply of attorneys necessitates that the system prioritizes cases for assignment of counsel. OPDC searches for attorneys to represent the clients on The Dashboard according to the following prioritizations:

Tier 1: These are the highest priority cases. OPDC will make every effort to find qualified attorneys for these clients as quickly as possible.

- Cases regardless of custody status:
 - Murder, Jessica's Law, and any case with a potential life sentence as identified by system partners or OPDC staff;
 - Civil Commitment cases.
- In-custody cases identified by OJD as potentially subject to release under the ruling in *Betschart v. State of Oregon* 103 F.4th 607, 613 (9th Cir. 2024) prioritized by case type:
 - Cases charged under ORS 137.700 (Measure 11 cases), other than those that fall within the description above;
 - Cases in which a firearm was used or threatened to be used in the commission of the crime as defined in ORS 166.210 as identified by system partners or by OPDC staff;
 - Person felonies as defined in OAR 213.003.0001 (14);
 - Domestic Violence misdemeanors as identified by system partners or OPDC staff.
- Cases where the accused is in-custody and potentially unable to aid and assist as outlined in ORS 161.365 as identified by system partners or OPDC staff;

Tier 2: Once OPDC has made efforts to locate counsel for clients in Tier 1, staff will divert efforts to the following clients in order of priority:

- In-custody cases identified by OJD as NOT subject to release under the ruling in *Betschart v. State of Oregon* 103 F.4th 607, 613 (9th Cir. 2024) prioritized by case type:
 - Cases charged under ORS 137.700 (Measure 11 cases), other than those cases listed in tier 1;
 - Cases in which a firearm was used or threatened to be used in the commission of the crime as defined in ORS 166.210 as identified by system partners or by OPDC staff;;
 - Person felonies as defined in OAR 213.003.0001 (14);

- Domestic Violence misdemeanors as defined in ORS 135.230.
- In-custody cases where a defendant has asserted their right to trial within 90 days under ORS 135.760;

Tier 3: Once OPDC has made efforts to find representation for all tier 1 and 2 clients, OPDC staff will begin to work on tier 3 clients. OPDC staff will prioritize use of attorneys who are not qualified to accept cases in tier 1 and 2 on cases in tier 3.

- In-custody cases identified by OJD as subject to release under the ruling in *Betschart v. State of Oregon* 103 F.4th 607, 613 (9th Cir. 2024) prioritized by case type:
 - Person Misdemeanors as defined in OAR 213.003.0001 (15) excluding domestic violence cases in Tiers 1 and 2;
 - Level 8/6 Drug Deliveries as defined in OAR 213.019.0008 and 0010 if identified by system partners or OPDC staff;
 - Property crimes listed in ORS chapter 164;
 - Driving under the influence of intoxicants, any level;
- In-custody Cases identified by OJD as NOT subject to release under the ruling in *Betschart v. State of Oregon* 103 F.4th 607, 613 (9th Cir. 2024) prioritized by case type:
 - Person Misdemeanors as defined in OAR 213.003.0001 (15) excluding domestic violence cases in Tiers 1 and 2;
 - Level 8/6 Drug Deliveries as defined in OAR 213.019.0008 and 0010 if identified by system partners or OPDC staff;
 - Property crimes listed in ORS chapter 164;
 - Driving under the influence of intoxicants, any level;
- Out-of-custody cases prioritized by case type:
 - Person felonies;
 - Cases where the accused is potentially unable to aid and assist as outlined in ORS 161.365;
 - Domestic violence misdemeanors.

Tier 4: Tier four cases will be assigned to attorneys as they become available but will not be prioritized by OPDC staff unless the client has companion cases in a higher tier or by request of system partners on a case-by-case basis.

- All other cases not listed in tiers 1, 2, or 3, prioritized by case type and time since charge regardless of custody status.

OPDC will consider a potential client to be in custody if the person is in the physical custody of a jail, the department of corrections, or a federal corrections agency regardless of which charges the potential client is booked into custody on. OPDC will defer to OJD's determination of case status under the *Betschart* decision and custody status as reflected on The Dashboard. OPDC encourages system partners to report any inaccuracies on The Dashboard to OJD by emailing report.request@ojd.state.or.us.

There are too few attorneys in Oregon to be appointed to the number of cases that require their appointment. Despite OPDC's best efforts and the efforts of appointed attorneys, there will not be attorneys available to represent all clients until this shortage is resolved. In creating these priorities, OPDC is working to account for the considerations that generally go into release decisions, including the severity of the currently alleged offense and community safety concerns.

Within each tier OPDC will prioritize cases in the order listed above, by length of time in-custody, by length of time unrepresented, by requests of system partners, and by other factors. In some cases, OPDC staff will use their judgment to determine prioritization outside of stated priorities.

Limitations on OPDC's Ability to Prioritize Assignments:

OPDC staff rely on The Dashboard to develop our list of priority cases. If The Dashboard is inaccurate that impedes OPDC's efforts to prioritize cases and may result in cases being prioritized incorrectly. This includes cases which are incorrectly labeled as out-of-custody when the potential client is in-custody, and vice versa. Inaccuracies in the in-custody listing may result in OPDC being unable to locate counsel within *Betschart's* timelines. OPDC does not have sufficient staff available to verify the information on The Dashboard and relies on our system partners to assure that The Dashboard is accurate.

OPDC does not have access to information about cases that is not publicly available and does not have sufficient staffing resources to research the details of every case on The Dashboard. As such, OPDC relies on our system partners to notify us of cases needing prioritization based on information not readily available through OEI, as indicated in the descriptions of the priority tiers above. In particular, OPDC understands that, for the following types of cases, the system partners shown in parentheses may have the most accurate and timely information:

- Cases where clients are potentially unable to aid and assist (DA/Court/Attorney/family/community);
- Cases where a firearm was used/threatened (DA);
- Any category which anticipates a potential sentence such as level 8 drug offenses, etc. (DA);
- Cases alleging domestic violence if the highest charge is not designated as domestic violence in OEI (DA);
- Cases in which an individual is potentially subject to a mandatory life sentence (DA);
- Cases involving Jessica's Law allegations (DA); and
- Custody status if different from The Dashboard (Sheriffs/ Court/ DA).

System partners may choose to collaborate at arraignment regarding this information to ensure notification. Courts and other system partners should follow the procedure in the System Partner Input section of this memo to alert OPDC to information necessary for prioritization.

OPDC requests our system partners provide prioritization information to OPDC and/or corrections to The Dashboard as soon as possible. A lack of prioritization

information may result in a potential client's placement in the wrong priority tier. Inaccuracies on the Dashboard, particularly in the custody status field, may result in OPDC's inability to locate attorneys for clients. Last minute corrections to a potential client's custody status may result in OPDC's inability to locate an attorney within the timeline set by *Betschart* for release from custody.

If a court, provider, or other system partner believes that a case should be prioritized higher than its designated tier or has information that would impact tier classification as outlined in the limitations section above they may use the [Priority Unrepresented Persons Intake Form](#) to request that the case be moved to a higher tier. The Form may also be used to request prioritization within a tier. Further guidance on the form and notification process may be found on [OPDC's Website](#).

Attorney Assignment Process:

OPDC also prioritizes the assignment of cases to available attorneys by service delivery model type, though this is a secondary factor to the case prioritization above. OPDC will strive to assign cases to providers in the following manner:

1. Contract attorneys within the county;
2. Non-contract (hourly) attorneys within the county;
3. State Trial Division Offices if available within the county;
4. Contract attorneys eligible for hourly cases within the county;
5. State Trial Division Offices if not available within the county;
6. Non-contract (hourly) attorneys outside the county in order of distance;
7. Contract attorneys outside of the county who are eligible for hourly.

Other than murder cases attorneys will be prioritized for use within their home jurisdiction before being used for other jurisdictions. In order to preserve contract capacity, OPDC will not assign contractors to out of county cases except in extreme circumstances.



Oregon Judicial Department

Unrepresented Crisis – August 2024 Update

Key Insights

[Unrepresented Trends](#)

The total number of unrepresented individuals has steadily increased since June 2024 ([Figure 2](#)) and is approaching the historic high. Daily updates are available at the [Unrepresented Dashboard](#) on the OJD website.

[Filings in Public Defense-Related Case Types](#)

Criminal and other case filings remain 18% below pre-pandemic levels but have been inching up for two consecutive years ([Figure 5](#)). Ten judicial districts saw an increase in those case filings in fiscal year 2024, and five had double-digit percentage increases ([Figure 6](#)).

[Unrepresented by County](#)

The crisis continues to be most severe in Jackson, Marion, Multnomah, Douglas, and Washington counties and is growing more severe in Clatsop, Deschutes, Coos, and Klamath counties ([Figure 7](#)).

[OPDC Trial Division Offices](#)

The OPDC Trial Division offices currently have nine attorneys who have taken 287 appointments since December 2023. They primarily have taken appointments for misdemeanor and minor felonies cases, although in recent months they have taken fewer misdemeanor cases ([Figure 8](#)).

[Data Share Update](#)

The OJD and OPDC data teams are meeting weekly to collaborate on enhancing data quality and creating efficiencies. OJD also is actively supporting OPDC's technology transition to the executive branch.

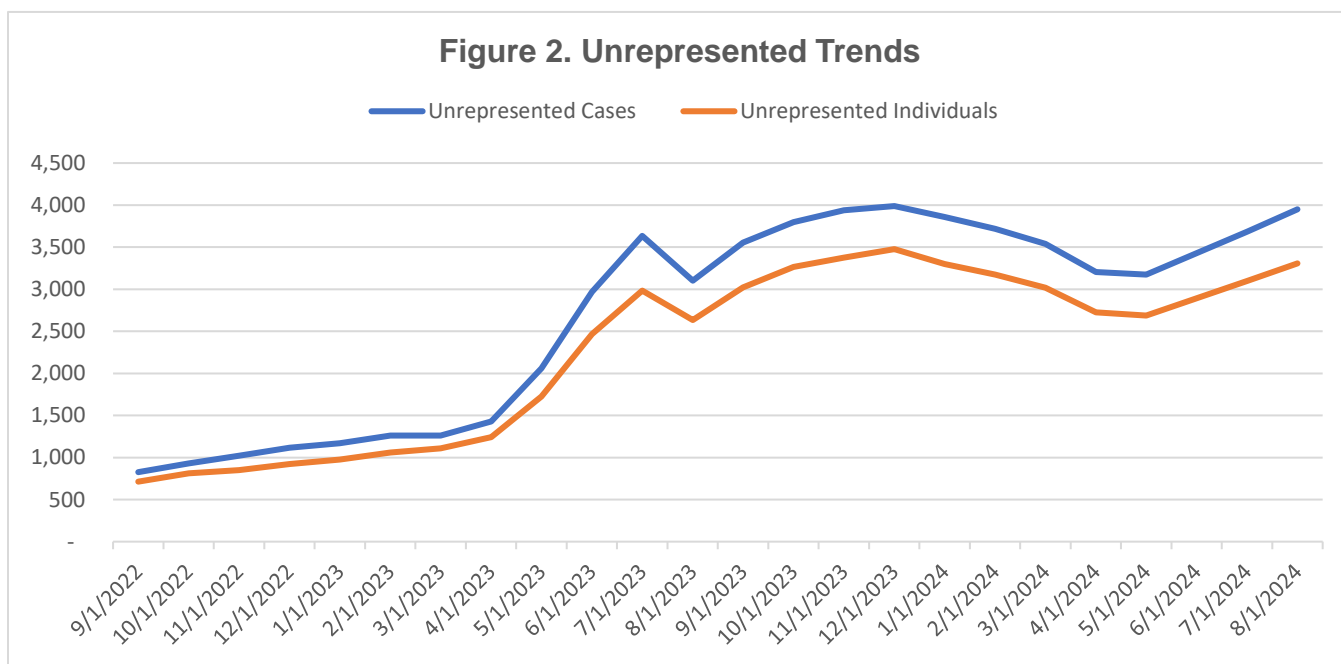
[Local Court Spotlights](#)

Washington County was one of the original counties to experience the unrepresented crisis over two years ago. The court continues to struggle with the number of out-of-custody unrepresented individuals, which has recently started to increase.

Unrepresented Trends

Table 1 shows the number of unrepresented persons, cases, and case types on the first of each month since April 2024. Figure 2 shows the number of unrepresented individuals is increasing again. On 8/1/2024, the total number of unrepresented cases was 3,952 and individuals was 3,306, nearly reaching the previous record from December 2023 when there were 4,186 unrepresented cases and 3,591 unrepresented individuals.

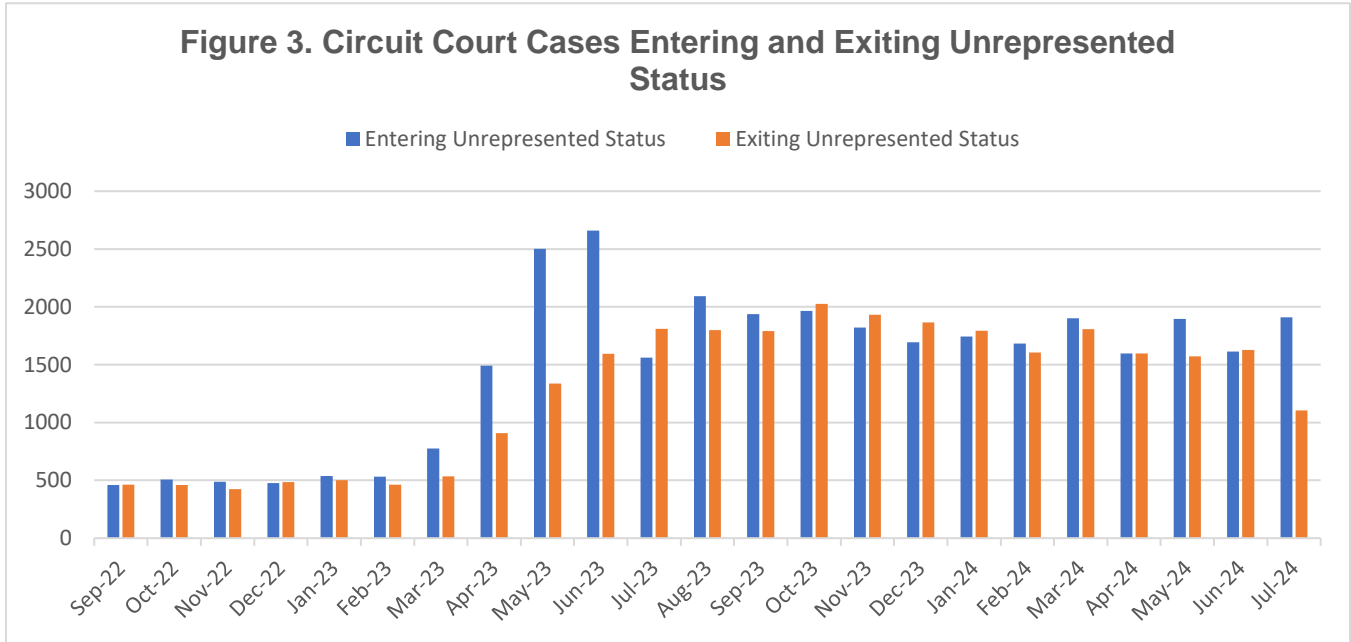
| | 04/01/24 | 05/01/24 | 06/01/24 | 07/01/24 | 08/01/24 |
|-----------------------------|----------|----------|----------|----------|----------|
| Total Unrepresented persons | 2,671 | 2,747 | 3,210 | 3,097 | 3,306 |
| Total Unrepresented cases | 3,110 | 3,184 | 3,707 | 3,685 | 3,952 |
| Misdemeanors | 1,693 | 1,769 | 2,082 | 2,217 | 2,282 |
| Felonies | 1,305 | 1,340 | 1,552 | 1,414 | 1,611 |
| Non-criminal cases | 112 | 75 | 73 | 54 | 59 |



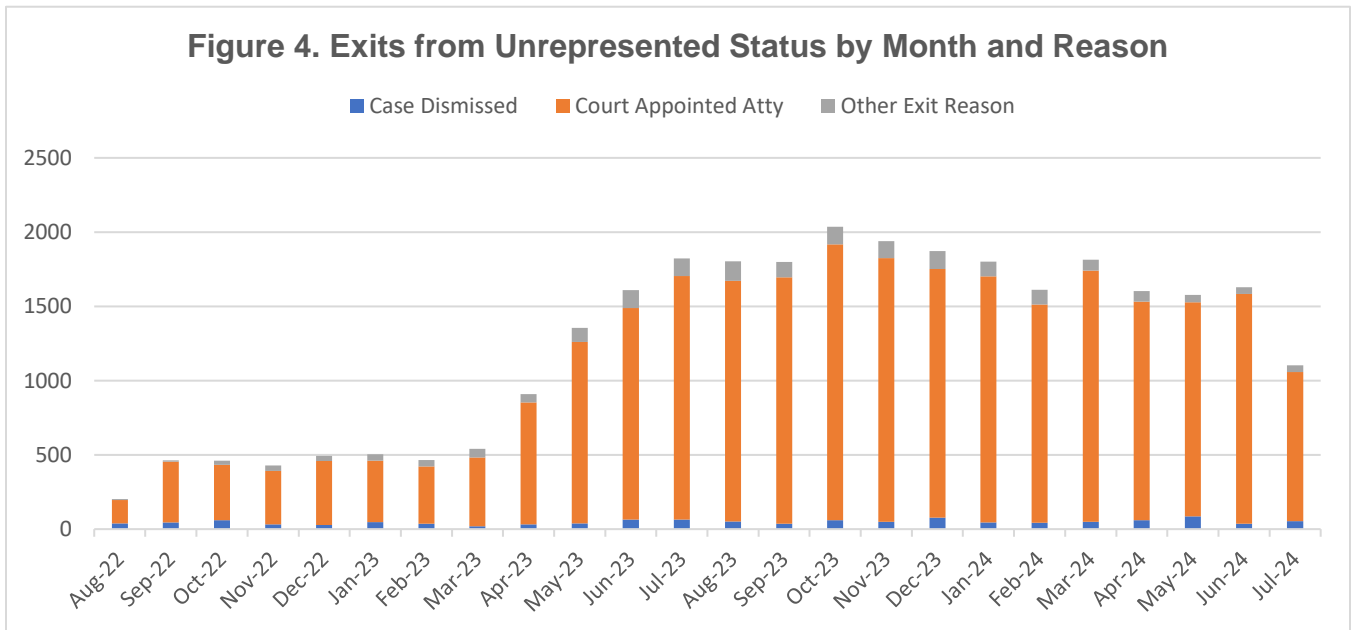
Source: OJD Odyssey Data (eCourt).

Figure 3 shows the number of unrepresented cases entering and exiting unrepresented status by month and year. The number of cases added to the unrepresented list often exceeds the number of cases exiting from the list. Figure 3 shows cases exit the unrepresented list primarily because an attorney was assigned to the case; however, there are some cases that exit the unrepresented list because they are dismissed or the case resolves. Since May 2023, the number of cases entering the unrepresented list and the number of cases exiting the unrepresented list has been in the thousands.

Large increases in the number of unrepresented cases seen in Figure 2 correspond with months where the number of cases being added to the unrepresented list significantly outpace the number of cases exiting (see May 2023; June 2023, and July 2024 in Figure 2). While the number of cases exiting the unrepresented list has at times been higher than the number of cases added, the difference has not been large enough to significantly impact the total number of unrepresented cases. Instead, it has resulted in the unrepresented numbers stabilizing.



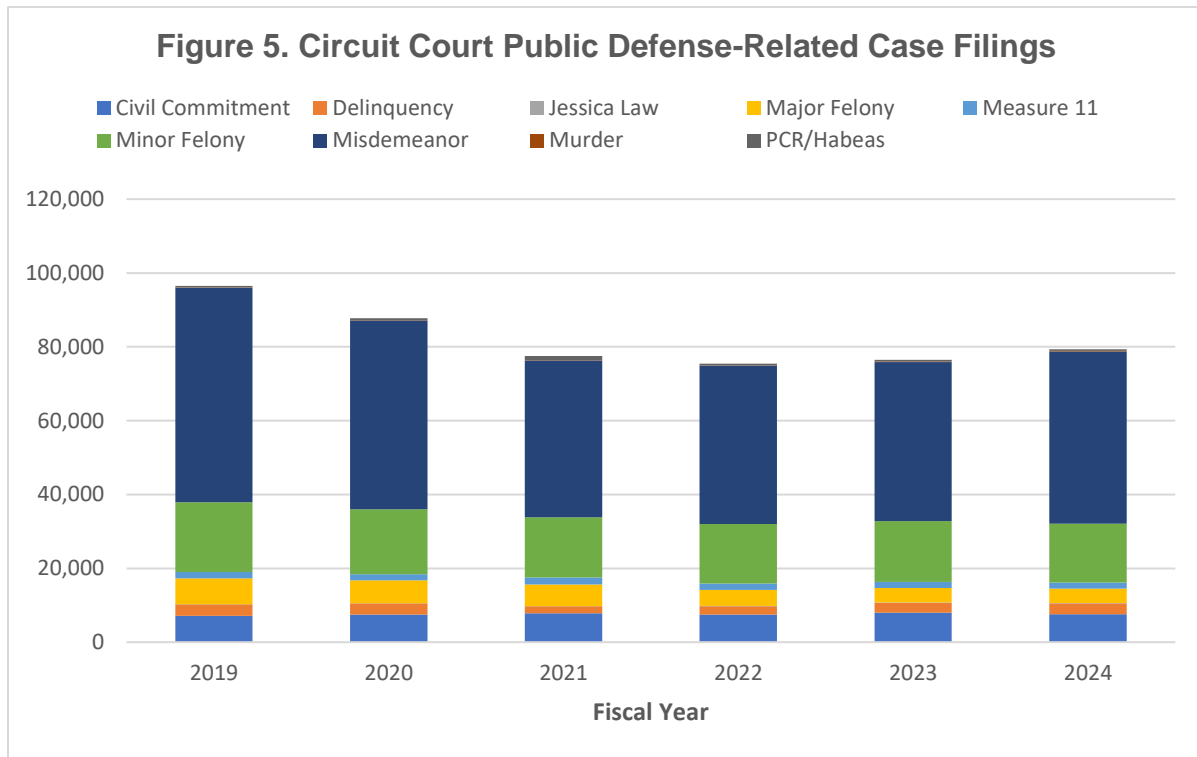
Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).

Public Defense-Related Case Filings

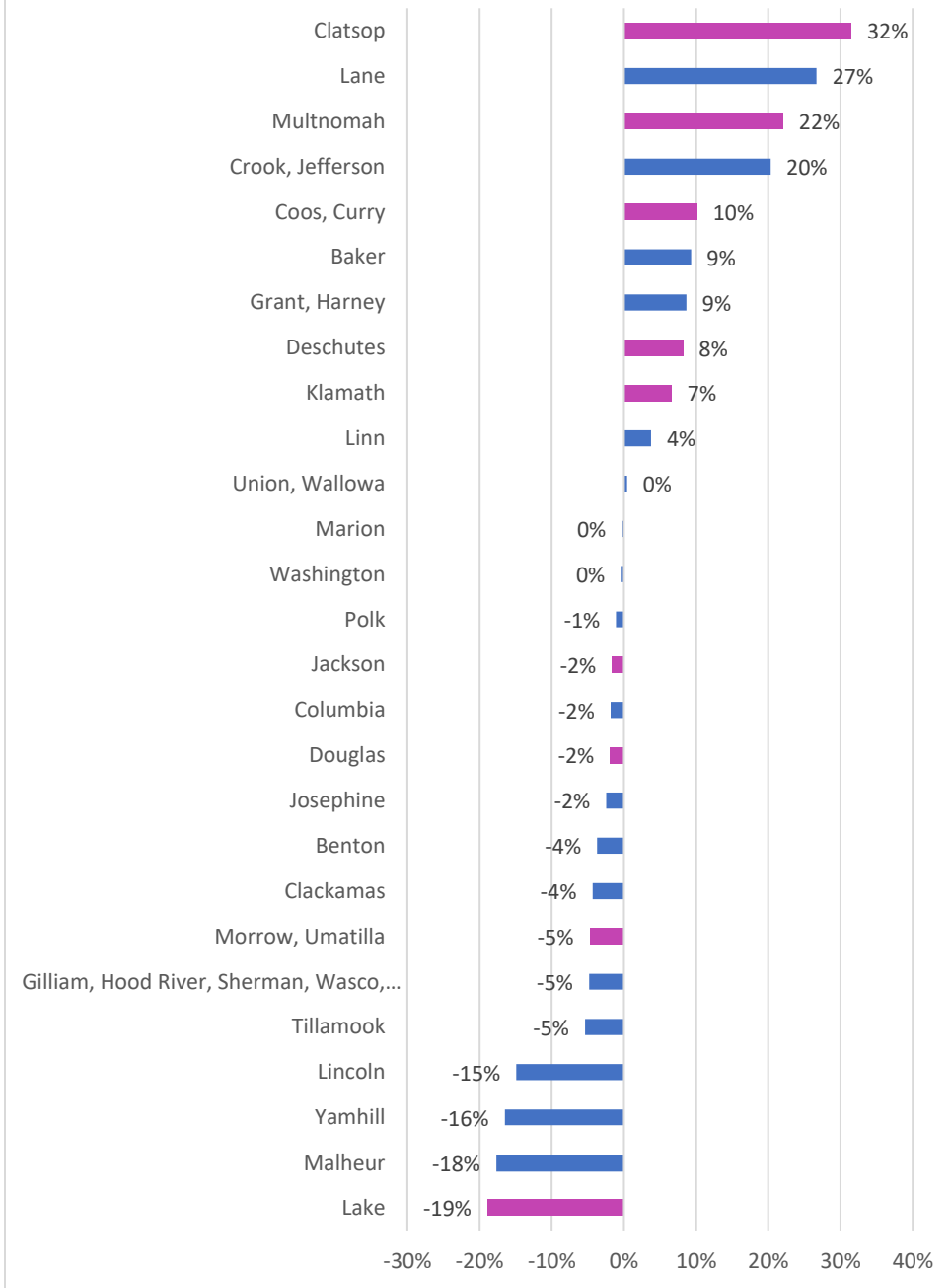
Figure 5 show circuit court case filing trends for cases that typically involve a public defender. Filings remain below 2019 levels but have increased over the past two fiscal years. In fiscal year 2023 case filings increased statewide by 1.4% and in fiscal year 2024 increased another 3.7%. We project this trend will continue in fiscal year 2025. The overall increase is primarily due to an increase in misdemeanor filings with 3,577 additional filings in fiscal year 2024 compared to 2023. Other case types saw a decrease or small increase in filings.



Source: OJD Odyssey Data (eCourt).

Judicial districts have seen different increases or decreases in case filings. Figure 5 shows the one-year change in cases filed by judicial district from FY 2023 to FY 2024. Unrepresented “hot spots” (counties with recent increases in the number of unrepresented individuals) are highlighted in pink (Marion is not highlighted because there was no change in case filings from FY 2023 to FY 2024; however, they have had a recent increase in the number of unrepresented individuals). Some increases in filings are due to recent hires in district attorney offices that were previously short-staffed. Filings fluctuate in individual judicial districts from year to year – Multnomah and Linn counties are the only jurisdictions where filings increased in both years.

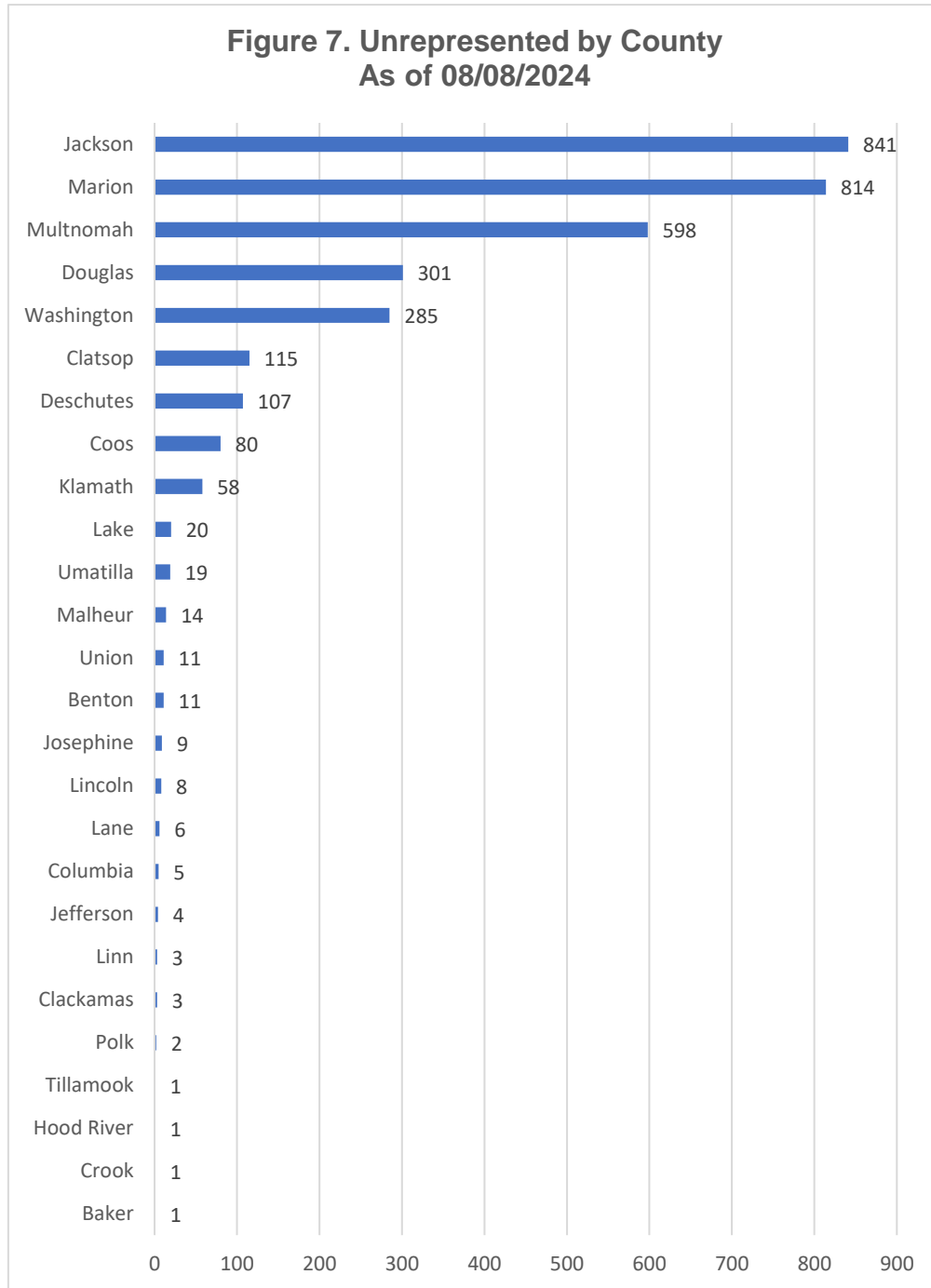
Figure 6. One-Year Change in Public Defense-Related Cases Filed FY 2023 to FY 2024 by Judicial District



Source: OJD Odyssey Data (eCourt).

Unrepresented by County

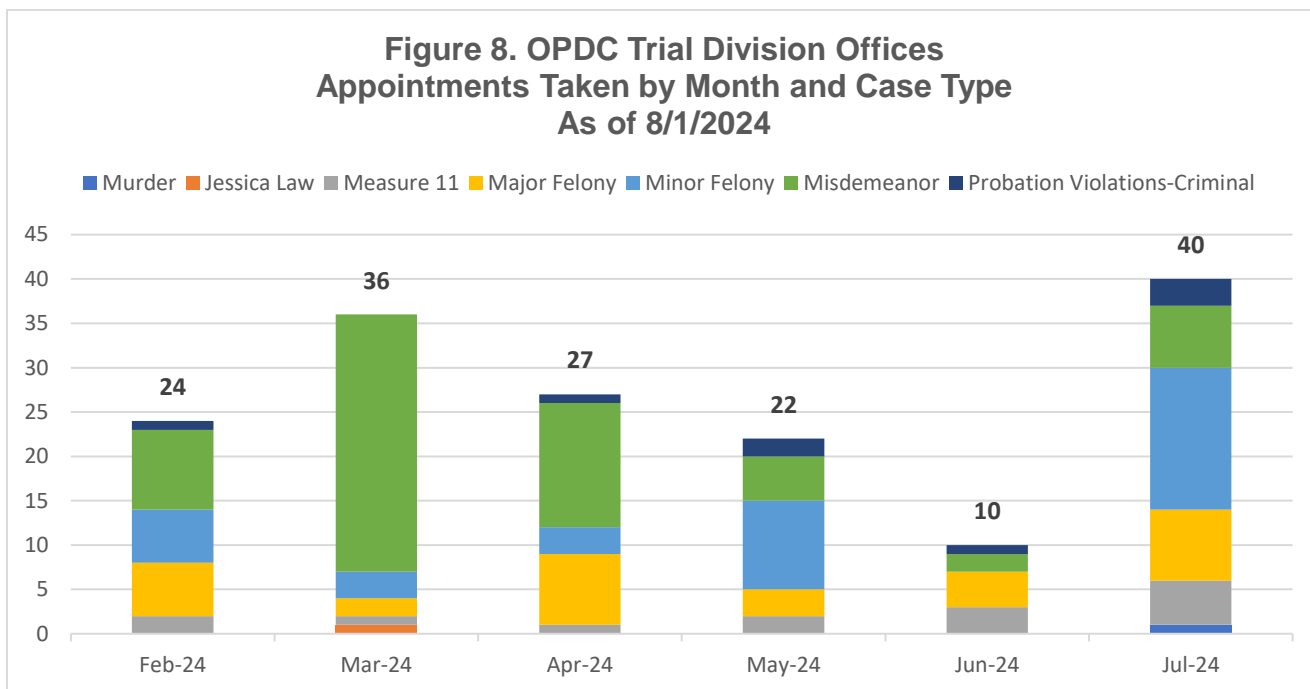
Figure 7 shows the number of unrepresented individuals by county. Jackson continues to have the highest number of unrepresented individuals. Marion has seen an increase in its unrepresented individuals by 275 since April 15, 2024. Josephine has had the same nine cases on the unrepresented list since November 2023.



Source: OJD Odyssey Data (eCourt).

OPDC Trial Division Offices

Figure 8 shows the **287** new appointments taken since the first OPDC Trial Division Office opened in December 2023, by case type. The trial division attorneys have primarily taken misdemeanor and minor felony cases. They have taken one murder case.



Source: OJD Odyssey Data (eCourt).

Data Share Update

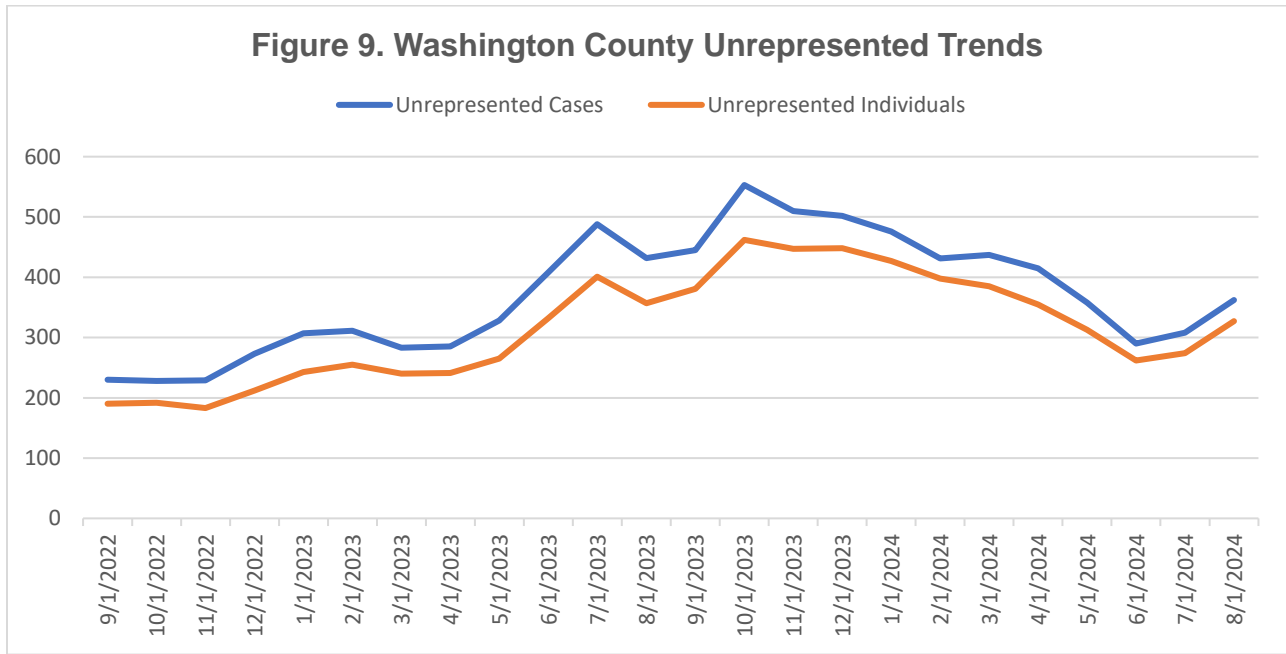
OJD and OPDC continue to meet weekly to collaborate on enhancing data quality and creating efficiencies. We have been able to create a new shared dashboard so courts can view where OPDC is in the process of assigning attorneys to unrepresented cases. OJD also is working with OPDC and the executive branch to assist in OPDC’s technology transition to that branch.

Local Court Spotlight

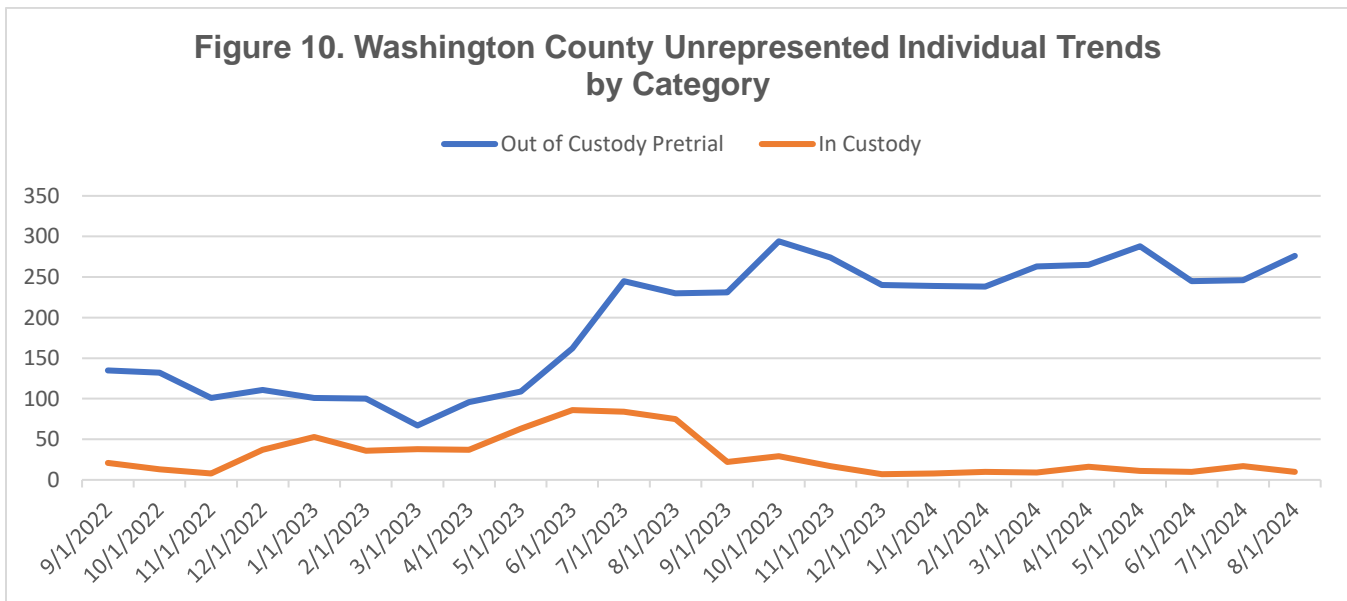
Washington Unrepresented Trends

Washington County (along with Multnomah and Marion Counties) has been “ground zero” for Oregon’s Unrepresented Crisis for more than three years. Since the onset of the crisis, the court implemented several interventions to manage it prior to the SB 337 crisis plans. The local public defense service providers consist of Metropolitan Public Defender, Oregon Defense Attorney Consortium, and various private firms and individual attorney contractors. Some providers lost major-felony qualified attorneys in the past two years and have not been able to take as many major felony cases. Figure 9 shows the number of unrepresented cases in Washington declined steadily from October 2023 to May 2024. In June 2024, the number of unrepresented cases began to increase again.

The first federal court order in *Betschart et al. v. Garrett et al.*, No. 3:323-cv-01097-CL was issued on August 12, 2023 and applied only to Washington County. That order, combined with staffing issues at the Washington County jail, have resulted in fewer in-custody unrepresented defendants in Washington County. However, as seen in Figure 10, the decrease in in-custody unrepresented defendants corresponded with an increase in out-of-custody unrepresented defendants.



Source: OJD Odyssey Data (eCourt).





Date: August 21, 2024

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

Cc: Jessica Kampfe, Executive Director

From: Ralph Amador, Chief Financial Officer

Re: 2025-2027 Agency Request Budget

Nature of Presentation: Action Item

Background:

Every even-numbered year executive branch agencies develop an Agency Request Budget (ARB) for the upcoming biennium. The ARB is considered by the Governor in the preparation of her Governor's Recommended Budget (GRB), which must be balanced to projected revenues and serves as a starting point for the Legislature's consideration in the development of the Legislatively Adopted Budget (LAB). Upon the Governor's signature, that budget will be effective for the biennium beginning July 1, 2025 and ending June 30, 2027, which will eventually become the Legislatively Approved Budget (LAB). ARB's must be submitted by August 31, and the Governor must present the GRB by December 1, 2024.

Judicial Branch agencies have typically participated in the ARB process and have not been required to participate in and GRB process. Effective January 1, 2025, OPDC will transition from the Judicial Branch to the Executive Branch (SB 337 (2023)). Therefore, as a part of that transition the OPDC has chosen to participate fully in the ARB and GRB processes for the 2025-2027 biennium.

During its May meeting, the Commission heard information from agency staff about the budget development process, budget categories, and an initial recommendation on Policy Option Packages (POPs) proposals. On June 8, 2024, the Commission considered updated POPs and provided direction to agency staff on which POPs to move forward. At that meeting, the Commission approved some POPs but decided to convene an advisory group to further discuss selected POPs, for clarification. On June 20, 2024, the Commission met again and gave the agency staff direction to proceed on all POPs.



On July 24, 2024, the commission gave final approval of all the POPs as developed and instructed agency staff to prepare them for inclusion in the 2025-27 ARB.

Today’s materials include the final recommendations for ARB funding levels and policy option packages. In preparing these recommendations, staff have been guided by the Commission’s statutory priorities and feedback from prior Commission meetings. In addition, the staff recommendations adhere to budget instructions developed by the Governor and Chief Financial Office (CFO).

Overview: Current Service Level (CSL) is determined by applying specific estimates of inflationary factors to the previously approved (2023-25) LAB. This is accomplished by phasing out programs that were not intended to be ongoing, and by phasing in programs that the Legislature slated to begin. In some cases, the application of mandated caseload inflation occurs to account for changes in the official forecast models. Additional adjustments to the CSL budget (positive or negative) are made through the adoption of Policy Option Packages (POPs). While CSL represents most funds within the overall budget, most of the attention given by the governor’s office and the legislature typically focuses on POPs.

| OPDC | General Fund | Other Funds | Total Funds | Positions | FTE |
|------------|---------------|-------------|---------------|-----------|--------|
| LAB 23-25 | 591,596,364 | 22,352,949 | 613,949,313 | 179 | 157.89 |
| CSL 25-27 | 631,251,314 | 20,769,678 | 652,020,992 | 172 | 171.80 |
| ARB 25-27 | 1,396,064,728 | 20,769,678 | 1,416,834,406 | 315 | 283.47 |
| Difference | 804,468,364 | (1,583,271) | 802,885,093 | 136 | 126 |
| Pct Change | 135.98% | -7.08% | 130.77% | 75.98% | 79.54% |

General Fund Increases:

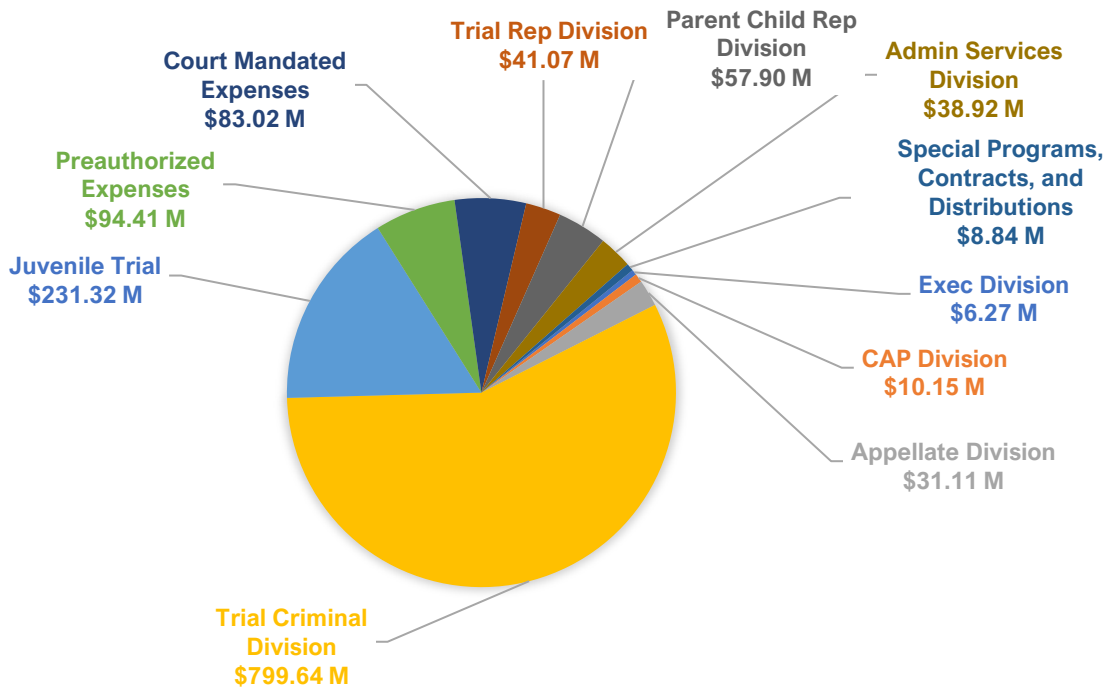
2023-25 LAB to 2025-2027 CSL - \$40 million

2025-27 ARB to 2023-25 LAB - \$804 million

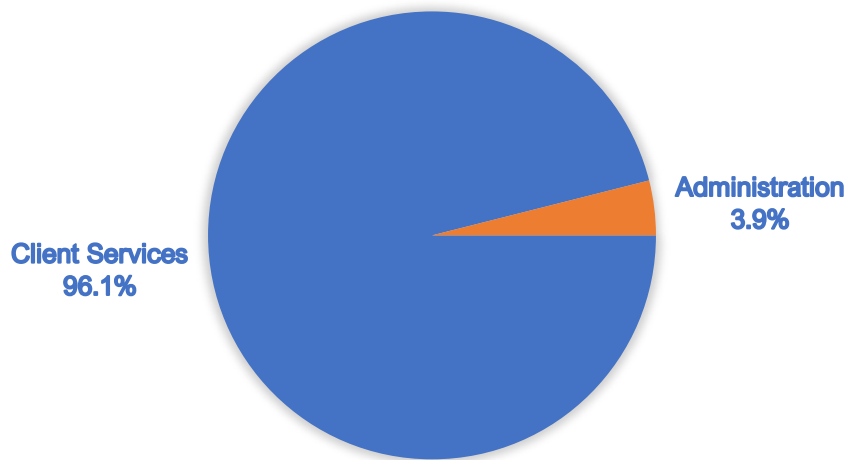
| Policy Option Package Description | General Fund | Other Funds | Total Funds | Positions | FTE |
|---------------------------------------|--------------------|------------------|--------------------|------------|--------------|
| 101 Financial/Cases Management System | 10,470,000 | 3,669,782 | 14,139,782 | 8 | 8.00 |
| 102 Criminal Contracts | 446,303,164 | | 446,303,164 | | |
| 103 Trial Division Build | 21,863,302 | | 21,863,302 | 111 | 64.33 |
| 104 Hourly Rates | 38,919,169 | | 38,919,169 | | |
| 105 Juvenile Contracts | 176,908,058 | | 176,908,058 | | |
| 106 Administration | 4,433,377 | | 4,433,377 | 15 | 13.20 |
| 107 THIP Continuation | 26,879,814 | | 26,879,814 | | |
| 108 Recruitment & Retention | 29,278,889 | | 29,278,889 | 5 | 5.00 |
| Total Policy Option Packages | 755,055,773 | 3,669,782 | 758,725,555 | 139 | 90.53 |

2025-27 Agency Request Budget

\$1.42 BILLION



2025-27 Agency Request Budget Budget by Functional Classification



Agency Recommendation:

Staff recommends the Commission approve the OPDC’s 2025-27 Agency Request Budget as presented.

Fiscal Impact:

None

Agency Proposed Motion:

Move to approve submission of the Oregon Public Defense Commission’s 2025-27 Agency Request Budget on or before August 30, 2024.



PUBLIC DEFENSE COMMISSION

Agency Request Budget

For the appropriation year ended June 30, 2027

PUBLIC DEFENSE COMMISSION

Agency Request Budget 2025 – 2027 Biennium

Mailing Address for Additional Copies or Information

Oregon Public Defense Commission
198 Commercial Street S.E, Suite 200
Salem, Oregon 97301

Telephone: (503) 378-3349

Fax: (503) 378-4463

TTY: Oregon Relay Service 711

Published: August 14, 2024

Contents

| | Page |
|--|-----------|
| Legislative Action | 8 |
| Agency Summary | 10 |
| Agency Funding Summary | 14 |
| About the Commission..... | 18 |
| About the Agency Request Budget..... | 20 |
| Agency History | 21 |
| State of Contracting Systems | 24 |
| Risks and Challenges | 28 |
| Agency Revenues..... | 31 |
| 2025 – 27 Agency Request Budget | 33 |
| Agency Request Budget Biennial Summary..... | 33 |
| Program Prioritization..... | 71 |
| General Fund Reduction Options | 74 |
| Organizational Chart..... | 77 |
| Agency-wide Program Unit Summary | 78 |
| Executive Division | 82 |
| Organizational Chart..... | 86 |
| Essential Packages | 87 |
| Policy Option Package 106 – Robust Agency Support Investment | 89 |

| | |
|---|------------|
| Compliance, Audit, and Performance Division | 97 |
| Organizational Chart..... | 102 |
| Essential Packages..... | 103 |
| Policy Option Package 103 – Direct Representation Investment..... | 105 |
| Policy Option Package 106 – Robust Agency Support Investment..... | 115 |
| Appellate Division | 123 |
| Organizational Chart..... | 137 |
| Essential Packages..... | 138 |
| Policy Option Package 103 – Direct Representation Investment..... | 140 |
| Adult (Criminal) Trial Division | 150 |
| Essential Packages..... | 158 |
| Organizational Chart..... | 160 |
| Policy Option Package 102 – Criminal Workload Augmentation..... | 161 |
| Policy Option Package 103 – Direct Representation Investment..... | 172 |
| Policy Option Package 104 – Service Provider Rate Parity..... | 182 |
| Policy Option Package 108 – Recruitment and Retention..... | 188 |
| Juvenile Trial Division | 203 |
| Essential Packages..... | 211 |
| Policy Option Package 105 – Juvenile Workload Augmentation..... | 213 |
| Preauthorized Expenses | 223 |
| Essential Packages..... | 229 |
| Policy Option Package 102 – Criminal Workload Augmentation..... | 231 |

| | |
|--|------------|
| Policy Option Package 104 – Service Provider Rate Parity | 243 |
| Policy Option Package 105 – Juvenile Workload Augmentation..... | 249 |
| Policy Option Package 107 – Temporary Hourly Increase Program | 259 |
| Court Mandated Expenses | 266 |
| Essential Packages | 270 |
| Policy Option Package 104 – Service Provider Rate Parity | 272 |
| Policy Option Package 107 – Temporary Hourly Increase Program Carryover..... | 278 |
| Parent Child Representation Program | 285 |
| Essential Packages | 293 |
| Administrative Services Division | 295 |
| Organizational Chart..... | 307 |
| Essential Packages | 308 |
| Policy Option Package 101 – Finance and Case Management System..... | 310 |
| Policy Option Package 106 – Robust Agency Support Investment | 324 |
| Special Programs, Contracts, and Distributions Division | 332 |
| Essential Packages | 338 |

Certification

I hereby represent and warrant that the accompanying summary and detailed statements are true and correct to the best of my knowledge and belief and that the accuracy of all numerical information has been verified.

Public Defense Services Commission

Agency Name

198 Commercial Street S.E., Suite 200, Salem, Oregon 97301

Agency Address

Signature

Date

Chair

Title

[This page intentionally left blank.]

Legislative Action

Summary

Budget Impacts to the 2023 – 25 Legislatively Approved Budget

■ **General agency appropriations:** The 82nd Legislative Assembly passed Senate Bill 5532 (2023), Senate Bill 337 (2023), Senate Bill 5506 (2023), and House Bill 2225, which together comprises the commission’s legislatively adopted budget.

■ SB 337 made significant investments to reform the public defense system and to combat a rapidly mounting body of unrepresented persons charged with criminal offenses. Among other things, SB 337 appropriated out of the state’s general fund:

- 14.7 million dollars to increase hourly rates of pay for attorneys, investigators, and interpreters;
- 9.9 million dollars to provide one-time retention compensation;
- 7.9 million dollars to fund the commission’s finance and case management system; and
- 4.3 million dollars to establish a pilot program of two regional trial offices.

■ The budget reconciliation provisions in SB 5506 provided one million dollars in other funds limitation to spend a subaward of a federal program grant by the Criminal Justice Commission.

— The measure also appropriated three special purposes appropriations for public defense and the commission the Joint Emergency Board.

■ **2024 Regular Session:** House Bill 5204 and Senate Bill 5701 provided funding for the second fiscal year of training, supervision, and investigation in the public defense legal services contracts.

— The measures also provided funding for otherwise normal increases in maximum attorney caseload (MAC) capacity and increases in MAC capacity to answer criminal charges in possession and delivery of controlled substances after House Bill 4002 (2024) recriminalized drug possession.

Legislative Action

Summary

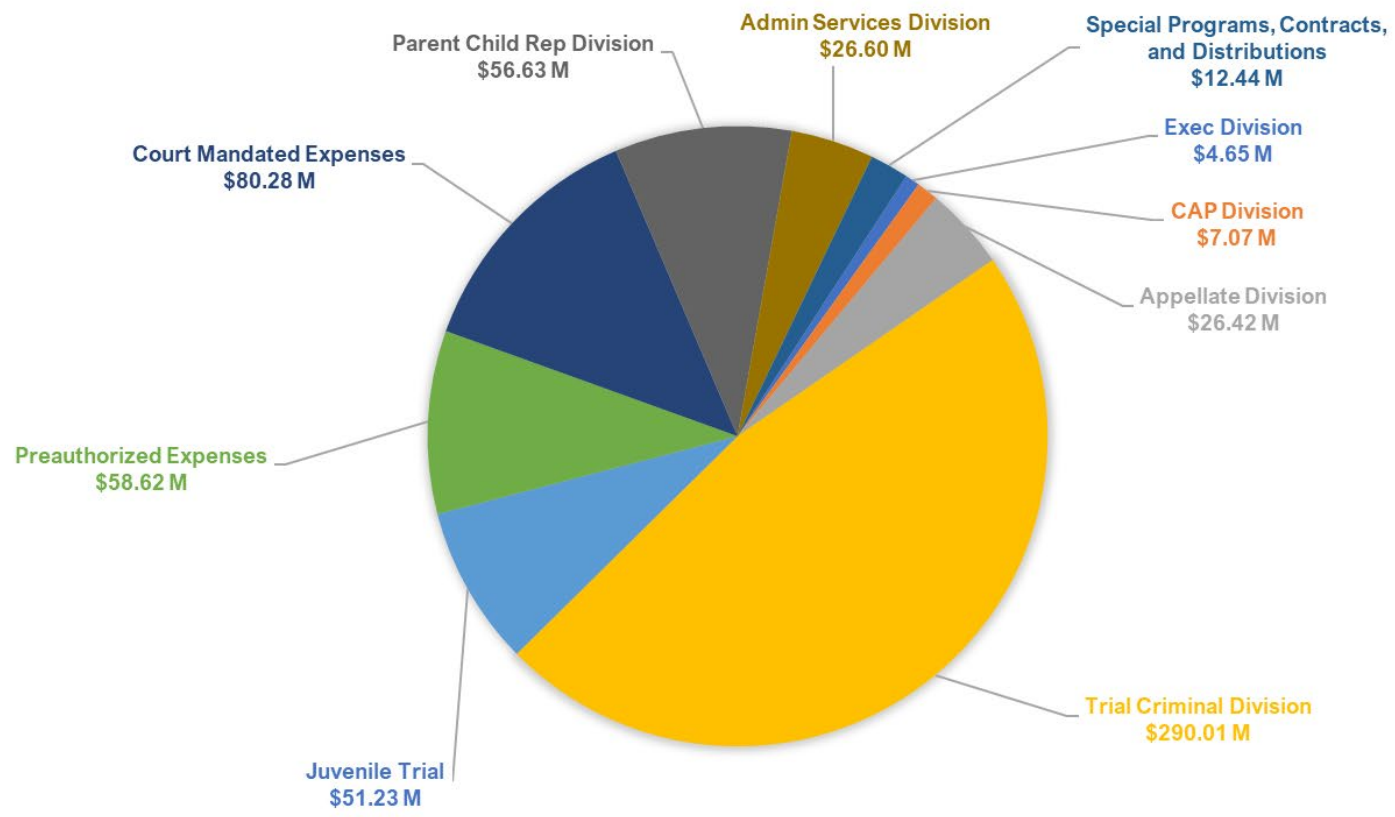
Summary of the 82nd Legislative Assembly’s Investments in the Commission

| Assembly (Session) | Bill No. | Authority | Appropriation / Allocation | |
|----------------------------------|---|-------------------------------|----------------------------|-------------|
| | | | General Fund | Other Funds |
| 82 nd Assembly (2023) | Senate Bill 5532 | Oregon Laws 2023, Chapter 481 | 514,717,456 | 20,769,667 |
| 82 nd Assembly (2023) | Senate Bill 337 | Oregon Laws 2023, Chapter 281 | 39,999,591 | 0 |
| 82 nd Assembly (2023) | House Bill 5506 | Oregon Laws 2023, Chapter 605 | 1,485,644 | 1,000,000 |
| 82 nd Assembly (2023) | House Bill 2225 | Oregon Laws 2023, Chapter 302 | 902,665 | 0 |
| 82 nd Assembly (2024) | House Bill 5204 | Oregon Laws 2024, Chapter 71 | 14,247,507 | 0 |
| 82 nd Assembly (2024) | Senate Bill 5701 | Oregon Laws 2024, Chapter 114 | 20,242,666 | 583,281 |
| Emergency Board | May 31, 2024, Certification | Allocation (ORS 291.326 (1)) | 286,301 | 0 |

Agency Summary

Executive Summary

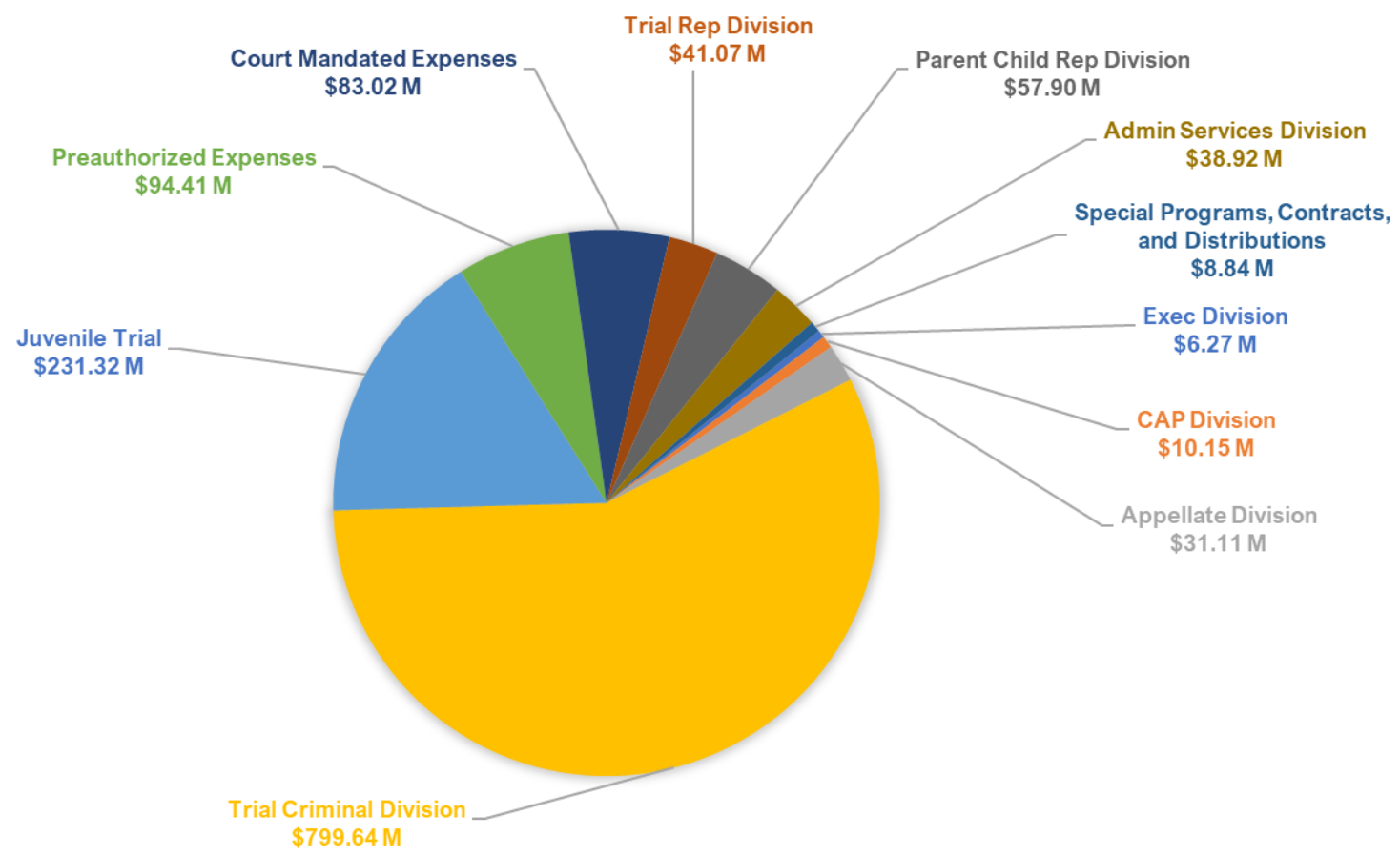
2023-25 LEGISLATIVELY APPROVED BUDGET \$613.9 M



Agency Summary

Executive Summary

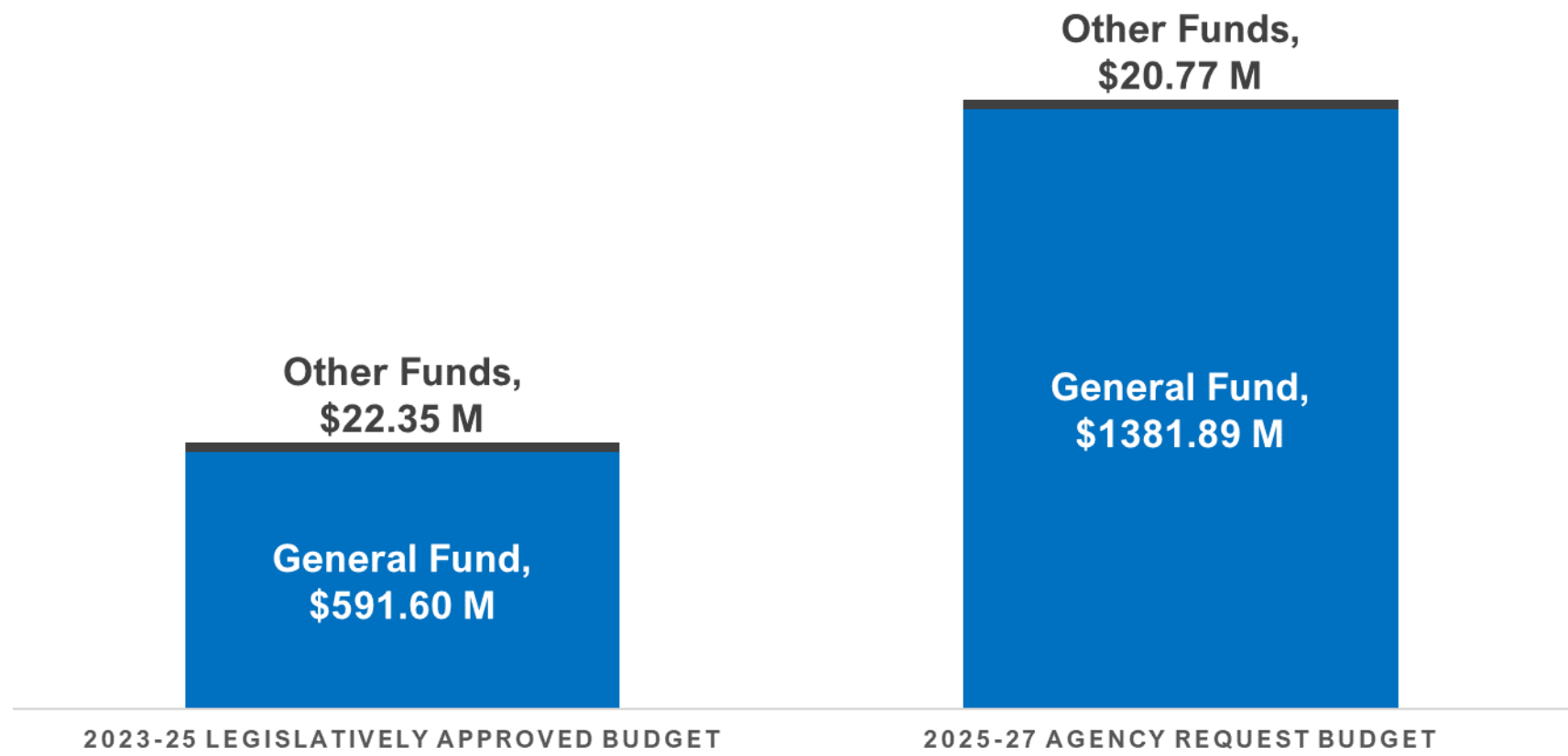
2025-27 Agency Request Budget \$1.4 BILLION



Agency Summary

Executive Summary

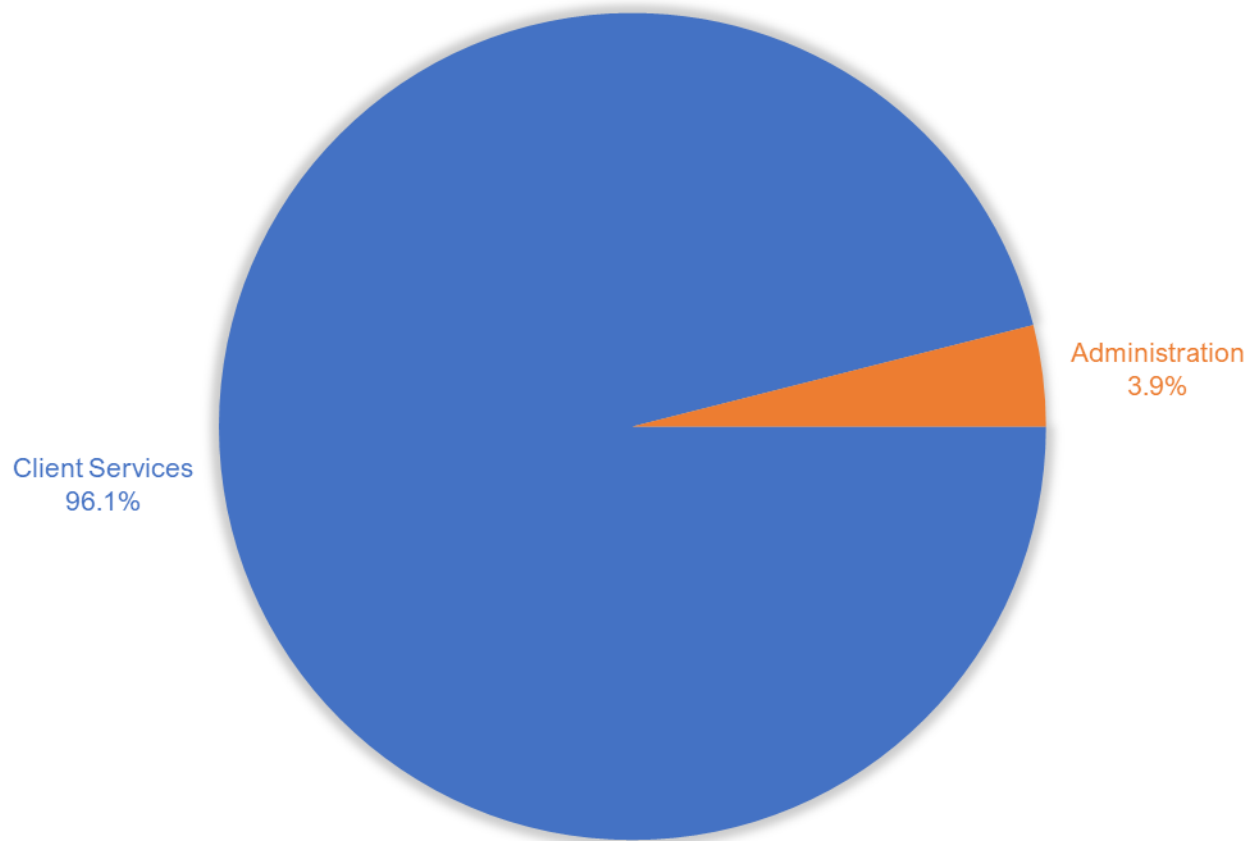
Public Defense Services Commission Budget by Appropriated Fund



Agency Summary

Executive Summary

2025-27 Agency Request Budget Budget by Functional Classification



Agency Summary

Executive Summary

Agency Funding Summary

Strategic Funding Investments

The following Excellence in State Government investments above the current service level are being proposed to improve services provided to Oregonians. The investments are proposed through the following list of the policy option packages (POP), and descriptions of each POP are included in the appropriate program budget narrative of the commission’s agency request budget document.

| Policy Option Package | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|---------------------|--------------------|--------------------|------------------|---------------|
| 081 May 2024 Emergency Board | 547,963 | 0 | 547,963 | 2 | 2.00 |
| 101 Finance and Case Management System | 14,338,825 | 0 | 14,338,825 | 8 | 8.00 |
| 102 Criminal Workload Augmentation | 446,303,164 | 0 | 446,303,164 | 0 | 0.00 |
| 103 Direct Representation Investment | 27,204,155 | 0 | 27,204,164 | 113 | 84.07 |
| 104 Service Provider Rate Parity | 38,919,169 | 0 | 38,919,169 | 0 | 0.00 |
| 105 Juvenile Workload Augmentation | 176,908,058 | 0 | 176,908,058 | 0 | 0.00 |
| 106 Robust Agency Support Investment | 4,433,377 | 0 | 4,433,377 | 15 | 13.20 |
| 107 Temp. Hourly Increase Prog. Carryover | 26,879,814 | 0 | 26,879,814 | 0 | 0.00 |
| 108 Recruitment and Retention | 29,278,889 | 0 | 29,278,889 | 5 | 5.00 |
| Total Policy Option Packages | 764,813,414 | 0 | 764,813,414 | 143 | 111.67 |

The agency is organized into eleven programs or divisions.

Agency Summary

Executive Summary

The **Executive Division** contains the agency’s core leadership team and has primary responsibility for agency governance and ensuring compliance with ORS Chapter 151. ORS 151.216 directs the agency “to maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, United States Constitution, and Oregon and national standards of justice.”

The **Compliance, Audit & Performance (CAP) Division** establishes best practices for Oregon public defense programs. This includes establishing public defense training, certification standards, auditing, financial compliance and other support for defense attorneys contracted to perform public defense services by OPDC. The (CAP) Division works in partnership with public defense providers and entities that handle criminal, juvenile dependency, juvenile delinquency, civil commitment, post-conviction relief, and habeas corpus cases for people entitled to court-appointed counsel at state expense.

The **Appellate Division** provides constitutionally and statutorily mandated representation to financially eligible individuals in criminal, parole, juvenile delinquency, juvenile dependency, and termination of parental rights cases on appeal or judicial review. We provide this service through direct representation by attorney professionals and legal support staff employed by OPDC in the Criminal Appellate Section and the Juvenile Appellate Section.

The **Adult Trial Division** within OPDS is provides funding through contracts for representation for financially eligible individuals in trial and appellate criminal cases, including post-judgment eligible cases such as post-conviction relief and habeas corpus proceedings, as well as civil commitment and other mental health cases.

The **Juvenile Trial Division** provides funding through contracts for trial-level representation of financially eligible parents, children, and youth in juvenile dependency, termination-of-parental-rights, juvenile delinquency, and contested adoption cases in the majority of jurisdictions in Oregon. The Juvenile Division also provides guardians ad litem for parents whose rights the juvenile court determines need additional protection because they have a mental or physical disability that prevents them from understanding and/or assisting counsel in a dependency or termination-of-parental-rights case.

Preauthorized Expenses (formerly Non-Routine Expenses (NRE) and Case Support Services (CSS)) provides timely pre-approval of “reasonable and necessary” expenses in support of public defense client cases.

Court Mandated Expenses funds defense counsel who serve on the agency’s criminal and juvenile appellate panels and are generally paid set rates to represent clients on direct appeal in criminal, juvenile dependency, termination-of-parental-rights, and juvenile

Agency Summary

Executive Summary

delinquency cases and attorneys who do not have a contract with the commission but nonetheless accept one or more court appointments due to conflicts and/or a lack of public defense provider capacity. Defense counsel are generally paid an hourly rate between \$130.00 and \$145.00 per hour depending on the type of case. This funding is essential to ensure the appointment and payment of counsel for all individuals entitled to court-appointed counsel under state and federal law. The non-contract attorney hourly rate for cases subject to the Temporary Hourly Increase Policy for persons that are unrepresented ranges from \$164.00 per hour to \$200.00 per hour.

The **Trial Representation Division (TRD)** establishes the buildout of the newly created state-run trial division by adding 40 attorneys with their corresponding support staff. The support staff will be placed within the Appellate Division.

The **Parent Child Representation Program (PCRP)** provides for trial-level representation of financially eligible parents, children, and youth in juvenile dependency, termination-of-parental-rights, juvenile delinquency, and contested adoption cases in ten counties within Oregon. The PCRP also provides guardians ad litem for parents whose rights the juvenile court determines need additional protection because they have a mental or physical disability that prevents them from understanding and/or assisting counsel in a dependency or termination-of-parental-rights case. The PCRP utilizes a model of representation that limits attorney caseloads to 80 open cases per full-time attorney and provides increased resources for attorneys, increased access to case management services for clients, and improved data and oversight capacity for OPDC.

The **Administration Services Division** includes the Budget and Finance, Contract Services/Non-routine Expense, Human Resource Management, and Information Technology sections responsible for agency leadership and central agency administration ensuring compliance with ORS Chapter 151. ORS 151.216 directs the agency “to maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, United States Constitution, and Oregon and national standards of justice.”. Effective management of the administrative services division allows the agency to support the programmatic areas with vital services need to meet the agencies mission, which “is to ensure constitutionally competent and effective legal representation for persons eligible for a public defender.”

The **Special Programs, Contracts, and Distributions Division** is a statewide program that provides appointed counsel to eligible respondents or protected persons in guardianship or conservatorship cases. Beginning in January 2024, OPDC contracted with Disability Rights Oregon (DRO) to administer the program and manage data requirements.

Agency Summary

Executive Summary

Agency Summary

Executive Summary

About the Public Defense Commission

The Oregon Public Defense Commission (OPDC), formerly known as the Public Defense Services Commission (PDSC), is responsible for establishing and maintaining a public defense system that ensures the provision of public defense services in the most cost-efficient manner, consistent with Oregon’s Constitution and the United States’ Constitution, as well as state and national standards of justice. In accordance with ORS 151.213, the commission is an independent governing body established within the judicial branch of state government that is charged with carrying out the duties prescribed in ORS 151.216. The chief justice of the Oregon Supreme Court appoints members to the commission. House Bill 2003 (2021) change the membership of the commission expanding it from seven to nine members who demonstrate a record of supporting public defense. The commission appoints the executive director of the agency.

The 81st Legislative Assembly functionally re-organized the commission to provide better transparency, program management, and oversight. Previously, the commission had three divisions: the Appellate Division, the Contract and Business Services Division, and the Professional Services Account. What emerged from the reorganization are new divisions, including the Executive Division, the Compliance, Audit and Performance Division, the Adult Trial Division, Juvenile Trial Division, Preauthorized Expenses, Court Mandated Expenses, and the Administrative Services Division. The 81st Legislative Assembly added a new division in February 2022, the Special Program, Contracts, and Distributions Division, which provides funding for discovery and federal awards.

The 82nd Legislative Assembly made several changes to the commission, first through Senate Bill 5532 (2023) recommended two financial realignments to provide better transparency, program management, and oversight of the caseload expenses. The first realignment addresses juvenile dependency and delinquency funding. The recommended budget structure separated the funding into two distinct divisions: the Juvenile Trial Division, and the Parent and Child Representation Program. The second realignment addresses funding used to reimburse counties for discovery costs. The recommended budget structure moved this funding into the Special Programs and Contracts Division. Additionally, the recommended budget renamed the Trial Division to the Adult Trial Division, and Non-routine Expenses to Preauthorized Expenses.

The 82nd Legislative Assembly made further changes through Senate Bill 337 (2023) which outlined two key initiatives: (1) the reform of the public defense system and (2) seeking to address the unrepresented defendant/persons crisis. This measure modified the makeup of the current PDSC (or newly formed Oregon Public Defense Commission) to include appointments or recommendations from each branch of government (operative January 1, 2024); it abolished the Office of Public Defense Services; transfers the Commission from the Judicial Branch to the Executive Branch (operative January 1, 2025); and provides that until July 1, 2027, the

Agency Summary

Executive Summary

executive director and commission members serve at the pleasure of the Governor; beginning July 1, 2027, the executive director serves at the pleasure of the voting members of the Commission and Commission members may be removed by the Governor only for inefficiency, neglect of duty or malfeasance in office; and disallows economic incentives or disincentives in the pay structure that could interfere with the ability of appointed counsel to provide effective assistance of counsel and prohibits flat fee model (operative July 1, 2025). SB 337 also required the Commission to hire trial-level employee attorneys (operative January 1, 2024); directs the Commission to contract directly with providers, making the Commission responsible for selecting, appointing, paying, and supervising the individual attorneys appointed to represent indigent defendants (operative July 1, 2025); prohibits subcontracting with an exception for nonprofits (operative July 1, 2027); required the Commission to promulgate and enforce standards, provide oversight and supervision, collect specific data, and regularly report to the Legislative Assembly on progress and needs (operative January 1, 2024). Additionally, SB 337 required the Commission issue payment of invoices submitted to the Commission within 45 days of receipt or in accordance with statewide accounting policies established by the Oregon Department of Administrative Services (DAS); establish an external advisory group to assist in developing the standard operating expectations for persons and entities providing public defense services; enter into contracts or interagency agreements with DAS for the purpose of supporting state public defense population forecasts and other related forecasts; among other provisions.

The Commission’s Mission, Vision, and Authority

Mission Statement

The Public Defense Services Commission’s mission is to ensure that eligible individuals have timely access to legal services consistent with Oregon and national standards of justice. The state further mandates the commission to administer “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.” ORS 151.216.

Statutory Authority

The commissions and agency’s statutory authority is found at chapter 151 *et seq* off the Oregon Revised Statutes and chapter 481 of Oregon Laws 2023.

Agency Summary

Executive Summary

About the Public Defense Commission’s Agency Request Budget

The biennial budget is one of several documents guiding the programs, operations, and policies of the Oregon Public Defense Commission in the delivery and support of defense services within the State of Oregon. To best understand the context of the commission’s agency request budget and planning efforts, the reader is encouraged to review several other previously published items. This provides a well-rounded history and context of discussions and decisions. Not all history and context will be presented or discussed within this document and may leave the reader with many questions. Reviewing the documents listed below may answer many of the questions you may have as a reader:

- Senate Bill 337 (2023), Senate Bill 5506 (2023), Senate Bill 5532 (2023), and House Bill 2225 (2023) (together “General Funding Measures”), including their corresponding budget reports and measure summaries by the Legislative Fiscal Office and Department of Administrative Services.
- House Bill 5204 (2024) and Senate Bill 5701 (2024) (together “Budget Reconciliation and Omnibus Measures”), including their corresponding budget reports and measure summaries by the Legislative Fiscal Office and the Department of Administrative Services.
- The Sixth Amendment Center’s report on [The Right to Counsel in Oregon: Evaluation of Trial Level Public Defense Representation](#) (2019).
- The American Bar Association’s study of Oregon’s public defense services. *The Oregon Project*:

This budget contemplates a fundamental roadmap for future development and expansion of the commission and public defense service delivery in Oregon.

A legislative work group was formed in early 2022 that anticipates recommending legislative changes and profound service delivery recommendations during a future legislative session. As such, the goals, objectives and recommendations within next biennium’s agency request budget solidify the infrastructure and operations of the commission and move forward with early and partial solutions to the current public defense delivery system. All recommendations and requests are designed to contribute toward future changes and allow for broad flexibility in implementation of any changes which the workgroup recommends.

Agency Summary

Executive Summary

Agency History

The Public Defense Service Commission (“PDSC”) was created by Senate Bill 145 (2001) following recommendations by House Bill 3598 (1999). The agency’s primary obligation is to ensure financially eligible individuals receive access to competent counsel (public defense services) for eligible cases in Oregon’s trial and appellate courts. In chapter 151 of the Oregon Revised Statutes, the lawful governance provisions of the PDSC, had remained largely intact since its inception until the passage of House Bill 2003 in mid-2021.

That measure made several substantive changes to ORS Chapter 151 as a roadmap for modernizing the state’s public defense system. Those amendments did not change the relationship between the PDSC and OPDS. Rather, the amendments modified the membership and composition of the PDSC, and they provided specific direction to the PDSC on the types of policies it needs to adopt to modernize trial-level public defense services. Those policy areas include:

- Public defense contracting systems;
- Public defense compensation and resources;
- Data collection;
- Training; and
- Equity and inclusion.

The policy areas listed above are the focus of the commission and OPDS as it navigates new challenges during the 2021-23 biennium and works to transform itself into a higher functioning state agency: all while continuously improving the delivery of public defense services.

During the 2021-23 biennium the commission and OPDS experienced a whirlwind of changes to include major changes to its contracting methodologies, five different executive directors, the changing over of its executive staff, three different commissions and the realization of the unrepresented defendant/persons crisis. SB 5532 (2023) carried forward many of the initiatives of the previous biennium with some structural realignments, but it was SB 337 (2023) that drastically changed the composition of the commission and OPDS.

Agency Summary

Executive Summary

SB 337 (2023) provides a framework for developing public defense in Oregon. The Oregon Public Defense Commission (OPDC) is charged with creating and adopting rules, policies, and procedures to implement the goals mandated by SB 337.

Three sets of data inform the plan for providing public defense in Oregon:

- The public defense forecast evaluated by the Department of Administrative Services' Office of Economic Analysis.
- Caseload and workload standards, such as those in the American Bar Association's *The Oregon Project* and RAND's National Public Defense Workload Standards.
- Economic Study (What is the appropriate compensation for attorney and non-attorney work).

Applying this data to accepted standards for calculating appropriate workloads will provide the commission, legislature, and the governor with a calculation of the number of public defense lawyers needed in Oregon to represent all persons who qualify for a court-appointed attorney within constitutionally mandated caseloads. It will also provide cost information related to that representation. Using the nationally accepted formula for this calculation will allow the commission to meet its obligation under the Constitution and ORS 151.216 to ensure caseloads and workloads align with national and regional best practices.

The commission understands that the necessary investments to improve public defense will take time. In 2023, the OPDC hired Moss Adams to develop the commission's Six-Year Plan to Reduce Representation Deficiency (Six-Year Plan) to address this issue. The Commission plans to review and adopt that plan within two months. The Six-Year Plan will outline a timeline and implementation strategy for meeting the need for improved public defense. Using this information, OPDC will create policy option packages (POPs) for the 2025-27 biennium and beyond.

In addition to this foundational work, the commission is working to implement the other parts of SB 337. SB 337 states that by July 1, 2027, public defense providers in Oregon will be either state employees, employees at a non-profit, or attorneys who are paid hourly as part of a panel of qualified counsel.

For the first time, Oregon now has state-employed trial-level public defenders. Three regional trial division offices have opened, with the goal of state-employed attorneys representing 30% of all appointed counsel by 2035.

Agency Summary

Executive Summary

The commission currently contracts with non-profit public defenders, who operate independently but receive training and supervision funding, as well as individual attorneys, law firms, and consortia or private bar attorneys. The commission plans to implement workload and caseload standards for all public defense providers.

By July 2025, OPDC intends to formalize hourly private bar public defense attorneys into a structured panel. Between July 2025 and July 2027, OPDC will work with public defense providers to transition private bar public defense attorneys to the hourly panel.

Agency Summary

Executive Summary

State of Public Defense Contracting Systems

Over the past several years, OPDC has transitioned how it provides public defense services. Historically, the agency used a flat-fee contracting model in which contractors agreed to provide public defense services for a projected number of cases, at a flat-fee per case, over the course of the biennium. If contractors did not meet the projected quota, it may owe the state money. And if contractors exceeded the projected quota, it would receive an overage payment. In addition, the agency maintained a list of attorneys that were able to take public defense cases when contractors are unable to and receive compensation on an hourly rate basis.

In 2018, the Oregon Legislature funded the Sixth Amendment Center to provide a comprehensive analysis of Oregon’s public defense system, including its service delivery model and governance structure. In 2019, the Sixth Amendment Center published a report and made several findings regarding Oregon’s public defense system. A primary finding of the report was that Oregon’s flat-fee contract model was unconstitutional, in that it pitted the economic interests of the attorney against the due process rights of their clients.

In 2021, the agency implemented a new public defense contracting model. Rather than contract for a fixed number of cases at fixed rates, the agency entered into contracts that procured an attorney’s time, or a portion thereof, with caseload limits. In 2021, the caseload limits were 115% of the 1973 National Advisory Committee’s standards, which was 400 misdemeanors or 150 felonies per year, with no differentiation amongst case types. In 2022, the agency modified this model by (1) changing the caseload limits, (2) establishing different reimbursement rates depending upon the types of cases to which the attorneys accepting appointments, and (3) clarifying the funding available for specialty courts, administration, investigation, training, and supervision. In 2023, the agency modified the contract model again, prorating the annual caseload limit into a monthly limit to better ensure contract attorneys have capacity throughout the course of the year. In addition, the agency continues to maintain a list of attorneys that are able to take public defense cases on an hourly rate basis, and the percentage of public defense work done on an hourly rate basis has increased over the past several years.

SB 337 created new obligations for OPDC contracting. Effective July 1, 2025, OPDC contracts for public defense services cannot include “economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel” and cannot pay a “flat fee per case.” Accordingly, OPDC is transitioning to a workload contract model that takes into account the amount of case specific work attorneys are expected to perform per year and the expected time value for a case, depending upon the case type.

Agency Summary

Executive Summary

As discussed above, SB 337 makes additional changes to the public defense delivery system. Over the next three years, the private bar will transition from group or “consortia” contracts to contracts with individual attorneys who are selected and overseen as a part of a panel and are compensated on an hourly rate basis. The agency will continue to contract with non-profit public defender offices using a workload model.

Public Defense Compensation and Resources

Public defense compensation and resources is one of the biggest challenges facing the agency. Per the ABA report, the state lacks sufficient attorney resources to address the number of clients in need of public defense services. And the agency’s inability to ensure adequate compensation for public defense attorneys has inhibited attorney recruitment and develop a necessary workforce for the future.

Per legislative direction in SB 337, the agency has taken steps to identify the resources needed 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. The commission has conducted an economic and salary survey to set baseline rates for public defense providers. The agency has adopted caseload and workload standards, relying upon the National Public Defense Workload Study. And the agency has adopted a Six-Year Plan, which provides a roadmap on meeting the compensation, caseload, and resource mandates of SB 337. The funding requests for the first two years of the Six-Year Plan is included in the agency’s policy option packages.

There has been some progress in the area of compensation and resources. The commission’s new trial division, with three regional offices across the state, is offering salaries competitive to the Oregon Department of Justice. And the hourly rates in the Temporary Hourly Increase Program (THIP), although temporary, are proximate to those in the economic and salary survey and have demonstrated that attorneys will accept appointments to cases when the authorized rates are competitive in the market.

OPDC will continue working with the legislature to grow it’s Trial Division and set hourly rates for panel attorneys that align with the mandates of SB 337. And it will continue to build out a budget structure for non-profit public defense contractors that accounts for all of the resources needed for those offices.

Agency Summary

Executive Summary

Data Collection

The agency continues to improve the data collection with the current reporting systems and structures in place. The agency is also working with other agencies to assist in the work of OPDC. We are currently working with DAS on the forecasting numbers for cases, we are working with OJD to share data between both agencies to better align strategies to understand caseloads, case assignments, workflow process improvements.

With the additional data collection and data from OJD, this has assisted the agency with addressing the unrepresented persons list and creating the unrepresented crisis plan. Data are also used in assignment of counsel for in-custody and *Betschart* cases, which has allowed staff to see where the cases are growing and where there is additional need.

The data team continues to use tools and outside training in Power BI to create internal dashboards for the agency to review, monitor and determine where additional needs and resources need to be redirected, along with workflow process improvements. The internal dashboards have been created to assist program with budget to actuals, accounts payable for processing times, and the types of invoices that have the most errors and take more time to process, Preauthorized Expenses (PAE) dashboard shows the time frame from the PAE approval to the time the invoice is received for a better understanding of the timing to determine adequate staff for the work flow processing time, contractor dashboard shows the caseload reporting information for the program analysts to review with our contractors to determine errors/concerns with their reporting. We have hired a data quality control analyst who is working on the review of the data entered into the databases, to the caseloads received, to the contract information, to ensure data integrity for all data into our databases. This work will continue to evolve as we determine additional areas to review for data integrity along with additional quality control measures.

As the agency transitions to a new Finance and Case Management System (FCMS), additional data will be collected, which will enable the agency to have immediate data to review and analyze caseloads. The new system will also enable the agency to collect demographic data, which is not currently tracked.

Training

Some public defense entities do provide their own training, but many do not. Most public defense attorneys receive continuing legal education (“CLE”), primarily through the Oregon Criminal Defense Lawyer’s Association and the Oregon State Bar. But these CLEs do not always provide the foundation for a career in public defense work.

Agency Summary

Executive Summary

The commission has a constitutional responsibility to ensure eligible individuals have timely access to competent counsel. The commission's appellate and trial divisions sponsor trainings and CLE's for its attorneys. Yet, OPDC has historically lacked a statewide training program for new attorneys or contract attorneys focused on public defense. Nor is it funded to provide such robust training. This has begun to change and will continue to change.

This biennium, OPDC was able to obtain grant funding to provide intensive training programs for new public defenders, collaborating with Gideon's Promise, OCDLA, and Lewis and Clark's law school. These trainings were small in size, but there was significant interest, they were well attended, and the agency received positive feedback on the quality of the trainings. Additionally, the CAP Division will begin to develop training protocols to ensure attorneys are familiar with the agency's qualification and performance standards. The legislature has invested in a training coordinator to facilitate this work.

Equity and Inclusion

House Bill 2003 directs the agency to "establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion, and culturally specific representation." Since then, the agency created an intra-agency equity workgroup composed of a cross-divisional representation of agency staff. The workgroup is charged with creating an equity framework, which requires the agency to align on its commitment to equity, core concepts, values, and approach for future actions.

The equity framework will help inform the commission's strategic planning process, which will further define how the agency and commission will operationalize that commitment internally and in its external-facing policies and practices, including contracting. It also brings the agency and commission into alignment with the State of Oregon's diversity, equity, and inclusion plan, released September 2021.

The commission present unique, but not unusual problems and issues. As expected, there are communication problems and a complete restructuring of the staff, budget and accounting. There is a maturation process the agency is going through as program staff are oriented into new policies and procedures that have been proved and adopted throughout state government. This maturation process is not unlike what many other state agencies have gone through over the past twenty to thirty years. The commission and agency's staff are dedicated to the continual improvement and sustainability of the public defense profession for the benefit of clients and all Oregonians.

Agency Summary

Executive Summary

Risks and Challenges

Restructure and Enhance the Compliance, Audit, and Performance (CAP) Division

The restructure and alignment of the CAP division has transpired within the agency this past year. Each position has been reviewed with the staff member associated with the work to ensure the duties align with the position, reviewed with section management and HR. This review assisted the agency in determining the need for additional staffing needs to accomplish the work of the CAP division. This review also acknowledged the additional work program staff were completing with agency contracts, that should be completed within another section of the agency, like procurement. As we continue to work in fully implementing the CAP division, additional review of positions and staffing needs will be ongoing.

Need for executive leadership and planning. Need for leadership for data, research and program design. Additional deputy general counsel in adult criminal and juvenile programs to focus on core functions: policy development, training, contract development and administration, audit and accountability, and performance. Deputy general counsel positions will also have a geographic/regional functional area similar to contract administration.

Finance and Case Management Project

The commission has made significant strides in the Finance and Case Management System (FCMS) project, achieving several key milestones. The project's requirements underwent a comprehensive refresh and update, culminating in their completion on July 10th. Additionally, stage 1 activities were finalized and submitted for approval to EIS P3 on the same date. A crucial development for the project was the hiring of a senior project manager on July 6th, ensuring robust leadership for the project moving forward. The project received stage 1 endorsement by the Office of the State Chief Information Officer on July 11th.

The commencement of work on numerous stage 2 artifacts marks another milestone, with an anticipated completion date of August 15th. The project team is working closely with EIS to ensure all stage 2 Artifacts are completed, paving the way for the project's second endorsement prior to the issuance of the request for proposals. Concurrently, the project's policy package in next biennium is under review, with approval targeted for July 31st. The project is also in the process of securing bond funding through a policy package, with a goal of finalizing this aspect by August 15th.

Agency Summary

Executive Summary

In response to new guidance from EIS, a revised governance structure for the project has been established. This necessitated a temporary pause in project meetings and reports for three weeks to realign the project with the appropriate governance framework. The project will resume its meeting cadence on July 31st, with detailed information on the pivot and new organizational charts to be included in the forthcoming LFO report for FCMS.

As the project transitions into stage 2, all documentation, reports, and communications are being refined to ensure clarity and accuracy. An updated project status report, reflecting the shift from stage 1 to stage 2, was scheduled for release to stakeholders by July 12th. The RFP has successfully undergone updates and is currently in the legal sufficiency review phase. With strong alignment to the commission's mandate, the project is on track to meet its targeted RFP release date in September. The project has also started the process for bond funding to ensure FCMS is financed through bond funds.

These developments reflect OPDC's commitment to enhancing the efficiency and accountability of public defense services in Oregon. The project is poised to provide a robust and integrated platform, ensuring that public defense attorneys have the tools and support necessary to deliver competent and effective representation to indigent Oregonians. Through diligent planning, strategic hires, and rigorous adherence to project management best practices, OPDC is well-positioned to achieve its mission and meet the evolving needs of the public defense community.

Presenting risks to FCMS are the understaffing of the project that POP 101 for FCMS aims to resolve. With the request for eight additional project roles, including a chief data officer, along with two permanent project manager roles, and two permanent business analyst roles, we hope to solidify the future of FCMS with resources to handle the work as we move from Stage 1 to Stage 2 for FCMS and prepare our milestones that will require chief data officer, project manager, and business analyst support. The project management office (PMO) will continue on with the agency in project roles that are intended to go permanent within the agency, as a well-formed project staff model to ensure FCMS and OPDC is supported well into the future with the project management discipline. We've also requested a Data Analyst role to be staffed to help handle the large data migration space within FCMS.

Stabilize IT Services and Operational Support

Final design and balanced service provision to support daily operations and a focused information technology project. Expand project management to provide oversight to multiple agency projects. Focused procurement with a designated procurement officer. Shift contract administration function into the adult criminal and juvenile program areas where daily contact with providers can be more

Agency Summary

Executive Summary

closely linked into the CAP division yet separate from the CAP research function. Maintain a focused procurement position in ASD and re-task the current management position to organizational development, both internally with program, administration and appellate staff and externally with service providers. Organizational development will also be the designated chief cultural change officer tasked with diversity, equity and inclusion initiatives.

Agency Revenues

Revenue Forecast Narrative

Application Contribution Program (ACP)

ORS 151.487 *et seq* provides the authority for judges to order individuals who apply for court-appointed counsel to pay the administrative costs of determining the eligibility of the person and the anticipated cost of public defense services prior to the conclusion of the case. The Oregon Judicial Department (OJD) determines whether a person will be ordered to pay a \$20 application fee and a “contribution amount” toward the anticipated public defense cost of the case. The judicial department receipts and subsequently transfers to the commission:

Overall, restrictions from the COVID-19 pandemic reduced ACP revenue for the 2021-23 biennium. However, for the 2023-25 biennium the legislatively approved budget provided \$4,449,667. The revenue is not anticipated to provide sufficient resources to fully fund the judicial department. Revenue is deposited in the public defense services account, along with actual costs and expenses incurred in the administration and support of the public defense system pursuant to ORS 151.225 (3).

Title IV-E

The commission leverages federal funds to defray the costs of representation by public defenders for juvenile dependency, juvenile delinquency, and termination of parental rights’ cases. The agency enjoys a financial relationship with Oregon’s Department of Human Services to draw funds under title IV-E of the Social Security Act and the act’s amendments. Federal funds under title IV-E are intended to relieve general fund expenditures incurred by contracted public defender providers (such as non-profit public defender offices, consortia, and other firms), court-appointed public defenders, and other attorneys’ or professional services firms’ authorizations for preauthorized expenses and services. The commission’s budget anticipates \$16,320,000 in federal funds limitation.

Agency Revenues

Revenue Forecast Narrative

| Source | Fund | ORBITS Revenue Account | 2021 - 2023 | 2023 - 2025 | | 2025 - 2027 | |
|----------------------------------|-----------------|------------------------|-------------|------------------------|------------|----------------|-----------------------|
| | | | Actuals | Legislatively Approved | Estimated | Agency Request | Legislatively Adopted |
| Application Contribution Program | Other | 1198 | 3,162,640 | 4,449,667 | 3,752,610 | 3,497,594 | Not applicable. |
| Title IV-E | Other (federal) | 1100 | 14,316,047 | 16,320,000 | 16,320,000 | 16,320,000 | Not applicable. |

2025 – 27 Agency Request Budget

Biennial Budget Summary

[This page intentionally left blank.]

Summary of 2025-27 Biennium Budget

Public Defense Svcs Comm
Public Defense Svcs Comm
2025-27 Biennium

Agency Working
Cross Reference Number: 40400-000-00-00-00000

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|---------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 2023-25 Leg Adopted Budget | 143 | 137.55 | 578,875,024 | 557,105,356 | - | 21,769,668 | - | - | - |
| 2023-25 Emergency Boards | 36 | 20.34 | 35,074,289 | 34,491,008 | - | 583,281 | - | - | - |
| 2023-25 Leg Approved Budget | 179 | 157.89 | 613,949,313 | 591,596,364 | - | 22,352,949 | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | (7) | 13.91 | 10,173,278 | 10,173,278 | - | - | - | - | - |
| Estimated Cost of Merit Increase | | | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | | | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | | | - | - | - | - | - | - | - |
| Capital Construction | | | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | 172 | 171.80 | 624,122,591 | 601,769,642 | - | 22,352,949 | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | 429,050 | 429,050 | - | - | - | - | - |
| Subtotal | - | - | 429,050 | 429,050 | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | 527,122 | 527,122 | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | (45,832,813) | (44,249,532) | - | (1,583,281) | - | - | - |
| Subtotal | - | - | (45,305,691) | (43,722,410) | - | (1,583,281) | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 32,961,712 | 32,961,702 | - | 10 | - | - | - |
| State Gov't & Services Charges Increase/(Decrease) | - | - | 1,551,192 | 1,551,192 | - | - | - | - | - |
| Subtotal | - | - | 34,512,904 | 34,512,894 | - | 10 | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Public Defense Svcs Comm
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-000-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|--------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | | | | | | | | | |
| 040 - Mandated Caseload | - | - | 38,262,138 | 38,262,138 | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | - | - | - | - | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | 172 | 171.80 | 652,020,992 | 631,251,314 | - | 20,769,678 | - | - | - |

Summary of 2025-27 Biennium Budget

Public Defense Svcs Comm
Public Defense Svcs Comm
2025-27 Biennium

Agency Working
Cross Reference Number: 40400-000-00-00-00000

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|----------------------|----------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | 172 | 171.80 | 652,020,992 | 631,251,314 | - | 20,769,678 | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | 172 | 171.80 | 652,020,992 | 631,251,314 | - | 20,769,678 | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | 2 | 2.00 | 547,963 | 547,963 | - | - | - | - | - |
| 101 - Finance & Case Management System | 8 | 7.40 | 14,338,825 | 14,338,825 | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | 446,303,164 | 446,303,164 | - | - | - | - | - |
| 103 - Direct Representation Investment | 113 | 84.07 | 27,204,155 | 27,204,155 | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | 38,919,169 | 38,919,169 | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | 176,908,058 | 176,908,058 | - | - | - | - | - |
| 106 - Robust Agency Support Investment | 15 | 13.20 | 4,433,377 | 4,433,377 | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | 26,879,814 | 26,879,814 | - | - | - | - | - |
| 108 - Recruitment and Retention | 5 | 5.00 | 29,278,889 | 29,278,889 | - | - | - | - | - |
| Subtotal Policy Packages | 143 | 111.67 | 764,813,414 | 764,813,414 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | 315 | 283.47 | 1,416,834,406 | 1,396,064,728 | - | 20,769,678 | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | 75.98% | 79.54% | 130.77% | 135.98% | - | -7.08% | - | - | - |
| Percentage Change From 2025-27 Current Service Level | 83.14% | 65.00% | 117.30% | 121.16% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Executive Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-100-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 2023-25 Leg Adopted Budget | 9 | 9.00 | 4,163,436 | 4,163,436 | - | - | - | - | - |
| 2023-25 Emergency Boards | 1 | 0.63 | 483,996 | 483,996 | - | - | - | - | - |
| 2023-25 Leg Approved Budget | 10 | 9.63 | 4,647,432 | 4,647,432 | - | - | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | (1) | (0.63) | 168,681 | 168,681 | - | - | - | - | - |
| Estimated Cost of Merit Increase | | | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | | | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | | | - | - | - | - | - | - | - |
| Capital Construction | | | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | 9 | 9.00 | 4,816,113 | 4,816,113 | - | - | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | 18,498 | 18,498 | - | - | - | - | - |
| Subtotal | - | - | 18,498 | 18,498 | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | 5,216 | 5,216 | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | - | - | - | - | - | - | - |
| Subtotal | - | - | 5,216 | 5,216 | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 43,015 | 43,015 | - | - | - | - | - |
| Subtotal | - | - | 43,015 | 43,015 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Executive Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-100-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | - | - | - | - | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | - | - | 151,438 | 151,438 | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | 9 | 9.00 | 5,034,280 | 5,034,280 | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Executive Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-100-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | 9 | 9.00 | 5,034,280 | 5,034,280 | - | - | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | 9 | 9.00 | 5,034,280 | 5,034,280 | - | - | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | 1 | 0.88 | 267,325 | 267,325 | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | 3 | 2.64 | 972,935 | 972,935 | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | 4 | 3.52 | 1,240,260 | 1,240,260 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | 13 | 12.52 | 6,274,540 | 6,274,540 | - | - | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | 30.00% | 30.01% | 35.01% | 35.01% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | 44.44% | 39.11% | 24.64% | 24.64% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Compliance, Audit and Performance Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-200-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|---|------------------|---------------------|--------------------------|--------------------|--------------------------|-----------------------------------|---|
| 2023-25 Leg Adopted Budget | 17 | 16.38 | 6,400,917 | 6,400,917 | - | - | - | - | - |
| 2023-25 Emergency Boards | 1 | 0.63 | 668,376 | 668,376 | - | - | - | - | - |
| 2023-25 Leg Approved Budget | 18 | 17.01 | 7,069,293 | 7,069,293 | - | - | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | - | 0.99 | 883,042 | 883,042 | - | - | - | - | - |
| Estimated Cost of Merit Increase | | | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | | | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | | | - | - | - | - | - | - | - |
| Capital Construction | | | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | 18 | 18.00 | 7,952,335 | 7,952,335 | - | - | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | 42,899 | 42,899 | - | - | - | - | - |
| Subtotal | - | - | 42,899 | 42,899 | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | 30,836 | 30,836 | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | - | - | - | - | - | - | - |
| Subtotal | - | - | 30,836 | 30,836 | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 12,348 | 12,348 | - | - | - | - | - |
| Subtotal | - | - | 12,348 | 12,348 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Compliance, Audit and Performance Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-200-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | - | - | - | - | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | 2 | 2.00 | 698,542 | 698,542 | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | 20 | 20.00 | 8,736,960 | 8,736,960 | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Compliance, Audit and Performance Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-200-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | 20 | 20.00 | 8,736,960 | 8,736,960 | - | - | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | 20 | 20.00 | 8,736,960 | 8,736,960 | - | - | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | 2 | 1.76 | 566,679 | 566,679 | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | 3 | 2.64 | 849,068 | 849,068 | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | 5 | 4.40 | 1,415,747 | 1,415,747 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | 25 | 24.40 | 10,152,707 | 10,152,707 | - | - | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | 38.89% | 43.45% | 43.62% | 43.62% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | 25.00% | 22.00% | 16.20% | 16.20% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Appellate Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-300-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|---|-------------------|---------------------|--------------------------|--------------------|--------------------------|-----------------------------------|---|
| 2023-25 Leg Adopted Budget | 58 | 57.80 | 24,491,812 | 24,491,812 | - | - | - | - | - |
| 2023-25 Emergency Boards | - | - | 1,932,884 | 1,932,884 | - | - | - | - | - |
| 2023-25 Leg Approved Budget | 58 | 57.80 | 26,424,696 | 26,424,696 | - | - | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | - | - | 2,505,428 | 2,505,428 | - | - | - | - | - |
| Estimated Cost of Merit Increase | | | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | | | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | | | - | - | - | - | - | - | - |
| Capital Construction | | | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | 58 | 57.80 | 28,930,124 | 28,930,124 | - | - | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | (129,566) | (129,566) | - | - | - | - | - |
| Subtotal | - | - | (129,566) | (129,566) | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | - | - | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | - | - | - | - | - | - | - |
| Subtotal | - | - | - | - | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 20,794 | 20,794 | - | - | - | - | - |
| Subtotal | - | - | 20,794 | 20,794 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Appellate Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-300-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | - | - | - | - | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | - | - | - | - | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | 58 | 57.80 | 28,821,352 | 28,821,352 | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Appellate Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-300-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | 58 | 57.80 | 28,821,352 | 28,821,352 | - | - | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | 58 | 57.80 | 28,821,352 | 28,821,352 | - | - | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | 11 | 9.68 | 2,288,642 | 2,288,642 | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | - | - | - | - | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | 11 | 9.68 | 2,288,642 | 2,288,642 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | 69 | 67.48 | 31,109,994 | 31,109,994 | - | - | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | 18.97% | 16.75% | 17.73% | 17.73% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | 18.97% | 16.75% | 7.94% | 7.94% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Adult Trial Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-400-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|---|--------------------|---------------------|--------------------------|--------------------|--------------------------|-----------------------------------|---|
| 2023-25 Leg Adopted Budget | 17 | 14.37 | 267,580,283 | 267,580,283 | - | - | - | - | - |
| 2023-25 Emergency Boards | 29 | 15.93 | 22,428,096 | 22,428,096 | - | - | - | - | - |
| 2023-25 Leg Approved Budget | 46 | 30.30 | 290,008,379 | 290,008,379 | - | - | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | (1) | 14.70 | 5,845,095 | 5,845,095 | - | - | - | - | - |
| Estimated Cost of Merit Increase | | | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | | | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | | | - | - | - | - | - | - | - |
| Capital Construction | | | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | 45 | 45.00 | 295,853,474 | 295,853,474 | - | - | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | 446,082 | 446,082 | - | - | - | - | - |
| Subtotal | - | - | 446,082 | 446,082 | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | 274,732 | 274,732 | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | (7,818,212) | (7,818,212) | - | - | - | - | - |
| Subtotal | - | - | (7,543,480) | (7,543,480) | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 18,552,190 | 18,552,190 | - | - | - | - | - |
| Subtotal | - | - | 18,552,190 | 18,552,190 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Adult Trial Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-400-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|--------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | - | - | 21,570,686 | 21,570,686 | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | (45) | (45.00) | (17,528,421) | (17,528,421) | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | - | - | 311,350,531 | 311,350,531 | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Adult Trial Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-400-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|--------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | - | - | 311,350,531 | 311,350,531 | - | - | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | - | - | 311,350,531 | 311,350,531 | - | - | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | 416,417,501 | 416,417,501 | - | - | - | - | - |
| 103 - Direct Representation Investment | - | - | - | - | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | - | - | - | - | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | 5 | 5.00 | 29,278,889 | 29,278,889 | - | - | - | - | - |
| Subtotal Policy Packages | 5 | 5.00 | 445,696,390 | 445,696,390 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | 5 | 5.00 | 757,046,921 | 757,046,921 | - | - | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | -89.13% | -83.50% | 161.04% | 161.04% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | - | - | 143.15% | 143.15% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Juvenile Trial Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-415-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 2023-25 Leg Adopted Budget | - | - | 54,708,700 | 50,356,700 | - | 4,352,000 | - | - | - |
| 2023-25 Emergency Boards | - | - | (3,481,261) | (3,481,261) | - | - | - | - | - |
| 2023-25 Leg Approved Budget | - | - | 51,227,439 | 46,875,439 | - | 4,352,000 | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | - | - | - | - | - | - | - | - | - |
| Estimated Cost of Merit Increase | - | - | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | - | - | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | - | - | - | - | - | - | - | - | - |
| Capital Construction | - | - | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | - | - | 51,227,439 | 46,875,439 | - | 4,352,000 | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | - | - | - | - | - | - | - |
| Subtotal | - | - | - | - | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | - | - | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | - | - | - | - | - | - | - |
| Subtotal | - | - | - | - | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 3,187,530 | 3,187,530 | - | - | - | - | - |
| Subtotal | - | - | 3,187,530 | 3,187,530 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Juvenile Trial Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-415-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | - | - | - | - | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | - | - | - | - | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | - | - | 54,414,969 | 50,062,969 | - | 4,352,000 | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Juvenile Trial Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-415-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | - | - | 54,414,969 | 50,062,969 | - | 4,352,000 | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | - | - | 54,414,969 | 50,062,969 | - | 4,352,000 | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | - | - | - | - | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | 156,933,103 | 156,933,103 | - | - | - | - | - |
| 106 - Robust Agency Support Investment | - | - | - | - | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | - | - | 156,933,103 | 156,933,103 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | - | - | 211,348,072 | 206,996,072 | - | 4,352,000 | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | | | | | | | | | |
| Percentage Change From 2023-25 Leg Approved Budget | - | - | 312.57% | 341.59% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | | | | | | | | | |
| Percentage Change From 2025-27 Current Service Level | - | - | 288.40% | 313.47% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Preauthorized Expenses
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-425-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|--------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 2023-25 Leg Adopted Budget | - | - | 54,837,646 | 54,837,645 | - | 1 | - | - | - |
| 2023-25 Emergency Boards | - | - | 3,780,040 | 3,780,040 | - | - | - | - | - |
| 2023-25 Leg Approved Budget | - | - | 58,617,686 | 58,617,685 | - | 1 | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | - | - | - | - | - | - | - | - | - |
| Estimated Cost of Merit Increase | - | - | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | - | - | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | - | - | - | - | - | - | - | - | - |
| Capital Construction | - | - | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | - | - | 58,617,686 | 58,617,685 | - | 1 | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | - | - | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | (3,332,498) | (3,332,498) | - | - | - | - | - |
| Subtotal | - | - | (3,332,498) | (3,332,498) | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 3,759,393 | 3,759,393 | - | - | - | - | - |
| Subtotal | - | - | 3,759,393 | 3,759,393 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |
| 040 - Mandated Caseload | - | - | 10,152,285 | 10,152,285 | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Preauthorized Expenses
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-425-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 060 - Technical Adjustments | - | - | 25,214,507 | 25,214,507 | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | - | - | 94,411,373 | 94,411,372 | - | 1 | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Preauthorized Expenses
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-425-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|--------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | - | - | 94,411,373 | 94,411,372 | - | 1 | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | - | - | 94,411,373 | 94,411,372 | - | 1 | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | 29,885,663 | 29,885,663 | - | - | - | - | - |
| 103 - Direct Representation Investment | - | - | - | - | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | 5,330,220 | 5,330,220 | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | 19,974,955 | 19,974,955 | - | - | - | - | - |
| 106 - Robust Agency Support Investment | - | - | - | - | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | 10,657,858 | 10,657,858 | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | - | - | 65,848,696 | 65,848,696 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | - | - | 160,260,069 | 160,260,068 | - | 1 | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | - | - | 173.40% | 173.40% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | - | - | 69.75% | 69.75% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Court Mandated Expenses
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-450-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|---------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 2023-25 Leg Adopted Budget | - | - | 71,563,278 | 67,113,611 | - | 4,449,667 | - | - | - |
| 2023-25 Emergency Boards | - | - | 8,719,295 | 8,719,295 | - | - | - | - | - |
| 2023-25 Leg Approved Budget | - | - | 80,282,573 | 75,832,906 | - | 4,449,667 | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | - | - | - | - | - | - | - | - | - |
| Estimated Cost of Merit Increase | - | - | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | - | - | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | - | - | - | - | - | - | - | - | - |
| Capital Construction | - | - | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | - | - | 80,282,573 | 75,832,906 | - | 4,449,667 | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | - | - | - | - | - | - | - |
| Subtotal | - | - | - | - | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | - | - | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | (21,224,721) | (21,224,721) | - | - | - | - | - |
| Subtotal | - | - | (21,224,721) | (21,224,721) | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 3,713,367 | 3,713,357 | - | 10 | - | - | - |
| Subtotal | - | - | 3,713,367 | 3,713,357 | - | 10 | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Court Mandated Expenses
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-450-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | - | - | 6,539,167 | 6,539,167 | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | - | - | (25,214,507) | (25,214,507) | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | - | - | 44,095,879 | 39,646,202 | - | 4,449,677 | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Court Mandated Expenses
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-450-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|---|------------------|---------------------|--------------------------|--------------------|--------------------------|-----------------------------------|---|
| Subtotal: 2025-27 Current Service Level | - | - | 44,095,879 | 39,646,202 | - | 4,449,677 | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | - | - | 44,095,879 | 39,646,202 | - | 4,449,677 | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | - | - | - | - | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | 33,588,949 | 33,588,949 | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | - | - | - | - | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | 16,221,956 | 16,221,956 | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | - | - | 49,810,905 | 49,810,905 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | - | - | 93,906,784 | 89,457,107 | - | 4,449,677 | - | - | - |
| | | | | | | | | | |
| Percentage Change From 2023-25 Leg Approved Budget | - | - | 16.97% | 17.97% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | - | - | 112.96% | 125.64% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Trial Representation Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-475-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 2023-25 Leg Adopted Budget | - | - | - | - | - | - | - | - | - |
| 2023-25 Emergency Boards | - | - | - | - | - | - | - | - | - |
| 2023-25 Leg Approved Budget | - | - | - | - | - | - | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | - | - | - | - | - | - | - | - | - |
| Estimated Cost of Merit Increase | | | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | | | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | | | - | - | - | - | - | - | - |
| Capital Construction | | | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | - | - | - | - | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | - | - | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | - | - | - | - | - | - | - |
| Subtotal | - | - | - | - | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 3,848 | 3,848 | - | - | - | - | - |
| Subtotal | - | - | 3,848 | 3,848 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |
| 040 - Mandated Caseload | - | - | - | - | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Trial Representation Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-475-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 060 - Technical Adjustments | 45 | 45.00 | 17,528,421 | 17,528,421 | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | 45 | 45.00 | 17,532,269 | 17,532,269 | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Trial Representation Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-475-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | 45 | 45.00 | 17,532,269 | 17,532,269 | - | - | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | 45 | 45.00 | 17,532,269 | 17,532,269 | - | - | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | 97 | 69.99 | 23,542,585 | 23,542,585 | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | - | - | - | - | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | 97 | 69.99 | 23,542,585 | 23,542,585 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | 142 | 114.99 | 41,074,854 | 41,074,854 | - | - | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | | | | | | | | | |
| Percentage Change From 2025-27 Current Service Level | 215.56% | 155.53% | 134.28% | 134.28% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Parent Child Representation Program
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-500-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|--------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 2023-25 Leg Adopted Budget | 1 | 1.00 | 60,678,092 | 48,710,092 | - | 11,968,000 | - | - | - |
| 2023-25 Emergency Boards | - | - | (4,043,805) | (4,043,805) | - | - | - | - | - |
| 2023-25 Leg Approved Budget | 1 | 1.00 | 56,634,287 | 44,666,287 | - | 11,968,000 | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | - | - | 99,082 | 99,082 | - | - | - | - | - |
| Estimated Cost of Merit Increase | - | - | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | - | - | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | - | - | - | - | - | - | - | - | - |
| Capital Construction | - | - | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | 1 | 1.00 | 56,733,369 | 44,765,369 | - | 11,968,000 | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | 157 | 157 | - | - | - | - | - |
| Subtotal | - | - | 157 | 157 | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | - | - | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | (1,234,365) | (1,234,365) | - | - | - | - | - |
| Subtotal | - | - | (1,234,365) | (1,234,365) | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 2,922,649 | 2,922,649 | - | - | - | - | - |
| Subtotal | - | - | 2,922,649 | 2,922,649 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Parent Child Representation Program
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-500-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | - | - | - | - | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | (1) | (1.00) | (526,114) | (526,114) | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | - | - | 57,895,696 | 45,927,696 | - | 11,968,000 | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Parent Child Representation Program
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-500-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | - | - | 57,895,696 | 45,927,696 | - | 11,968,000 | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | - | - | 57,895,696 | 45,927,696 | - | 11,968,000 | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | - | - | - | - | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | - | - | - | - | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | - | - | - | - | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | - | - | 57,895,696 | 45,927,696 | - | 11,968,000 | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | -100.00% | -100.00% | 2.23% | 2.82% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | - | - | - | - | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Administrative Services Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-600-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|---|--------------------|---------------------|--------------------------|--------------------|--------------------------|-----------------------------------|---|
| 2023-25 Leg Adopted Budget | 41 | 39.00 | 24,568,388 | 24,568,388 | - | - | - | - | - |
| 2023-25 Emergency Boards | 5 | 3.15 | 2,030,232 | 2,030,232 | - | - | - | - | - |
| 2023-25 Leg Approved Budget | 46 | 42.15 | 26,598,620 | 26,598,620 | - | - | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | (5) | (1.15) | 671,950 | 671,950 | - | - | - | - | - |
| Estimated Cost of Merit Increase | | | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | | | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | | | - | - | - | - | - | - | - |
| Capital Construction | | | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | 41 | 41.00 | 27,270,570 | 27,270,570 | - | - | - | - | - |
| Essential Packages | | | | | | | | | |
| 010 - Non-PICS Pers Svc/Vacancy Factor | | | | | | | | | |
| Non-PICS Personal Service Increase/(Decrease) | - | - | 50,980 | 50,980 | - | - | - | - | - |
| Subtotal | - | - | 50,980 | 50,980 | - | - | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | 216,338 | 216,338 | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | (8,083,300) | (8,083,300) | - | - | - | - | - |
| Subtotal | - | - | (7,866,962) | (7,866,962) | - | - | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 203,826 | 203,826 | - | - | - | - | - |
| State Gov't & Services Charges Increase/(Decrease) | | | 1,551,192 | 1,551,192 | - | - | - | - | - |
| Subtotal | - | - | 1,755,018 | 1,755,018 | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Administrative Services Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-600-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 040 - Mandated Caseload | | | | | | | | | |
| 040 - Mandated Caseload | - | - | - | - | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |
| 060 - Technical Adjustments | (1) | (1.00) | (323,866) | (323,866) | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | 40 | 40.00 | 20,885,740 | 20,885,740 | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Administrative Services Division
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-600-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|-------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| Subtotal: 2025-27 Current Service Level | 40 | 40.00 | 20,885,740 | 20,885,740 | - | - | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | 40 | 40.00 | 20,885,740 | 20,885,740 | - | - | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | 2 | 2.00 | 547,963 | 547,963 | - | - | - | - | - |
| 101 - Finance & Case Management System | 8 | 7.40 | 14,338,825 | 14,338,825 | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | 2 | 1.76 | 538,924 | 538,924 | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | 9 | 7.92 | 2,611,374 | 2,611,374 | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | 21 | 19.08 | 18,037,086 | 18,037,086 | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | 61 | 59.08 | 38,922,826 | 38,922,826 | - | - | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | 32.61% | 40.17% | 46.33% | 46.33% | - | - | - | - | - |
| Percentage Change From 2025-27 Current Service Level | 52.50% | 47.70% | 86.36% | 86.36% | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Special Programs Contracts and Distributions
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-700-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|---|--------------------|---------------------|--------------------------|--------------------|--------------------------|-----------------------------------|---|
| 2023-25 Leg Adopted Budget | - | - | 9,882,472 | 8,882,472 | - | 1,000,000 | - | - | - |
| 2023-25 Emergency Boards | - | - | 2,556,436 | 1,973,155 | - | 583,281 | - | - | - |
| 2023-25 Leg Approved Budget | - | - | 12,438,908 | 10,855,627 | - | 1,583,281 | - | - | - |
| 2025-27 Base Budget Adjustments | | | | | | | | | |
| Net Cost of Position Actions | | | | | | | | | |
| Administrative Biennialized E-Board, Phase-Out | - | - | - | - | - | - | - | - | - |
| Estimated Cost of Merit Increase | - | - | - | - | - | - | - | - | - |
| Base Debt Service Adjustment | - | - | - | - | - | - | - | - | - |
| Base Nonlimited Adjustment | - | - | - | - | - | - | - | - | - |
| Capital Construction | - | - | - | - | - | - | - | - | - |
| Subtotal 2025-27 Base Budget | - | - | 12,438,908 | 10,855,627 | - | 1,583,281 | - | - | - |
| 020 - Phase In / Out Pgm & One-time Cost | | | | | | | | | |
| 021 - Phase-in | - | - | - | - | - | - | - | - | - |
| 022 - Phase-out Pgm & One-time Costs | - | - | (4,139,717) | (2,556,436) | - | (1,583,281) | - | - | - |
| Subtotal | - | - | (4,139,717) | (2,556,436) | - | (1,583,281) | - | - | - |
| 030 - Inflation & Price List Adjustments | | | | | | | | | |
| Cost of Goods & Services Increase/(Decrease) | - | - | 542,752 | 542,752 | - | - | - | - | - |
| Subtotal | - | - | 542,752 | 542,752 | - | - | - | - | - |
| 040 - Mandated Caseload | | | | | | | | | |
| 040 - Mandated Caseload | - | - | - | - | - | - | - | - | - |
| 050 - Fundshifts and Revenue Reductions | | | | | | | | | |
| 050 - Fundshifts | - | - | - | - | - | - | - | - | - |
| 060 - Technical Adjustments | | | | | | | | | |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Special Programs Contracts and Distributions
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-700-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|-----------------------------------|------------------|---------------------|----------------------|--------------------|----------------------|-------------------------------|---------------------------------|
| 060 - Technical Adjustments | - | - | - | - | - | - | - | - | - |
| Subtotal: 2025-27 Current Service Level | - | - | 8,841,943 | 8,841,943 | - | - | - | - | - |

Summary of 2025-27 Biennium Budget

**Public Defense Svcs Comm
Special Programs Contracts and Distributions
2025-27 Biennium**

**Agency Working
Cross Reference Number: 40400-700-00-00-00000**

| <i>Description</i> | <i>Positions</i> | <i>Full-Time Equivalent (FTE)</i> | <i>ALL FUNDS</i> | <i>General Fund</i> | <i>Lottery Funds</i> | <i>Other Funds</i> | <i>Federal Funds</i> | <i>Nonlimited Other Funds</i> | <i>Nonlimited Federal Funds</i> |
|--|------------------|---|------------------|---------------------|--------------------------|--------------------|--------------------------|-----------------------------------|---|
| Subtotal: 2025-27 Current Service Level | - | - | 8,841,943 | 8,841,943 | - | - | - | - | - |
| 070 - Revenue Reductions/Shortfall | | | | | | | | | |
| 070 - Revenue Shortfalls | - | - | - | - | - | - | - | - | - |
| Modified 2025-27 Current Service Level | - | - | 8,841,943 | 8,841,943 | - | - | - | - | - |
| Policy Packages | | | | | | | | | |
| 081 - May 2024 Emergency Board | - | - | - | - | - | - | - | - | - |
| 101 - Finance & Case Management System | - | - | - | - | - | - | - | - | - |
| 102 - Criminal Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 103 - Direct Representation Investment | - | - | - | - | - | - | - | - | - |
| 104 - Service Provider Rate Parity | - | - | - | - | - | - | - | - | - |
| 105 - Juvenile Workload Augmentation | - | - | - | - | - | - | - | - | - |
| 106 - Robust Agency Support Investment | - | - | - | - | - | - | - | - | - |
| 107 - Temp. Hourly Increase Prog. Carryover | - | - | - | - | - | - | - | - | - |
| 108 - Recruitment and Retention | - | - | - | - | - | - | - | - | - |
| Subtotal Policy Packages | - | - | - | - | - | - | - | - | - |
| Total 2025-27 Agency Request Budget | - | - | 8,841,943 | 8,841,943 | - | - | - | - | - |
| Percentage Change From 2023-25 Leg Approved Budget | - | - | -28.92% | -18.55% | - | -100.00% | - | - | - |
| Percentage Change From 2025-27 Current Service Level | - | - | - | - | - | - | - | - | - |

2025 – 27 Agency Request Budget

Program Prioritization

[This page intentionally left blank.]

Program Prioritization for 2025-27

| Priority (ranked with highest priority first) | | Agency Initials | Program or Activity Initials | Program Unit/Activity Description | Identify Key Performance Measure(s) | Primary Purpose Program-Activity Code | General Fund | Other Funds | Total Funds | Priority (ranked with highest priority first) | Positions | FTE | New or Enhanced Program (Y/N) | Included as Reduction Option (Y/N) | Legal Req. Code (C, D, FM, FO, S) | Legal Citation | Explain What is Mandatory (for C, FM, and FO Only) | Comments on Proposed Changes to CSL included in Agency Request | | |
|--|-----------|-----------------|------------------------------|---|-------------------------------------|---------------------------------------|--------------|-------------|----------------|--|-----------|------|-------------------------------|------------------------------------|-----------------------------------|----------------|--|--|---|--|
| Agcy | Prgm/ Div | | | | | | | | | | | Agcy | Prgm/ Div | | | | | | | |
| 1 | 1 | OPDC | TCD | Provides funding for legal representation at the trial-level. | | 5 | 757,046,921 | | \$ 757,046,921 | 1 | 1 | 5 | 5.00 | N | Y | C | US and Oregon Constitution | Right to representation | | |
| 2 | 1 | OPDC | TRD | Provides funding for legal state employed public defender offices and support services that are mandated by a trial court official. | | 5 | 41,074,854 | | \$ 41,074,854 | 2 | 1 | 142 | 114.99 | N | Y | C | US and Oregon Constitution | Right to representation | | |
| 3 | 1 | OPDC | JTD | Provides funding for legal representation of juveniles principally at the trial-level | | 5 | 206,996,072 | 4,352,000 | \$ 211,348,072 | 3 | 1 | | | Y | Y | C | US and Oregon Constitution | Right to Representation | | |
| 4 | 1 | OPDC | PCRP | Provides funding mainly for the Parent Child Representation Program. | | 5 | 45,927,696 | 11,968,000 | \$ 57,895,696 | 4 | 1 | | | Y | Y | C | US and Oregon Constitution | Right to Representation | Policy Option Package to expand the Parent Child Representation Program to all counties within the state. | |
| 5 | 1 | OPDC | AD | Appellate Division | 1 | 5 | 31,109,994 | | \$ 31,109,994 | 5 | 1 | 69 | 67.48 | N | Y | C | US and Oregon Constitution | Right to representation | | |
| 6 | 1 | OPDC | CME | Provides funding for legal representation trial-level and support services that are mandated by a trial court official. | | 5 | 89,457,107 | 4,449,677 | \$ 93,906,784 | 6 | 1 | | | N | Y | S | US and Oregon Constitution | Right to representation support | | |
| 7 | 1 | OPDC | PE | Provides funding for case support services to aid in legal representation | | 5 | 160,260,068 | 1 | \$ 160,260,069 | 7 | 1 | | | N | Y | S | US and Oregon Constitution | Right to representation support | | |
| 8 | 1 | OPDC | SPCD | Currently the Guardianship and Conservatorship Program | | 1 | 8,841,943 | | \$ 8,841,943 | 8 | 1 | | | Y | Y | S | US and Oregon Constitution | Right to representation support | Policy Option Package to make Limited Duration Staff permanent. | |
| 9 | 1 | OPDC | CAP | Program Delivery | | 5 | 10,152,707 | | \$ 10,152,707 | 9 | 1 | 25 | 24.40 | Y | Y | S | US and Oregon Constitution | Right to representation support | Policy Option Package to request positions to build and enhance program and agency operations, research, procurement, public affairs and policy design. | |

Program Prioritization for 2025-27

| Priority (ranked with highest priority first) | | Agency Initials | Program or Activity Initials | Program Unit/Activity Description | Identify Key Performance Measure(s) | Primary Purpose Program-Activity Code | General Fund | Other Funds | Total Funds | Priority (ranked with highest priority first) | Positions | FTE | New or Enhanced Program (Y/N) | Included as Reduction Option (Y/N) | Legal Req. Code (C, D, FM, FO, S) | Legal Citation | Explain What is Mandatory (for C, FM, and FO Only) | Comments on Proposed Changes to CSL included in Agency Request | |
|--|-----------|-----------------|------------------------------|-----------------------------------|-------------------------------------|---------------------------------------|---------------|-------------|------------------|--|-----------|-----|-------------------------------|------------------------------------|-----------------------------------|----------------|--|--|---|
| Agcy | Prgm/ Div | | | | | | | | Agcy | Prgm/ Div | | | | | | | | | |
| 10 | 1 | OPDC | ASD | Agency Operations | | 5 | 38,922,826 | | \$ 38,922,826 | 10 | 1 | 61 | 59.08 | Y | Y | S | US and Oregon Constitution | Right to representation support | Policy Option Packages: Financial Case Management System, Information Services Contract, Limited Duration Positions to Permanent, Reestablish abolished position for CSS. |
| 11 | 1 | OPDC | ED | Agency Operations | | 5 | 6,274,540 | | \$ 6,274,540 | 11 | 1 | 13 | 12.52 | Y | Y | S | US and Oregon Constitution | Right to representation support | |
| | | | | | | | | | \$ - | | | | | | | | | | |
| | | | | | | | 1,396,064,728 | 20,769,678 | \$ 1,416,834,406 | | | 315 | 283.47 | | | | | | |

2025 – 27 Agency Request Budget

General Fund Reduction Options

[This page intentionally left blank.]

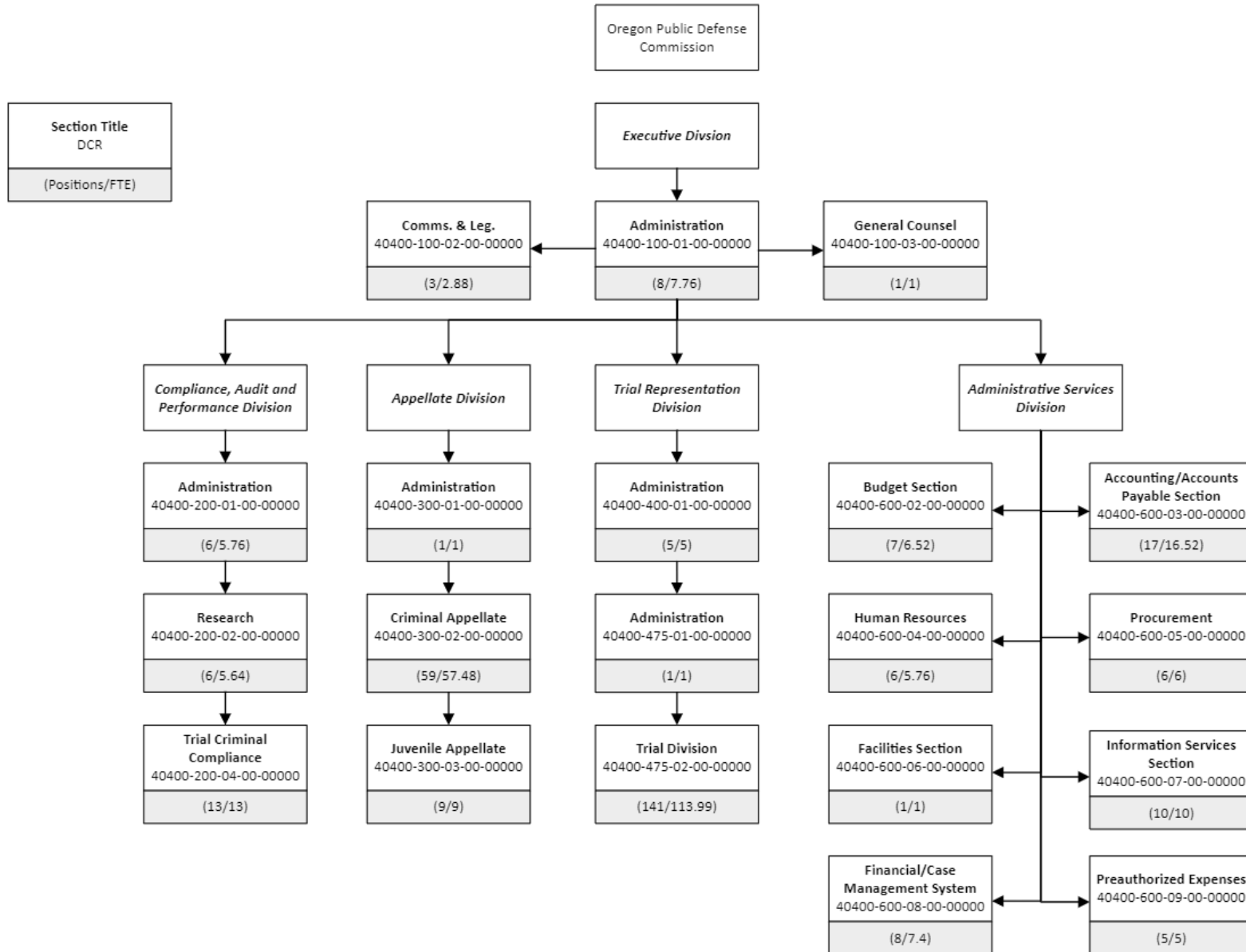
10% Reduction Options (ORS 291.216)

| Activity or Program <small>(WHICH PROGRAM OR ACTIVITY WILL NOT BE UNDERTAKEN)</small> | Describe Reduction <small>(DESCRIBE THE EFFECTS OF THIS REDUCTION. IDENTIFY REVENUE SOURCE FOR OF, FF. INCLUDE POSITIONS AND FTE FOR 2025-27 AND 2027-29)</small> | Amount and Fund Type | | | | | | | | Rank and Justification <small>(RANK THE ACTIVITIES OR PROGRAMS NOT UNDERTAKEN IN ORDER OF LOWEST COST FOR BENEFIT OBTAINED)</small> | |
|--|--|----------------------|------|------|-------|------|-------|---------------|------|--|-----|
| | | GF | LF | OF | NL-OF | FF | NL-FF | Total Funds | Pos. | | FTE |
| Executive Division | A 10% reduction in the Executive Division targets the last position earned in this division, the Legislative Affairs Manager which is a Deputy General Counsel Position. What the agency losses is the necessary link to the legislative body. This will mean that the Director and the Deputy Director will have to increase thier level of engagement with the Legislative Body. | \$ 503,339 | \$ - | | \$ - | \$ - | \$ - | \$ 503,339 | 1 | 0.98 | |
| Compliance, Audit and Performance Division | A 10% reduction in the CAP division represents the elimination of 2 positions, a Research Analyst 4 and an Internal Auditor. Eliminating these positions will severely limit the agency's ability to conduct the necessary research to move solve the problems and provide solutions to move the agency programs forward and to evaluate the policies, procedures and best practices of the agency. Although these positions are crucial to the forward progression of the agency and the continued improvement of constitutional defense representation of oregonians, it is more favorable than the elimination of the General Counsel and the Deputy General Council positions who are working to create the framework for the agency programs. | \$ 874,640 | \$ - | | \$ - | \$ - | \$ - | \$ 874,640 | 3 | 2.12 | |
| Appellate Division | A 10% reduction (\$2.9 million GF) of the agency's current service level for the Appellate Division would require the elimination of six (6) attorney positions. Appellate cases would become backlogged and the average length of time an appeal is pending would increase. The Court of Appeals may order the dismissal of pending cases that exceed 350 days from the date the record settles to the filing of the opening brief. | \$ 2,879,945 | \$ - | | \$ - | \$ - | \$ - | \$ 2,879,945 | 6 | 5.34 | |
| Trial Criminal Division | A 10% reduction (\$31.1 million GF) of the Trial Criminal Division represents the level of funding required for approximately three months of public defense services. Unless the 2025 Legislature acts to either decriminalize some behavior or reduce the seriousness level of some offenses and thereby reduce the number and cost of the cases on which counsel must be appointed, or funds this caseload, OPDC will have to cease payment for appointed counsel and related expenses during the last quarter of the 2025-27 biennium. Generally, if counsel is not available, the cases will be dismissed or held in abeyance. | \$ 31,135,053 | \$ - | | \$ - | \$ - | \$ - | \$ 31,135,053 | - | - | |
| Trial Representation Division | A 10% reduction (\$1.75 million GF) of the Trial Criminal Division represents the the elimination of xx attorneys and support staff positions. Eliminating these positions will severely limit the agency's ability to provide respresentation to persons who qualify for public defense. Unless the 2025 Legislature acts to either decriminalize some behavior or reduce the seriousness level of some offenses and thereby reduce the number and cost of the cases on which counsel must be appointed, or funds this caseload, OPDC will have to cease payment for appointed counsel and related expenses during the last quarter of the 2025-27 biennium. Generally, if counsel is not available, the cases will be dismissed or held in abeyance. A large part of this divison's caseload is representing those persons on the unrepresented list, which will elimnate any progress the state has made in this area. | \$ 1,755,570 | | | | | | \$ 1,755,570 | 5 | 4.98 | |
| Preauthorized Expenses | A 10% reduction (\$9.4 million GF) of Case Support Services (Non-Routine Expenses) represents the level of funding required for approximately three months of vendor payments for public defense related reasonable and necessary support services. The related case costs include transcriptionists, investigators, interpreters, mitigators, socials workers, psychologists, polygraph examiners, forensic, firearms and DNA experts and medical experts. Unless the 2025 Legislature acts to either decriminalize some behavior or reduce the seriousness level of some offenses and thereby reduce the number and cost of the cases on which counsel must be appointed which directly drives the needs for related support services, or funds this caseload, OPDC will have to cease payment to vendors for related expenses during the last quarter of the 2025-27 biennium. Generally, if counsel is not available, the cases will be dismissed or held in abeyance. | \$ 9,441,137 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 9,441,137 | - | - | |

| | | | | | | | | | | |
|--|--|----------------------|-------------|---------------------|-------------|-------------|-------------|----------------------|-----------|--------------|
| Court Mandated Expenses | A 10% reduction (\$3.96 million GF; \$0.44 million OF) of the Court Mandated Expenses represents the level of funding required for approximately two months of public defense services. Unless the 2025 Legislature acts to either decriminalize some behavior or reduce the seriousness level of some offenses and thereby reduce the number and cost of the cases on which counsel must be appointed, or funds this caseload, OPDC will have to cease payment for appointed counsel and related expenses during the last quarter of the 2025-27 biennium. Generally, if counsel is not available, the cases will be dismissed or held in abeyance. The reduction in Other Funds will result in reduction to the monies that are passed through to the Oregon Judicial Department for the the payment of staff that process the requests for the Application Contribution Program. A large part of this division's caseload is representing those persons on the unrepresented list, which will eliminate any progress the state has made in this area. This is also the budget that pays for hourly attorneys which is counter to the direction the agency is being instructed to proceed. | \$ 3,964,620 | \$ - | \$ 444,968 | \$ - | \$ - | \$ - | \$ 4,409,588 | - | - |
| Juvenile Division | A 10% reduction (\$5.01 million GF; \$0.43 million OF) of the of the Juvenile Division represents the level of funding required for approximately three months of public defense services. Unless the 2025 Legislature acts to either decriminalize some behavior or reduce the seriousness level of some offenses and thereby reduce the number and cost of the cases on which counsel must be appointed, or funds this caseload, OPDC will have to cease payment for appointed counsel and related expenses during the last quarter of the 2025-27 biennium. Generally, if counsel is not available, the cases will be dismissed or held in abeyance. | \$ 5,006,297 | \$ - | \$ 435,200 | \$ - | \$ - | \$ - | \$ 5,441,497 | - | - |
| Parent Child Representation Unit | A 10% reduction (\$4.6 million GF; \$1.2 million OF) of the of the Juvenile Division represents the level of funding required for approximately three months of public defense services. Unless the 2025 Legislature acts to either decriminalize some behavior or reduce the seriousness level of some offenses and thereby reduce the number and cost of the cases on which counsel must be appointed, or funds this caseload, OPDC will have to cease payment for appointed counsel and related expenses during the last quarter of the 2025-27 biennium. Generally, if counsel is not available, the cases will be dismissed or held in abeyance. | \$ 4,592,770 | | \$ 1,196,800 | | | | \$ 5,789,570 | - | - |
| Administrative Services Division | A 10% reduction (\$2.1 million GF) of the Administrative Services represents the elimination of 6 essential positions that are crucial the operational success of the agency. The elimination would touch every section within the division and limit the agencies ability to process payments and requests for services, provide essential reporting for the OPDC and the Legislature, and to maintain the technological support services necessary for the agency to operate its numerous systems and databases. The agency is sparsely resourced in the administrative area and is just starting to get on its feet operationally, so a cut here would send the agency backward to a place that may not be recoverable. | \$ 2,090,119 | \$ - | | \$ - | \$ - | \$ - | \$ 2,090,119 | 7 | 6.29 |
| Special Programs, Contracts, and Distributions | A 10% reduction (\$0.885 million GF) of the Special Programs, Contracts, and Distributions would eliminate the funding for approximately 300 case hours (budgeted at \$135 per hour) in the Guardianship and Conservatorship program. This program operates statewide in January of 2024. This will also reduce the amount of money available for the payment of discovery by \$844,000. | \$ 884,194 | \$ - | | \$ - | \$ - | \$ - | \$ 884,194 | - | - |
| | | | | | | | | \$ - | - | - |
| | | | | | | | | \$ - | - | - |
| | | | | | | | | \$ - | - | - |
| Total | | \$ 63,127,685 | \$ - | \$ 2,076,968 | \$ - | \$ - | \$ - | \$ 65,204,653 | 22 | 19.71 |
| CSL | | 631,251,314 | - | 20,769,678 | - | - | - | 652,020,992 | | |
| 10% Reduction | | 63,125,131 | - | 2,076,968 | - | - | - | 65,202,099 | | |
| | | \$ (2,554) | \$ - | \$ (0) | \$ - | \$ - | \$ - | \$ (2,554) | | |

2025 – 27 Agency Request Budget

Organizational Chart



2025 – 27 Agency Request Budget

Agency-wide Program Unit Summary

[This page intentionally left blank.]

2025-27 Biennium

| Summary Cross Reference Number | Cross Reference Description | 2021-23 Actuals | 2023-25 Leg Adopted Budget | 2023-25 Emergency Boards | 2023-25 Leg Approved Budget | 2025-27 Agency Request Budget |
|--------------------------------|---|-----------------|----------------------------|--------------------------|-----------------------------|-------------------------------|
| 100-00-00-00000 | Executive Division | | | | | |
| | 8000 General Fund | 3,566,252 | 4,163,436 | 483,996 | 4,647,432 | 6,274,540 |
| | Authorized Positions | 8 | 9 | 1 | 10 | 13 |
| | Authorized FTE | 7.88 | 9.00 | 0.63 | 9.63 | 12.52 |
| 200-00-00-00000 | Compliance, Audit and Performance Division | | | | | |
| | 8000 General Fund | 3,774,194 | 6,400,917 | 668,376 | 7,069,293 | 10,152,707 |
| | Authorized Positions | 14 | 17 | 1 | 18 | 25 |
| | Authorized FTE | 11.52 | 16.38 | 0.63 | 17.01 | 24.40 |
| 300-00-00-00000 | Appellate Division | | | | | |
| | 8000 General Fund | 22,074,076 | 24,491,812 | 1,932,884 | 26,424,696 | 31,109,994 |
| | Authorized Positions | 58 | 58 | - | 58 | 69 |
| | Authorized FTE | 57.38 | 57.80 | - | 57.80 | 67.48 |
| 400-00-00-00000 | Adult Trial Division | | | | | |
| | 8000 General Fund | 255,140,627 | 267,580,283 | 22,428,096 | 290,008,379 | 757,046,921 |
| | 3400 Other Funds Ltd | 4,000,000 | - | - | - | - |
| | All Funds | 259,140,627 | 267,580,283 | 22,428,096 | 290,008,379 | 757,046,921 |
| | Authorized Positions | - | 17 | 29 | 46 | 5 |
| | Authorized FTE | - | 14.37 | 15.93 | 30.30 | 5.00 |
| 415-00-00-00000 | Juvenile Trial Division | | | | | |
| | 8000 General Fund | - | 50,356,700 | (3,481,261) | 46,875,439 | 206,996,072 |
| | 3400 Other Funds Ltd | - | 4,352,000 | - | 4,352,000 | 4,352,000 |
| | All Funds | - | 54,708,700 | (3,481,261) | 51,227,439 | 211,348,072 |

2025-27 Biennium

| Summary Cross Reference Number | Cross Reference Description | 2021-23 Actuals | 2023-25 Leg Adopted Budget | 2023-25 Emergency Boards | 2023-25 Leg Approved Budget | 2025-27 Agency Request Budget |
|--------------------------------|--|-----------------|----------------------------|--------------------------|-----------------------------|-------------------------------|
| 425-00-00-00000 | Preauthorized Expenses | | | | | |
| | 8000 General Fund | 43,009,979 | 54,837,645 | 3,780,040 | 58,617,685 | 160,260,068 |
| | 3400 Other Funds Ltd | - | 1 | - | 1 | 1 |
| | All Funds | 43,009,979 | 54,837,646 | 3,780,040 | 58,617,686 | 160,260,069 |
| 450-00-00-00000 | Court Mandated Expenses | | | | | |
| | 8000 General Fund | 51,966,699 | 67,113,611 | 8,719,295 | 75,832,906 | 89,457,107 |
| | 3400 Other Funds Ltd | 3,372,938 | 4,449,667 | - | 4,449,667 | 4,449,677 |
| | All Funds | 55,339,637 | 71,563,278 | 8,719,295 | 80,282,573 | 93,906,784 |
| 475-00-00-00000 | Trial Representation Division | | | | | |
| | 8000 General Fund | - | - | - | - | 41,074,854 |
| Authorized Positions | | - | - | - | - | 142 |
| Authorized FTE | | - | - | - | - | 114.99 |
| 500-00-00-00000 | Parent Child Representation Program | | | | | |
| | 8000 General Fund | 40,146,549 | 48,710,092 | (4,043,805) | 44,666,287 | 45,927,696 |
| | 3400 Other Funds Ltd | 8,167,176 | 11,968,000 | - | 11,968,000 | 11,968,000 |
| | All Funds | 48,313,725 | 60,678,092 | (4,043,805) | 56,634,287 | 57,895,696 |
| Authorized Positions | | 1 | 1 | - | 1 | - |
| Authorized FTE | | 0.50 | 1.00 | - | 1.00 | - |
| 600-00-00-00000 | Administrative Services Division | | | | | |
| | 8000 General Fund | 13,661,210 | 24,568,388 | 2,030,232 | 26,598,620 | 38,922,826 |
| Authorized Positions | | 32 | 41 | 5 | 46 | 61 |
| Authorized FTE | | 30.03 | 39.00 | 3.15 | 42.15 | 59.08 |

2025-27 Biennium

| Summary Cross Reference Number | Cross Reference Description | 2021-23 Actuals | 2023-25 Leg Adopted Budget | 2023-25 Emergency Boards | 2023-25 Leg Approved Budget | 2025-27 Agency Request Budget |
|---------------------------------------|---|------------------------|-----------------------------------|---------------------------------|------------------------------------|--------------------------------------|
| 700-00-00-00000 | Special Programs Contracts and Distributions | | | | | |
| | 8000 General Fund | 132,066 | 8,882,472 | 1,973,155 | 10,855,627 | 8,841,943 |
| | 3400 Other Funds Ltd | - | 1,000,000 | 583,281 | 1,583,281 | - |
| | All Funds | 132,066 | 9,882,472 | 2,556,436 | 12,438,908 | 8,841,943 |
| Authorized Positions | | 1 | - | - | - | - |
| Authorized FTE | | 0.50 | - | - | - | - |
| TOTAL AGENCY | | | | | | |
| | 8000 General Fund | 433,471,652 | 557,105,356 | 34,491,008 | 591,596,364 | 1,396,064,728 |
| | 3400 Other Funds Ltd | 15,540,114 | 21,769,668 | 583,281 | 22,352,949 | 20,769,678 |
| | All Funds | 449,011,766 | 578,875,024 | 35,074,289 | 613,949,313 | 1,416,834,406 |
| Authorized Positions | | 114 | 143 | 36 | 179 | 315 |
| Authorized FTE | | 107.81 | 137.55 | 20.34 | 157.89 | 283.47 |

Executive Division

Executive Summary

Program Overview

The Executive Division contains the agency’s core leadership team, and it has primary responsibility for agency governance and ensuring compliance with ORS Chapter 151. ORS 151.216 directs the agency “to maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, United States Constitution, and Oregon and national standards of justice.”

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|---------------------|--------------------|--------------------|------------------|--------------|
| 2023 - 25 legislatively approved budget | 4,647,432 | 0 | 4,647,432 | 10 | 9.63 |
| 2025 - 27 current service level | 5,034,280 | 0 | 5,034,280 | 9 | 9.00 |
| 2025 - 27 agency request budget | 6,274,540 | 0 | 6,274,540 | 13 | 12.52 |
| Difference | 1,627,108 | 0 | 1,627,108 | 3 | 2.89 |
| Percent change | 35.0% | 0% | 35.0% | 30.0% | 30.0% |

Long Term Focus Areas

Agency vision and leadership to ensure a healthy, vital, and sustainable public defense system.

Primary Program Contact

Emese Perfecto, Deputy Director

Executive Division

Executive Summary

Program Description

The Executive Division has primary responsibility for the agency’s leadership and governance. It develops and implements the agency’s vision and ensures compliance with ORS Chapter 151. Pursuant to ORS 151.216, the Oregon Public Defense Commission has oversight over the agency and the state’s public defense system. The Executive Division works closely with the commission to develop the agency’s vision and establish policy in the provision of public defense services. The PDC meets approximately 10-12 times per year, and the division works with the that body to plan these meetings.

Internally, the Executive Division oversees all other agency divisions, with each division having supervisors that report to either the executive director or deputy director. It also manages the agency’s legal compliance. Externally, it manages the agency’s positions on legislation and policy development. It also manages communications to elected officials, governmental actors, public defense attorneys, the media, and other interested parties.

Program Justification and link to Long-Term Outcomes

A robust Executive Division is necessary to effectuate a healthy, vital, and sustainable public defense system. The legal services funded by OPDS is the largest coordinated law effort in the state of Oregon, serving indigent people in criminal, juvenile, civil commitment, contempt, probate, and other cases, at the trial and appellate level. Consistent leadership and governance are critical to the effective operation of these programs.

Additionally, the state has used the same service delivery model for trial-level public defense services since 1983. That model, and the outcomes from that model, has been criticized in recent reports by the Sixth Amendment Center and the American Bar Association. Stakeholders, policymakers, and public officials have uniformly called for a modernization of the state’s public defense system. Modernizing an agency of this size and scope requires leadership, vision, and strong centralized planning.

Executive Division

Executive Summary

Program Performance

The Executive Division is a new division that emerged in 2021 reorganization of the commission. Since its creation, the agency has hired a new executive director, deputy director, and government relations manager.

Over the past two budget cycles, the state's public defense system has received intense scrutiny and attention. With the support of the legislature, the agency has restructured external contracting policies with trial-level public defense providers. While House Bill 5030 (2021) restructured the agency's budget appropriation and internal operations, House Bill 2003 (2021) amended chapter 151 of the ORS and directed the commission to adopt policies in new areas to modernize the agency. The commission and public defense system was further reformed by Senate Bill 337 (2023).

The Executive Division has managed the agency's response to HB 5030 and HB 2003. It worked with the legislature and other policymakers to address the lack of public defense attorneys. And it has also worked with the commission to develop new public defense contracting policies, which went into effect July 1, 2022.

Enabling Legislation

Generally, ORS Chapter 151 establishes governance for the agency, with the commission responsible for selecting an executive director that is the chief executive of the agency's staff. ORS 151.219 defines the duties of the executive director. The position of general counsel is grounded in ORS 151.219(1)(k).

The Executive Division was created by HB 5030 (2021), which took effect on July 1, 2021. HB 5030 restructured the internal operations of OPDS and aligned its budget along cost centers. The budget report to HB 5030 stated, "the Division provides the leadership function and governance structure of the agency under the Commission and includes staff to support the Commission, the Executive Director, General Counsel, and Communications and Legislative Affairs."

Funding Streams

The Executive Division is entirely funded by General Fund.

Executive Division

Executive Summary

Funding Justification and Changes to CSL

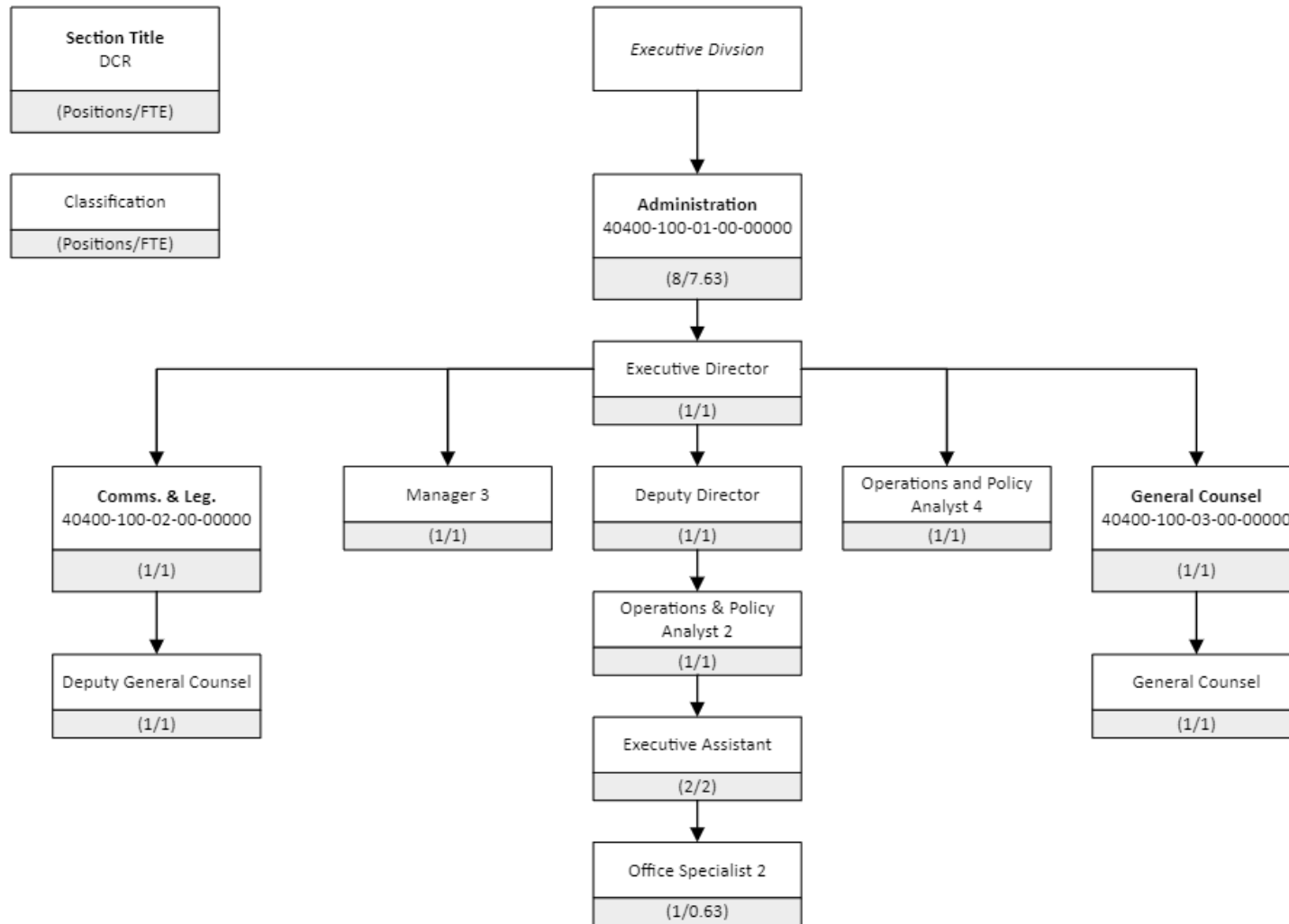
Funding for the 2025-27 budget remains entirely General Fund. Proposed enhancements to the Executive Division include addition of a public information officer which will provide enhanced communications both internally and externally. External communications with the service provider community is critical as OPDS brings policy, procedural and technology changes online throughout the biennium. Communications can easily become fractured and confusing. Provision of a robust communication delivery will reduce confusion and enhance consistency of messages.

The following policy option packages impact the Executive Division and are described elsewhere.

- Policy Package 103 – Direct Representation Investment
- Policy Package 106 – Robust Agency Support Investment

Executive Division

Organizational Chart



Executive Division

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

Staffing Impact

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|----------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$18,498 |
| 021 | Program Phase-in (2023-25 Legislatively Adopted Packages) | General | 5,216 |
| 022 | Program Phase-out (2023-25 Program or Expiration of Limited Duration Positions) | General | 0 |
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 43,015 |

Executive Division

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|--|----------------|------------------|
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 0 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | 151,438 |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | 218,167 |
| BASE | 2025 – 2027 Base Budget | General | 4,816,113 |
| 2025 – 27 Current Service Level | | General | 5,034,280 |

Executive Division

Policy Option Package 106 – Robust Agency Support Investment

Policy Package Summary

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 intense scrutiny of the legislature. Indeed, the Sixth Amendment Center found, among other things, that the commission was a “complex bureaucracy”; that the application of standards and qualifications to contracted 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 to emerging as 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 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 absentee.

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;

Executive Division

Policy Option Package 106 – Robust Agency Support Investment

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.

Resources and Implementation

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 |

Executive Division

Policy Option Package 106 – Robust Agency Support Investment

| <i>Function</i> | <i>Classification</i> | <i>Quantity</i> | <i>Role</i> |
|--|---------------------------------|-----------------|--|
| 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 |
| 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 |
| Financial Management | 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 |

Executive Division

Policy Option Package 106 – Robust Agency Support Investment

Strategic Plan Aims

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 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.

Independent and Performance Audit Aims

Not applicable.

Policy Package Performance Measurement

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.

Executive Division

Policy Option Package 106 – Robust Agency Support Investment

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 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.

Key Performance Measures

No.

Long-Term Outcomes

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

Adverse Effects of Lapsed Funding

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.

Prior Events by Management

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.

Executive Division

Policy Option Package 106 – Robust Agency Support Investment

Alternatives and Reasons to Reject Alternatives

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

Changes to Law and Coordination with Public Bodies and Partners

This package presents no changes to law.

Impact on Public Bodies

There is no impact on other public bodies.

Impact on Stakeholders and Partners

This is no impact on other stakeholders or partners.

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): October 1, 2025

End date (if applicable):

Executive Division

Policy Option Package 106 – Robust Agency Support Investment

Pricing Assumptions

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.

New Commission Responsibilities

No.

Client Caseloads and Services Changes

No.

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.

Start-up and One-time costs

\$4,433,377 to fund fifteen positions and 13.20 full-time equivalents.

Permanent Costs

The ongoing costs are those personal services and services and supplies established in the next biennium.

Potential Savings

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

Executive Division

Policy Option Package 106 – Robust Agency Support Investment

Funding Sources

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 |

| | 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 |

Compliance, Audit, and Performance Division

Executive Summary

Program Overview

The Compliance, Audit and Performance (CAP) Division establishes best practices for Oregon public defense programs. This includes establishing public defense training, certification standards, program compliance and other support for defense attorneys contracted to perform public defense services by OPDC. The (CAP) Division works in partnership with public defense providers and entities that handle criminal, juvenile dependency, juvenile delinquency, civil commitment, post-conviction relief, and habeas corpus cases for people entitled to court-appointed counsel at state expense.

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|-------------------|-------------|-------------------|-----------|--------------|
| 2023 - 25 legislatively approved budget | 7,069,293 | 0 | 7,069,293 | 18 | 17.01 |
| 2025 - 27 current service level | 8,736,960 | 0 | 8,736,960 | 20 | 20.00 |
| 2025 - 27 agency request budget | 10,152,707 | 0 | 10,152,707 | 25 | 24.40 |
| Difference | 3,083,414 | | 3,083,414 | 7 | 7.39 |
| Percent change | 43.6% | | 43.6% | 38.9% | 43.4% |

Long Term Focus Areas

Ensuring that court-appointed counsel provides high-quality representation for clients who are eligible for public defense services.

Compliance, Audit, and Performance Division

Executive Summary

Primary Program Contact

Kim Freeman, Compliance, Audit, and Performance Manager

Shannon Flowers, Trial Support and Development Manager

Program Description

In 2021 the Oregon Public Defense Commission (OPDC) created the Compliance, Audit, and Performance (CAP) Division. The primary purpose of the division is to develop best practices for Oregon public defense programs, including establishing public defense training, certification standards, program compliance and other support for defense attorneys contracted to perform public defense services by OPDC. Due to historic structural issues that include development, OPDC has been unable to deliver on the CAP objectives. In the last year and a half, OPDC has experienced many executive staffing changes while trying to meet the requirements of Senate Bill 337 (2023). In the face of those requirements, the commission is adjusting and refining processes, aligning its focus on OPDC programs in preparation for the transaction to the executive branch and reorganizing an agency that has been in crisis for the last three years.

The CAP Division’s Organizational Plan and Anticipated Role in Day-to-Day Agency Operations

The organizational plan for the CAP Division anticipates the following three sections:

- Compliance: Service Delivery Section: This section will be the provider relations and customer service division of OPDC. Led by the service delivery ombudsman, classed as a general counsel, this section will be comprised of a provider relations team and customer service team and an hourly panel team.
- Audit: Policy, Data and Auditing Section: The policy team will manage agency policies, including writing new policies, reviewing existing policies, and communicating policy changes. The data and research team will gather data, engage partner agencies, and engage external stakeholders to drive data-driven decisions for OPDC. Auditing efforts will span the agency to reach contract management, client complaints, program performance audits, data and research and other resources.

Compliance, Audit, and Performance Division

Executive Summary

- Performance: Training Services and Development Section: This section will develop and implement qualifications for public defenders, implement standards of practice for performance measures, for providers associated with ethical public defense. They will implement workforce development programs to build the public defense workforce in Oregon. They will implement training and attorney development curriculum.

The CAP Division’s Plan for Improved Administration, Monitoring, Evaluation and Support

With the defined sections of the division this will assist the agency to ensure each section has the appropriate staff with the experience and skills needed to complete the deliverables of the implementation of the CAP Division and the programs established within the division.

Public defenders play a crucial role in the criminal justice system, ensuring that every individual, regardless of financial status, has access to legal representation. In Oregon, public defenders face numerous challenges, including high caseloads, limited resources and complex needs of their clients. To ensure the highest quality of representation, performance audits and consequential training are essential. These processes not only enhance the effectiveness of public defenders but also uphold the principles of justice and fairness.

The CAP Division will work to ensure accountability and improving quality, addressing systemic issues, guiding effective training programs, promoting professional development and ensuring equitable representation.

Program Justification and link to Long-Term Outcomes

The United States Constitution, the Oregon Constitution, and/or Oregon statutes entitle financially eligible individuals to court-appointed counsel at state expense in criminal, juvenile dependency, juvenile delinquency, termination-of-parental-rights, civil commitment, post-conviction relief, and habeas corpus cases. The right to counsel is the right to the adequate and effective assistance of counsel.

The CAP Division bears primary responsibility for ensuring that the agency continuously meets its obligation to provide high-quality, legal representation for those in Oregon entitled to court-appointed counsel by monitoring the delivery of public defense services and providing guidance to the agency regarding policies and procedures that will support and promote high-quality representation.

Compliance, Audit, and Performance Division

Executive Summary

Program Performance

The CAP Division was created by HB 5030 (2021) and is beginning its work with plans noted above.

Enabling Legislation

The legislature established the division in House Bill 5030 (2021), the agency's primary budget measure. HB 5030 A (2021) Budget Report at 6-8, available at <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureAnalysisDocument/62594>.

During the same session, the legislature adopted House Bill (HB) 2003 (2021), which required the agency to adopt policies for contracting that (1) ensure compensation, resources and caseloads are in accordance with national and regional best practices; (2) ensure funding and resources to support required data collection and training requirements; (3) recognize the need to consider overhead costs and account for the cost of living and business cost differences in each jurisdiction, (4) establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion, and culturally specific-representation, and (5) adopt a statewide workload plan, based on the caseload policies, that takes into account the needs of each county or jurisdiction, practice structure, and type of practice overseen by the agency. HB 2003 also requires the agency to promote policies for public defense provider compensation and resources that are comparable to prosecution compensation and resources.

SB 5532 (2023) made some changes to the division to strengthen the Agency's program management, performance, and oversight. The division was organized into the following sections: administration, trial criminal compliance, juvenile and Parent Child Representation Program, compliance, research, and internal audit, which reports directly to the commission. The division was further directed to provide mutually inclusive services for vendor contract compliance, auditing of expenditures related to vendor contracts, internal auditing of agency expenditures, research and analysis, and development and maintenance of performance measures, including key performance measures and supporting key performance indicators.

SB 5532 (2023) also directed two budget notes for the division:

Compliance, Audit, and Performance Division

Executive Summary

Quality Management Plan: The Public Defense Services Commission was directed to develop a quality management plan for public defense and associated Key Performance Measures and Indicators. The Commission was directed to submit the plan prior to the Legislative Session in 2024. In addition, the Chair and the Executive Director of the Public Defense Service Commission was directed to report on existing Performance Measurements and targets.

Internal Audit Function: The Public Defense Services Commission was directed to report to the Joint Committee on Legislative Audits and the Joint Committee on Ways and Means prior to the Legislative Session in 2024 on internal audits and audits of provider contracts completed after June 30, 2021, as well as audit plans for the 2023-25 biennium. The report was to include an update on the hiring of internal audit staff and the reporting structure of internal audit staff to the Commission.

Funding Streams

The CAP Division is entirely funded by General Fund.

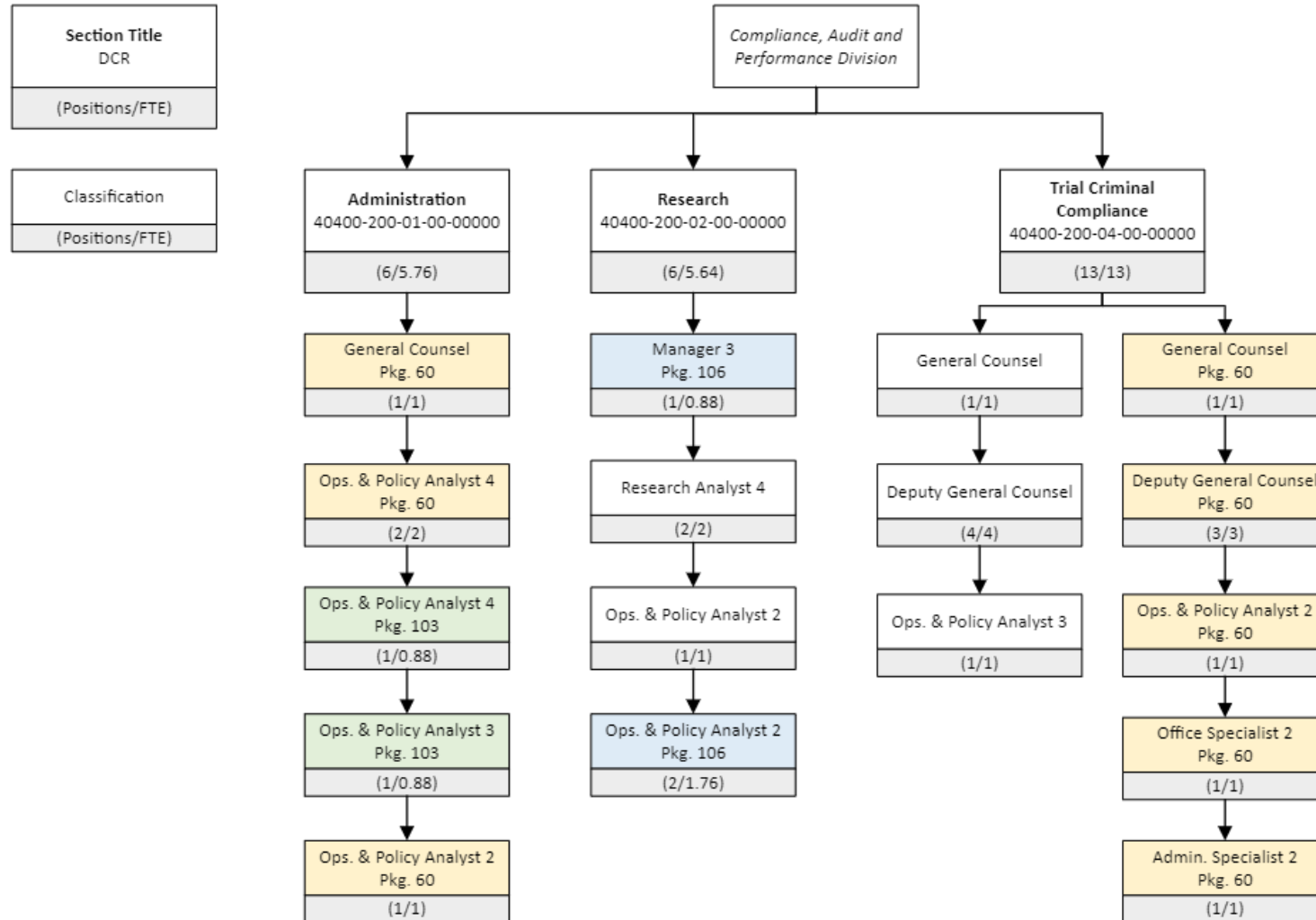
Funding Justification and Changes to CSL

The following policy option packages impact the Compliance, Audit, and Performance Division and are described elsewhere.

- Policy Package 103
- Policy Package 106

Compliance, Audit, and Performance Division

Organizational Chart



Compliance, Audit, and Performance Division

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

Staffing Impact

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|--------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$0 |
| 021 | Program Phase-in (2023-25 Legislatively Adopted Packages) | General | 30,836 |
| 022 | Program Phase-out (2023-25 Program or Expiration of Limited Duration Positions) | General | 0 |
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 12,348 |

Compliance, Audit, and Performance Division

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|--|----------------|--------------------|
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 0 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | 698,542 |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | 784,625 |
| BASE | 2025 – 2027 Base Budget | General | 7,952,335 |
| 2025 – 2027 Current Service Level | | General | \$8,736,960 |

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

Policy Package Summary

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.

Resources and Implementation

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 Senate Bill 337 (2023) 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 |
| II. SENATE BILL 5701 (2024) POSITION AUTHORITY | | | | |
| Northwest (Portland) | 1 | 1 | 1 | 1 |
| Central Valley (Salem) | 1 | 0 | 0 | 1 |

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

| <i>Office / Region</i> | <i>Attorneys</i> | <i>Legal paraprofessionals</i> | <i>Investigators</i> | <i>Other</i> |
|--|------------------|------------------------------------|----------------------|--------------|
| 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 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

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

| <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 |
| 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.

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.

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

- **Goal III:** Meet SB 337 standards for a state-wide trial division with state hired trial attorneys by 2031 and 2035.

Independent and Performance Audit Aims

This package is not proposed to meet the recommendations or answer the findings in an audit.

Policy Package Performance Measurement

- 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.

Agency Key Performance Measures

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.

Long-Term Outcomes

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

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

Adverse Effects of Lapsed Funding

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

Prior Events by Management

- 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.

Alternatives and Reasons to Reject Alternatives

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.

Changes to Law and Coordination with Public Bodies and Partners

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).

Impact on Public Bodies

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.

Impact on Stakeholders and Partners

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

None.

Equity Lens

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 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.

Package Fiscal Impact and Staffing

| | |
|---------------------------|--------------|
| Implementation date(s): | July 1, 2025 |
| End date (if applicable): | |

Pricing Assumptions

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.

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

New Commission 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.

Client Caseloads and Services Changes

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.

Policy Package Staff

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)

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

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)
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)

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

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

Start-up and One-time Costs

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

Permanent Costs

All costs associated with this POP will become ongoing costs.

Potential Savings

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

Funding Sources

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 | | | | | | |

Compliance, Audit, and Performance Division

Policy Option Package 103 – Direct Representation Investment

| | | | | | | |
|--------------|---------------------|------------|------------|---------------------|------------|--------------|
| Other | | | | | | |
| Total | \$21,863,302 | \$0 | \$0 | \$21,863,302 | 111 | 64.33 |

Fiscal impact by program

| | 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 |

Compliance, Audit, and Performance Division

Policy Option Package 106 – Robust Agency Support Investment

Policy Package Summary

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 intense scrutiny of the legislature. Indeed, the Sixth Amendment Center found, among other things, that the commission was a “complex bureaucracy”; that the application of standards and qualifications to contracted 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 to emerging as 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 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 absentee.

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;

Compliance, Audit, and Performance Division

Policy Option Package 106 – Robust Agency Support Investment

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.

Resources and Implementation

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 |

Compliance, Audit, and Performance Division

Policy Option Package 106 – Robust Agency Support Investment

| <i>Function</i> | <i>Classification</i> | <i>Quantity</i> | <i>Role</i> |
|--|---------------------------------|-----------------|--|
| 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 |
| 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 |
| Financial Management | 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 |

Compliance, Audit, and Performance Division

Policy Option Package 106 – Robust Agency Support Investment

Strategic Plan Aims

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 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.

Independent and Performance Audit Aims

Not applicable.

Policy Package Performance Measurement

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.

Compliance, Audit, and Performance Division

Policy Option Package 106 – Robust Agency Support Investment

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 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.

Key Performance Measures

No.

Long-Term Outcomes

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

Adverse Effects of Lapsed Funding

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.

Prior Events by Management

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.

Compliance, Audit, and Performance Division

Policy Option Package 106 – Robust Agency Support Investment

Alternatives and Reasons to Reject Alternatives

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

Changes to Law and Coordination with Public Bodies and Partners

This package presents no changes to law.

Impact on Public Bodies

There is no impact on other public bodies.

Impact on Stakeholders and Partners

This is no impact on other stakeholders or partners.

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): October 1, 2025

End date (if applicable):

Compliance, Audit, and Performance Division

Policy Option Package 106 – Robust Agency Support Investment

Pricing Assumptions

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.

New Commission Responsibilities

No.

Client Caseloads and Services Changes

No.

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.

Start-up and One-time costs

\$4,433,377 to fund fifteen positions and 13.20 full-time equivalents.

Permanent Costs

The ongoing costs are those personal services and services and supplies established in the next biennium.

Potential Savings

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

Compliance, Audit, and Performance Division

Policy Option Package 106 – Robust Agency Support Investment

Funding Sources

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 |

| | 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 |

Appellate Division

Executive Summary

Program Overview

The Appellate Division provides constitutionally and statutorily mandated representation to financially eligible individuals in criminal, parole, juvenile delinquency, juvenile dependency, and termination of parental rights cases on appeal or judicial review. We provide this service through direct representation by attorney professionals and legal support staff employed by OPDC in the Criminal Appellate Section and the Juvenile Appellate Section.

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|-------------------|-------------|-------------------|-----------|--------------|
| 2023 - 25 legislatively approved budget | 26,424,696 | 0 | 26,424,696 | 58 | 57.80 |
| 2025 - 27 current service level | 28,821,352 | 0 | 28,821,352 | 58 | 57.80 |
| 2025 - 27 agency request budget | 31,109,994 | 0 | 31,109,994 | 69 | 67.48 |
| Difference | 4,685,298 | | 4,685,298 | 11 | 9.68 |
| Percent change | 17.7% | | 17.7% | 19.0% | 16.7% |

Long Term Focus Areas

Excellent Appellate Representation for Individual Clients

Primary Program Contact

Ernest Lannet, Criminal Appellate Section Chief Defender

Appellate Division

Executive Summary

Program Description

The Appellate Division employs agency personnel, and it is the defense counterpart to the Appellate Division of the Oregon Department of Justice. The centralization of court-appointed direct appeals in one office establishes an institutional defense entity in the appellate court system, promotes the consistent and rational development of law, and facilitates the identification and implementation of system-wide efficiencies. Examples of the practical impact of the Appellate Division's role in the Oregon criminal justice system include spearheading the litigation upholding the constitutionality of House Bill 3078 (2017), in *State v. Vallin*, 365 Or 295, 434 P3d 413, *adh'd to as modified on recons*, 364 Or 573, 437 P3d 231 (2019), and coordinating the impact on hundreds of cases on direct appeal by the United States Supreme Court's decision in *Ramos v. Louisiana*, 140 S Ct 1390, 206 L Ed 2d 583 (2020) (holding that guilty verdicts for serious crimes must be unanimous). Examples of the practical impacts of the Appellate Division's litigation on the child welfare system are the Oregon Supreme Court's opinions in *Dept. of Human Services v. P.D.*, 368 Or 627, 496 P3d 1029 (2021) and *Dept. of Human Services v. J.S.*, 368 Or 516, 495 P3d 1245 (2021), which clarified the scope of the court's authority when it takes temporary emergency jurisdiction over children from another state who are temporarily in Oregon, and *Dept. of Human Services v. T.M.D.*, 365 Or 143, 442 P3d 1100 (2019), which held that a juvenile court may not terminate a child's parent's parental rights unless it is in the child's best interests to do so.

The Appellate Division provides statutorily and constitutionally mandated legal representation to financially eligible persons in a wide variety of case types initiated throughout the state. For example, whenever a state circuit court enters a judgment of conviction after the criminal prosecution of a defendant, the circuit court must inform the defendant of their right to appeal from the judgment to the Oregon Court of Appeals. ORS 137.020(5)(a). If the defendant was financially eligible for court-appointed counsel at trial, trial counsel must ascertain whether the defendant wishes to pursue an appeal and, if so, must transmit to OPDC the information necessary to perfect the appeal. ORS 137.020(6). Counsel fails to provide constitutionally adequate assistance of counsel if they do not initiate an appeal upon the client's request. *Garza v. Idaho*, 139 S Ct 738, 203 L Ed 2d 77 (2019). Even if the defendant retained counsel at trial, the state must provide a defendant with appellate representation if the defendant no longer has funds to employ suitable counsel possessing skills and experience commensurate with the nature and complexity of the case for the appeal. ORS 138.500(1). Similar statutes provide for the representation of a person who seeks judicial review of a final order of the Board of Parole and Post-Prison Supervision and a parent who wishes to appeal from an appealable order or judgment in a juvenile dependency or termination of parental rights case. These services are provided through staff attorneys in the Appellate Division. Representation is primarily in the Oregon Court of Appeals and the Oregon Supreme Court, although the Division occasionally appears in the United States Supreme Court. The Appellate Division has two sections: the Criminal Appellate Section, which represents criminal defendants in appeals such

Appellate Division

Executive Summary

as described above, and the Juvenile Appellate Section, which represents financially eligible parents in appeals from adverse judgments and orders in juvenile dependency and termination of parental rights proceedings. Each section is led by a Chief Defender. The sections also serve as a resource for trial-level counsel.

The Appellate Division has 59 employees, and its workload is driven by the number of criminal cases, parole board decisions, juvenile dependency cases, and termination of parental rights cases referred for appeal; the factual and legal complexity of the appealed cases; and statutory changes, ballot initiatives, and United States and Oregon appellate court decisions. The Division must provide appellate representation in all cases in which a financially eligible individual requests review of an appealable judgment or order because the right to appeal is largely unqualified.

Criminal Appellate Section (CAS)

CAS provides appellate representation to criminal defendants in misdemeanor and felony appeals (including capital cases), contempt cases, DNA-testing-related appeals, and appeals by crime victims. The section also represents AIC (adults in custody) or adults on supervision seeking judicial review of final orders by the Board of Parole and Post-Prison Supervision. The right to appeal from appealable judgments or orders is a matter of right and largely unqualified.

Juvenile Appellate Section (JAS)

JAS provides appellate representation to parents in juvenile dependency cases (including jurisdiction and permanency decisions) and termination of parental rights cases. It occasionally provides appellate representation to youth in juvenile delinquency cases. The right to appeal from appealable judgments or orders is a matter of right and largely unqualified.

Attorneys in the Juvenile Appellate Section cannot maintain cases on a backlog because the cases are expedited; any case referred after the attorney's monthly case assignment capacity has been met must be sent to a limited pool of qualified outside providers. The pool is limited because the practice is highly specialized. Per biennium, the section's case referrals have increased from 500 in the 2011-13 biennium, 556 in 2013-15, 622 in 2015-17, 678 in 2017-19; and 677 in 2019-21. Those numbers have now largely stabilized as case referrals for 2021-23 were 710.

Appellate Division

Executive Summary

Summary of Description of Attorney Positions

Criminal Appellate Section

■ **Chief Defender** – The Chief Defender for the Criminal Appellate Section is responsible for managing the section. The responsibilities include recruiting and training new attorney employees and directly supervising the section’s litigation in the Oregon Supreme Court and the United States Supreme Court. The Chief Defender of the Criminal Appellate Section has a minimal caseload that emphasizes practice in the Oregon Supreme Court. The Chief Defender also oversees the section’s litigation in the Oregon Court of Appeals.

■ **Chief Deputy Defender** – Three Chief Deputies support the Chief Defender of the Criminal Section in managing the section. Each Chief Deputy carries a reduced caseload and is responsible for a discrete management area: office development, operations, and outreach.

■ **Deputy Defender** – The remaining attorney classifications are Senior Deputy Defender and Deputy Public Defender.

— A **Senior Deputy Defender** either provides representation in a full caseload of moderate to complex felony and parole cases or carries a reduced caseload of complex cases and serves as the leader of a team of five to seven attorneys in the Criminal Appellate Section who meet weekly. The seniors who serve as team leaders moderate team discussions, serve as a resource for attorneys outside the team meeting setting, and edit team members’ Court of Appeals briefs.

— The **Deputy Public Defender** is the entry-level attorney position and provides representation in misdemeanor, simple felony, and parole cases.

Juvenile Appellate Section

■ **Chief Defender** – The Chief Defender for the Juvenile Appellate Section is responsible for managing the section. The responsibilities include recruiting and training new attorney employees and directly supervising the section’s litigation in the Court of Appeals and the Oregon Supreme Court. The Chief Defender of the Juvenile Appellate Section has a minimal caseload and litigates cases on behalf of the section in Oregon Court of Appeals and the Oregon Supreme Court. The Chief Defender also participates in all

Appellate Division

Executive Summary

team meetings, serves as a resource for attorneys outside the team meeting setting, and provides substantive edits for all the section's Supreme Court briefs and for Court of Appeals briefs when the issue is novel or involves a high-impact issue.

■ **Deputy Defender** – The remaining attorney classifications in the Juvenile Appellate Section are Senior Deputy Defender and Deputy Public Defender.

— A **Senior Deputy Defender** has several years' experience and provides representation in moderate to complex juvenile dependency and termination of parental rights cases. Senior Deputy Defenders may serve as the leader of one of two teams of attorneys in the Juvenile Appellate Section who meet weekly. The seniors who serve as team leaders moderate team discussions, serve as a resource for attorneys outside of the team meetings, and edit team members' briefs.

— The **Deputy Public Defender** is the entry-level attorney position and provides representation in simple and moderately complex juvenile dependency and termination of parental rights cases.

Program Justification and Link to Long Term Outcomes

The Appellate Division is an essential component to the agency's provision of quality public defense services throughout the state. Criminal and juvenile justice are specialized areas of law requiring particular knowledge, experience, and training. Appellate practice, too, is a specialized area of law subject to numerous procedural rules and substantive law not encountered outside of an appellate case. Consequently, the division invests substantial time in its initial training of attorneys, e.g., months under the close direction and supervision of a managing attorney; and at least six months under the close direction and supervision of a senior deputy attorney. A newly hired deputy defender may not be promoted to a senior deputy defender for three to five years, if not longer. Apart from working in the Oregon Department of Justice or a counterpart appellate agency in another state, there are few places where an attorney can obtain comparable training to effectively litigate a full caseload of appeals before the Oregon appellate courts.

Appellate Division

Executive Summary

Program Performance

Case Assignments and Production Levels

Criminal Appellate Section – For case weighting purposes, the section identifies two primary case categories: (1) the trial-type case and (2) the plea-type case.

A trial-type case includes jury trials, trials to the court, conditional pleas, parole appeals, appeals involving requests for DNA testing, appeals initiated by the Attorney General, mandamus actions, and appeals initiated by crime victims. The transcript length for trial-type cases may range from under 50 pages to several thousand pages.

A plea-type case refers to cases resolved through guilty pleas or no-contest pleas, probation violation hearings, and re-sentencing proceedings. Transcript length typically ranges from 20 to 80 pages for plea-type cases.

Additionally, it is not uncommon for the section to receive multiple case referrals for a single client who wants to appeal from several cases of the same type or of different types. The section counts each case as a separate referral and as a separate case assignment. After case assignment, those cases typically are consolidated into a single case on appeal to measure case completion and case workload. In that manner, approximately 15 percent of cases referred are consolidated into another case on appeal.

CAS historically received more than 3,500 case referrals per biennium: 3,767 cases in 2015-17; and 3,647 in 2017-19. During circuit court shutdowns or slowdowns due to the COVID-19 pandemic, CAS received 2,381 cases in the 2019-21 biennium and 2,619 in the 2021-23 biennium. The section received 1,305 case referrals in the first year of the 2023-25 biennium. The reduction in case referrals has allowed the section's attorneys to reduce the historical backlog of cases, which had many clients waiting more than seven months (210 days) for an attorney to begin work on their case after the record has been settled.

Appellate Division

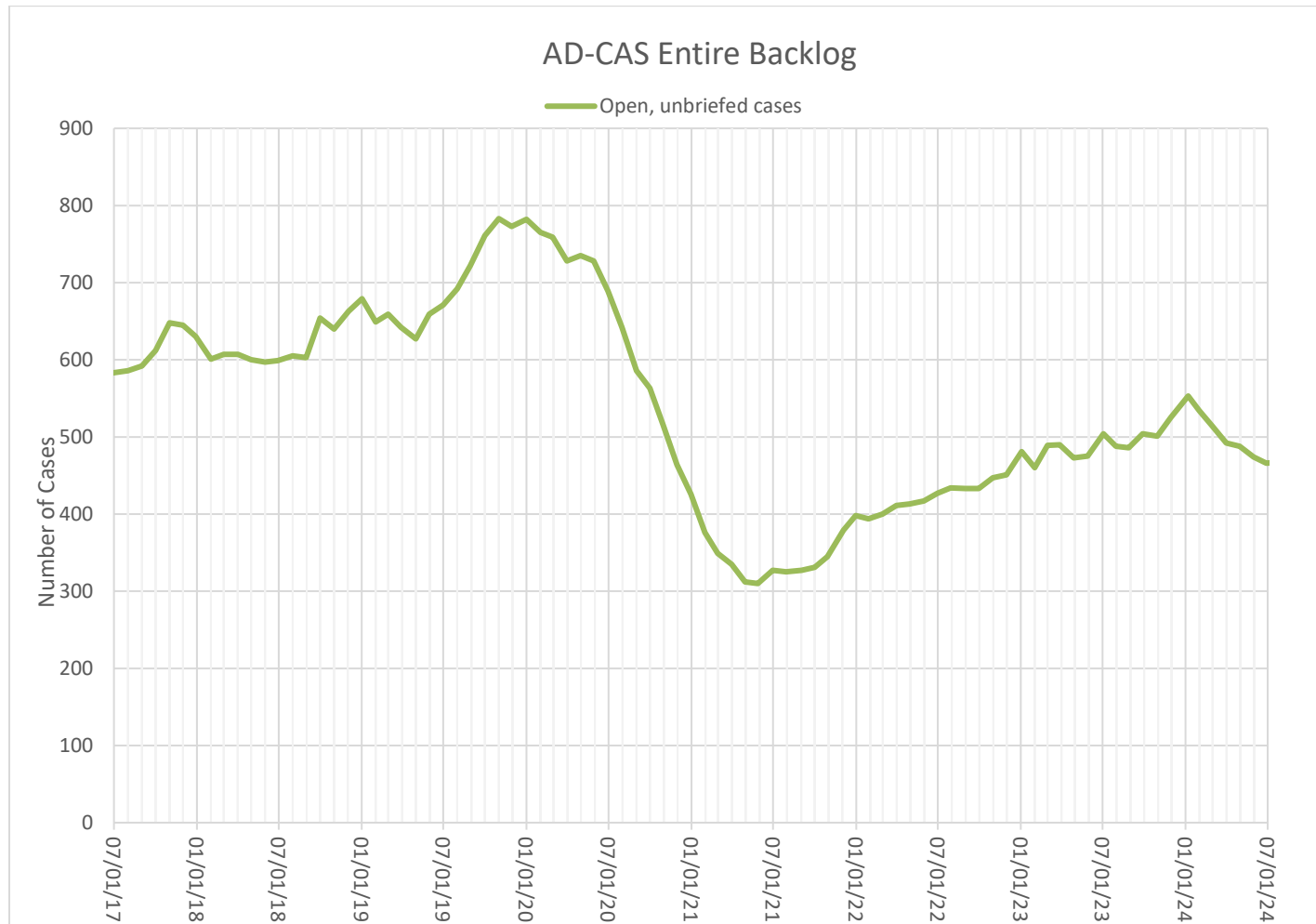
Executive Summary

Criminal Appellate Section attorneys are assigned a significant number of cases and complete a significant annual workload. According to the Institute for Law and Justice, the annual appellate public defender workload ranges from 25-50 cases per attorney. Institute for Law and Justice, Compendium of Standards for Indigent Defense Systems (2000). The State of Washington sets the maximum appellate caseload at 36 cases per attorney per year. Washington Supreme Court, CrR 3.1 Washington State Bar Standards for Indigent Defense, Standard 3.4 (2024). Indiana recommends appellate caseloads do not exceed more than 40 cases per attorney per year for appeals. Indiana Public Defender Commission, Standards for Indigent Defense Services in Non-Capital Cases, Standard J (2023). Texas sets maximum appellate caseloads that vary with transcript length, but which equal an average of 31.2 cases per attorney per year. Tex Admin Code § 174.21 (2018); Texas Indigent Defense Commission, Appellate Addendum: Guidelines for Indigent Defense Caseloads, 16 (2016).

A non-management Criminal Appellate Section attorney is assigned approximately 37 cases per year. Over the course of the reduction in intake attributable to the COVID pandemic, CAS reduced its backlog from nearly 800 open unbriefed cases in January 2020 to an average of just over 500 cases during the first year of the 2023-25 biennium.

Appellate Division

Executive Summary

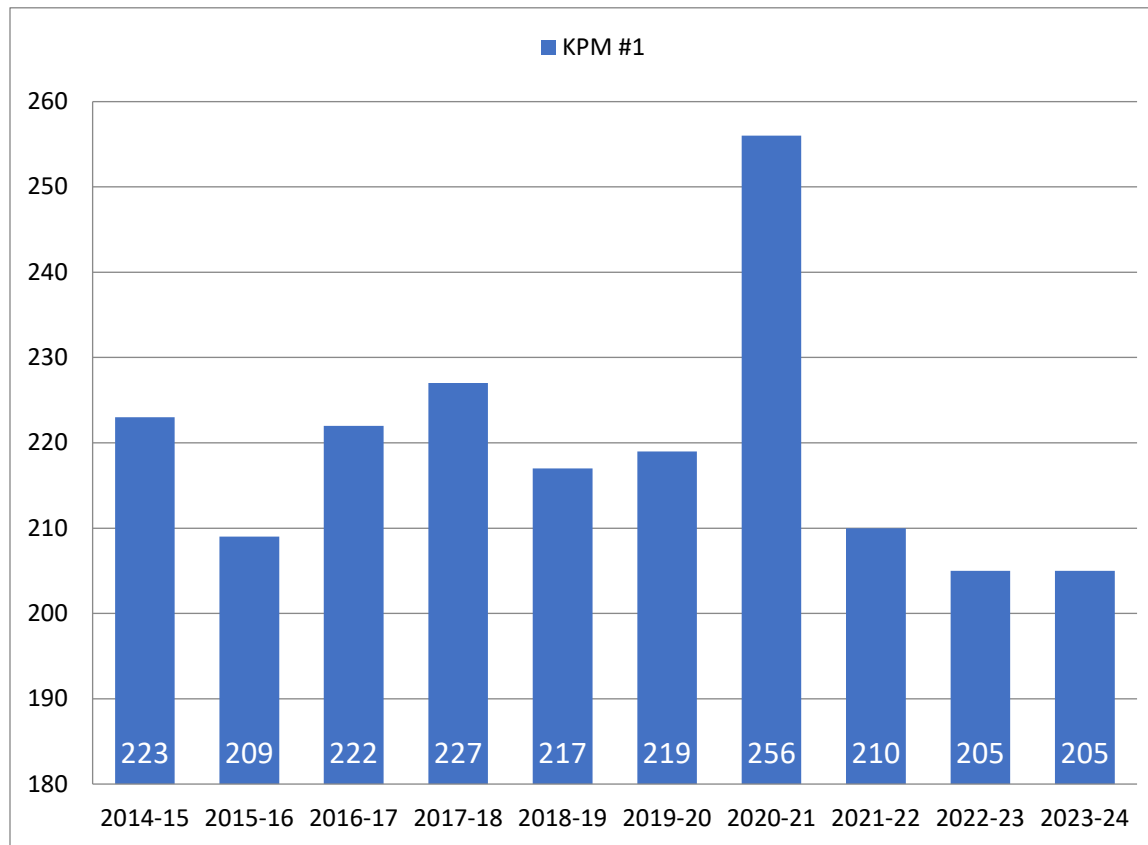


The number of cases in which an appeal is requested is out of the agency’s control. The number of cases resolved is a function of the number of Appellate Division attorneys. The Appellate Division’s only approved key performance measure (KPM #1 APPELLATE CASE PROCESSING) measures the median number of days past record settlement that the attorneys in the Criminal Appellate Section need

Appellate Division

Executive Summary

before filing the opening brief. The 180-day target reflects the agency’s consideration that it is intolerable that an individual would have to wait more than six months before an appellate attorney is in a position to properly advise a client regarding the viability of an appeal challenge to their conviction and/or sentence. Although the median filing date rose sharply to 256 days during the 2020-21 fiscal year, the elimination of the backlog and temporary reduction in case referrals has resulted in a median filing date of 205 days during the 2022-23 and 2023-24 fiscal years.



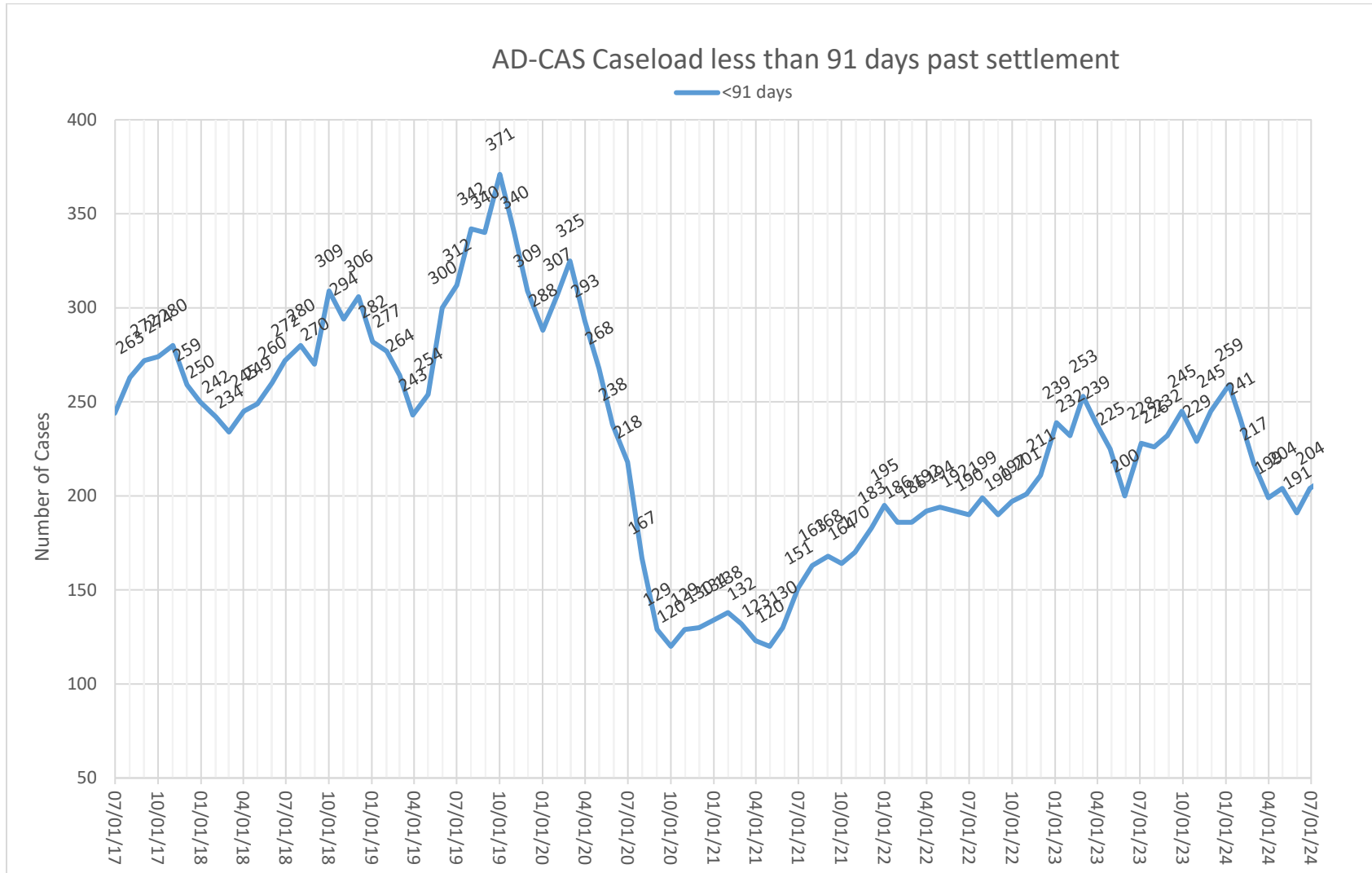
Appellate Division

Executive Summary

Because the Appellate Division of the Department of Justice routinely take a similar amount of time to file an answering brief, meeting or exceeding the KPM would result in cases being submitted to the appellate courts within a year of the entry of the judgment of conviction and imposition of sentence. Currently, it routinely takes longer than one year between the filing of the notice of appeal and the submission of the case for the appellate court's ruling. Attorneys in the Criminal Appellate Section process cases primarily on a FIFO (first in, first out) basis. Consequently, the attorneys are working on their oldest cases, those cases that are often already 150 days or more past record settlement. The number of cases between 1 and 90 days past settlement represent the cases that CAS attorneys will be reviewing two to five months later. The average number of cases between 1 and 90 days past settlement sharply decreased beginning in April 2020 but has steadily risen since May 2021.

Appellate Division

Executive Summary



Appellate Division

Executive Summary

Juvenile Appellate Section – At the end of the 2007 session, the Legislature funded the creation the Juvenile Appellate Section in the Appellate Division. The unit is intended to centralize and enhance appellate representation for parents in juvenile dependency and termination of parental rights cases, act as a resource to the trial bar, and promote a more consistent state-wide application of the juvenile code through published appellate opinions.

As with their counterparts in the Criminal Appellate Section, Juvenile Appellate Section attorneys are assigned a significant annual workload. The average annual caseload for a non-management full-time Juvenile Appellate Section attorney is currently 35 case assignments per year. It is not uncommon for the section to receive multiple case referrals for a single parent client who wants to appeal from each of their several children’s cases. The section counts each child’s case as a separate referral and as a separate case assignment. After case assignment, those cases are often consolidated into a single case on appeal to measure case completion and case workload.

Dependency cases involve appeals from juvenile court judgments asserting jurisdiction over a child or changing a child’s permanency plan away from reunification with their family. The transcript length in dependency cases typically ranges from 100 to 800 pages and often includes numerous documentary exhibits. Termination of parental rights cases involve appeals from juvenile court judgments terminating the parent’s parental rights to their child or from an order denying the parent’s motion to set aside such judgment (when, for example, the parent was tried in absentia and the judgment was entered in the parent’s absence). The transcript length in termination of parental rights cases involving an appeal from the termination judgment typically ranges from 500 to 1200 pages and often includes hundreds, if not thousands, of pages of documentary exhibits. The transcript length in termination of parental rights cases involving an appeal from an order denying a parent’s motion to set aside the termination judgment typically ranges from 50 to 200 pages.

Dependency and termination of parental rights appeals are expedited. ORAP 10.15. Consequently, the Juvenile Appellate Section never has a backlog.

The section represents parents in the majority of the dependency cases on appeal. It retains the cases it can resolve within the established timelines. Cases that cannot be kept in-house due to conflict or capacity are sent to a panel of appellate attorneys approved by the agency or to a defense provider pursuant to contract.

Appellate Division

Executive Summary

Case referrals have stabilized through the last two biennium. There were 385 referrals during the fiscal year ending 2022 (with JAS retaining 64% of referred cases). For fiscal year ending 2023, there were 325 referrals (with JAS retaining 69% of referred cases). For fiscal year ending 2024, there were 373 referrals (with JAS retaining 71% of referred cases).

Enabling Legislation

A criminal defendant's right to court-appointed counsel on appeal, which includes the right to adequate and effective appellate counsel, is guaranteed by Article I, section 11, of the Oregon Constitution and the Sixth and Fourteenth Amendments to the United States Constitution, as well as statutorily mandated by ORS 138.500 (right to court-appointed counsel for "a defendant in a criminal action" who "wishes to appeal from an appealable adverse final order or judgment of a circuit court"). Other statutes provide the right to court-appointed in other proceedings. ORS 33.055(8), 33.065(6), and 33.125(2) (appeal from judgment of contempt that imposes remedial or punitive sanctions); ORS 138.697(4) (appeal from final order or judgment denying or limiting DNA testing under ORS 138.694 or denying a motion for a new trial under ORS 138.696); ORS 144.337(1) (judicial review from final decision of the Board of Parole and Post-Prison Supervision); ORS 161.327(6) (appeal from order placing a person found guilty except for insanity under the jurisdiction of the Psychiatric Security Review Board). The Oregon appellate courts also have discretion to appoint an attorney to someone with means to retain an attorney and "who is deprived of liberty by a judgment" "in a proceeding before it to test the validity of that judgment." ORS 138.480.

ORS 419A.200(1) guarantees parents and youth the right to appeal from the juvenile court's dependency, delinquency, and termination of parental rights judgments. ORS 419A.200(4), in turn, guarantees court-appointed counsel to those eligible people who elect to exercise their ORS 419A.20(1) right to appeal. Underlying those statutes, ORS 419B.205(1) guarantees parents the right to court-appointed counsel to defend against the state in juvenile dependency cases "whenever the nature of the proceedings and due process require." Under Oregon Supreme Court case law, that right includes the right to adequate counsel. *See Dept. of Human Services v. T.L.*, 358 Or 679, 369 P3d 1159 (2016) (on appeal from a permanency judgment a parent is entitled to raise unpreserved claim that trial counsel was inadequate to vindicate their right to adequate trial counsel). ORS 419B.518(1) guarantees parents the right to court-appointed counsel to defend against the state in termination of parental right proceedings. Under Oregon Supreme Court case law, that right includes the right to adequate counsel. *See Dept. Of Human Services v. Geist*, 310 Or 176, 796 P2d 1193 (1990) (on appeal from a TPR judgment a parent is entitled to raise unpreserved claim that trial counsel was inadequate to vindicate their right to adequate trial counsel). And ORS 419A.200(1)(a)(A) guarantees youth court-appointed counsel to defend against the state at "all stages of the

Appellate Division

Executive Summary

proceeding” involving an alleged offense that is classified as a crime.” That right is also guaranteed by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

Funding Streams

The Appellate Division is supported by General Fund.

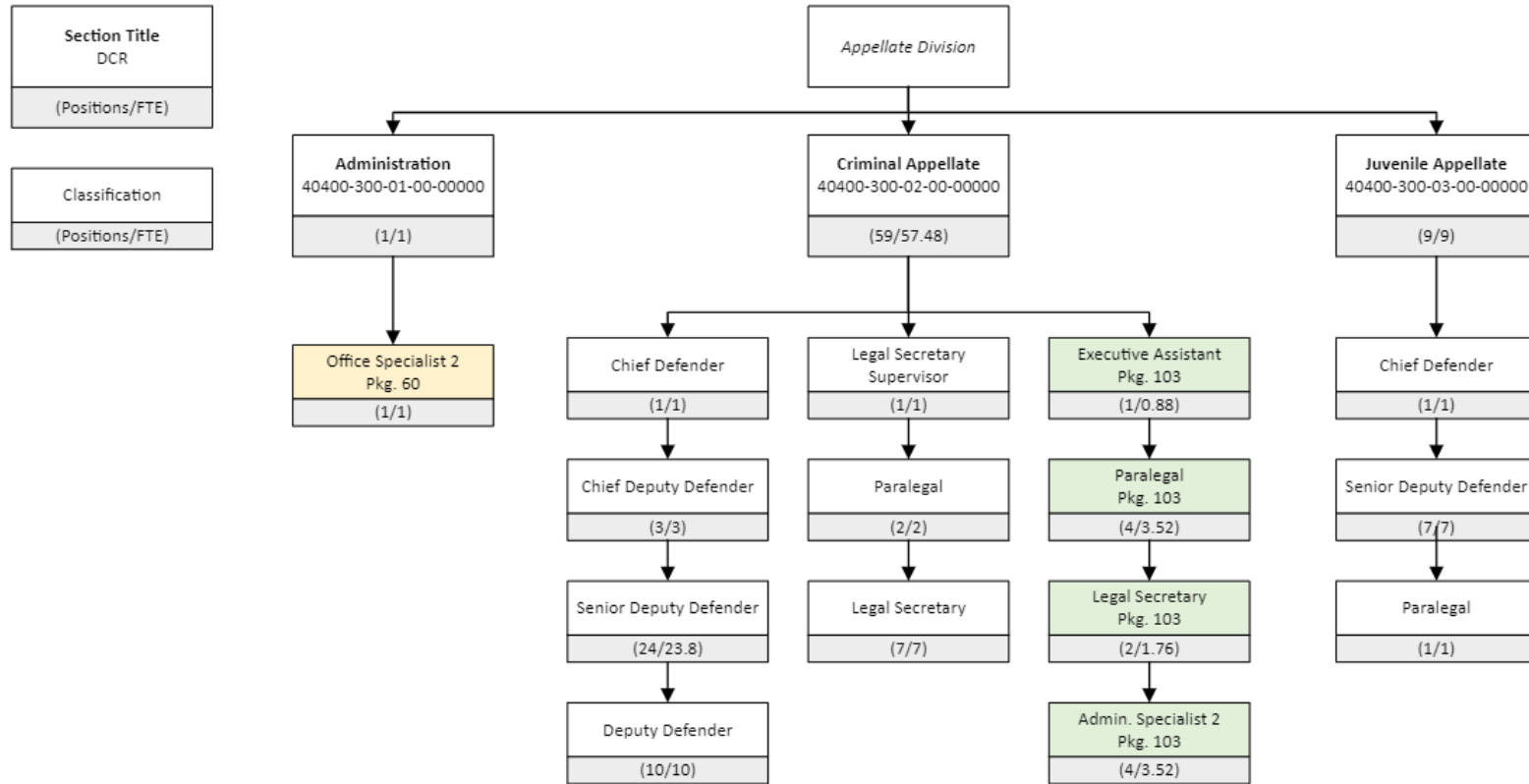
Funding Justification and Changes to CSL

The following policy option packages impact the Appellate Division and are described elsewhere.

- Policy Package 103 – Direct Representation Investment

Appellate Division

Organizational Chart



Appellate Division

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

Staffing Impact

| Package No. | Package No. Description | Fund | Amount |
|-------------|--|---------|-------------|
| 010 | Non-PICS Personal Services Inflation (pension bond, vacancy savings, etc.) | General | (\$129,566) |
| 021 | Program Phases-in (2023 – 25 Legislatively Adopted Packages) | General | 0 |
| 022 | Program Phases-out (2023 – 25 Program or Expiration of Limited Duration Positions) | General | 0 |
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 20,794 |

Appellate Division

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|--|----------------|---------------------|
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 0 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | 0 |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | (108,772) |
| BASE | 2025 – 2027 Base Budget | General | 28,930,124 |
| 2025 – 2027 Current Service Level | | General | \$28,821,352 |

Appellate Division

Policy Option Package 103 – Direct Representation Investment

Policy Package Summary

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.

Resources and Implementation

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 Senate Bill 337 (2023) 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 |
| II. SENATE BILL 5701 (2024) POSITION AUTHORITY | | | | |
| Northwest (Portland) | 1 | 1 | 1 | 1 |

Appellate Division

Policy Option Package 103 – Direct Representation Investment

| <i>Office / Region</i> | <i>Attorneys</i> | <i>Legal paraprofessionals</i> | <i>Investigators</i> | <i>Other</i> |
|--|------------------|------------------------------------|----------------------|--------------|
| 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 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

Appellate Division

Policy Option Package 103 – Direct Representation Investment

| <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 |
| 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.

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.

Appellate Division

Policy Option Package 103 – Direct Representation Investment

- **Goal III:** Meet SB 337 standards for a state-wide trial division with state hired trial attorneys by 2031 and 2035.

Independent and Performance Audit Aims

This package is not proposed to meet the recommendations or answer the findings in an audit.

Policy Package Performance Measurement

- 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.

Agency Key Performance Measures

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.

Long-Term Outcomes

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

Appellate Division

Policy Option Package 103 – Direct Representation Investment

Adverse Effects of Lapsed Funding

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

Prior Events by Management

- 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.

Alternatives and Reasons to Reject Alternatives

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.

Changes to Law and Coordination with Public Bodies and Partners

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).

Impact on Public Bodies

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.

Appellate Division

Policy Option Package 103 – Direct Representation Investment

Impact on Stakeholders and Partners

None.

Equity Lens

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 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.

Package Fiscal Impact and Staffing

| | |
|---------------------------|--------------|
| Implementation date(s): | July 1, 2025 |
| End date (if applicable): | |

Pricing Assumptions

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.

Appellate Division

Policy Option Package 103 – Direct Representation Investment

New Commission 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.

Client Caseloads and Services Changes

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.

Policy Package Staff

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)

Appellate Division

Policy Option Package 103 – Direct Representation Investment

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)
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)

Appellate Division

Policy Option Package 103 – Direct Representation Investment

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

Start-up and One-time Costs

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

Permanent Costs

All costs associated with this POP will become ongoing costs.

Potential Savings

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

Funding Sources

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 | | | | | | |

Appellate Division

Policy Option Package 103 – Direct Representation Investment

| | | | | | | |
|--------------|---------------------|------------|------------|---------------------|------------|--------------|
| Other | | | | | | |
| Total | \$21,863,302 | \$0 | \$0 | \$21,863,302 | 111 | 64.33 |

Fiscal impact by program

| | Trial 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 |

Adult (Criminal) Trial Division

Executive Summary

Program Overview

The Adult Trial Division provides funding through contracts for representation for financially eligible individuals in trial and appellate criminal cases, including post-judgment eligible cases such as post-conviction relief and habeas corpus proceedings, as well as civil commitment and other mental health cases.

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|---------------------|--------------------|--------------------|------------------|-------------|
| 2023 - 25 legislatively approved budget | 295,853,474 | 0 | 295,853,474 | 46 | 30.30 |
| 2025 - 27 current service level | 311,350,531 | 0 | 311,350,531 | 0 | 0.00 |
| 2025 - 27 agency request budget | 757,046,921 | 0 | 757,046,921 | 5 | 5.00 |
| Difference | 461,193,447 | | 461,193,447 | -41 | -25.30 |
| Percent change | 155.9% | | 155.9% | | |

Long Term Focus Areas

Providing high-quality, zealous representation for indigent clients, specifically parents, children, and youth in juvenile court proceedings.

Primary Program Contact

Shannon Flowers, Trial Support & Development Manager

Adult (Criminal) Trial Division

Executive Summary

Program Description

As directed by ORS 151.216, The Oregon Public Defense Commission (OPDC) provides for competent and effective representation by court-appointed counsel for financially eligible individuals in those cases in which there is a statutory or constitutional right to counsel. Currently, OPDC delivers public defense services primarily by contracting with non-profit public defender offices and organizations, consortia of attorneys, law firms, and individual attorneys. OPDC also fulfills its primary mission through agreements with attorneys to provide public defense representation on an hourly basis and directly through attorneys employed by OPDC. The Adult Trial Division within OPDC's budget provides funding for contracted public defense services in trial and appellate criminal cases, including post-judgment eligible cases such as post-conviction relief and habeas proceedings, as well as civil commitment and other mental health cases. The Adult Trial Division also funds OPDC's pilot employee-staffed offices that provide representation exclusively in criminal cases, with a focus on those cases in which an individual is unrepresented despite being financially eligible for appointed counsel.

Historically, OPDC's public defense services contracts were based on the "case credit model," wherein OPDC contracted for attorneys to provide representation in a specified number of cases, which the Sixth Amendment Center concluded create conflicts of interest between a lawyer's ethical obligations to their clients and their own financial self-interests. *The Right to Counsel in Oregon: Evaluation of Trial Level Public Defense Representation Provided Through the Office of Public Defense Services*, p 149-57, Sixth Amendment Center (Jan 2019). In January 2021, OPDC began moving away from the case credit model, with implementation of a contract model based upon Full-Time Equivalent (FTE) attorneys with caseload limits, ultimately termed Maximum Attorney Caseload (MAC) in the contracts. For the 2023-2025 biennium, OPDC has entered into 100 contracts for representation in criminal cases and, as of July 2024, is contracted for 480 Attorney FTE for representation in criminal cases (exclusive of vacancies). Under the terms of these contracts, OPDC continued a tiered reimbursement scale for attorneys ranging from \$213,085 for a full-time, entry level attorney to \$246,378 for a full-time, attorney qualified to handle the most serious types of cases. Contract attorneys prioritize court appointments for the most serious case type the attorney is qualified to accept within the jurisdictions for which they are under contract.

In December 2023, OPDC opened its first trial level representation office (Trial Division) serving Washington, Multnomah, and Clackamas counties. These lawyers are separate from the contract and hourly attorneys in that they work directly for OPDC. This is the first time that OPDC has provided direct trial level representation. OPDC is currently operating three Trial Division offices having added offices covering Jackson, Douglas, and Klamath counties as well as a mid valley office which serves the Willamette Valley counties and beyond.

Adult (Criminal) Trial Division

Executive Summary

Program Justification and link to Long-Term Outcomes

The Sixth Amendment to the United States Constitution provides that “In all criminal prosecutions, the accused shall enjoy the right to...have the [a]ssistance of [c]ounsel for his defense.” Article 1, section 11, of the Oregon Constitution provides the substantially the same state constitutional right, providing in relevant part: “In all criminal prosecutions, the accused shall have the right...to be heard by himself and counsel.” The Oregon right attaches to all proceedings in which a person is charged with a crime, for hearings to determine whether an enhanced sentence should be imposed when such proceedings may result in the imposition of a felony sentence, for extradition proceedings, and any proceeding concerning an order of probation. ORS 135.050. In 1963, the United States Supreme Court determined that the federal Sixth Amendment right to counsel applied to state prosecutions through the due process clause of the Fourteenth Amendment. *Gideon v. Wainwright*, 372 US 335 (1963). The Court later ruled that the right to counsel was meaningless unless that attorney met some minimum level of competence for the representation. *See Strickland v. Washington*, 466 US 668 (1984). OPDC was created to fulfill the State of Oregon’s obligation to ensure competent counsel in all eligible cases (both constitutional and statutory). ORS 151.216. In addition to the constitutional right to counsel in criminal proceedings, OPDC provides counsel in a variety of situations mandated by statute:

- Individuals in contempt proceedings where the person is facing confinement; ORS 33.055 and ORS 33.065.
- Individuals facing a hearing to determine whether the court should impose a material witness order; ORS 136.611(3)(b).
- Individuals facing a death warrant hearing; ORS 137.463(2)(b).
- Individuals facing a resentencing hearing for sexually violent dangerous offenders; ORS 137.771(2).
- Individuals charged with criminal forfeiture and tried in circuit court in the same proceeding as the underlying criminal case; ORS 131.582(5).
- Individuals petitioning for post-conviction relief; ORS 135.590(4).
- Individuals pursuing an appeal as a defendant in a criminal action or as a petitioner in a post-conviction relief proceeding; ORS 138.500(1), ORS 138.480.

Adult (Criminal) Trial Division

Executive Summary

- Individuals pursuing an appeal after being found guilty except for insanity under ORS 161.319; ORS 161.327(8).
- Individuals pursuing habeas corpus relief or an appeal from a habeas corpus proceeding; ORS 34.355.
- Individuals alleged to have a mental illness who are facing initial civil commitment, or further commitment; ORS 426.100(3)(b), ORS 426.307(3).
- Individuals pursuing an appeal of a determination that the person has a mental illness or a determination that the person is an extremely dangerous person with a mental illness; ORS 426.135.
- Individuals pursuing an appeal of an involuntary commitment order of a person with an intellectual disability; ORS 427.295.
- Individuals facing a hearing before the Psychiatric Security Review Board (PSRB); ORS 161.346(6)(d), (11).
- Individuals pursuing an appeal from an order of the PSRB following a hearing; ORS 161.348(1).
- Individuals who waive counsel in appeals of criminal actions may receive legal advisors; ORS 138.504(2).
- Individuals seeking review of an order from the State Board of Parole and Post-Prison Supervision; ORS 144.337(1).
- Individuals who are respondents in a petition for determination of ability to give informed consent for sterilization; ORS 436.265
- Individuals who are respondents to a court finding that sterilization is in the best interests of the respondent; ORS 436.315.
- An individual requesting a determination of eligibility despite retained counsel, for non-routine expenses; ORS 135.055(3).
- Individuals subject to quarantine or other public health measures; ORS 433.466(2).
- Individuals who are the subject of a protective proceeding if the court requires a hearing, and the protected person or the respondent requests that counsel be appointed; ORS 125.080 (as amended by SB 578, 2021).

Adult (Criminal) Trial Division

Executive Summary

Additionally, OPDC is tasked with providing counsel for witnesses in criminal or contempt proceedings, if a court has determined that it is necessary for the witness to have counsel because the witness has asserted the right against self-incrimination under the Fifth Amendment of the United States Constitution and Article 1 Section 12 of the Oregon Constitution. ORS 136.617. Finally, OPDC is responsible for providing legal advisors or standby counsel in cases where the accused waives their right to counsel and chooses to represent themselves. ORS 135.045(1)(d) and ORS 135.050. A legal advisor is appointed by the court to assist a pro se litigant with procedural issues.

In January 2022, the American Bar Association Standing Committee on Legal Aid and Indigent Defense issued its report, [*The Oregon Project: An Analysis of the Oregon Public Defense System and Attorney Workload Standards*](#), in which it concluded that based on then-current caseloads and the amount of time needed to provide competent and effective representation in each case type, Oregon had a substantial deficiency in public defense attorneys. In 2023, OPDC partnered with consulting firm Moss Adams (which also worked on *The Oregon Project*) to develop a plan to add attorney capacity to achieve caseloads for public defense attorneys that are consistent with the Oregon Rules of Professional Conduct. Moss Adams LLP, *Six-Year Plan to Reduce Representation Deficiency* (DRAFT Mar 15, 2024). The plan includes continuing to set reasonable and ethical workload limitations which is crucial to OPDC ensuring that public defense clients in Oregon receive constitutionally competent and effective legal representation and to the recruitment and retention of attorneys so that all those eligible for a public defender are appointed an attorney.

OPDC will continue to contract with non-profit public defender offices, consortia, and individual attorneys for the provision of public defense services through the 2025-2027 biennium, although the method of compensation will likely change to comply with legislative direction in Senate Bill 337 (2023). OPDC also intends to seek funding to continue and expand its pilot employee-staffed public defender offices. Funding for both models for the delivery of public defense services is essential to OPDC fulfilling its mission to provide constitutionally competent and effective legal representation for all those eligible for a public defender.

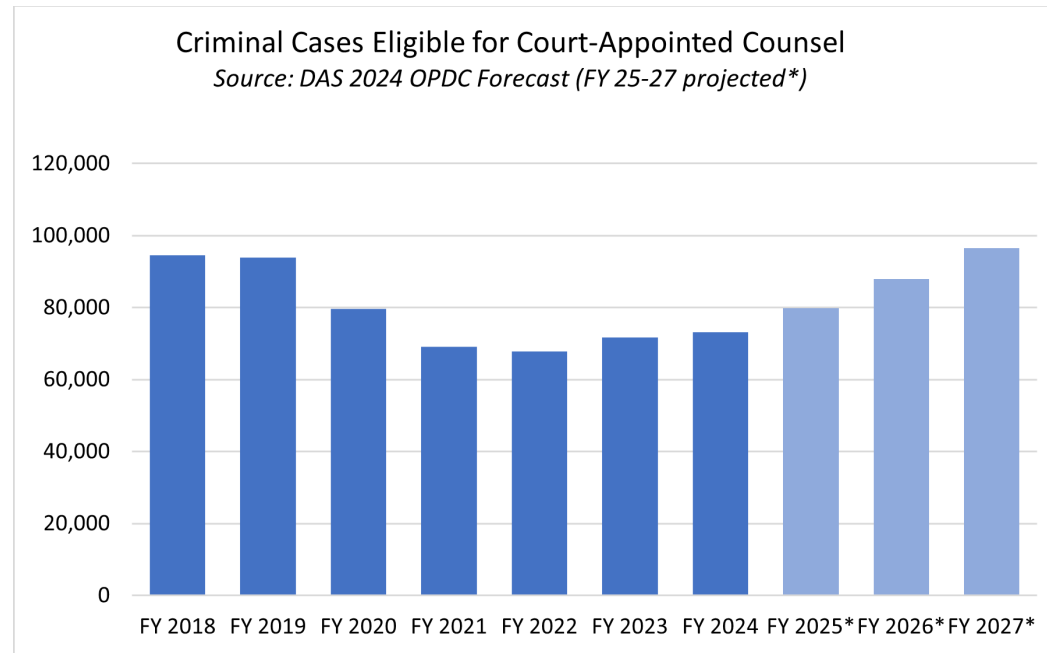
Program Performance

The Oregon Legislature created the Public Defense Services Commission (PDSC) in 2001, which assumed responsibility for public defense services in 2003. PDSC was dissolved by statute on December 31, 2023, and OPDC was created to assume its duties and move towards a public defense system that includes improved resourcing and oversight. The governing statutes are contained in Oregon Revised Statutes, Chapter 151.

Adult (Criminal) Trial Division

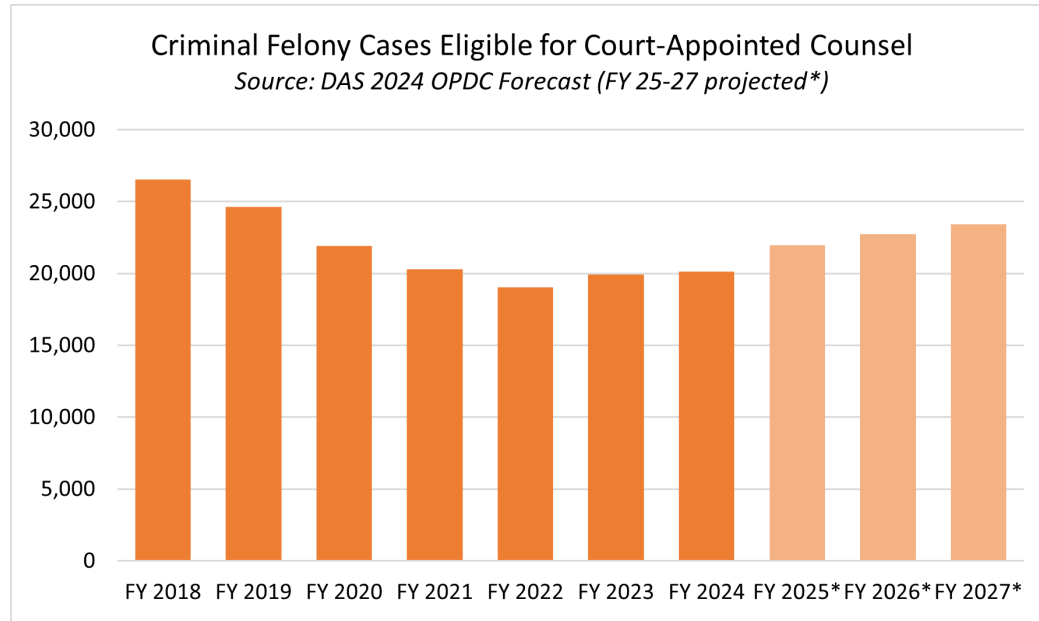
Executive Summary

The chart below shows the total number of cases reported by OPDS contracted attorneys each year through Fiscal Year 2023, and the projected cases for fiscal years 2024 through 2025.



Adult (Criminal) Trial Division

Executive Summary



The cases in which representation is funded by the Adult Trial Division are mandated under the U.S. and State Constitutions; thus the current service level includes changes in forecast cases. Additionally, the agency is requesting funds to account for the cases currently in the criminal court system in which an individual is eligible for a public defender but no attorney has been appointed. The methodology for the 2023-25 caseload forecast begins with the forecast need reflected in 2022-23 contracts and adds the estimated growth by case type for 2024 and 2025 as well as the increased need from the 2022-2023 year as evidenced by the list of unrepresented individuals awaiting appointed counsel. In general, the graphs above reflect forecasts that are moving toward historical trends. In other words, the caseload growth is used in conjunction with the caseload standards in the 2023-25 contract to estimate costs for the 2025-27 biennium.

Adult (Criminal) Trial Division

Executive Summary

Enabling Legislation

The duty of the State of Oregon to provide constitutionally adequate representation in criminal cases for those accused individuals unable to afford counsel derives from the Sixth Amendment to the United States Constitution, as interpreted by the United State Supreme Court, and from Article 1, Section 11 of the Oregon Constitution.

Under current law, every financially eligible accused person in a criminal case is entitled to appointed counsel. Also, Oregon statutes provide for public representation to indigent defendants in their post-conviction and habeas corpus proceedings, and to all persons who are the subject of a civil commitment proceeding.

Funding Streams

The Adult Trial Division is entirely funded by General Fund.

Funding Justification and Changes to CSL

The following policy option packages impact the Adult Trial Division and are described elsewhere.

- Policy Package 102 – Criminal Contracts
- Policy Package 104 – Hourly Panel
- Policy Package 107 – Temporary Hourly Increase Program (THIP)
- Policy Package 108 – Recruitment & Retention

Adult (Criminal) Trial Division

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium, after the. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

Staffing Impact

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|-----------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$446,082 |
| 021 | Program Phase-in (2023-25 Legislatively Adopted Packages) | General | 274,732 |
| 022 | Program Phase-out (2023-25 Program or Expiration of Limited Duration Positions) | General | |
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | |

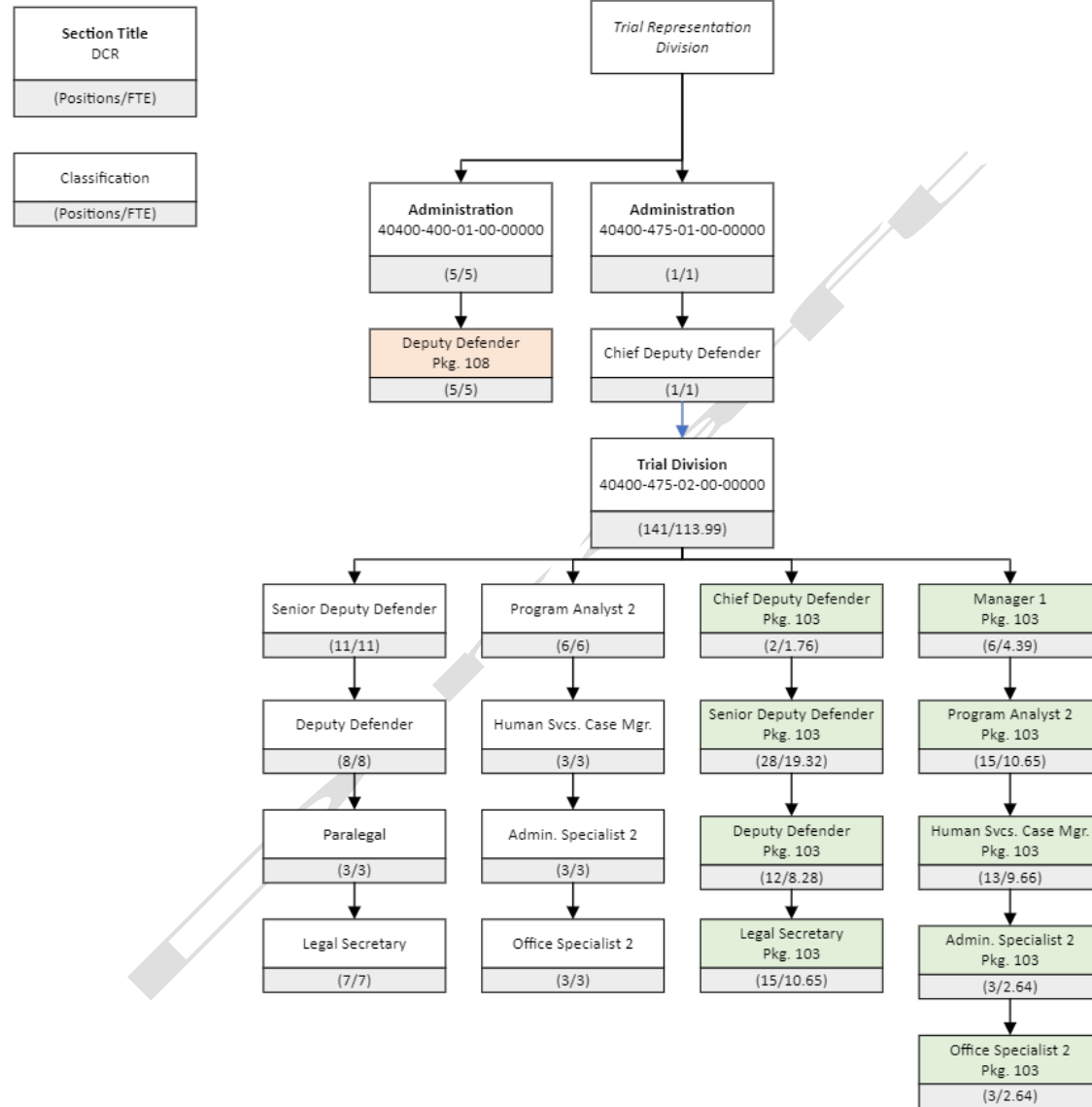
Adult (Criminal) Trial Division

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|--|----------------|--------|
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | |
| 033 | Exceptional Inflation | General | |
| 040 | Mandated Caseload | General | |
| 050 | Fund Shifts | General | |
| 060 | Technical Adjustments | General | |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | |
| BASE | 2025 – 2027 Base Budget | General | |
| 2025 – 2027 Current Service Level | | General | |

Adult (Criminal) Trial Division

Organizational Chart



Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

Policy Package Summary

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

Resources and Implementation

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

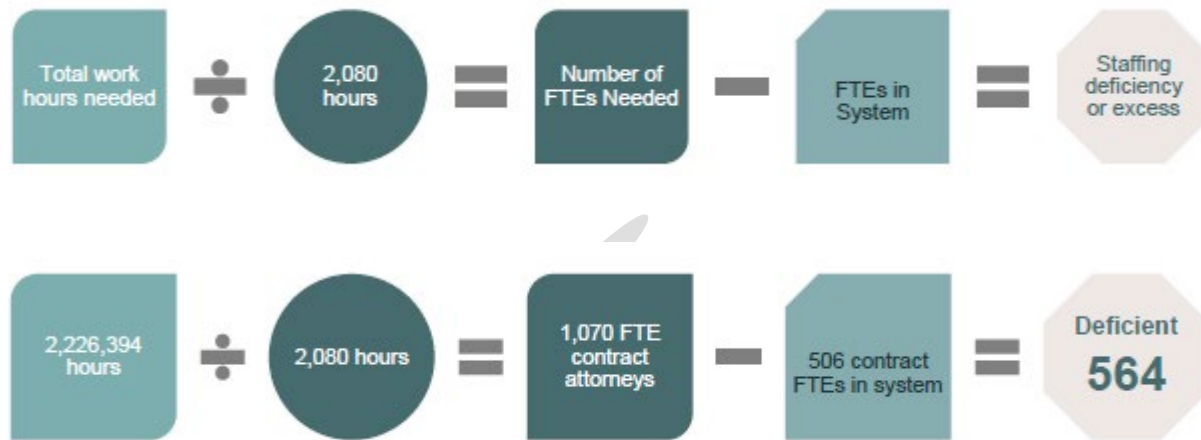
Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

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.

This policy package will add funding for eighty 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. The commission 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 six 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.



Source: Six Year Plan, p 12

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

The resulting projection is that commission should add 564 new FTE attorneys. Using numbers from the Department of Administrative Service’s 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 eighty of those attorneys to those funded under public defense services contracts and agreements.

| | 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 results 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.

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

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 2,080 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.

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 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

The commission requested 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

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

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 program.

Finally, this package raises attorney rates up to a level consistent with the market rates as determined by 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 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 FTE’s at \$343,616 per year.

Strategic Plan Aims

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.

Independent and Performance Audit Aims

This package is not proposed to meet the recommendations or answer the findings in an audit.

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

Policy Package Performance Measurement

The agency 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 Oregon Judicial Department's unrepresented persons 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.

Agency Key Performance Measures

This package is not linked to the agency's key performance measures.

Long-Term 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.

Adverse Effects of Lapsed Funding

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.

Prior Events by Management

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

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 of public defense services. Additional long-term investments are needed to meet those statutory requirements.

Alternatives and Reasons to Reject Alternatives

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 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.

Changes to Law and Coordination with Public Bodies and Partners

This package does not require a change to law.

Impact on Public Bodies

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

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.

Impact on Stakeholders and Partners

None.

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): July 1, 2025

End date (if applicable):

Pricing Assumptions

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.

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

New Commission 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.

Client Caseloads and Services Changes

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’s *National Public Defense Workload Study* are:

| 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.

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

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

Policy Package Staff

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

Start-up and One-time Costs

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

Permanent 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.

Potential Savings

The commission 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.

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

Adult (Criminal) Trial Division

Policy Option Package 102 – Criminal Workload Augmentation

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

Fiscal impact by program

| | Adult Trial Division | Preauthorized Expenses | 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 |

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

Policy Package Summary

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.

Resources and Implementation

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 Senate Bill 337 (2023) 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 |
| II. SENATE BILL 5701 (2024) POSITION AUTHORITY | | | | |
| Northwest (Portland) | 1 | 1 | 1 | 1 |

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

| <i>Office / Region</i> | <i>Attorneys</i> | <i>Legal paraprofessionals</i> | <i>Investigators</i> | <i>Other</i> |
|--|------------------|------------------------------------|----------------------|--------------|
| 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 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

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

| <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 |
| 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.

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.

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

- **Goal III:** Meet SB 337 standards for a state-wide trial division with state hired trial attorneys by 2031 and 2035.

Independent and Performance Audit Aims

This package is not proposed to meet the recommendations or answer the findings in an audit.

Policy Package Performance Measurement

- 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.

Agency Key Performance Measures

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.

Long-Term Outcomes

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

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

Adverse Effects of Lapsed Funding

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

Prior Events by Management

- 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.

Alternatives and Reasons to Reject Alternatives

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.

Changes to Law and Coordination with Public Bodies and Partners

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).

Impact on Public Bodies

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.

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

Impact on Stakeholders and Partners

None.

Equity Lens

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 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.

Package Fiscal Impact and Staffing

| | |
|---------------------------|--------------|
| Implementation date(s): | July 1, 2025 |
| End date (if applicable): | |

Pricing Assumptions

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.

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

New Commission 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.

Client Caseloads and Services Changes

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.

Policy Package Staff

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)

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

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)
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)

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

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

Start-up and One-time Costs

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

Permanent Costs

All costs associated with this POP will become ongoing costs.

Potential Savings

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

Funding Sources

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 | | | | | | |

Adult (Criminal) Trial Division

Policy Option Package 103 – Direct Representation Investment

| | | | | | | |
|--------------|---------------------|------------|------------|---------------------|------------|--------------|
| Other | | | | | | |
| Total | \$21,863,302 | \$0 | \$0 | \$21,863,302 | 111 | 64.33 |

Fiscal impact by program

| | Trial 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 |

Adult (Criminal) Trial Division

Policy Option Package 104 – Service Provider Rate Parity

Policy Package Summary

This package is a budget request to move the agency toward compliance with the compensation and service delivery mandates of ORS 151.216 and SB 337 (2023). Effective July 1, 2025, the commission 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, the commission 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.

Resources and Implementation

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.

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

Adult (Criminal) Trial Division

Policy Option Package 104 – Service Provider Rate Parity

Strategic Plan Aims

This package 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.

Independent and Performance Audit Aims

No.

Policy Package Performance Measurement

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

Agency Key Performance Measures

No.

Long-Term Outcomes

This package 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.

Adult (Criminal) Trial Division

Policy Option Package 104 – Service Provider Rate Parity

Adverse Effects of Lapsed Funding

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

Prior Events by Management

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's list of unrepresented persons. Increasing the hourly rate has been one of the few effective tools to increase the public defense workforce.

Alternatives and Reasons to Reject Alternatives

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.

Changes to Law and Coordination with Public Bodies and Partners

No.

Impact on Public Bodies

No.

Impact on Stakeholders and Partners

None.

Adult (Criminal) Trial Division

Policy Option Package 104 – Service Provider Rate Parity

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): July 1, 2025

End date (if applicable):

Pricing Assumptions

- 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.

New Commission 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.

Adult (Criminal) Trial Division

Policy Option Package 104 – Service Provider Rate Parity

Client Caseloads and Services Changes

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 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.

Policy Package Staff

Additional staffing is detailed in POP 106.

Start-up and One-time Costs

None.

Permanent Costs

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

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.

Funding Sources

The funding source for this request is one-hundred percent 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 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.

Adult (Criminal) Trial Division

Policy Option Package 104 – Service Provider Rate Parity

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 Trial Division | Preauthorized Expenses | 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 |

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

Policy Package Summary

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.

Resources and Implementation

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.

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.

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

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.

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

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

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 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,

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

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

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

- 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,
- Public Defender Service for the District of Columbia,
- Rhode Island Public Defender,
- San Diego County Office of the Public Defender,
- Shelby County Public Defender,

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

- Solano County Public Defender,
- Texas Rio Grande Legal Aid,
- Vermont Public Defender,
- Virginia Indigent Defense Commission,
- Wisconsin State Public Defender’s Office, and
- 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 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.

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

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.

Strategic Plan Aims

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.

Independent and Performance Audit Aims

No.

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

Policy Package Performance Measurement

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.

Agency Key Performance Measures

No.

Long-Term 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.

Adverse Effects of Lapsed Funding

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.

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

Prior Events by Management

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-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 unpaid internships

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

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. OPDC has increased efforts to attend recruiting events on behalf of Oregon public defense generally. This has included the Oregon State Bar's 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.

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

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 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.

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

Other Outreach

The commission 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

The commission 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.

Alternatives and Reasons to Reject Alternatives

The commission 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.

Changes to Law and Coordination with Public Bodies and Partners

This package does not require a change to law.

Impact on Public Bodies

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.

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

Impact on Stakeholders and Partners

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

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): July 1, 2025

End date (if applicable):

Pricing Assumptions

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

New Commission 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.

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

Client Caseloads and Services Changes

No.

Policy Package Staff

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

Start-up and One-time Costs

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

Permanent Costs

Any and all of these programs could have ongoing costs. It depends on the decision makers and the results of these individual efforts.

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 the systems does not improve overall.

Funding Sources

General Fund

Adult (Criminal) Trial Division

Policy Option Package 108 – Recruitment and Retention

| 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 |
| 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 Division | | | | | 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 |

Juvenile Trial Division

Executive Summary

Program Overview

The Juvenile Trial Division provides funding through contracts for trial-level representation of financially eligible parents, children, and youth in juvenile dependency, termination-of-parental-rights, juvenile delinquency, and contested adoption cases in the majority of jurisdictions in Oregon. The division also provides guardians ad litem for parents whose rights the juvenile court determines need additional protection because they have a mental or physical disability that prevents them from understanding and/or assisting counsel in a dependency or termination-of-parental-rights case.

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|---------------------|--------------------|--------------------|------------------|-------------|
| 2023 - 25 legislatively approved budget | 46,875,439 | 4,352,000 | 51,227,439 | 0 | 0.00 |
| 2025 - 27 current service level | 50,062,969 | 4,352,000 | 54,414,969 | 0 | 0.00 |
| 2025 - 27 agency request budget | 206,996,072 | 4,352,000 | 211,348,072 | 0 | 0.00 |
| Difference | 160,120,633 | | 160,120,633 | 0 | 0.00 |
| Percent change | 341.6% | | 312.6% | | |

Long Term Focus Areas

Providing high-quality, zealous representation for indigent clients, specifically parents, children, and youth in juvenile court proceedings.

Primary Program Contact

Shannon Flowers, Trial Support & Development Manager

Juvenile Trial Division

Executive Summary

Program Description

In Oregon, financially eligible parents are entitled to appointed counsel in juvenile dependency proceedings when the nature of the proceedings and due process so require, and financially eligible children are generally entitled to counsel in those proceedings. The general practice of juvenile courts is to appoint counsel for both parents and children. A financially eligible parent contesting an adoption is also entitled to court-appointed counsel at state expense. Similarly, youth in delinquency cases are entitled to court-appointed counsel at state expense, with no financial eligibility requirement, and in limited circumstances the youth's parents may also be entitled to counsel if financially eligible. Finally, Oregon's juvenile code authorizes the juvenile court to appoint a guardian ad litem, who must either be an attorney or licensed mental health professional, for a parent whose rights the juvenile court determines need protection because they have a mental or physical disability that prevents them from understanding the nature of the proceeding and/or assisting counsel in a dependency, permanent guardianship, or termination-of-parental-rights case.

The commission is responsible for compensating those attorneys appointed as counsel in juvenile court proceedings and contested adoption proceedings and attorneys and licensed mental health professionals appointed to serve as guardians ad litem for parents in dependency and termination-of-parental-rights proceedings. The programming in the division substantially satisfies that responsibility through contracts with non-profit public defender offices, consortia, law firms, and solo practitioners to provide for court-appointed counsel in a variety of case types. Funding for those independent contractor attorneys who serve as court-appointed counsel or as guardians ad litem in juvenile court cases in the majority of Oregon jurisdictions comes through OPDC's Juvenile Trial Division.

The commission's ability to provide competent, zealous legal representation for indigent parents, children, and youth in juvenile court proceedings is inhibited by the independent contractor model currently employed to provide that representation. As with any independent contractor relationship, OPDC cannot direct the work of attorneys providing legal representation and has limited ability to ensure transparency and accountability in the provision of public defense services. Moving to a model in which at least some of the legal representation for parents, children, and youth involved in juvenile court proceedings is provided by OPDC employees subject to the agency's direct supervision would likely lead to improvements in representation in juvenile court proceedings and increased transparency and accountability. While the commission began employing attorneys providing trial-level representation in December 2023, those attorneys currently provide representation exclusively to clients in the criminal justice system, not the juvenile courts.

Juvenile Trial Division

Executive Summary

Program Justification and link to Long Term Outcomes

Legal Representation in Juvenile Dependency and Termination-of-Parental-Rights Cases

The United States Supreme Court has held that parents have a fundamental liberty interest in the “care, custody, and management of their children” that is protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *Santosky v. Kramer*, 455 US 745, 753-54 (1982). The Supreme Court has further held that due process does not require the appointment of counsel for every parent subject to a petition to terminate their parental rights but instead left “the decision whether due process calls for the appointment of counsel for indigent parents in termination proceedings to be answered in the first instance by the trial court, subject, of course, to appellate review.” *Lassiter v. Dept. of Social Services*, 452 US 18, 31-32 (1981). And, although the United States Supreme Court has not addressed whether children have a similar right to counsel in juvenile dependency proceedings, the United States Ninth Circuit Court of Appeals has held that children have a “constitutional interest in familial companionship and society” similar to that of parents. *Smith v. City of Fontana*, 818 F2d 1411, 1418 (9th Cir 1987), *overruled on other grounds by Hodgers-Durgin v. de la Vina*, 199 F3d 1037 (9th Cir 1999). Oregon’s statutes require the appointment of counsel generally for financially eligible children and for financially eligible parents when the nature of the proceedings and due process so require. The general practice of juvenile courts is to appoint counsel for both parents and children.

Like many states, Oregon has long sought to reduce the number of children who enter foster care, to reduce the amount of time a child who enters foster care remains in the state’s care, and to achieve permanency for children in as timely a fashion as possible. Research has demonstrated that providing legal representation for parents and children facing potential or actual juvenile court proceedings reduces entry into the foster care system and the amount of time children remain in foster care. The Justice in Government Project, *Key Studies ad Data About How Legal Aid Helps Keep Family Together and Out of the Child Welfare System* (Mar 23, 2021), available at <https://legalaidresourcesdotorg.files.wordpress.com/2021/04/foster-care.pdf#>

The Children’s Bureau, part of the U.S. Department of Health and Human Services, has recognized the importance of high-quality legal representation in helping ensure a well-functioning child welfare system. Given the profound decisions juvenile courts must make regarding a family, it is critical that courts receive the most accurate and complete information necessary for judicial decision-making and that the parties’ rights are protected, which is best achieved when all parties to a juvenile dependency case are represented. Moreover, evidence suggests that providing counsel for parents, children, and youth contributes to or is associated with:

Juvenile Trial Division

Executive Summary

- Increase perceptions of fairness;
- increased engagement in case planning, services and court hearings;
- more personally tailored and specific case plans and services;
- increased visitation and parenting time;
- expedited permanency; and
- cost savings to state government due to reductions of time children and youth spend in care.

Children’s Bureau, Administration for Children & Families, *High Quality Legal Representation for All Parties in Child Welfare Proceedings* (Information Memorandum), 1-2 (Jan 17, 2017), available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf>.

Legal Representation in Juvenile Delinquency Cases

The United States Supreme Court held in *In Re Gault*, 387 U.S. 1 (1967) that children have a constitutional right to counsel when they are subject to a juvenile delinquency petition. Oregon statutes codify this right and require that the court must appoint counsel to represent a youth at all stages of a proceeding where the offense alleged in the petition is classified as a crime; at any proceeding concerning an order or probation; and in any case where the youth would be entitled to appointed counsel if the youth was an adult charged with the same offense. Statutes further allow the court to appoint counsel in any other proceeding within the jurisdiction of the juvenile court. Finally, statutes prohibit the court from accepting a waiver of counsel from a youth except in very limited and narrow circumstances.

Access to counsel is essential to due process. Treating youth fairly and ensuring that they perceive that they have been treated fairly and with dignity contribute to the positive outcomes in the normal process of social learning, moral development, and legal socialization during adolescence. Research indicates that when adolescents feel that the system has treated them fairly, they are more likely to accept responsibility for their actions and embrace prosocial activities. Fairness in a legal proceeding is evaluated by opportunity for voice, validation, participation, choice, accuracy of outcomes and access to information. Meaningful participation in the legal process not only allows the adolescent to feel like a valued member of society whose opinion is worthy of consideration, but also allows him or her to influence the judge’s final decision and provides more confidence in the accuracy and legitimacy of the outcomes. Access to competent, well-trained, and effective counsel allows adolescents alleged to have committed a delinquent act these opportunities.

Juvenile Trial Division

Executive Summary

National Academy of Sciences, *Reforming Juvenile Justice: A Developmental Approach*, (2013), available at http://www.nap.edu/catalog.php?record_id=14685.

Attorneys defending youth in delinquency proceedings require additional knowledge beyond that needed to represent adults charged with crimes, such as knowledge of the science of adolescent development, collateral consequences of juvenile court proceedings, and other child-specific systems, such as schools, that may impact or be affected by delinquency proceedings. The National Juvenile Defender Center (NJDC) studied Oregon’s access to and quality of juvenile defense in 2020. NJDC found, among other things, that Oregon’s system does not have the structure to provide oversight or enforcement to ensure quality representation for youth, has a pay structure and contracting system that does not support defenders specializing in a delinquency caseload, and has no comprehensive guidance for procedure in delinquency cases increasing the risk of inequity. Further, it found that justice and fairness is often dependent on what jurisdiction and even what courtroom a case ends up in.

National Juvenile Defender Center, *Advancing Youth Justice, An Assessment of Access to and Quality of Juvenile Defense in Oregon* (August 2020), available at: <https://njdc.info/wp-content/uploads/Oregon-Assessment-Web.pdf>

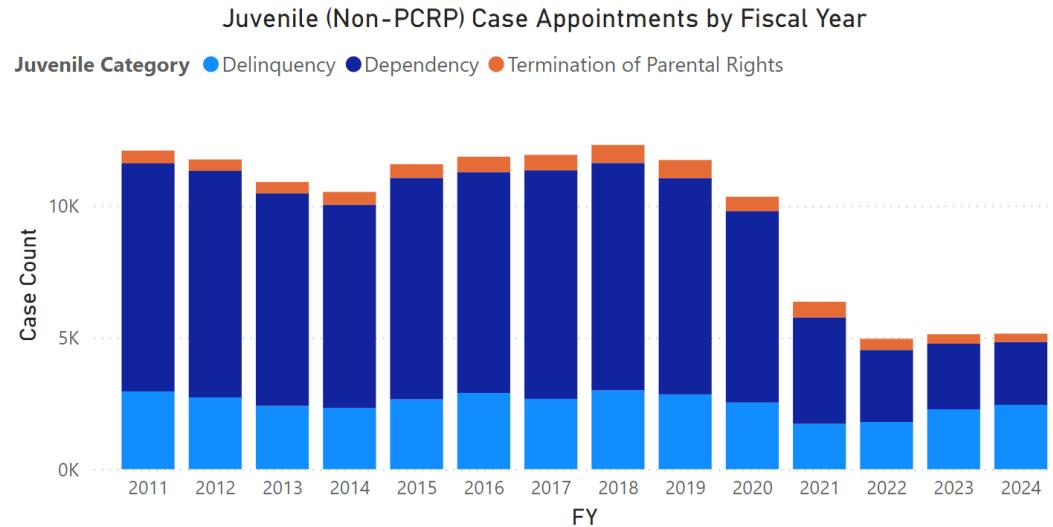
Program Performance

The Oregon Legislature created Public Defense Services Commission in 2001, and the agency assumed responsibility for public defense services in 2003. In 2023, the legislature dissolved PDSC and created the Public Defense Commission. The governing statutes are contained in Oregon Revised Statutes, chapter 151.

The chart on the following page shows the total number of non-PCRCP Juvenile cases reported by OPDC contracted attorneys each year through Fiscal Year 2024. Projected cases for future fiscal years unable to be produced currently due to an issue with separating Juvenile (Non-PCRCP) and PCRCP cases within the DAS forecast.

Juvenile Trial Division

Executive Summary



Enabling Legislation

Dependency Cases

ORS 419B.195 requires appointment of counsel for financially eligible children in juvenile dependency cases.

ORS 419B.205(1) requires appointment of counsel for financially eligible parents in juvenile dependency cases “whenever the nature of the proceedings and due process so require.”

ORS 135.055(1)(b), ORS 419B.201, and ORS 419B.208 require OPDC to pay court-appointed counsel “fair compensation” in dependency cases, Termination-of-Parental-Rights Cases

ORS 419B.518(1) requires appointment of counsel for financially eligible parents in termination-of-parental-rights cases and for OPDC to provide “fair compensation” for that counsel, through ORS 135.055(1)(b).

Juvenile Trial Division

Executive Summary

Delinquency Cases

ORS 419C.200(1)(a)(A)-(C) require appointment of counsel for a youth at all stages of a delinquency if the offense alleged in the petition is classified as a crime; at any proceeding concerning an order of probation; and in any case in which the youth would be entitled to appointed counsel if they were an adult charged with the same offense.

ORS 419C.200(1)(a)(D) authorizes the court to appoint counsel for a youth in any other proceeding to determine whether the youth is within the juvenile court's jurisdiction pursuant to ORS 419C.005.

ORS 419C.245(1) extends a youth's right to court-appointed counsel at state expense to circumstances in which it is proposed that the youth enter into a formal accountability agreement with the juvenile department.

ORS 135.055(1)(b) and ORS 419C.206 require OPDC to pay court-appointed counsel for youth "fair compensation."

Contested Adoption Cases

ORS 109.333(4) requires appointment of counsel for financially eligible parents in contested adoption cases and for OPDC to provide "fair compensation" for that counsel, through ORS 135.055(1)(b).

Guardians Ad Litem in Dependency & Termination-of-Parental-Rights Cases

ORS 419B.231 authorizes the juvenile court to appoint a guardians ad litem for a parent who, due to a mental or physical disability, "lacks substantial capacity either to understand the nature and consequences of the proceeding or to give direction and assistance to the parent's attorney on decisions the parent must make in the proceeding, to protect that parent's rights in the proceeding during the period of the parent's disability or impairment.

ORS 419B.237(3) requires the PDSC to compensate guardians ad litem for the duties they perform in the juvenile case.

Juvenile Trial Division

Executive Summary

Funding Streams

Funding for legal representation of parents, children, and youth in juvenile court proceedings, for legal representation for parents in contested adoption proceedings, and for guardians ad litem for parents in juvenile court proceedings comes from General Fund and from Other Funds sourced from Title IV-E Federal Funds. In 2019, the federal government revised its policies to allow states to receive Title IV-E funds for a portion of the administrative costs associated with legal representation of children and parents in foster care proceedings, as well as a portion of the costs for training. The commission receives title IV-E funds from the Oregon Department of Human Services (ODHS), pursuant to a memorandum of understanding between OPDC and ODHS and quarterly claims that OPDC submits to ODHS.

Funding Justification and Changes to CSL

The following Policy Option Packages impact the Juvenile Division and are described elsewhere.

- Policy Package 105 – Juvenile Workload Augmentation

Juvenile Trial Division

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2023 – 25 biennium. The 2023 – 25 current service level is inclusive and only inclusive of the agency’s 2023 – 25 base budget, a close derivative of the 2021 – 23 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

Essential packages in the Juvenile division increase the agency’s General Fund budget by \$37,692,822.

Staffing Impact

There is no staffing impact.

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|-----------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$0 |
| 021 | Program Phase-in (2023 – 25 Legislatively Adopted Packages) | General | 0 |
| 022 | Program Phase-out (2023 – 25 Program or Expiration of Limited Duration Positions) | General | 0 |
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 3,187,530 |

Juvenile Trial Division

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|--|----------------|-------------------|
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 0 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | 0 |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | 3,187,530 |
| BASE | 2025 – 2027 Base Budget | General | 46,875,439 |
| | | Other | 4,352,000 |
| 2025 – 2027 Current Service Level | | General | 50,062,969 |
| | | Other | 4,352,000 |

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

Policy Package Summary

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; and
- Adopt a statewide workload plan based upon the caseload policies.

Notably, OPDC has implemented a workload model for juvenile representation in the ten 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.

Resources and Implementation

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

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

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. The agency 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 twenty-seven judicial districts in Oregon. Adding that many new attorneys to the system at one time is financially prohibitive and practically impossible, the commission 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:

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

| 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 3, Moss Adams LLP, Six Year Plan to Reduce Representation Deficiency (DRAFT Mar 2024), Table 14, page 24

The commission 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:

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation



From that formula and using market data, OPDC calculated three potential rates for attorneys depending on whether the agency chooses to lag behind the market (below the 25th percentile), lead the market (above the 75th percentile), or meet the market (at the 50th percentile). The rates are \$132/hour, \$188/hour, and \$165/hour. After discussion about how to best meet the needs for representation in juvenile proceedings in Oregon, the commission has chosen to strive to match the market in attorney salaries. Having a competitive wage for attorneys is one key to the agency’s long-term plan for solving the public defense crisis. The agency is requesting funding for our contracted attorneys and their support staff using this formula and assuming 2080 working hours per year, of which 1578 hours will be case specific work.

Strategic Plan Aims

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.

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

Independent and Performance Audit Aims

This package is not proposed to meet the recommendations or answer the findings in an audit.

Policy Package Performance Measurement

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 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.

Agency Key Performance Measures

No.

Long-Term 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.

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

Adverse Effects of Lapsed Funding

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. 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.

Prior Events by Management

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.

Alternatives and Reasons to Reject Alternatives

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.

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

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.

Changes to Law and Coordination with Public Bodies and Partners

This package does not require a change to law.

Impact on Public Bodies

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.

Impact on Stakeholders and Partners

There is no impact on stakeholders and partners.

Equity Lens

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).

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

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.

Package Fiscal Impact and Staffing

Implementation date(s):

End date (if applicable):

Pricing Assumptions

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.

New Commission 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

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

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.

Client Caseloads and Services Changes

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.

Policy Package Staff

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

Start-up and One-time costs

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

Permanent 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.

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.

Juvenile Trial Division

Policy Option Package 105 – Juvenile Workload Augmentation

Funding Sources

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

| | Juvenile Trial Division | 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 |

Preauthorized Expenses

Executive Summary

Program Overview

Preauthorized Expenses (formerly known as Case Support Services (CSS) & Non-Routine Expenses (NRE)) provides timely pre-approval of “reasonable and necessary” expenses in support of public defense client cases.

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|---------------------|--------------------|--------------------|------------------|-------------|
| 2023 - 25 legislatively approved budget | 58,617,685 | 1 | 58,617,686 | 0 | 0.00 |
| 2025 - 27 current service level | 94,411,372 | 1 | 94,411,373 | 0 | 0.00 |
| 2025 - 27 agency request budget | 160,260,068 | 1 | 160,260,069 | 0 | 0.00 |
| Difference | 101,642,383 | | 101,642,383 | 0 | 0.00 |
| Percent change | 173.4% | | 173.4% | | |

Long Term Focus Areas

Ensure prompt pre-approval of expenses that are deemed reasonable and necessary in public defense cases.

Primary Program Contact

Ralph Amador – Budget Manager

Amy Jackson – PAE/CME Manager

Preauthorized Expenses

Executive Summary

Program Description

Pre-Authorized Expenses (PAE) provides timely review and pre-approval of reasonable and necessary expenses that support public defense client’s cases. These expenses can include:

- Investigation/Mitigation
- Psychologists, Psychiatrists and Other Mental Health Experts
- Drug and Alcohol Evaluations (ASAM)
- Scientific Evidence Analysis and Other Expert Services
- Discovery and Litigation Support

The Pre-Authorized Expense Policy, the Routine Expense Policy and the Schedule of Guideline Amounts were approved by the Commission and became effective January 1, 2024. The PAE team operates in accordance with those policies as well as internal processes.

PAE costs are driven by many factors including prosecutorial charging practices and vendor costs as vendor costs are driven by market influences. Cases that need pre-authorized expenses are determined by individual attorneys based on the facts of each individual case.

Program Justification and link to Long Term Outcomes

PAE is linked to ORS 135.055(3) requiring OPDC to pay the cost of “reasonable and necessary” expenses for public defense cases. The public defense system strives to provide clients a constitutionally adequate defense, thus, allowing pre-authorized expenses further the states’ efforts to provide marginalized and under-represented clients timely access to quality representation.

Program Performance

Current process measures include timely intake of PAE requests as well as timely processing of the request. The current processing time for a provider to receive a pre-approval on a short form request is 24-48 hours. The current processing time for a provider to

Preauthorized Expenses

Executive Summary

receive a pre-approval from the PAE team on a long form request is 5 business days; unless the request has extenuating circumstances that require the involvement of the reconsideration panel.

Courts have returned to a normal workflow after the pandemic and the PAE team has struggled to maintain a 5-day turnaround on requests. In order to meet the increasing workload, the PAE team has developed several short forms that allow them to approve more requests in the 24-48 hour time frame. However, even with the addition of these short forms, maintaining the 5-day turn around is a challenge. From January 1, 2024 – July 1, 2024, the team has already processed more than 18,000 pre-authorized expense requests.

The PAE team currently consists of one Program Analyst 3, two Program Analyst 2 and two Program Analyst 1 positions. OPDC recently hired two temporary Program Analyst 1's to assist with the increased number of PAE requests received due to the changes made by the Commission in response to the unrepresented crisis. The Program Analyst 3 and Program Analyst 2's review the requests once they have been entered into the system by the Program Analyst 1's. As the team prepares for the implementation of FCMS we will begin an in-depth review of the vendor database so that we can update it prior to exporting the information into FCMS. This is crucial to ensure that approvals are made at the appropriate rates. Once the transition to FCMS is made the agency anticipates needing two Program Analyst 3 positions and two Program Analyst 2 positions to review expense requests that exceed the FCMS thresholds, assist providers and pro-se clients with requests and maintain the vendor database.

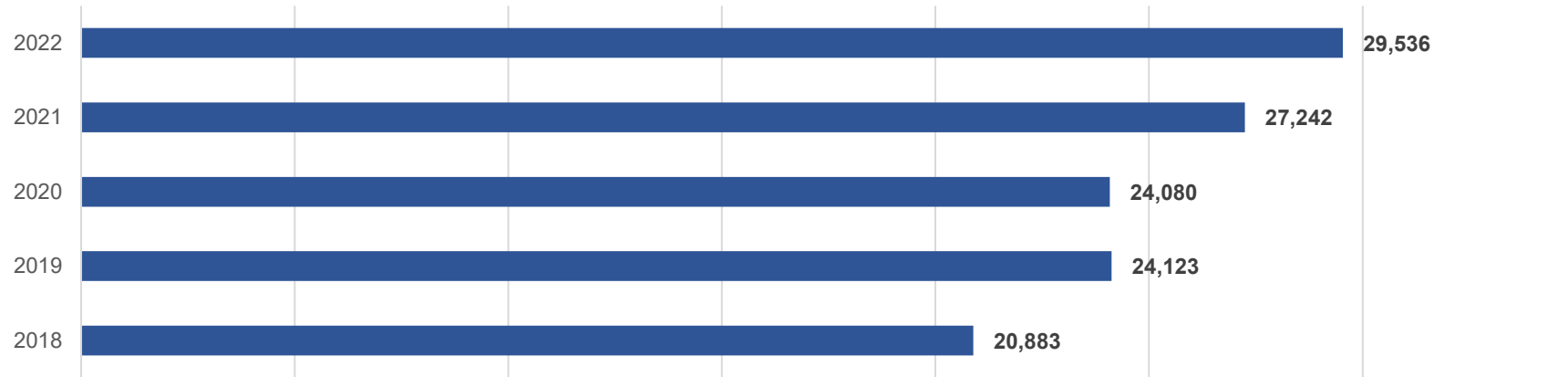
The data below illustrates the number of requests for pre-authorized expenses over the last 6 years. The number has increased by more than 10,000 individual requests over 6 years. The number of individual requests in 2020 was lower due to COVID-19 related court shut-downs. If the current number of requests continue as they have, the agency expects to see over 36,000 requests for pre-authorized expenses in 2024.

Total number of PAE's approved from fiscal years ended 2018 through 2023:

Preauthorized Expenses

Executive Summary

Preauthorized Expense Applications Approved by Fiscal Year



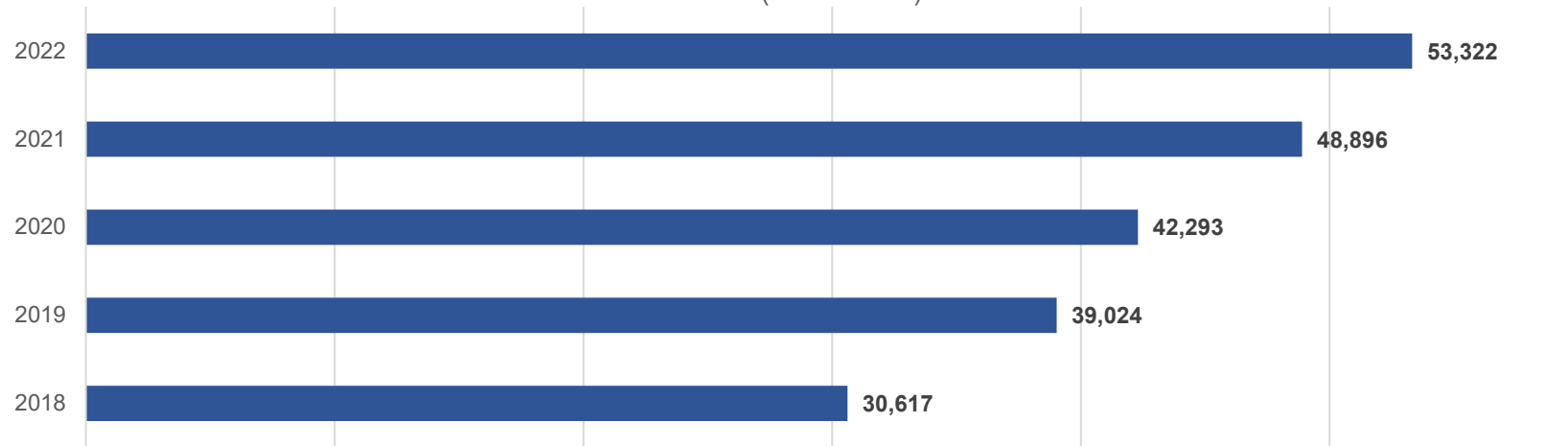
The data on the next page illustrate the dollar amount of PAE approvals over the last six years. Note that approvals represent administrative work by the agency, but the amount eventually paid is less than pre-approvals. The amounts pre-approved increased at about the same rate per year from 2018-2023. The increasing dollar amount of pre-approval slowed down in 2020, again due to the impacts of COVID-19 on the court system.

Total PAE amounts approved between fiscal years ended 2018 and 2023:

Preauthorized Expenses

Executive Summary

Dollar Amount of Preauthorized Expenses Approved by Fiscal Year
(in thousands)



Enabling Legislation

Oregon Revised Statutes (ORS) 135.055(3) authorize OPDC to pay for “reasonable and necessary” court related expenses to adequately defend the client.

Funding Streams

The services provided by PAE are paid for by the General Fund.

Preauthorized Expenses

Executive Summary

Funding Justification and Changes to CSL

The following policy option packages impact the Preauthorized Expenses program and are described elsewhere.

- Policy Package 102 – Criminal Workload Augmentation
- Policy Package 104 – Service Provider Rate Parity
- Policy Package 105 – Juvenile Workload Augmentation
- Policy Package 107 – Temporary Hourly Increase Program Carryover

Preauthorized Expenses

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

Staffing Impact

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|-------------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$0 |
| 021 | Program Phase-in (2023-25 Legislatively Adopted Packages) | General | 0 |
| 022 | Program Phase-out (2023-25 Program or Expiration of Limited Duration Positions) | General | (3,332,498) |
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 3,759,393 |

Preauthorized Expenses

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|--|----------------|---------------------|
| 32 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 10,152,285 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | 25,214,507 |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | 35,793,687 |
| BASE | 2025 – 2027 Base Budget | General | 58,617,685 |
| | | Other | 1 |
| 2025 – 2027 Current Service Level | | General | \$94,411,372 |
| | | Other | \$1 |

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

Policy Package Summary

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 (PCRCP), which also includes access to contracted case managers as one of the program’s core components. The PCRCP has shown benefits for clients, public defenders, and the system as a whole. Building on the knowledge we learned through PCRCP, 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 PCRCP, 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 Six-Year Plan, which focuses on fulfilling these goals with respect to attorneys providing public defense representation in criminal proceedings.

Resources and Implementation

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

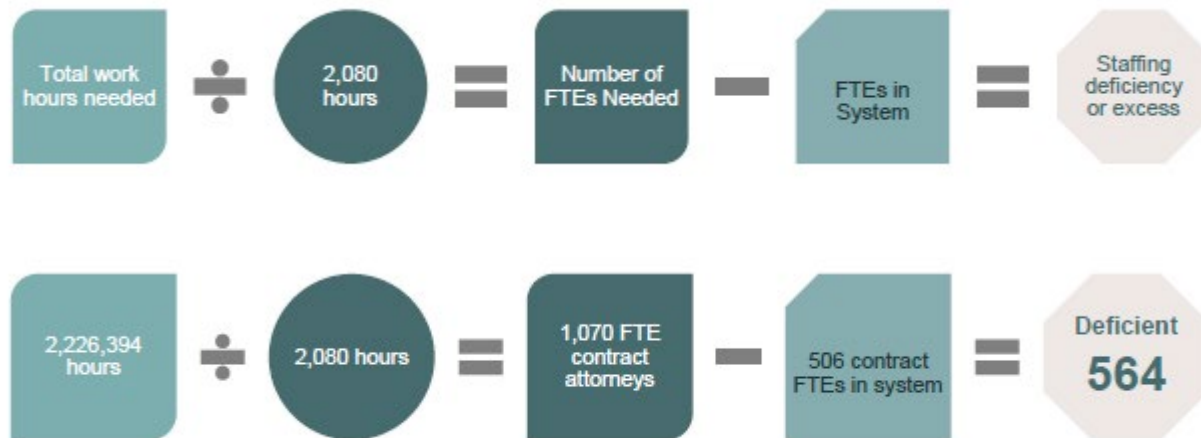
Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

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.

This policy package will add funding for eighty 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. The commission 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 six 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.



Source: Six Year Plan, p 12

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

The resulting projection is that commission should add 564 new FTE attorneys. Using numbers from the Department of Administrative Service’s 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 eighty of those attorneys to those funded under public defense services contracts and agreements.

| | 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 results 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.

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

Figure 4: 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 2,080 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.

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 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 5, Six Year Plan, Table 14, page 24

The commission requested 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

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

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 program.

Finally, this package raises attorney rates up to a level consistent with the market rates as determined by 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 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 FTE’s at \$343,616 per year.

Strategic Plan Aims

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.

Independent and Performance Audit Aims

This package is not proposed to meet the recommendations or answer the findings in an audit.

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

Policy Package Performance Measurement

The agency 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 Oregon Judicial Department’s unrepresented persons 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.

Agency Key Performance Measures

This package is not linked to the agency’s key performance measures.

Long-Term 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.

Adverse Effects of Lapsed Funding

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.

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

Prior Events by Management

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 of public defense services. Additional long-term investments are needed to meet those statutory requirements.

Alternatives and Reasons to Reject Alternatives

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 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.

Changes to Law and Coordination with Public Bodies and Partners

This package does not require a change to law.

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

Impact on Public Bodies

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.

Impact on Stakeholders and Partners

None.

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): July 1, 2025

End date (if applicable):

Pricing Assumptions

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.

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

New Commission 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.

Client Caseloads and Services Changes

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’s *National Public Defense Workload Study* are:

| 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.

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

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

Policy Package Staff

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

Start-up and One-time Costs

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

Permanent 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.

Potential Savings

The commission 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.

Preauthorized Expenses

Policy Option Package 102 – Criminal Workload Augmentation

Funding Sources

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

| | Adult Trial Division | Pre-Authorized Expense | 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 |

Preauthorized Expenses

Policy Option Package 104 – Service Provider Rate Parity

Policy Package Summary

This package is a budget request to move the agency toward compliance with the compensation and service delivery mandates of ORS 151.216 and SB 337 (2023). Effective July 1, 2025, the commission 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, the commission 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.

Resources and Implementation

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.

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

Preauthorized Expenses

Policy Option Package 104 – Service Provider Rate Parity

Strategic Plan Aims

This package 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.

Independent and Performance Audit Aims

No.

Policy Package Performance Measurement

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

Agency Key Performance Measures

No.

Long-Term Outcomes

This package 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.

Preauthorized Expenses

Policy Option Package 104 – Service Provider Rate Parity

Adverse Effects of Lapsed Funding

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

Prior Events by Management

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’s list of unrepresented persons. Increasing the hourly rate has been one of the few effective tools to increase the public defense workforce.

Alternatives and Reasons to Reject Alternatives

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.

Changes to Law and Coordination with Public Bodies and Partners

No.

Impact on Public Bodies

No.

Impact on Stakeholders and Partners

None.

Preauthorized Expenses

Policy Option Package 104 – Service Provider Rate Parity

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): July 1, 2025

End date (if applicable):

Pricing Assumptions

- 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.

New Commission 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.

Preauthorized Expenses

Policy Option Package 104 – Service Provider Rate Parity

Client Caseloads and Services Changes

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 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.

Policy Package Staff

Additional staffing is detailed in POP 106.

Start-up and One-time Costs

None.

Permanent Costs

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

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.

Funding Sources

The funding source for this request is one-hundred percent 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 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.

Preauthorized Expenses

Policy Option Package 104 – Service Provider Rate Parity

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 |

| | Court Mandated Expenses | Preauthorized Expenses | 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 |

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

Policy Package Summary

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; and
- Adopt a statewide workload plan based upon the caseload policies.

Notably, OPDC has implemented a workload model for juvenile representation in the ten 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.

Resources and Implementation

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.

4. **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

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

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. The agency 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 twenty-seven judicial districts in Oregon. Adding that many new attorneys to the system at one time is financially prohibitive and practically impossible, the commission 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.

5. 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:

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

| 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 6, Moss Adams LLP, Six Year Plan to Reduce Representation Deficiency (DRAFT Mar 2024), Table 14, page 24

The commission 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.

6. 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:

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation



From that formula and using market data, OPDC calculated three potential rates for attorneys depending on whether the agency chooses to lag behind the market (below the 25th percentile), lead the market (above the 75th percentile), or meet the market (at the 50th percentile). The rates are \$132/hour, \$188/hour, and \$165/hour. After discussion about how to best meet the needs for representation in juvenile proceedings in Oregon, the commission has chosen to strive to match the market in attorney salaries. Having a competitive wage for attorneys is one key to the agency’s long-term plan for solving the public defense crisis. The agency is requesting funding for our contracted attorneys and their support staff using this formula and assuming 2080 working hours per year, of which 1578 hours will be case specific work.

Strategic Plan Aims

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.

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

Independent and Performance Audit Aims

This package is not proposed to meet the recommendations or answer the findings in an audit.

Policy Package Performance Measurement

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 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.

Agency Key Performance Measures

No.

Long-Term 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.

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

Adverse Effects of Lapsed Funding

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. 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.

Prior Events by Management

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.

Alternatives and Reasons to Reject Alternatives

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.

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

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.

Changes to Law and Coordination with Public Bodies and Partners

This package does not require a change to law.

Impact on Public Bodies

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.

Impact on Stakeholders and Partners

There is no impact on stakeholders and partners.

Equity Lens

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).

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

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.

Package Fiscal Impact and Staffing

Implementation date(s):

End date (if applicable):

Pricing Assumptions

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.

New Commission 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

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

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.

Client Caseloads and Services Changes

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.

Policy Package Staff

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

Start-up and One-time costs

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

Permanent Costs

The ongoing costs of this package 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.

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.

Preauthorized Expenses

Policy Option Package 105 – Juvenile Workload Augmentation

Funding Sources

The 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 Fund 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 | 176,908,058 | | | 176,908,058 | | |
| Capital Outlay | | | | | | |
| Special Payments | | | | | | |
| Other | | | | | | |
| Total | \$176,908,058 | \$0 | \$0 | \$176,908,058 | 0 | 0.00 |

| | Juvenile | Preauthorized Expenses | 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 |

Preauthorized Expenses

Policy Option Package 107 – Temporary Hourly Increase Program Carryover

Policy Package Summary

The agency proposes this policy option package to cover the costs related to appointments made under the Temporary Hourly Increase Program. In the past, the Oregon Public Defense Commission (OPDC) lacked a strong hourly attorney program and instead depended heavily on contract attorneys to offer public defense services. Over the last 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 the appointment. The Temporary Hourly Increase Program (THIP), which OPDC initiated in August 2022, is part of the agency’s attempt to expand the capacity of public defense attorneys and supply attorneys for these clients, particularly those who are in custody. The number of people without legal representation has decreased as a result of THIP’s authorization of higher hourly attorney rates that are more in line with market rates. When a lawyer takes a client and case under THIP, they commit to doing so with the understanding that the increased THIP rate will last until the lawyer completes their work on the case. THIP is planned to sunset at the end of June 2024, but many of these cases, the legal work on them, and the expenses related to that work will continue after THIP sunsets. Funding under this package would enable OPDC to fulfill its financial commitments under THIP into the next biennium.

Resources and Implementation

While THIP was intended to be a temporary program and is planned to expire December 31, 2024, these projections involve an assumption that the program continues through June 30, 2025. But the higher hourly rates and case-related expenses are applicable throughout the duration of the case, and many of those cases will continue even after the program concludes (the agency’s predicted models can be found below). When an attorney takes on a case under THIP, for example, on December 28, 2024, they will likely work on it for up to a year, and the agency will continue to incur costs that will have to be paid.

The agency is seeking funds under this package 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 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 June 30, 2025, where the expected cost (weighted by case category) is:

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

Preauthorized Expenses

Policy Option Package 107 – Temporary Hourly Increase Program Carryover

For the cases approved at THIP rates as of June 2024, OPDC estimates their expected cost will be paid out in full by May 2025. The agency projects THIP caseloads and their expected costs between July 1, 2024, and June 30, 2025, to be as follows:

| July 2024 thru June 2025 Caseload: THIP Expected Costs Summary | | | | | | |
|--|--------------------|-----------------|------------------------|----------------------------|--------------------|---------------------|
| Case Category | Projected Caseload | Cost Per Case | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost |
| Civil Commitment | 28 | \$851 | \$22,632 | \$0 | \$856 | \$23,488 |
| Delinquency | 28 | \$7,217 | \$140,318 | \$18,630 | \$40,241 | \$199,189 |
| Dependency/Termination | 14 | \$9,377 | \$115,423 | \$3,105 | \$10,874 | \$129,403 |
| Jessica Law | 55 | \$40,916 | \$1,357,920 | \$397,440 | \$503,203 | \$2,258,563 |
| Major Felony | 235 | \$9,639 | \$1,683,255 | \$281,520 | \$296,534 | \$2,261,309 |
| Measure 11 | 442 | \$20,966 | \$5,564,160 | \$1,656,000 | \$2,038,426 | \$9,258,586 |
| Minor Felony | 814 | \$4,992 | \$3,071,162 | \$427,455 | \$565,869 | \$4,064,486 |
| Misdemeanor | 1311 | \$2,810 | \$3,225,060 | \$196,650 | \$262,200 | \$3,683,910 |
| Murder | 97 | \$151,199 | \$6,955,200 | \$2,282,175 | \$5,368,448 | \$14,605,823 |
| PCR/Habeas | 28 | \$34,391 | \$339,480 | \$66,240 | \$543,472 | \$949,192 |
| Probation Violations-Criminal | 276 | \$1,473 | \$362,112 | \$20,700 | \$23,736 | \$406,548 |
| Total | 3326 | \$11,378 | \$22,836,723 | \$5,349,915 | \$9,653,859 | \$37,840,497 |

The projected caseloads above 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 and a cost per case model built on historical spending data. Of the \$37,840,497 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 July 31, 2023 (the one year previous to the time of analysis). The commission anticipates that \$10,960,683 will be paid out on these cases during the 2023-25 biennium, leaving a carryover cost of \$26,879,814 in expected cost in future biennia.

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

Preauthorized Expenses

Policy Option Package 107 – Temporary Hourly Increase Program Carryover

Carry Over Cost = [Expected Cost of Projected Caseload] - [Expected Billed in Period]

\$26,879,814 = [\$37,840,497] - [\$10,960,683]

Strategic Plan Aims

The mission of the commission is to provide competent and effective representation to persons who are eligible for appointed counsel. The commission has increased the number of lawyers taking assigned cases by utilizing THIP. Following its expiration, THIP will incur costs for which the agency will be responsible for due to the unavoidable length of time it takes to conclude cases. This package will enable the agency to pay those expenses.

Independent and Performance Audit Aims

No.

Policy Package Performance Measurement

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.

Agency Key Performance Measures

No.

Long-Term Outcomes

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

Preauthorized Expenses

Policy Option Package 107 – Temporary Hourly Increase Program Carryover

Adverse Effects of Lapsed Funding

The commission must pay THIP rates for every case taken under the program to the conclusion of the case. This includes costs for pre-authorized expenses and court mandated expenses. In the event that this package is not funded, OPDC will still be required to pay attorneys THIP rates for their services as well as the costs associated with each case. In order to pay those expenses, the agency will likely have to divert funds from other programs it is working on to provide a long-term solution to the unrepresented persons crisis. Reducing funding for long-term programming will make it more difficult for the agency to fulfill its primary goal of providing those who qualify for public defense competent and effective legal representation.

Prior Events by Management

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, used 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.

Alternatives and Reasons to Reject Alternatives

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, 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.

Changes to Law and Coordination with Public Bodies and Partners

This package does not present any changes to law.

Impact on Public Bodies

None.

Preauthorized Expenses

Policy Option Package 107 – Temporary Hourly Increase Program Carryover

Impact on Stakeholders and Other Partners

None.

Equity Lens

The mission of the commission is to provide competent and effective representation to persons who are eligible for appointed counsel. 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.

Package Fiscal Impact and Staffing

Implementation date(s):

End date (if applicable):

Pricing Assumptions

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.

New Commission Responsibilities

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

Preauthorized Expenses

Policy Option Package 107 – Temporary Hourly Increase Program Carryover

Client Caseloads and Services Changes

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

Policy Package Staff

The current accounts payable staff will be responsible for implementing this through payments to hourly attorneys, investigators, pre-authorized expenses and court mandated expenses. 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.

Start-up and One-time Costs

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.

Permanent 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.

Potential Savings

None.

Funding Sources

General Fund

Preauthorized Expenses

Policy Option Package 107 – Temporary Hourly Increase Program Carryover

| | General Fund | Other Funds | Federal Funds | Total Funds | Pos. | FTE |
|---------------------|--------------|-------------|---------------|--------------|----------|-------------|
| Personal Services | \$0 | \$0 | \$0 | \$0 | 0 | 0.00 |
| Services & Supplies | \$26,879,814 | | | \$26,879,814 | | |
| Capital Outlay | | | | | | |
| Special Payments | | | | | | |
| Other | | | | | | |
| Total | \$0 | \$0 | \$0 | \$0 | 0 | 0.00 |

| | Court Mandated Expenses | Preauthorized Expenses | Total |
|---------------|-------------------------|------------------------|--------------|
| General Fund | \$ 16,221,956 | \$10,657,858 | \$26,879,814 |
| Other Funds | | | \$0 |
| Federal Funds | | | \$0 |
| Total Funds | \$ 16,221,956 | \$10,657,858 | \$26,879,814 |
| Positions | | | 0 |
| FTE | | | 0.00 |

Court Mandated Expenses

Executive Summary

Program Overview

The Court Mandated Expenses Division funds trial and appellate representation for the provision of attorney services not funded through a normal provider contract. Additionally, the Division provides funding for expenses associated with discovery, interpreter services, medical, school, Oregon Department of Transportation - Department of Motor Vehicles, and other similar records (up to \$300), 911 recordings and Emergency Communication Recording Logs, telephone charges, photocopying and scanning, facsimile charges, routine mileage and parking, postage, service of process; and the payment of lay witness and mileage. The Division is organized into the following sections: Administration, Appellate, Trial Level, Juvenile, and the ACP. The Court Mandated Expenses Division is subject to a mandated caseload and is to be budgeted based on anticipated caseload changes for state constitution or court actions.

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|---------------------|--------------------|--------------------|------------------|-------------|
| 2023 - 25 legislatively approved budget | 75,832,906 | 4,449,667 | 80,282,573 | 0 | 0.00 |
| 2025 - 27 current service level | 39,646,202 | 4,449,677 | 44,095,879 | 0 | 0.00 |
| 2025 - 27 agency request budget | 89,457,107 | 4,449,677 | 93,906,784 | 0 | 0.00 |
| Difference | 13,624,201 | 10 | 13,624,211 | 0 | 0.00 |
| Percent change | 18.0% | 0.0% | 17.0% | | |

Program Description

The Court Mandated Expenses program is organized into the following sections: (1) Administration; (2) Appellate; (3) Trial Level; (4) Juvenile; and (5) the Application Contribution Program (ACP). Counsel funded through the Court-Mandated Expenses Division include (1) attorneys who serve on OPDC’s criminal and juvenile appellate panels and are generally paid set rates to represent clients on direct appeal in criminal, juvenile dependency, termination-of-parental-rights, and juvenile delinquency cases and (2) attorneys who do not have a contract with the OPDC but nonetheless accept one or more court appointments due to conflicts and/or a lack of public defense

Court Mandated Expenses

Executive Summary

provider capacity and are generally paid an hourly rate between \$130.00 and \$145.00 per hour, depending on the type of case. This funding is essential to ensure the appointment and payment of counsel for all individuals entitled to court-appointed counsel under state and federal law. The non-contract attorney hourly rate for cases subject to the Temporary Hourly Increase Policy for persons on the Oregon Judicial Department's unrepresented persons list ranges from \$164.00 per hour to \$200.00 per hour.

The Court Mandated Expenses program also funds discovery, postage, photocopying, parking, mileage, basic interpreter services and costs associated with obtaining certain types of records. Court Mandated Expenses exclude contract payments and Pre-Authorized Expenses.

Program Justification and link to Long Term Outcomes

Court Mandated Expense division is linked to ORS 135.055(3) requiring OPDC to pay the cost of "reasonable and necessary" expenses for public defense cases. The public defense system strives to provide clients a constitutionally adequate defense, thus, allowing case supported services further the states' efforts to provide marginalized and under-represented clients timely access to quality representation.

Program Performance

Court Mandated Expenses are all the non-contract, non-preauthorized expenditures. Expenditures for the 2021-23 biennium were \$51,173,840, up from \$47,654,547 in the 2019-21 biennium. The legislatively adopted budget for Court Mandated Expenses in 2021-23 is \$48,995,164 although expenses in the category are currently expected to be more than \$75 million. In 2021-23, the expenses are primarily for hourly attorneys (46%), psychiatric evaluations (40%), and transcription/deposition (6%).

Over the past decade, the budget and administration of the Court Mandated Expenses has grown. Prior to this last budget cycle, OPDC budget categories consisted of the Appellate Division, Contracts and Business Services, and the Professional Services Account, which was used to compensate all providers and routine and non-routine fees and expenses. Beginning in the 2019-21 biennium, the Professional Services Account is divided into separate divisions: (1) Trial Criminal Division; (2) Juvenile Division; (3) Non-Routine Expenses (NRE/CSS); (4) Court Mandated Expenses; and (5) Special Programs, Contracts & Distributions.

Court Mandated Expenses

Executive Summary

The non-contract attorney hourly rate has increased since 2013, with the current rate for assigned counsel ranging from \$130.00 to \$145.00 per hour to cases not subject to the Oregon Judicial Department’s unrepresented persons list. The non-contract attorney hourly rate for cases subject to the Temporary Hourly Increase Policy for persons on the OJD’s unrepresented persons list ranges from \$164.00 per hour to \$200.00 per hour.

Non-Attorney fees for other providers such as paraprofessionals, interpreters (certified and qualified), and other routine expenses and fees (i.e., mileage lodging, per diem, discovery, copies and other out-of-pocket expenses) have also increased over time.

Enabling Legislation

ORS 135.055 is the governing authority regarding the fair compensation of court-appointed counsel and compensation for routine fees and expenses. Compensation payable to court-appointed attorneys and routine fees and expense incurred by appointed counsel is subject to the policies, procedures, standards, and guidelines adopted under ORS 151.216.

ORS 45.275(3)(c) and ORS 45.285(5)(c) require the OPDC to provide fair compensation for an interpreter whose services are necessary for communication between an attorney and client or witness in a criminal case.

Funding Streams

Funding for the Court Mandated Expenses program comes almost entirely from General Fund, with the Application Contribution Program providing a source of other funds.

For 2023-25, the General Fund portion of Court Mandated Expenses, including the May 2022 emergency board actions, is expected to be \$45,058,048, and the other funds sourced from the Application Contribution Program (ACP) is expected to total \$3,937,116. Of the ACP revenue, \$858,362 is expected to be used to offset General Fund expenses with the remainder being transferred to OJD. The ACP statutes authorize courts to order parties to pay all or a portion of administrative costs of determining eligibility for court-appointed counsel. Statute directs the payments to the Public Defense Services Account established by ORS 151.225. OPDS receives ACP Revenue from OJD after it is received from indigent clients receiving court appointed counsel. The amounts paid by clients are set by

Court Mandated Expenses

Executive Summary

the judge and transfers are received by the agency monthly. The agency then pays OJD for a portion of county verification specialist expense.

Funding Justification and Changes to CSL

The following policy option packages impact the Court Mandated Expenses Division and are described elsewhere.

- Policy Package 104 – Service Provider Rate Parity
- Policy Package 107 – Temporary Hourly Increase Program Carryover

Court Mandated Expenses

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

...

Staffing Impact

...

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|--------------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$0 |
| 021 | Program Phase-in (2023 – 25 Legislatively Adopted Packages) | General | 0 |
| 022 | Program Phase-out (2023 – 25 Program or Expiration of Limited Duration Positions) | General | (21,224,721) |

Court Mandated Expenses

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|---|----------------|-------------------|
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 3,713,357 |
| | | Other | 10 |
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 6,539,167 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | (25,214,507) |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | (36,186,704) |
| | | Other | 10 |
| BASE | 2025 – 2027 Base Budget | General | 75,832,906 |
| | | Other | 4,449,667 |
| 2025 – 2027 Current Service Level | | General | 39,646,202 |
| | | Other | 4,449,667 |

Court Mandated Expenses

Policy Option Package 104 – Service Provider Rate Parity

Policy Package Summary

This package is a budget request to move the agency toward compliance with the compensation and service delivery mandates of ORS 151.216 and SB 337 (2023). Effective July 1, 2025, the commission 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, the commission 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.

Resources and Implementation

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.

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

Court Mandated Expenses

Policy Option Package 104 – Service Provider Rate Parity

Strategic Plan Aims

This package 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.

Independent and Performance Audit Aims

No.

Policy Package Performance Measurement

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

Agency Key Performance Measures

No.

Long-Term Outcomes

This package 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.

Court Mandated Expenses

Policy Option Package 104 – Service Provider Rate Parity

Adverse Effects of Lapsed Funding

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

Prior Events by Management

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’s list of unrepresented persons. Increasing the hourly rate has been one of the few effective tools to increase the public defense workforce.

Alternatives and Reasons to Reject Alternatives

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.

Changes to Law and Coordination with Public Bodies and Partners

No.

Impact on Public Bodies

No.

Impact on Stakeholders and Partners

None.

Court Mandated Expenses

Policy Option Package 104 – Service Provider Rate Parity

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): July 1, 2025

End date (if applicable):

Pricing Assumptions

- 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.

New Commission 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.

Court Mandated Expenses

Policy Option Package 104 – Service Provider Rate Parity

Client Caseloads and Services Changes

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 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.

Policy Package Staff

Additional staffing is detailed in POP 106.

Start-up and One-time Costs

None.

Permanent Costs

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

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.

Funding Sources

The funding source for this request is one-hundred percent 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 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.

Court Mandated Expenses

Policy Option Package 104 – Service Provider Rate Parity

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 |

| | Court Mandated Expenses | Preauthorized Expenses | 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 |

Court Mandated Expenses

Policy Option Package 107 – Temporary Hourly Increase Program

Policy Package Summary

The agency proposes this policy option package to cover the costs related to appointments made under the Temporary Hourly Increase Program. In the past, the Oregon Public Defense Commission (OPDC) lacked a strong hourly attorney program and instead depended heavily on contract attorneys to offer public defense services. Over the last 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 the appointment. The Temporary Hourly Increase Program (THIP), which OPDC initiated in August 2022, is part of the agency’s attempt to expand the capacity of public defense attorneys and supply attorneys for these clients, particularly those who are in custody. The number of people without legal representation has decreased as a result of THIP’s authorization of higher hourly attorney rates that are more in line with market rates. When a lawyer takes a client and case under THIP, they commit to doing so with the understanding that the increased THIP rate will last until the lawyer completes their work on the case. THIP is planned to sunset at the end of June 2024, but many of these cases, the legal work on them, and the expenses related to that work will continue after THIP sunsets. Funding under this package would enable OPDC to fulfill its financial commitments under THIP into the next biennium.

Resources and Implementation

While THIP was intended to be a temporary program and is planned to expire December 31, 2024, these projections involve an assumption that the program continues through June 30, 2025. But the higher hourly rates and case-related expenses are applicable throughout the duration of the case, and many of those cases will continue even after the program concludes (the agency’s predicted models can be found below). When an attorney takes on a case under THIP, for example, on December 28, 2024, they will likely work on it for up to a year, and the agency will continue to incur costs that will have to be paid.

The agency is seeking funds under this package 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 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 June 30, 2025, where the expected cost (weighted by case category) is:

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

Court Mandated Expenses

Policy Option Package 107 – Temporary Hourly Increase Program

For the cases approved at THIP rates as of June 2024, OPDC estimates their expected cost will be paid out in full by May 2025. The agency projects THIP caseloads and their expected costs between July 1, 2024, and June 30, 2025, to be as follows:

| July 2024 thru June 2025 Caseload: THIP Expected Costs Summary | | | | | | |
|--|--------------------|-----------------|------------------------|----------------------------|--------------------|---------------------|
| Case Category | Projected Caseload | Cost Per Case | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost |
| Civil Commitment | 28 | \$851 | \$22,632 | \$0 | \$856 | \$23,488 |
| Delinquency | 28 | \$7,217 | \$140,318 | \$18,630 | \$40,241 | \$199,189 |
| Dependency/Termination | 14 | \$9,377 | \$115,423 | \$3,105 | \$10,874 | \$129,403 |
| Jessica Law | 55 | \$40,916 | \$1,357,920 | \$397,440 | \$503,203 | \$2,258,563 |
| Major Felony | 235 | \$9,639 | \$1,683,255 | \$281,520 | \$296,534 | \$2,261,309 |
| Measure 11 | 442 | \$20,966 | \$5,564,160 | \$1,656,000 | \$2,038,426 | \$9,258,586 |
| Minor Felony | 814 | \$4,992 | \$3,071,162 | \$427,455 | \$565,869 | \$4,064,486 |
| Misdemeanor | 1311 | \$2,810 | \$3,225,060 | \$196,650 | \$262,200 | \$3,683,910 |
| Murder | 97 | \$151,199 | \$6,955,200 | \$2,282,175 | \$5,368,448 | \$14,605,823 |
| PCR/Habeas | 28 | \$34,391 | \$339,480 | \$66,240 | \$543,472 | \$949,192 |
| Probation Violations-Criminal | 276 | \$1,473 | \$362,112 | \$20,700 | \$23,736 | \$406,548 |
| Total | 3326 | \$11,378 | \$22,836,723 | \$5,349,915 | \$9,653,859 | \$37,840,497 |

The projected caseloads above 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 and a cost per case model built on historical spending data. Of the \$37,840,497 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 July 31, 2023 (the one year previous to the time of analysis). The commission anticipates that \$10,960,683 will be paid out on these cases during the 2023-25 biennium, leaving a carryover cost of \$26,879,814 in expected cost in future biennia.

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

Court Mandated Expenses

Policy Option Package 107 – Temporary Hourly Increase Program

Carry Over Cost = [Expected Cost of Projected Caseload] - [Expected Billed in Period]

\$26,879,814 = [\$37,840,497] - [\$10,960,683]

Strategic Plan Aims

The mission of the commission is to provide competent and effective representation to persons who are eligible for appointed counsel. The commission has increased the number of lawyers taking assigned cases by utilizing THIP. Following its expiration, THIP will incur costs for which the agency will be responsible for due to the unavoidable length of time it takes to conclude cases. This package will enable the agency to pay those expenses.

Independent and Performance Audit Aims

No.

Policy Package Performance Measurement

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.

Agency Key Performance Measures

No.

Long-Term Outcomes

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

Court Mandated Expenses

Policy Option Package 107 – Temporary Hourly Increase Program

Adverse Effects of Lapsed Funding

The commission must pay THIP rates for every case taken under the program to the conclusion of the case. This includes costs for pre-authorized expenses and court mandated expenses. In the event that this package is not funded, OPDC will still be required to pay attorneys THIP rates for their services as well as the costs associated with each case. In order to pay those expenses, the agency will likely have to divert funds from other programs it is working on to provide a long-term solution to the unrepresented persons crisis. Reducing funding for long-term programming will make it more difficult for the agency to fulfill its primary goal of providing those who qualify for public defense competent and effective legal representation.

Prior Events by Management

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, used 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.

Alternatives and Reasons to Reject Alternatives

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, 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.

Changes to Law and Coordination with Public Bodies and Partners

This package does not present any changes to law.

Impact on Public Bodies

None.

Court Mandated Expenses

Policy Option Package 107 – Temporary Hourly Increase Program

Impact on Stakeholders and Other Partners

None.

Equity Lens

The mission of the commission is to provide competent and effective representation to persons who are eligible for appointed counsel. 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.

Package Fiscal Impact and Staffing

Implementation date(s):

End date (if applicable):

Pricing Assumptions

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.

New Commission Responsibilities

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

Court Mandated Expenses

Policy Option Package 107 – Temporary Hourly Increase Program

Client Caseloads and Services Changes

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

Policy Package Staff

The current accounts payable staff will be responsible for implementing this through payments to hourly attorneys, investigators, pre-authorized expenses and court mandated expenses. 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.

Start-up and One-time Costs

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.

Permanent 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.

Potential Savings

None.

Funding Sources

General Fund

Court Mandated Expenses

Policy Option Package 107 – Temporary Hourly Increase Program

| | General Fund | Other Funds | Federal Funds | Total Funds | Pos. | FTE |
|---------------------|--------------|-------------|---------------|--------------|----------|-------------|
| Personal Services | \$0 | \$0 | \$0 | \$0 | 0 | 0.00 |
| Services & Supplies | \$26,879,814 | | | \$26,879,814 | | |
| Capital Outlay | | | | | | |
| Special Payments | | | | | | |
| Other | | | | | | |
| Total | \$0 | \$0 | \$0 | \$0 | 0 | 0.00 |

| | Court Mandated Expenses | Preauthorized Expenses | Total |
|---------------|-------------------------|------------------------|--------------|
| General Fund | \$ 16,221,956 | \$10,657,858 | \$26,879,814 |
| Other Funds | | | \$0 |
| Federal Funds | | | \$0 |
| Total Funds | \$ 16,221,956 | \$10,657,858 | \$26,879,814 |
| Positions | | | 0 |
| FTE | | | 0.00 |

Parent Child Representation Program

Executive Summary

Program Overview

The Parent Child Representation Program (PCRP) provides for trial-level representation of financially eligible parents, children, and youth in juvenile dependency, termination-of-parental-rights, juvenile delinquency, and contested adoption cases in ten counties within Oregon. The PCRP also provides guardians ad litem for parents whose rights the juvenile court determines need additional protection because they have a mental or physical disability that prevents them from understanding and/or assisting counsel in a dependency or termination-of-parental-rights case. The PCRP utilizes a model of representation that limits attorney caseloads to 80 open cases per full-time attorney and provides increased resources for attorneys, increased access to case management services for clients, and improved data and oversight capacity for OPDC.

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|-------------------|-------------------|-------------------|-----------|-------------|
| 2023 - 25 legislatively approved budget | 4,647,432 | 11,968,000 | 16,615,432 | 1 | 1.00 |
| 2025 - 27 current service level | 45,927,696 | 11,968,000 | 57,895,696 | 0 | 0.00 |
| 2025 - 27 agency request budget | 45,927,696 | 11,968,000 | 57,895,696 | 0 | 0.00 |
| Difference | 41,280,264 | 0 | 41,280,264 | -1 | -1.00 |
| Percent change | 888.2% | 0.0% | 248.4% | -100.0% | -100.0% |

Long Term Focus Areas

Providing high-quality, zealous representation for indigent clients, specifically parents, children, and youth in juvenile court proceedings.

Parent Child Representation Program

Executive Summary

Primary Program Contact

Shannon Flowers, Trial Support and Development Manager

Program Description

In Oregon, financially eligible parents are entitled to have counsel appointed in juvenile dependency proceedings when the nature of the proceedings and due process so require, and financially eligible children are generally entitled to counsel in those proceedings. The general practice of juvenile courts is to appoint counsel for both parents and children. A financially eligible parent contesting an adoption is also entitled to court-appointed counsel at state expense. Similarly, youth in delinquency cases are entitled to court-appointed counsel at state expense, with no financial eligibility requirement, and in limited circumstances the youth's parents may also be entitled to counsel if financially eligible. Finally, Oregon's juvenile code authorizes the juvenile court to appoint a guardian *ad litem*, who must either be an attorney or licensed mental health professional, for a parent whose rights the juvenile court determines need protection because they have a mental or physical disability that prevents them from understanding the nature of the proceeding and/or assisting counsel in a dependency, permanent guardianship, or termination-of-parental-rights case.

OPDC is responsible for compensating those attorneys appointed as counsel in juvenile court proceedings and contested adoption proceedings and attorneys and licensed mental health professionals appointed to serve as guardians ad litem for parents in dependency and termination-of-parental-rights proceedings. OPDC substantially satisfies that responsibility through contracts with non-profit public defender offices, consortia, law firms, and solo practitioners to provide for court-appointed counsel in a variety of case types. Funding for those independent contractor attorneys who serve as court-appointed counsel or as guardians ad litem in juvenile court cases in 10 Oregon jurisdictions comes through OPDC's Parent Child Representation Program (PCRP) Division. The PCRP is an interdisciplinary model of legal representation, and its fundamental components are (1) reasonable caseloads and compensation for attorneys; (2) access to social work case managers to serve as part of the legal team; and (3) enhanced support and oversight by OPDC. These components help ensure that attorneys have adequate time and resources to spend on their clients and cases and that clients' needs are served both in and out of court. The ten counties in which the PCRP has been implemented are Benton (2020), Clatsop (2020), Columbia (2016), Coos (2018), Douglas (2020), Lincoln (2018), Linn (2014), Multnomah (2020), Polk (2020), and Yamhill (2014).

Parent Child Representation Program

Executive Summary

OPDC’s ability to provide competent, zealous legal representation for indigent parents, children, and youth in juvenile court proceedings is inhibited by the independent contractor model currently employed to provide that representation. As with any independent contractor relationship, OPDC cannot direct the work of attorneys providing legal representation and has limited ability to ensure transparency and accountability in the provision of public defense services. Moving to a model in which at least some of the legal representation for parents, children, and youth involved in juvenile court proceedings is provided by OPDC employees subject to OPDC’s direct supervision would likely lead to improvements in representation in juvenile court proceedings and increased transparency and accountability. While OPDC does currently employ attorneys providing trial-level representation, those offices currently provide representation exclusively to clients in the criminal justice system, not the juvenile courts.

Program Justification and link to Long Term Outcomes

Legal Representation in Juvenile Dependency and Termination-of-Parental-Rights Cases

The United States Supreme Court has held that parents have a fundamental liberty interest in the “care, custody, and management of their children” that is protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *Santosky v. Kramer*, 455 US 745, 753-54 (1982). The Supreme Court has further held that due process does not require the appointment of counsel for every parent subject to a petition to terminate their parental rights but instead left “the decision whether due process calls for the appointment of counsel for indigent parents in termination proceedings to be answered in the first instance by the trial court, subject, of course, to appellate review.” *Lassiter v. Dept. of Social Services*, 452 US 18, 31-32 (1981). And, although the United States Supreme Court has not addressed whether children have a similar right to counsel in juvenile dependency proceedings, the United States Ninth Circuit Court of Appeals has held that children have a “constitutional interest in familial companionship and society” similar to that of parents. *Smith v. City of Fontana*, 818 F2d 1411, 1418 (9th Cir 1987), *overruled on other grounds by Hodgers-Durgin v. de la Vina*, 199 F3d 1037 (9th Cir 1999). Oregon’s statutes require the appointment of counsel generally for financially eligible children and for financially eligible parents when the nature of the proceedings and due process so require. The general practice of juvenile courts is to appoint counsel for both parents and children.

Like many states, Oregon has long sought to reduce the number of children who enter foster care, to reduce the amount of time a child who enters foster care remains in the state’s care, and to achieve permanency for children in as timely a fashion as possible. Research has demonstrated that providing legal representation for parents and children facing potential or actual juvenile court proceedings

Parent Child Representation Program

Executive Summary

reduces entry into the foster care system and the amount of time children remain in foster care. The Justice in Government Project, *Key Studies and Data About How Legal Aid Helps Keep Family Together and Out of the Child Welfare System* (Mar 23, 2021), available at <https://legalaidresourcesdotorg.files.wordpress.com/2021/04/foster-care.pdf#>

The Children’s Bureau, part of the U.S. Department of Health and Human Services, has recognized the importance of high-quality legal representation in helping ensure a well-functioning child welfare system. Given the profound decisions juvenile courts must make regarding a families, it is critical that courts receive the most accurate and complete information necessary for judicial decision-making and that the parties’ rights are protected, which is best achieved when all parties to a juvenile dependency case are represented. Moreover, evidence suggests that providing counsel for parents, children, and youth contributes to or is associated with:

- Increase perceptions of fairness;
- increased engagement in case planning, services and court hearings;
- more personally tailored and specific case plans and services;
- increased visitation and parenting time;
- expedited permanency; and
- cost savings to state government due to reductions of time children and youth spend in care.

Children’s Bureau, Administration for Children & Families, *High Quality Legal Representation for All Parties in Child Welfare Proceedings* (Information Memorandum), 1-2 (Jan 17, 2017), available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf>.

Legal Representation in Juvenile Delinquency Cases

The United States Supreme Court held in *In Re Gault*, 387 U.S. 1 (1967) that children have a constitutional right to counsel when they are subject to a juvenile delinquency petition. Oregon statutes codify this right and require that the court must appoint counsel to represent a youth at all stages of a proceeding where the offense alleged in the petition is classified as a crime; at any proceeding concerning an order or probation; and in any case where the youth would be entitled to appointed counsel if the youth was an adult charged with the same offense. Statutes further allow the court to appoint counsel in any other proceeding within the jurisdiction of the juvenile court. Finally, statutes prohibit the court from accepting a waiver of counsel from a youth except in very limited and narrow circumstances.

Parent Child Representation Program

Executive Summary

Access to counsel is essential to due process. Treating youth fairly and ensuring that they perceive that they have been treated fairly and with dignity contribute to the positive outcomes in the normal process of social learning, moral development, and legal socialization during adolescence. Research indicates that when adolescents feel that the system has treated them fairly, they are more likely to accept responsibility for their actions and embrace prosocial activities. Fairness in a legal proceeding is evaluated by opportunity for voice, validation, participation, choice, accuracy of outcomes and access to information. Meaningful participation in the legal process not only allows the adolescent to feel like a valued member of society whose opinion is worthy of consideration, but also allows him or her to influence the judge's final decision and provides more confidence in the accuracy and legitimacy of the outcomes. Access to competent, well-trained, and effective counsel allows adolescents alleged to have committed a delinquent act these opportunities

National Academy of Sciences, *Reforming Juvenile Justice: A Developmental Approach*, (2013), available at http://www.nap.edu/catalog.php?record_id=14685.

Attorneys defending youth in delinquency proceedings require additional knowledge beyond that needed to represent adults charged with crimes, such as knowledge of the science of adolescent development, collateral consequences of juvenile court proceedings, and other child-specific systems, such as schools, that may impact or be affected by delinquency proceedings. The National Juvenile Defender Center (NJDC) studied Oregon's access to and quality of juvenile defense in 2020. NJDC found, among other things, that Oregon's system does not have the structure to provide oversight or enforcement to ensure quality representation for youth, has a pay structure and contracting system that does not support defenders specializing in a delinquency caseload, and has no comprehensive guidance for procedure in delinquency cases increasing the risk of inequity. Further, it found that justice and fairness is often dependent on what jurisdiction and even what courtroom a case ends up in.

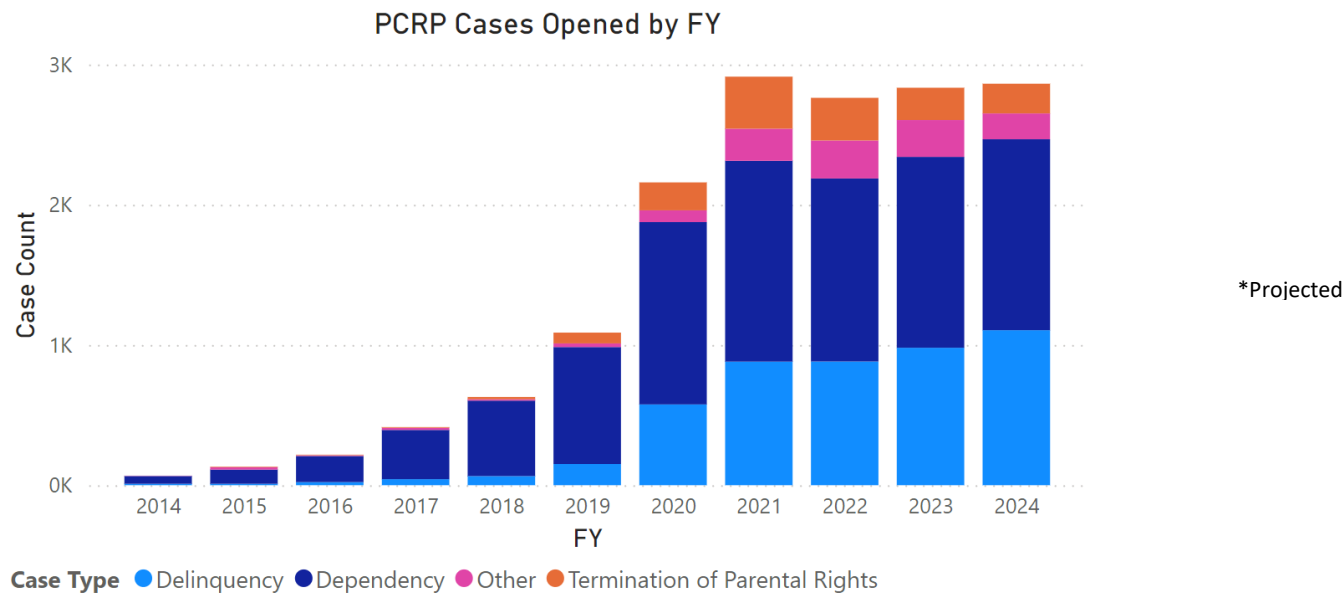
National Juvenile Defender Center, *Advancing Youth Justice, An Assessment of Access to and Quality of Juvenile Defense in Oregon* (August 2020), available at: <https://njdc.info/wp-content/uploads/Oregon-Assessment-Web.pdf>

Parent Child Representation Program

Executive Summary

Program Performance

The Oregon Legislature created PDSC in 2001, and the agency assumed responsibility for public defense services in 2003. The governing statutes are contained in Oregon Revised Statutes, Chapter 151. In 2023, the legislature dissolved PDSC and created OPDC. The chart on the following page shows the total number of non-PCRPP Juvenile (Non-PCRPP) and PCRPP cases within the DAS forecast.



Enabling Legislation

Dependency Cases

ORS 419B.195 requires appointment of counsel for financially eligible children in juvenile dependency cases.

Parent Child Representation Program

Executive Summary

ORS 419B.205(1) requires appointment of counsel for financially eligible parents in juvenile dependency cases “whenever the nature of the proceedings and due process so require.”

ORS 135.055(1)(b), ORS 419B.201, and ORS 419B.208 require OPDC to pay court-appointed counsel “fair compensation” in dependency cases.

Termination-of-Parental-Rights Cases

ORS 419B.518(1) requires appointment of counsel for financially eligible parents in termination-of-parental-rights cases and for OPDC to provide “fair compensation” for that counsel, through ORS 135.055(1)(b).

Delinquency Cases

ORS 419C.200(1)(a)(A)-(C) require appointment of counsel for a youth at all stages of a delinquency if the offense alleged in the petition is classified as a crime; at any proceeding concerning an order of probation; and in any case in which the youth would be entitled to appointed counsel if they were an adult charged with the same offense.

ORS 419C.200(1)(a)(D) authorizes the court to appoint counsel for a youth in any other proceeding to determine whether the youth is within the juvenile court’s jurisdiction pursuant to ORS 419C.005.

ORS 419C.245(1) extends a youth’s right to court-appointed counsel at state expense to circumstances in which it is proposed that the youth enter into a formal accountability agreement with the juvenile department.

ORS 135.055(1)(b) and ORS 419C.206 require OPDC to pay court-appointed counsel for youth “fair compensation.”

Contested Adoption Cases

ORS 109.333(4) requires appointment of counsel for financially eligible parents in contested adoption cases and for OPDC to provide “fair compensation” for that counsel, through ORS 135.055(1)(b).

Parent Child Representation Program

Executive Summary

Guardians Ad Litem in Dependency & Termination-of-Parental-Rights Cases

ORS 419B.231 authorizes the juvenile court to appoint a guardian ad litem for a parent who, due to a mental or physical disability, “lacks substantial capacity either to understand the nature and consequences of the proceeding or to give direction and assistance to the parent’s attorney on decisions the parent must make in the proceeding, to protect that parent’s rights in the proceeding during the period of the parent’s disability or impairment.

ORS 419B.237(3) requires the OPDC to compensate a guardian ad litem for the duties they perform in the juvenile case.

Funding Streams

Funding for legal representation of parents, children, and youth in juvenile court proceedings, for legal representation for parents in contested adoption proceedings, and for guardians ad litem for parents in juvenile court proceedings comes from General Fund and from Other Funds sourced from Title IV-E Federal Funds. In 2019, the federal government revised its policies to allow states to receive Title IV-E funds for a portion of the administrative costs associated with legal representation of children and parents in foster care proceedings, as well as a portion of the costs for training. OPDC receives Title IV-E funds from the Oregon Department of Human Services (ODHS), pursuant to a Memorandum of Understanding between OPDC and ODHS and quarterly claims that OPDC submits to ODHS.

Funding Justification and Changes to CSL

The following Policy Option Packages impact the Parent Child Representation Program Division and are described elsewhere.

- Policy Package 105 – Juvenile Contracts

Parent Child Representation Program

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

Staffing Impact

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|-------------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$157 |
| 021 | Program Phase-in (2023-25 Legislatively Adopted Packages) | General | 0 |
| 022 | Program Phase-out (2023-25 Program or Expiration of Limited Duration Positions) | General | (1,234,365) |
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 2,922,649 |

Parent Child Representation Program

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|--|----------------|---------------------|
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 0 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | (526,114) |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | 1,162,327 |
| BASE | 2025 – 2027 Base Budget | General | 44,765,369 |
| | | Other | 11,968,000 |
| 2025 – 2027 Current Service Level | | General | \$45,927,696 |
| | | Other | \$11,968,000 |

Administrative Services Division

Executive Summary

Program Overview

The Administrative Services Division includes the budget and finance, contract services, human resource management, and information technology sections as well as the administrative organ to preauthorized expenses. It is responsible for agency leadership and central agency administration, ensuring compliance with chapter 151 of the Oregon Revised Statutes. Section 216 directs the agency “to maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, United States Constitution, and Oregon and national standards of justice.” Effective management of the division allows the agency to support the programmatic areas with vital services need to meet the agencies mission, which is “to ensure constitutionally competent and effective legal representation for persons eligible for a public defender.”

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|-------------------|-------------|-------------------|-----------|--------------|
| 2023 - 25 legislatively approved budget | 26,598,388 | 0 | 26,598,388 | 46 | 42.15 |
| 2025 - 27 current service level | 20,885,740 | 0 | 20,885,740 | 40 | 40.00 |
| 2025 - 27 agency request budget | 38,922,826 | 0 | 38,922,826 | 61 | 59.08 |
| Difference | 12,324,438 | | 12,324,438 | 15 | 16.93 |
| Percent change | 46.3% | | 46.3% | 32.6% | 40.2% |

Program Description

Budget and finance units provide advice, leadership, and direction on financial, budget, and procurement matters to all internal partners and stakeholders. This includes ensuring that practices comply with all applicable laws, rules, and professional standards, and ensures transparency and accountability. Budget and finance manages all the funding for the expenditures associated with the state government services charges, rent and facilities. During the 2023-25 biennium, budget and finance continued the implementation of the suggested changes from the various audits that were targeted at improving financial integrity and controls within the agency. The integration and adoption of rule, policies and procedures continues to be a goal for the budget and accounting units as it complies with Senate Bill 337

Administrative Services Division

Executive Summary

(2023) as the agency transfers to the executive branch of government. The units continue to seek ways to implement best business practices and employ continuous improvement and education efforts in all areas. Long-term improvement actions will continue to be executed through the 2025-27 biennium.

Finance Unit: This unit provides accounting services which prepares financial reports, transfers and reconciles funds; and performs the functions of the accounts payable unit. The unit works closely with the DAS State Controller's Division, the Oregon State Treasury, other state agencies, and the federal government.

During the 2023-25 biennium, this unit continued to partner with the budget team to maintain a crosswalk between RSTARS and ORBITS in coordination with the agency restructures. The finance unit was fortunate to have been given three desperately needed additional positions (three accountants or accounting technicians) in 2023-25 which provided the opportunity to stay even with workload. Two of the new permanent staff members were added to try and meet the demands of the unrepresented persons crisis that the commission faced and the third was provided to help the accounting unit keep up and provide subject matter expertise as the commission develops a new fully functional system. While addressing this crisis, the commission made several systemwide policy changes that directed affected the accounts payable (AP) unit's ability to deliver services and extended the time to payment times beyond statewide standards. To mitigate the increased time to payment issues, the AP unit made the decision to increase staffing using temporary employees and change/lower its level of compliance checks. While this action may serve as a current fix, the AP unit will need to maintain this enhanced level of staffing until the Finance and Case Management Systems is fully operational in 2026.

Future improvement actions include:

- Staffing all finance positions to meet required and expected accounts payable and other reporting goals.
- Training and proficiency for all employees on the Finance and Case Management System.
- Training and improving proficiency for all new employees on key systems such as the financial management system, datamart, treasury operations, and statewide accounting year-end training. Additional ongoing training and partnership with DAS will continue.

During the current biennium, the finance unit will continue to improve management quality controls by defining procedures for numbers that leave the finance unit, defining clear control procedures for review of system accesses, establishing unit expectations, and performing monthly updates to manage unit priorities. The unit will work to develop desk manuals that are living documents, implement

Administrative Services Division

Executive Summary

recommendations received through various audits and examine best practices to strengthen financial recording and revenue management. The unit will continue to find opportunities to better assist the agency and work strategically and collaboratively with leadership, agency stakeholders, and customers.

Budget Unit: This unit is primarily responsible for monitoring and reporting the budget to actuals for the commission. This unit is primary responsible for ensuring that the commission is aware and understands its financial position throughout the biennial period. This unit also leads the biennial budget process and provides guidance and direction to program and administrative staff. Budget is responsible for initiating and coordinating processes for budget planning, financial analysis, and overall technical budget support for the agency. During the current biennium it has become evident that the need for an additional staff who concentrates on research, data and forecasting is a necessary element. Transferring to the executive branch of government and working with the state forecasting unit brings commission responsibilities that were unanticipated, along with addition reports that require substantial research and data expertise to provide. The commission has decided to self-fund this additional need in a effort to provide all that need representation are provided representation. This will necessitate the request of additional staff for the 2025-2027 biennium and forward.

Since July 1, 2023, improvements made by the budget and finance units include:

- Work to refine the mandated forecast methodology.
- Work to develop more refined budget and expenditure forecasts models.
- Working with the DAS forecast unit to create the preliminary Public Defense Forecast.
- Use of an internal staff to provide the needed services driven by the increased level of reporting driven by the decision of the Commission in response to SB 337 (2023).
- Improve delivery of financial information delivery to keep the commission, agency and concerned stakeholder and partners informed on the current status of the agency budget, progress on the budget build, and the sharing budget and finance process changes.

During the current biennium, work will continue to improve communication with internal and external customers; train budget staff; improve the fiscal impact and financial forecasting processes; and improve monthly financial reports.

Administrative Services Division

Executive Summary

Contracts Unit

During the 2023-25 biennium this unit was responsible for managing all contracting and procurement activities for attorney contracts. This team prepared, negotiated, processed and administered public defense contracts. A major issue with this model was that no one in this unit was qualified or had experience preparing, negotiating or administering contracts. The unit did an exemplary job trying to manage contracts; however, the lack of experience and process provided opportunities for the unit to appear unsuccessful, necessitating a change. For the 2025-27 biennium, OPDC recognizes that a change needs to be made. The commission will need dedicated staff working with judges, their staff as well as attorney providers to ensure adequate attorney coverage for the needs of the trial courts around the state. This team will be separate from the team dedicated to contracts and contracts management and will be best situated in the Compliance, Audit and Performance Division. This team will monitor workload requirements, budget documents and reports, insurance requirements, best practices, as well as timely submission of caseload reports. The team performs analysis and evaluation of services by comparing results to the commission's policies, goals and objectives. Prepare findings and recommendations for agency leadership and the commission to make informed decisions regarding contracting activities.

For 2025-27, the contracts unit will be comprised of contracts and procurement specialists, and it will have a dedicated Manager 3. The expectation will be to manage all contracts for the commission, and to ensure that the commission is in direct compliance with the requirements and expectations of the executive branch. The commission will be requesting special procurement authority to manage its multimillion dollar contracts as well as the hourly contacts and the contract activity associated with agency operations and the use of Oregon Buys.

Preauthorized Expense Unit

New for 2025-2027, with the centralization and focus of the contract unit, it also becomes necessary to separate the positions that have been allocated for the purpose of ensuring preauthorized requests and approvals are processed in a timely manner that allows the appropriate representation of individuals who qualify. During the 2023-2025 biennium the commission and the legislature made decisions that have significantly affect the agency's ability to respond as expected, request seemed to go from an average maximum of 2,000 per month to an average of 3,000 requests per month. To address this increased demand the agency took the initiative to add temporary personnel to meet the increased levels of request and do so in a timely manner. The commission will be seeking additional limited duration position authority to maintain status quo, until efficiencies are achieved through the implementation of the Financial and Case Management System.

Administrative Services Division

Executive Summary

Human Resources

Human resources is responsible for the functional areas of HR which include and are not limited to recruitment, classification, compensation, employee relations, leave administration, data and policy, Workday (HRIS) operations, position management, training, and strategic planning.

Human resources provides guidance to ensure the agency follows employment laws and policies and pursues best practices to create a work environment that attracts, develops, and retains the best and brightest talent. The HR department has identified gaps in its training and development plans and continues to seek opportunities to improve on its commitment to ensure a culture of diversity, equity, and inclusion.

As the agency transitions to the executive branch the HR department will be responsible for the following plans under the governor's executive order. Succession Plan, DEI Plan, NEO, Employee Engagement. These plans are in addition to the Affirmative Action Plan, Manager Training and the Performance and Accountability and Feedback plans. With these additional plans and the projected growth of the agency OPDC will need to request additional resources in human resources. Specifically, – Two permanent HR Analyst 3 – Senior HR Business Partners.

Information Technology Unit

This unit is responsible for providing IT support services which are not supported through the Oregon Judicial Department (OJD) Interagency Agreement (IAA). The current IT support afforded through the OJD IAA supports helpdesk, desktop, server, enterprise information security, networking, telecommunication, wireless, mobile, web, IT management and software support (e.g., Microsoft 365). The current environment is setup as an enterprise scale environment, with enterprise level tools in all areas. Internally, the unit supports the agency's personnel with submitting support tickets, software training, troubleshooting less complex issues, new user set up/removal in the Jabber software which supports the VoIP phone system that was implemented July 2022, public facing web updates, as well as database maintenance bringing many of the failing access databases over to a new backend where data can be safely stored until a new system is in place.

The agency hired two certified project managers in 2022 to begin the re-initiation efforts of the Finance and Case Management System (FCMS) project. While supporting these efforts the project team has been able to assist in further identifying areas of IT development, specifically the need of an IT business plan. This plan will afford the unit with operational best practices, processes, and policy. It will

Administrative Services Division

Executive Summary

also define the interagency roles and responsibilities between PDSC and OJD. This plan is expected to provide an initial brief assessment and strategic goals to carry the agency's IT operations until the FCMS project is implemented, or until the end of the 2023-25 Biennium whichever comes first.

Once the FCMS project is implemented the IT unit will support internal and external users with system support, technical training and assistance, and database management. The IT unit will need three additional staff to carry out this effort. The PDSC will be requesting two (2 FTE) operations and policy Analyst 3 (OPA 3) positions be made permanent; and the addition of one (1 FTE) information technology specialist 4 (ITS 4).

Information Technology Unit: This unit is responsible for providing information technology leadership, management, and enterprise services to the agency's staff in the key areas of business application, network, server, and endpoint. The IAA between the department and the commission is currently under review to reflect the shifting of IT responsibilities to the agency's staff. A focus on filling strategic IT position hires has been priority. Positions filled to date:

- **Enterprise Architect (LD)** – Finance and Case Management System (FCMS) IT subject matter expert with broad expertise in enterprise design, security, implementation, and management.
- **Microsoft 365 Administrator** – Manages, secures, and monitors the Microsoft 365 (M365) platform, cloud storage, and oversees user management.
- **Infrastructure Engineer** – Designs, builds, and maintains digital networks, servers, and systems to support the commission.
- **Microsoft SharePoint Administrator** – Manages SharePoint platform, sites, and accounts. Configures, designs, and supports web forms.
- **Endpoint Administrator** – Manages and secures all desktop and mobile devices. Responsible for system imaging, endpoint security, and application deployment.
- **Desktop Administrator** – Provides tier 1 & 2 endpoint support services up to and including add, move, or changes.

Administrative Services Division

Executive Summary

- **Senior IT Project Manager (LD)** – Leads the FCMS project effort, including planning, design, execution, and evaluation ensuring the project is delivered on time and within budget.
- **IT Business Analyst (C)** – Provides data insights, process mapping, summaries, and reports in support of IT project management goals on the FCMS project.

The agency's information services apparatus has undergone significant growth and overcome many challenges in the last four months since the new chief information officer joined the agency. Accomplishments of note are the eight new staff. We have been able to attract exceptional talent across many technology disciplines. Our enterprise architect joined the agency after owning a manage service providing (MSP) IT company for 25 years. Our M365 administrator's previous position was system infrastructure team lead with over ten years of state experience and the principle M365 implementor for a previous state agency. Our new infrastructure engineer has held team lead roles in both network and server technology areas with over twenty years in state experience.

The commission's IT is overcoming numerous challenges. Agency and IT departmental maturity is very low. There is an earnest effort to improve. However, addressing and remediating organizational issues requires delving into historical and complicated decisions that has had broad negative impact. From an IT perspective, we are addressing some of these deficits with an infusion of tenured IT professionals with experience from mature organizations. Assistance has also been sought from Enterprise Information Services (EIS) for oversight governance and partnership.

The quarter ended June 30, 2024, has been entirely focused on moving the Finance and Case Management System (FCMS) and the IT transition projects forward. The project brings with itself six years of failure to launch. This longstanding project failure has negatively impacted the unrepresented client crisis in Oregon and has eroded public trust. This has resulted in high expectations to execute and deliver. The IT transition is pivoting to state data center resourcing and planning. Key activities are scheduled and weekly status meetings are tracking progress.

Finance and Case Management System Project Status

PDSC is seeking a Finance and Case Management System (FCMS). The system will replace in-house databases with a cloud hosted commercial-off-the-shelf (COTS) financial and case management system. This comprehensive solution will address timely payments to contract and community providers. Additionally, it will capture data on public defense.

Administrative Services Division

Executive Summary

| | | |
|-------------------|-----------|---|
| FCMS Requirements | Complete | |
| Stage Gate 1 | Complete | |
| Stage Gate 2 | Initiated | Twenty artifacts in scope with a completion date of August 15 th . |
| FCMS POP | In Review | Target completion July 31 st . |
| FCMS Bonding | Initiated | Target completion August 15 th . |
| Publish RFP | In Scope | Target completion September 23 rd . |
| RFP Evaluations | In Scope | Target completion December 3 rd . |
| Intent to Award | In Scope | Target completion December 19 th . |

Once the project is implemented, the IT unit will support internal and external users with system support, technical training assistance, and database management. The IT unit will need three additional staff to carry out this effort. The commission will be requesting two (2 FTE) operations and policy analyst 3 (OPA 3) positions be made permanent; and the addition of one (1 FTE) information technology specialist 4 (ITS4).

IT Transition Status

As a result of Senate Bill 337 (2023), the commission will sever its relationship with the Oregon Judicial Department (OJD) and will transfer to the executive branch of government. This requires separating the commission's technology footprint from department. This effort is mandated to be completed by June 30, 2025. The commission is actively pursuing transitioning key technologies of network, server, and M365. Enterprise Information Services (EIS) is a principal partner with the Oregon Judicial Department (OJD) to assist with this effort. The network transition will begin in September.

Administrative Services Division

Executive Summary

Program Justification and Long-Term Outcomes

A robust Administrative Services Division is necessary to effectuate a healthy, vital, and sustainable agency that supports the Oregon public defense system, with a goal to build strong foundations and elevate our vision to meet Oregonians constitutional right to representation. The legal services funded by OPDS is the largest coordinated law effort in the state of Oregon, serving indigent people in criminal, juvenile, civil commitment, contempt, probate, and other cases, at the trial and appellate level. Consistent leadership and governance are critical to the effective operation of these programs.

Additionally, the state has used the same service delivery model for trial-level public defense services since 1983. That model, and the outcomes from that model, have been criticized in recent reports by the Sixth Amendment Center and the American Bar Association. Stakeholders, policymakers, and public officials have uniformly called for a modernization of the state's public defense system. Modernizing an agency of this size and scope requires leadership, vision, and strong centralized planning. In addition, the agency must prepare and forecast the services and the growth needed within the agency to support the growing needs in the public defense system, as the agency grows to meet and sustain those needs.

Program Performance

The Administrative Services Division was established on July 1, 2021. Since its inception, while continuing to meet the performance expectations of an organization of this size, the agency has experienced significant instability and operational challenges. Notably:

Leadership Transitions and Key Appointments

- In January 2021, the executive director announced his intent to resign effective June 2021, remaining in title but absent during this period.
- The chair of the Public Defense Services Commission (PDSC), assumed leadership responsibilities in conjunction with the PDSC budget director and the Legislative Fiscal Office, overseeing substantial reforms. These reforms included the reorganization from three budget categories to nine and the establishment of the Compliance, Audit, and Performance (CAP) Division.

Administrative Services Division

Executive Summary

- In June 2021, an interim executive director (ED) was appointed. The new ED identified a shortfall in the provider-facing budgeted funds. The ED to action by temporarily borrowing from contract administrators with a commitment to repay in August 2021, following the governor's approval of the new biennium's budget.
- The interim ED appointed a public defender as the first government relations manager and began the process of hiring the CAP Division staff. Additionally, in November 2021, the agency's first deputy director was hired along with a new budget and finance manager and a permanent chief information officer. The second ED was appointed by the commission in December 2021 and the remaining members of the CAP Division, all public defenders, was hired.

Organizational Changes and Restructuring

- In 2022, the chief justice dismissed the entire commission, leading to the formation of a new commission. By August 2022, the commission terminated the employment of the executive director and appointed three co-directors comprised of two general counsel from the Compliance, Audit, and Performance Division and the deputy director.
- In November 2022, the current executive director was appointed by the commission.

Staff Changes and New Appointments in 2023

- The year saw several staff changes: the policy manager resigned, and a new government relations manager was appointed; the human resources manager resigned, and a new one was hired; the deputy director, resigned, and an internal candidate was hired as the new deputy director; and a new CAP manager was appointed.
- By the end of 2023, the FCMS project team and chief information officer separated the agency. In early 2024, a new CIO was hired and a new FCMS team was recruited and hired by use of state approved vendor contracts.

Legislative Support and Policy Implementation

- Over the past two biennia, the state's public defense system has undergone rigorous scrutiny and reform. Legislative support has facilitated the restructuring of external contracting policies with trial-level public defense providers through House Bill 5030 (2021), which reorganized the agency's budget appropriation and internal operations. Furthermore, House Bill 2003 (2021) amended

Administrative Services Division

Executive Summary

Chapter 151 of the Oregon Revised Statutes, mandating the PDSC to adopt new policies aimed at modernizing the agency and the passing of Senate Bill 337 (2023).

The Executive Division has effectively managed the agency's responses to these legislative changes, collaborating with the legislature and other policymakers to address the shortage of public defense attorneys. Finally, new public defense contracting policies, developed in conjunction with the PDSC, were implemented on July 1, 2022.

Enabling Legislation

Generally, chapter 151 of the ORS establishes governance for the agency, with the commission responsible for selecting an executive director that is the chief executive of the agency. Section 219 defines the duties of the executive director. The position of general counsel is grounded in ORS 151.219(1)(k).

The Administrative Services Division was created by House Bill 5030 (2021), which took effect on July 1, 2021. The measure restructured the internal operations of OPDS and aligned its budget along cost centers. The budget report to HB 5030 stated, "provides agency-wide administrative support and central services for the agency. The newly established division is organized into the following sections based on service delivery: Administration, Budget, Accounting/Accounts Payable, Human Resources, Procurement, Facilities, Information Services."

Funding Streams

The Administrative Services Division is entirely funded by general fund.

Funding Justification and Changes to CSL

The following policy option packages impact the Administrative Services Division and are described elsewhere.

- Policy Package 081 – May 2024 Emergency Board

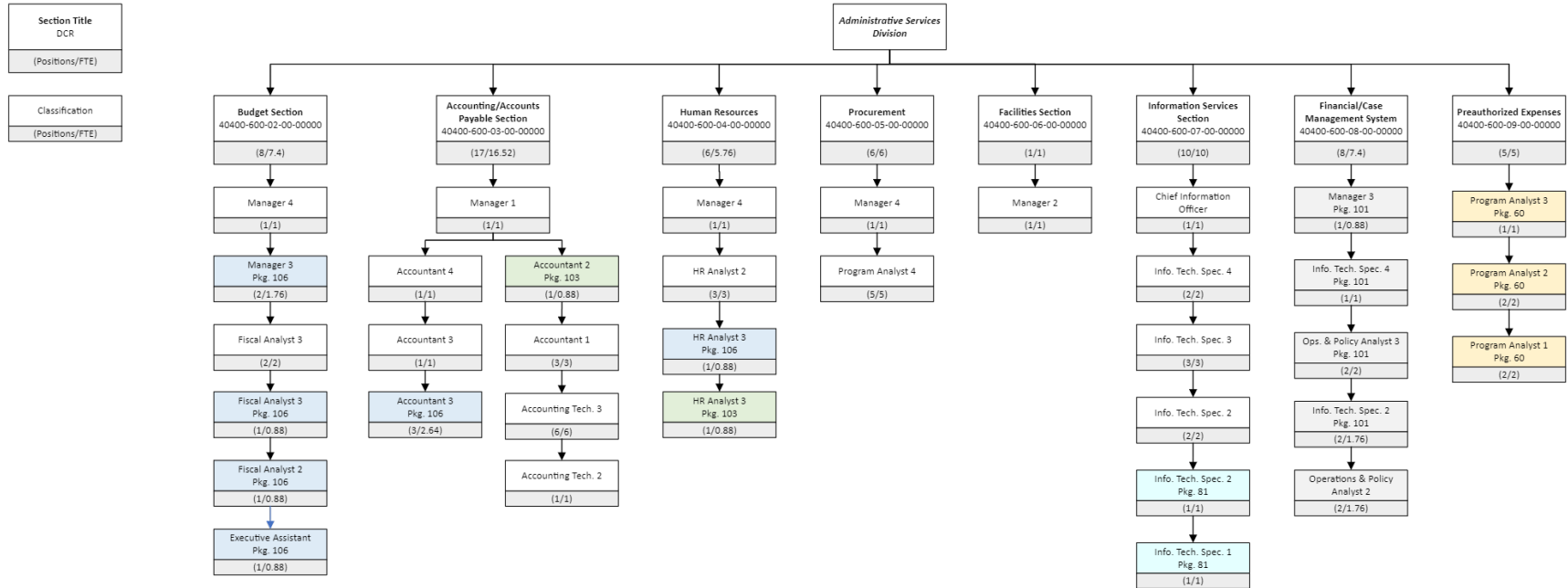
Administrative Services Division

Executive Summary

- Policy Package 101 – Finance and Case Management System (FCMS)
- Policy Package 103 – Direct Representation Investment
- Policy Package 106 – Robust Agency Support Investment

Administrative Services Division

Organizational Chart



Administrative Services Division

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

There are no other, lottery, or federal funds appropriated to the division.

Staffing Impact

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|-------------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$50,980 |
| 021 | Program Phase-in (2023 – 25 Legislatively Adopted Packages) | General | 216,338 |
| 022 | Program Phase-out (2023 – 25 Expiration of Investments and Positions) | General | (8,083,300) |
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 1,755,018 |

Administrative Services Division

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|--|----------------|---------------------|
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 0 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | (323,866) |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | (6,384,830) |
| BASE | 2025 – 2027 Base Budget | General | 27,270,570 |
| 2025 – 2027 Current Service Level | | General | \$20,885,740 |

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System

Policy Package Summary

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 policy package would also address the critical problem of being understaffed in key resources that are needed for the 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 the project appropriately as well as bring in a chief data officer to oversee the critical piece of data migration for FCMS.

Resources and Implementation

The commission 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.”

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System (FCMS)

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.

Strategic Plan Aims

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 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**).

Independent and Performance Audit Aims

This package is not proposed to meet the recommendations or answer the findings in an audit.

Policy Package Performance Measurement

The project'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.

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System

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.

Agency Key Performance Measures

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.

Long-Term 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.

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System (FCMS)

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.

Adverse Effects of Lapsed Funding

- 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.

Prior Events by Management

- 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.

Alternatives and Reasons to Reject Alternatives

- 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.

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System

- OPDC has migrated several outdated Access databases to SQL, allowing simultaneous work processing and improving operations. However, these modifications are not long-term solutions.

Changes to Law and Coordination with Public Bodies and Partners

This package does not require a change to law.

Impact on Public Bodies

- 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.

Impact on Stakeholders and Partners

- 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.

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System (FCMS)

Equity Lens

- 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.

Package Fiscal Impact and Staffing

Implementation date(s): July 1, 2025

End date (if applicable): June 30, 2027

Pricing Assumptions

- 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.

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System

- 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.

New Commission Responsibilities

- This policy package will affect all internal programs, especially Compliance, Audit, and Performance (CAP), contracts, budget, 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.
- 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 FCMS 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.

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System (FCMS)

Client Caseloads and Services Changes

- 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.

Policy Package Staff

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

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System

- 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 budget report and measure summary to Senate Bill 337 (2023) provides that the:

“[c]ommission 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 Finance and 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.”

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.

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System (FCMS)

| 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 | \$80,000.00 | \$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 |

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System

| | | | | | | | | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|----------------|
| 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 |
| Data Migration Services - Vendor | \$75,000.00 | \$75,000.00 | \$245,000.00 | \$0.00 | \$245,000.00 | \$0.00 | \$0.00 | \$0.00 | \$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 | \$0.00 | \$0.00 | \$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 | \$0.00 | \$0.00 | \$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 | \$0.00 | \$0.00 | \$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 | \$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 | \$196,285.50 | \$196,285.50 | \$785,142.00 | \$1,285,694.00 |

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System (FCMS)

| | | | | | | | | | | | | | |
|-----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------|---------------------|-----------------------|-----------------------|-----------------------|-----------------------|------------------------|------------------------|
| 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 |
| 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 |

Permanent Costs

See detailed cost estimates above.

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System

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.

Funding Sources

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

Administrative Services Division

Policy Option Package 101 – Finance and Case Management System (FCMS)

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

Fiscal impact by program

| | Administrative Services Division | 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 |

Administrative Services Division

Policy Option Package 106 – Robust Agency Support Investment

Policy Package Summary

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 intense scrutiny of the legislature. Indeed, the Sixth Amendment Center found, among other things, that the commission was a “complex bureaucracy”; that the application of standards and qualifications to contracted 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 to emerging as 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 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 absentee.

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;

Administrative Services Division

Policy Option Package 106 – Robust Agency Support Investment

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.

Resources and Implementation

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 |

Administrative Services Division

Policy Option Package 106 – Robust Agency Support Investment

| <i>Function</i> | <i>Classification</i> | <i>Quantity</i> | <i>Role</i> |
|--|---------------------------------|-----------------|--|
| 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 |
| 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 |
| Financial Management | 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 |

Administrative Services Division

Policy Option Package 106 – Robust Agency Support Investment

Strategic Plan Aims

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 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.

Independent and Performance Audit Aims

Not applicable.

Policy Package Performance Measurement

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.

Administrative Services Division

Policy Option Package 106 – Robust Agency Support Investment

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 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.

Key Performance Measures

No.

Long-Term Outcomes

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

Adverse Effects of Lapsed Funding

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.

Prior Events by Management

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.

Administrative Services Division

Policy Option Package 106 – Robust Agency Support Investment

Alternatives and Reasons to Reject Alternatives

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

Changes to Law and Coordination with Public Bodies and Partners

This package presents no changes to law.

Impact on Public Bodies

There is no impact on other public bodies.

Impact on Stakeholders and Partners

No.

Equity Lens

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.

Package Fiscal Impact and Staffing

Implementation date(s): October 1, 2025

End date (if applicable):

Administrative Services Division

Policy Option Package 106 – Robust Agency Support Investment

Pricing Assumptions

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.

New Commission Responsibilities

No.

Client Caseloads and Services Changes

No.

Policy Package Staff

See question 2.

Start-up and One-time costs

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

Permanent Costs

The ongoing costs

Potential Savings

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

Administrative Services Division

Policy Option Package 106 – Robust Agency Support Investment

Funding Sources

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 |

| | 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 |

Special Programs, Contracts, and Distributions Division

Executive Summary

Program Overview

The Special Programs, Contracts, and Distributions Division contains specialty programs and funding for the purposes of transparent budgeting. In the 2021-23 biennium, this division contained one-time funding for the guardianship program. In the 2023-25 biennium, the division contains funding associated with reimbursements to counties for expenses associated with discovery activities.

In 2023, OPDC received a subaward from the CJC’s Byrne JAG funds. These funds were expended to create stipends for law students providing public defense.

Program Funding Request

| | General Fund | Other Funds | Total Funds | Positions | FTE |
|---|---------------------|--------------------|--------------------|------------------|-------------|
| 2023 - 25 legislatively approved budget | 10,855,627 | 1,583,281 | 12,438,908 | 0 | 0.00 |
| 2025 - 27 current service level | 8,841,943 | 0 | 8,841,943 | 0 | 0.00 |
| 2025 - 27 agency request budget | 8,841,943 | 0 | 8,841,943 | 0 | 0.00 |
| Difference | 7,753,316 | | 6,170,035 | 0 | 0.00 |
| Percent change | 712.2% | | 230.9% | | |

Long Term Focus Areas:

Building pathways for new attorneys to enter public defense.

Special Programs, Contracts, and Distributions Division

Executive Summary

Primary Program Contact

Shannon Flowers, Trial Support & Development Manager

Program Description

Edward J. Byrne Memorial Justice Assistance Grant Subaward

In 2023, the Criminal Justice Commission sub-awarded the Public Defense Commission almost one million dollars in funding by the Edward J. Byrne. The program grant offered by the Bureau of Justice Assistance at the federal Department of Justice is “the leading source of federal justice funding to state and local jurisdictions.” Among other things, the program supports a vast range of criminal justice activities such as indigent defense and drug courts. In the last federal fiscal year, nearly 3.5 million dollars was awarded to the state and local governments in Oregon by the bureau under this program. The bureau recognized that state and local governments have unique needs and challenges; and, while states may design novel approaches to criminal justice, the bureau solicits applications for awards in major areas of emphasis. To that end, the bureau encouraged state and local governments to marshal resources to advancing justice system reform efforts, advancing racial equity and support for underserved communities, preventing and combating hate crimes, and tailoring community-based violence intervening approaches using evidence-based strategies.

Certified Law Student Funding

Of the funds received, \$448,000 was set aside to fund stipends for law students working in public defense. Over the course of the program, OPDC funded 100 law student stipends for students in 15 offices from 13 jurisdictions across Oregon. OPDC is still gathering feedback from the offices that housed students in receipt of the stipends to determine the impact of the program.

Special Programs, Contracts, and Distributions Division

Executive Summary

The stipends funded through this program broke down by student category as follows:

| Student Type | Stipend | Count |
|--|---------|-------|
| Certified Law Student – rising 3L/3L | \$7,500 | 54 |
| Certified Law Student – JD, waiting Bar Results* | \$5,000 | 18 |
| Law Clerk (any law student not practicing as CLS) | \$4,000 | 27 |
| Undergraduate/Non-Law Student | \$3,000 | 3 |

OCDLA and Gideon’s Promise Training Series

Over the course of the summer, staff at OPDC reached out to leadership at Gideon’s Promise, a national nonprofit devoted to improving client-centered representation through training, mentorship, and community-building. To ensure an Oregon focus on the program, OPDC also partnered with the Oregon Criminal Defense Lawyers Association to plan a series of two separate multi-day trainings. Given the level of funding, OPDC was able to provide these trainings free of cost for the participants.

OPDC staff sought applicants for the training series, focusing on a cohort that was from diverse jurisdictions, backgrounds, and public defense entities. 49 attorneys applied for the 30 positions, with experience ranging from 0 to 6 years. Applicants were asked to respond to a survey, and OPDC staff reviewed the answers and selected the 30 participants based on their answers, demographic factors listed above, and their availability on the week of the training led by Gideon’s Promise and commitment to return for the training led by OCDLA. As a result of the deliberations, OPDC selected 10 applicants from the Metro area, 9 applicants from the remainder of the Willamette Valley, and 11 applicants from outside those jurisdictions.

OPDC then partnered with the newly-opened Holman Riverfront Park Hotel located across the street from the OPDC Commercial Street offices to host the cohort and the training sessions. OPDC staff worked with courts to help find coverage for or postpone hearings to ensure that the participants would be able to focus their attention for the full week of in person sessions. The sessions were run

Special Programs, Contracts, and Distributions Division

Executive Summary

September 18 to 22, and with the exception of one participant who canceled their attendance the day of the first session, all participants were able to attend the full course. OPDC staff assisted the trainers from Gideon’s Promise to ensure trainings ran smoothly.

After the week-long in person training completed, Gideon’s Promise continued to work with the cohort of participants and provide both mentorship and community-building. The cohort then met again in January 2024 to attend a 3-day trial skills training facilitated by OCDLA. The training was hosted at the OCDLA offices in Eugene, and was a modification of the Trial Skills College, a training that OCDLA hosts yearly, although this particular set of sessions was limited to only the participants who had previously attended the Gideon’s Promise training. In order to facilitate a transition between the two trainings, OCDLA began reaching out to the cohort shortly after the Gideon’s Promise training, and one of the Gideon’s Promise trainers was incorporated into the OCDLA Trial Skills College training.

Discovery Reimbursement

Discovery Reimbursement is a statewide funding distribution program that reimburses counties for the costs associated with producing discovery for defense attorneys and pro se defendants.

OPDC reimburses a wide variety of system partners for various discovery costs for cases against parties who qualify for representation at public expense. These reimbursements range from OPDC contractors passing along bills from local system partners for documents and digital discovery provided to counsel to direct payments in some counties to the District Attorney’s office for a photocopy machine. With some exception, the amount billed is set by local system partners and depends on the amount of discovery to disclose and the format in which the discovery is provided.

Special Programs, Contracts, and Distributions Division

Executive Summary

Guardianship Program

The guardianship program is a statewide program that provides appointed counsel to eligible respondents or protected persons in guardianship or conservatorship cases. Beginning in January 2024, OPDC contracted with Disability Rights Oregon (DRO) to administer the program and manage data requirements.

The guardianship program began as a pilot in two counties, Lane and Multnomah, with Columbia County added in 2023 and the remaining 33 counties added to the program in 2024. The commission contracted with Disability Rights Oregon (DRO) to administer the program and manage data requirements, starting in January 2024, and counties are currently transitioning towards utilizing DRO as their primary point of contact to determine appointment of counsel for respondents and protected persons. The advocacy organization then determines whether they will handle the case with staff attorneys or find local counsel to handle representation. If local counsel is utilized, they then invoice DRO for the cost of the representation, if the court has determined that the estate of the protected person is unable to afford the representation.

In 2021, the assembly passed Senate Bill 578, which outlines the data request for this program with its first report to the legislature due no later than September 15, 2024. The first report will contain county-level data concerning protective proceedings in the pilot counties to include:

- The number of protective proceedings initiated, by type.
- The number of protective proceedings where the respondent is 65 years of age or older at the time of petition.
- The number of proceedings granted, by type.
- The number of respondents or protected persons the court appointed counsel under 125.080, by case type.

The report will also include, to the extent possible given data availability:

- The number of cases with court appointed counsel where the payment of counsel was from the assets of the respondent or protected person, by type; and

Special Programs, Contracts, and Distributions Division

Executive Summary

- The number of hours court appointed counsel spent representing respondent or protected person and the average number of hours per case.

Program Justification and link to Long Term Outcomes

The commission was charged with providing counsel to protected persons by Senate Bill 578 in 2021.

The first report required in SB 578 is due to the legislature no later than September 15, 2024. The commission is working with the judicial department to ensure that the report is accurate.

Program Performance

The program is new and data is being gathered, as required by SB 578 (2001).

Enabling Legislation

The agency received this program during the 2021 legislative session through SB 578, amending ORS 125.080.

Funding Streams

The guardianship program and reimbursement for discovery are entirely funded by General Fund.

Funding Justification and Changes to CSL

There are no policy packages applied to the division.

Special Programs, Contracts, and Distributions Division

Essential Packages

The essential packages present budget adjustments needed to bring the legislatively approved budget to current service level (CSL), the calculated cost of continuing legislatively approved programs into the 2025-27 biennium. The 2025-27 current service level is inclusive and only inclusive of the agency’s 2025-27 base budget, a close derivative of the 2023 – 25 legislatively approved budget, and the essential packages, as defined in State of Oregon’s biennial budget instructions.

The essential packages below represent allowable adjustments for non-PICS accounts personal services to include Public Employees’ Retirement System Obligation bond repayment, mass transit tax and vacancy savings. They also cover and apply allowable standard inflation of 4.2% for services and supplies and facilities rent, and 8.8% for non-state employees and professional services costs.

Revenue Source

Staffing Impact

| Package No. | Package No. Description | Fund | Amount |
|-------------|---|---------|-------------|
| 010 | Non-PICS Personal Services Adjustments (Inflation, Vacancy Savings, etc.) | General | \$0 |
| 021 | Program Phase-in (2023-25 Legislatively Adopted Packages) | General | 0 |
| 022 | Program Phase-out (2023-25 Program or Expiration of Limited Duration Positions) | General | (2,556,436) |
| | | Other | (1,583,281) |

Special Programs, Contracts, and Distributions

Essential Packages

| Package No. | Package No. Description | Fund | Amount |
|---|---|----------------|--------------------|
| 031 | Standard Inflation and DAS Budget Instructions Price List Adjustments | General | 542,752 |
| 032 | Above Standard Inflation (Medical or Analyst Approved Inflation) | General | 0 |
| 033 | Exceptional Inflation | General | 0 |
| 040 | Mandated Caseload | General | 0 |
| 050 | Fund Shifts | General | 0 |
| 060 | Technical Adjustments | General | 0 |
| Total 2025 – 2027 Current Service Level Essential Packages | | General | (2,013,684) |
| | | Other | (1,583,281) |
| BASE | 2025 – 2027 Base Budget | General | 12,438,908 |
| 2025 – 2027 Current Service Level | | General | 8,841,943 |

Special Reports

Affirmative Action Report

Contents

| | |
|---|----|
| Agency Overview | 2 |
| Mission | 2 |
| Objectives..... | 2 |
| Identification of OPDC Employees | 3 |
| Executive Director | 3 |
| Policy Advisor | 3 |
| Affirmative Action Representatives..... | 3 |
| COBID Contracting and Procurement Lead | 3 |
| Organizational Chart | 4 |
| Roles for Implementation of Affirmative Action Plan | 6 |
| Current Biennium Affirmative Action Progress Report | 8 |
| Workforce Demographic Data and Analysis..... | 10 |
| July 1, 2023 to June 30, 2024 | 10 |
| Next Biennium Affirmative Action Plan | 10 |
| July 1, 2025 to June 30, 2027 | 10 |
| Complaint Options | 6 |
| Succession Plan | 6 |
| Contracting..... | 6 |
| Appendix A – OPDS Policy Documentation..... | 12 |

Special Reports

Affirmative Action Report

Agency Description

The Oregon Public Defense Commission (OPDC) is a 13-member commission appointed by the Chief Justice of the Oregon Supreme Court based on input from all three branches of Government. The Commission serves as the governing body for Oregon’s public defense system. The Commission provides policy direction and oversight for the administration of the system. The legal services provided by OPDC represent an essential component of Oregon’s public safety system.

The office includes the Executive Division, the Compliance, Audit, and Performance Division, the Appellate Division (AD), State Trial offices and the Administrative Services Division. The agency negotiates contracts with trial level public defense providers and administers and distributes funds for representation and related services for cases during the biennium for criminal, juvenile, and civil commitment cases. The agency provides compliance and oversight to the trial community providers through quality assurance practices, training, and education. Financial Services processes all expenses related to representation in public defense cases. The Appellate Division provides direct legal representation in the state appellate courts in criminal cases, juvenile dependency and termination of parental rights cases, and parole cases. Other services in the agency include, Data Collection and Analysis, General Counsel, Human Resources, Information Technology Services, Internal Audit, and Policy Development.

Mission

The mission of OPDC is to ensure constitutionally competent and effective legal representation for persons eligible for a public defender.

Vision

The Oregon Public Defense Commission (OPDC) will maintain a sustainable statewide public defense system that provides quality representation to eligible clients in trial and appellate court proceedings. To that end, the OPDC is a

- guardian of the legal rights and interests of public defense clients and the public's interest in equal justice and due process of law.
- champion for the effective delivery of public defense services and administration of justice, and for funding that ensure the continuing availability of competent and dedicated public defense counsel.
- responsive and cooperative policy maker in the state's justice system.
- responsible steward of taxpayer dollars devoted to public defense.

Special Reports

Affirmative Action Report

Identification of Oregon Public Defense Commission employees:

Executive Director

Jessica Kamphe, Executive Director
198 Commercial St SE, Suite 205
Salem, OR 97301
(503) 378-2515

Policy Advisor

Constantin Severe
(503)373-1558

Affirmative Action Representatives

Laura Sanchez, Human Resources Director
198 Commercial St SE, Suite 205
Salem, OR 97301
(971) 720-0310

Lisa McCune, Senior HR Business Partner
198 Commercial St SE, Suite 205
Salem, OR 97301
(971) 453-1848

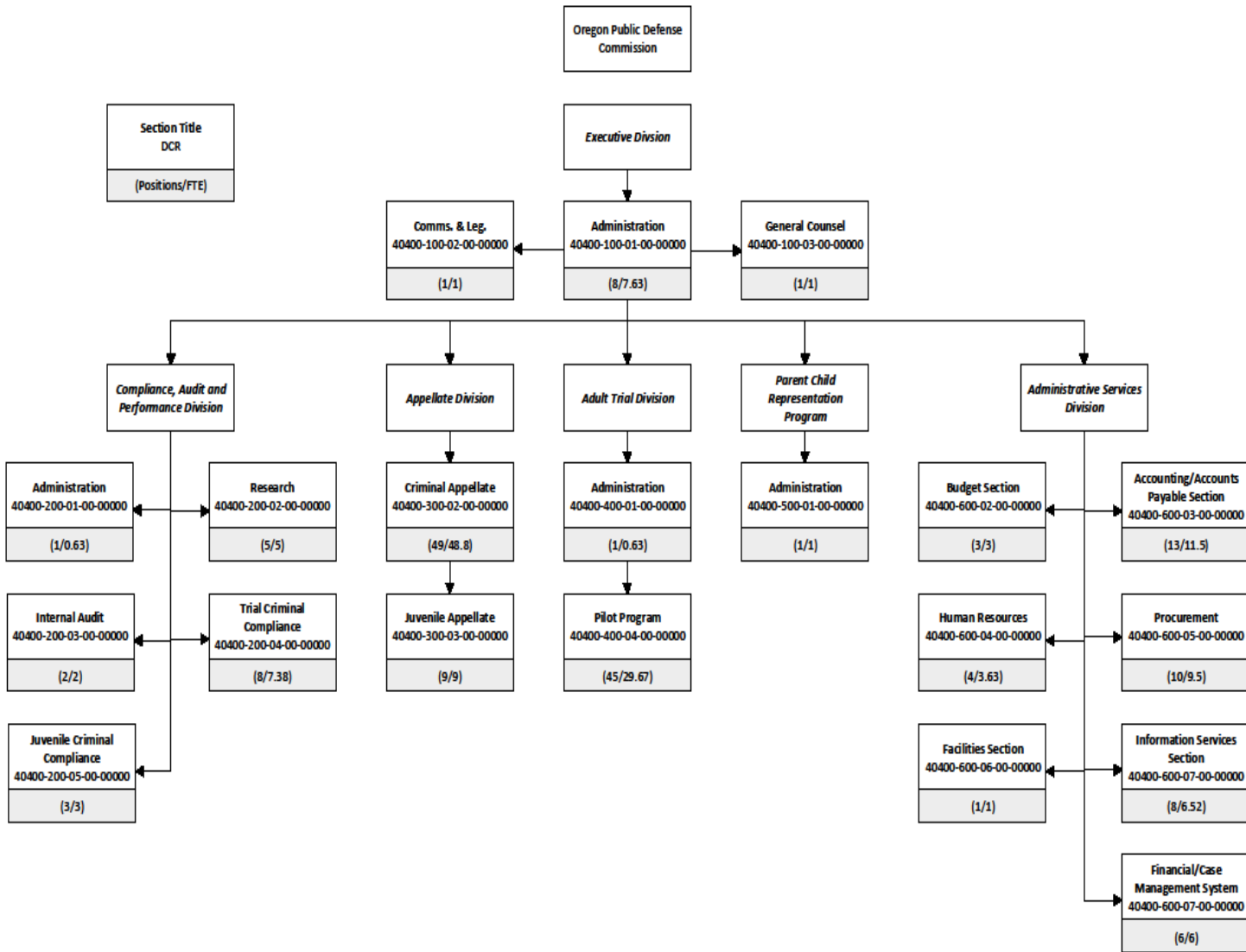
COBID Contracting and Procurement Lead

Ralph Amador, Chief Financial Officer
198 Commercial St SE, Suite 205
Salem, OR 97301
(971) 332-0071

Special Reports

Affirmative Action Report

Oregon Public Defense Commission Organizational Chart



Special Reports

Affirmative Action Report

Roles for Implementation of Affirmative Action Plan

Executive Leadership

OPDC's Executive Director and Deputy Director will play a crucial part in the success of OPDC's Diversity and Inclusion Plan and Affirmative Action Plan by providing leadership and oversight. This will ensure top-down support and accountability for the goals of these two plans.

Managers and Supervisors

All division administrators and unit managers within OPDC are responsible for meeting the goals and objectives for diversity, equity, and inclusion.

Division administrators, unit managers

- Actively seek ways to recruit, hire, and develop diverse teams.
- Brief all new employees on OPDC's Affirmative Action Plan and their role in supporting it.
- Engage in effective team participation through willingness to assist and support co-workers, other managers, and other work-related associations.
- Develop good working relationships with internal and external stakeholders through active participation in cross-divisional group projects and in identifying and resolving problems in a constructive, collaborative manner.
- Perform work in a manner that consistently promotes safety and wellness in the workplace and promptly reports safety concerns to management.
- Contribute to a positive, respectful, and productive work environment in a manner that fosters and promotes the importance and value of a diverse, discrimination and harassment-free workplace. Respect diversity of opinions, ideas, and cultural differences.

The Human Resources Administrator is accountable to Executive Director in ensuring that OPDC provides employees with the necessary tools, policies, and training available to be knowledgeable of and make appropriate decisions relating to diversity, equity and inclusion as well as affirmative action considerations. She also ensures that programs are in place and additional efforts are made to recruit, hire and promote qualified women, people of color and individuals with disabilities and work in a safe and respectful place.

- Periodically review training programs and hiring and promotion patterns in order to remove impediments to attaining affirmative action goals and objectives.
- Regularly discuss OPDC's affirmative action policy with employees to ensure the policy is being followed.
- Periodically review office policies, practices, and conditions to ensure that:
 - Equal Employment Opportunity information and OPDC's affirmative action policy are properly displayed.
 - All facilities for the use and benefit of employees are in fact desegregated, both in policy and in use, exclusive of those areas excepted by federal laws and regulations.

Special Reports

Affirmative Action Report

- All employees regardless of position or class are equally afforded a full opportunity to participate in OPDS's educational and training.
- All facilities are accessible to disabled employees or clients.

Other Staff

All employees at OPDC are responsible for creating a work environment where they want to work and where others have a positive work experience as well.

Many of OPDC staff have routine interactions with external partners and clients providing the opportunity to portray the agencies commitment to developing good working relationships with internal and external stakeholders through active participation in cross-divisional group projects and in identifying and resolving problems in a constructive, collaborative manner.

Current Biennium Affirmative Action Progress Report

Following are the goals and strategies included in the 2023-25 Affirmative Action Plan

- To budget appropriate resources for the agency to support agency affirmative action Goals, the agency has developed a Workforce Development Strategy with a two faceted approach, 1) providing assistance to the providers serving on behalf of the agency to provide public defense services state-wide in addressing the systemic problem faced with representation, and 2) a plan for investment of professional development for non-attorney employees. The agency has a commitment to invest in the professional growth of all employees to provide stellar services that will impact the clients served by the system. The agency will be requesting an Equity and Inclusion officer in a policy option package for the 23-25 biennium with two primary focuses; advancing diversity, equity, and inclusion in the state-wide public defense system, and implementation of a workforce development strategy.
- Expand outreach and engagement with providers of service to expand opportunities internally and externally to address the systemic issues facing citizens in their constitutional right to representation.
- Refine recruitment strategies and hiring practices to facilitate the placement and promotion of minority group personnel for both internal and external recruitments.
- Actively participate on trade and state-wide affirmative action committees, organizations and activities to promote OPDS's Affirmative Action Plan.

Special Reports

Affirmative Action Report

- Continue to distribute job announcements to all OPDS diversity partners to ensure that a diverse workforce is encouraged to apply for our job openings.
- Support a welcoming environment that is attractive to a diverse pool of applicants and employees to be inclusive, accepting and respectful of others differences and recognizes the value of each individual's unique contributions.
- OPDS will survey its contractors to obtain reliable data about workforce composition and establish appropriate goals to expand the number of minority attorneys and staff members employed in public defense in Oregon.
- In anticipation of the difficulty of recruiting successfully from the small group of minority attorneys graduating from Oregon law schools each year, OPDS will work with its contractors to develop strategies for promoting legal careers and, specifically, careers in public defense, among Oregon high school and college students.

Assessment of our progress in meeting those goals

In the past two years OPDC has experienced significant turnover in our executive leadership team including both the Executive Director and Deputy Director and all but one of the Human Resources Unit. As a result, during the first year of this biennium there has not been a lot of focus on our affirmative action goals and strategies.

In the past few months, we have hired a HR Analyst position dedicated to recruitment strategies and a Senior HR Business Partner who is responsible for DEI strategies and creating a DEI Plan. With this renewed focus on these critical areas, we believe we will see progress in meeting our goals.

Workforce Demographic Data and Analysis

As of June 30, 2023, and June 30, 2024, for the following:

Employees by race/ethnicity:

Special Reports

Affirmative Action Report

SUPERVISORS

| Racial/Ethnicity | 2023 | | | | 2024 | | | |
|--|-----------|----------|-----------|--------------|-----------|----------|-----------|--------------|
| | Female | Male | All | Pct. | Female | Male | All | Pct. |
| American Indian/Alaska Native | 0 | 0 | 0 | 0.0% | 0 | 0 | 0 | 0.0% |
| Asian | 0 | 0 | 0 | 0.0% | 0 | 0 | 0 | 0.0% |
| Black/African American | 1 | 1 | 2 | 11.1% | 0 | 0 | 0 | 0.0% |
| Hispanic or Latino | 0 | 0 | 0 | 0.0% | 1 | 1 | 2 | 11.8% |
| I do not wish to answer | 0 | 0 | 0 | 0.0% | 0 | 0 | 0 | 0.0% |
| Native Hawaiian/Other Pacific Islander | 0 | 0 | 0 | 0.0% | 0 | 0 | 0 | 0.0% |
| Two Or More Races | 0 | 0 | 0 | 0.0% | 1 | 0 | 1 | 5.9% |
| White | 10 | 6 | 16 | 88.9% | 8 | 6 | 14 | 82.4% |
| Totals | 11 | 7 | 18 | 61.1% | 10 | 7 | 17 | 58.8% |

% Women

% Women

Our representation of women and people of color in our supervisory positions have remained relatively static since the beginning of the 2023-2025 biennium. We did see increases of Hispanic or Latino supervisors, increasing from none to two and one supervisor of Two or More Races.

Workforce: 6/30/23 Race/Ethnicity by Job Category

| Race/Ethnicity | Administrative Support (Including Clerical Sales) | | Officials and Administrators | | Paraprofessionals | | Professionals | | Total | |
|---|---|--------|------------------------------|--------|-------------------|--------|---------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 100.0% | 1 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.9% | 1 |
| Asian | 33.3% | 1 | 0.0% | 0 | 0.0% | 0 | 66.7% | 2 | 2.6% | 3 |
| Black or African American | 50.0% | 1 | 0.0% | 0 | 0.0% | 0 | 50.0% | 1 | 1.8% | 2 |
| Hispanic or Latino | 18.2% | 2 | 9.1% | 1 | 9.1% | 1 | 63.6% | 7 | 9.6% | 11 |
| I do not wish to answer | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 100.0% | 7 | 6.1% | 7 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Two or More Races | 50.0% | 1 | 0.0% | 0 | 0.0% | 0 | 50.0% | 1 | 1.8% | 2 |
| White | 10.2% | 9 | 10.2% | 9 | 1.1% | 1 | 78.4% | 69 | 77.2% | 88 |
| Total | | 15 | | 10 | | 2 | | 87 | | 114 |

Special Reports

Affirmative Action Report

Workforce: 6/30/24 Race/Ethnicity by Job Category

| Race/Ethnicity | Administrative Support (Including Clerical Sales) | | Officials and Administrators | | Paraprofessionals | | Professionals | | Total | |
|---|---|--------|------------------------------|--------|-------------------|--------|---------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 66.7% | 2 | 0.0% | 0 | 0.0% | 0 | 33.3% | 1 | 2.2% | 3 |
| Asian | 33.3% | 1 | 0.0% | 0 | 0.0% | 0 | 66.7% | 2 | 2.2% | 3 |
| Black or African American | 33.3% | 1 | 0.0% | 0 | 0.0% | 0 | 66.7% | 2 | 2.2% | 3 |
| Hispanic or Latino | 41.7% | 5 | 16.7% | 2 | 16.7% | 2 | 25.0% | 3 | 8.7% | 12 |
| I do not wish to answer | 10.5% | 2 | 0.0% | 0 | 5.3% | 1 | 84.2% | 16 | 13.8% | 19 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 2 | 1.4% | 2 |
| Two or More Races | 33.3% | 1 | 33.3% | 1 | 0.0% | 0 | 33.3% | 1 | 2.2% | 3 |
| White | 7.5% | 7 | 7.5% | 7 | 2.2% | 2 | 82.8% | 77 | 67.4% | 93 |
| Total | | 19 | | 10 | | 5 | | 104 | | 138 |

Since June 30, 2023, we have increased our staffing by 28 and increased our overall racial/ethnicity by eight. Increases in racial/ethnic representation occurred in Administrative Support (5), Officials and Administrators (2) and Paraprofessionals (1). Increasing our representation in the Professionals category will be a focus over the next year as we are in the process forming OPDC's new Trial Division and will be heavily recruiting for attorneys to provide trial level advocacy for unrepresented individuals.

Special Reports

Affirmative Action Report

Age (generation), gender, reported disability status, and reported veterans' status.

| As of June 30, 2023 Race/Ethnicity | Baby Boomers | | Generation X (1965) | | Generation Z (1997) | | Millennials (1981 - | | Total | |
|---|--------------|--------|---------------------|--------|---------------------|--------|---------------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 0 | 0.9% | 1 | 0.0% | 0 | 0.0% | 0 | 0.9% | 1 |
| Asian | 0.0% | 0 | 0.9% | 1 | 0.0% | 0 | 0.9% | 1 | 1.8% | 2 |
| Black or African American | 0.0% | 0 | 0.9% | 1 | 0.0% | 0 | 0.9% | 1 | 1.8% | 2 |
| Hispanic or Latino | 0.0% | 0 | 1.8% | 2 | 0.0% | 0 | 8.2% | 9 | 10.0% | 11 |
| I do not wish to answer | 0.9% | 1 | 0.9% | 1 | 0.0% | 0 | 3.6% | 4 | 5.5% | 6 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Two or More Races | 0.0% | 0 | 0.9% | 1 | 0.0% | 0 | 0.9% | 1 | 1.8% | 2 |
| White | 7.3% | 8 | 33.6% | 37 | 1.8% | 2 | 35.5% | 39 | 78.2% | 86 |
| Total | 8.2% | 9 | 40.0% | 44 | 1.8% | 2 | 0.0% | 55 | | 110 |

| As of June 30, 2024 Race/Ethnicity | Baby Boomers | | Generation X (1965) | | Generation Z (1997) | | Millennials (1981 - | | Total | |
|---|--------------|--------|---------------------|--------|---------------------|--------|---------------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 0 | 1.4% | 2 | 0.0% | 0 | 0.7% | 1 | 2.2% | 3 |
| Asian | 0.7% | 1 | 0.7% | 1 | 0.0% | 0 | 0.7% | 1 | 2.2% | 3 |
| Black or African American | 0.0% | 0 | 0.7% | 1 | 0.0% | 0 | 1.4% | 2 | 2.2% | 3 |
| Hispanic or Latino | 0.0% | 0 | 2.2% | 3 | 1.4% | 2 | 5.1% | 7 | 8.7% | 12 |
| I do not wish to answer | 2.2% | 3 | 5.1% | 7 | 0.0% | 0 | 6.5% | 9 | 13.8% | 19 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.7% | 1 | 0.0% | 0 | 0.7% | 1 | 1.4% | 2 |
| Two or More Races | 0.0% | 0 | 0.7% | 1 | 0.0% | 0 | 1.4% | 2 | 2.2% | 3 |
| White | 4.3% | 6 | 30.4% | 42 | 0.7% | 1 | 31.9% | 44 | 67.4% | 93 |
| Total | 7.2% | 10 | 42.0% | 58 | 2.2% | 3 | 0.0% | 67 | | 138 |

Our numbers related to age (generation) have remained consistent over the past year. The majority of our staff are Generation X and Millennials, and those two age groups are where we saw greater increases in representation.

| As of June 30, 2023 Race/Ethnicity | Female | | Male | | Total | |
|---|---------|--------|---------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.9% | 1 | 0.0% | 0 | 0.9% | 1 |
| Asian | 0.9% | 1 | 0.9% | 1 | 1.8% | 2 |
| Black or African American | 0.0% | 0 | 1.8% | 2 | 1.8% | 2 |
| Hispanic or Latino | 7.3% | 8 | 2.7% | 3 | 10.0% | 11 |
| I do not wish to answer | 2.7% | 3 | 2.7% | 3 | 5.5% | 6 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Two or More Races | 1.8% | 2 | 0.0% | 0 | 1.8% | 2 |
| White | 49.1% | 54 | 29.1% | 32 | 78.2% | 86 |
| Total | 62.7% | 69 | 37.3% | 41 | | 110 |

Special Reports

Affirmative Action Report

| As of June 30, 2024 Race/Ethnicity | Female | | Male | | Total | |
|---|---------|--------|---------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 1.4% | 2 | 0.7% | 1 | 2.2% | 3 |
| Asian | 1.4% | 2 | 0.7% | 1 | 2.2% | 3 |
| Black or African American | 0.0% | 0 | 2.2% | 3 | 2.2% | 3 |
| Hispanic or Latino | 7.2% | 10 | 1.4% | 2 | 8.7% | 12 |
| I do not wish to answer | 8.0% | 11 | 5.8% | 8 | 13.8% | 19 |
| Native Hawaiian or Other Pacific Islander | 0.7% | 1 | 0.7% | 1 | 1.4% | 2 |
| Two or More Races | 2.2% | 3 | 0.0% | 0 | 2.2% | 3 |
| White | 39.1% | 54 | 28.3% | 39 | 67.4% | 93 |
| Total | 60.1% | 83 | 39.9% | 55 | | 138 |

We increased our representation of females by fourteen. Our overall representation of women at OPDC is high, nearly double the number of male staff.

| As of June 30, 2023 Race/Ethnicity | No Reported Disability | | Reported Disability | | Total | |
|---|------------------------|--------|---------------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 1% | 1 | 0% | 0 | 1% | 1 |
| Asian | 2% | 2 | 0% | 0 | 2% | 2 |
| Black or African American | 2% | 2 | 0% | 0 | 2% | 2 |
| Hispanic or Latino | 10% | 11 | 0% | 0 | 10% | 11 |
| I do not wish to answer | 5% | 6 | 0% | 0 | 5% | 6 |
| Native Hawaiian or Other Pacific Islander | 0% | 0 | 0% | 0 | 0% | 0 |
| Two or More Races | 2% | 2 | 0% | 0 | 2% | 2 |
| White | 76% | 84 | 2% | 2 | 78% | 86 |
| Total | 98% | 108 | 2% | 2 | | 110 |

| As of June 30, 2024 Race/Ethnicity | No Reported Disability | | Reported Disability | | Total | |
|---------------------------------------|------------------------|--------|---------------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 2.2% | 3 | 0.0% | 0 | 2.2% | 3 |
| Asian | 2.2% | 3 | 0.0% | 0 | 2.2% | 3 |
| Black or African American | 2.2% | 3 | 0.0% | 0 | 2.2% | 3 |
| Hispanic or Latino | 8.7% | 12 | 0.0% | 0 | 8.7% | 12 |
| I do not wish to answer | 13.0% | 18 | 0.7% | 1 | 13.8% | 19 |

Special Reports

Affirmative Action Report

| | | | | | | |
|---|-------|-----|------|---|-------|-----|
| Native Hawaiian or Other Pacific Islander | 1.4% | 2 | 0.0% | 0 | 1.4% | 2 |
| Two or More Races | 2.2% | 3 | 0.0% | 0 | 2.2% | 3 |
| White | 66.7% | 92 | 0.7% | 1 | 67.4% | 93 |
| Total | 98.6% | 136 | 1.4% | 2 | | 138 |

| | | | | | | |
|--|-----------------------|----------------|----------------|----------------|---------------|----------------|
| Our representation of individuals with disabilities remains unchanged. This will be another area we will want to explore opportunities for outreach as most of our positions would likely be possible opportunities for members of this population. As of June 30, 2023 | Not a Veteran | | Veteran | | Total | |
| | Race/Ethnicity | Percent | Number | Percent | Number | Percent |
| American Indian or Alaska Native | 0.9% | 1 | 0.0% | 0 | 0.9% | 1 |
| Asian | 1.8% | 2 | 0.0% | 0 | 1.8% | 2 |
| Black or African American | 0.9% | 1 | 0.9% | 1 | 1.8% | 2 |
| Hispanic or Latino | 9.1% | 10 | 0.9% | 1 | 10.0% | 11 |
| I do not wish to answer | 5.5% | 6 | 0.0% | 0 | 5.5% | 6 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Two or More Races | 1.8% | 2 | 0.0% | 0 | 1.8% | 2 |
| White | 74.5% | 82 | 3.6% | 4 | 78.2% | 86 |
| Total | 94.5% | 104 | 5.5% | 6 | | 110 |

| | | | | | | |
|---|----------------------|---------------|----------------|---------------|----------------|---------------|
| As of June 30, 2024 | Not a Veteran | | Veteran | | Total | |
| Race/Ethnicity | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 2.2% | 3 | 0.0% | 0 | 2.2% | 3 |
| Asian | 2.2% | 3 | 0.0% | 0 | 2.2% | 3 |
| Black or African American | 1.4% | 2 | 0.7% | 1 | 2.2% | 3 |
| Hispanic or Latino | 8.0% | 11 | 0.7% | 1 | 8.7% | 12 |
| I do not wish to answer | 13.8% | 19 | 0.0% | 0 | 13.8% | 19 |
| Native Hawaiian or Other Pacific Islander | 1.4% | 2 | 0.0% | 0 | 1.4% | 2 |
| Two or More Races | 2.2% | 3 | 0.0% | 0 | 2.2% | 3 |
| White | 65.2% | 90 | 2.2% | 3 | 67.4% | 93 |
| Total | 96.4% | 133 | 3.6% | 5 | | 138 |

Our representation of veterans has decreased by one since June 30, 2023. This will be another opportunity to explore outreach prospects.

Special Reports

Affirmative Action Report

Promotions and New Hires During July 1, 2022 to June 30, 2023; and July 1, 2023 to June 30, 2024

Promotions by race/ethnicity: Supervisors and non-supervisors by race/ethnicity and gender

Agency Promotions by Racial/Ethnicity

| July 1, 2022 to June 30, 2023 | Supervisory | | | Non-Supervisory | | | Total Promotions |
|--|-------------------|----------|----------|-----------------|----------|----------|------------------|
| | Racial /Ethnicity | Female | Male | All | Female | Male | |
| American Indian/Alaska Native | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Asian | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Black/African American | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hispanic | 0 | 0 | 0 | 1 | 0 | 1 | 1 |
| I do not wish to answer | 0 | 0 | 0 | 0 | 1 | 1 | 1 |
| Native Hawaiian/Other Pacific Islander | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Two Or More Races | 0 | 0 | 0 | 1 | 0 | 1 | 1 |
| White | 1 | 0 | 1 | 3 | 1 | 4 | 5 |
| Agency Totals | 1 | 0 | 1 | 5 | 2 | 7 | 8 |

Agency Promotions by Racial/Ethnicity

| July 1, 2023 to June 30, 2024 | Supervisory | | | Non-Supervisory | | | Total Promotions |
|--|-------------------|----------|----------|-----------------|----------|----------|------------------|
| | Racial /Ethnicity | Female | Male | All | Female | Male | |
| American Indian/Alaska Native | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Asian | 0 | 0 | 0 | 1 | 0 | 1 | 1 |
| Black/African American | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hispanic | 1 | 0 | 1 | 0 | 0 | 0 | 1 |
| I do not wish to answer | 0 | 0 | 0 | 0 | 2 | 2 | 2 |
| Native Hawaiian/Other Pacific Islander | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Two Or More Races | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| White | 0 | 0 | 0 | 4 | 2 | 6 | 6 |
| Agency Totals | 1 | 0 | 1 | 5 | 4 | 9 | 10 |

OPDC continues to internally promote females and persons of color, however we have not experienced any significant increase in minority representation in these positions.

New Hires by race/ethnicity: Employees hired into permanent full-time positions by job category, age (generation), gender, reported disability status, and reported veterans' status.

Special Reports

Affirmative Action Report

Hires July 1, 2022 to June 30, 2023

| Race/Ethnicity | Administrative Support (Including Clerical Sales) | | Officials and Administrators | | Paraprofessionals | | Professionals | | Total | |
|---|--|--------|------------------------------|--------|-------------------|--------|---------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Asian | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Black or African American | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Hispanic or Latino | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| I do not wish to answer | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 100.0% | 3 | 20.0% | 3 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 0.0% | 0 | 16.7% | 2 | 0.0% | 0 | 83.3% | 10 | 80.0% | 12 |
| Total | 0.0% | 0 | 13.3% | 2 | 0.0% | 0 | 86.7% | 13 | | 15 |

Hires July 1, 2023 to June 30, 2024

| Race/Ethnicity | Administrative Support (Including Clerical Sales) | | Officials and Administrators | | Paraprofessionals | | Professionals | | Total | |
|---|--|--------|------------------------------|--------|-------------------|--------|---------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Asian | 33.3% | 1 | 33.3% | 1 | 0.0% | 0 | 33.3% | 1 | 8.1% | 3 |
| Black or African American | 0.0% | 0 | 66.7% | 2 | 0.0% | 0 | 33.3% | 1 | 8.1% | 3 |
| Hispanic or Latino | 100.0% | 2 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 5.4% | 2 |
| I do not wish to answer | 15.4% | 2 | 0.0% | 0 | 7.7% | 1 | 76.9% | 10 | 35.1% | 13 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 1 | 2.7% | 1 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 0.0% | 1 | 40.0% | 6 | 0.0% | 0 | 53.3% | 8 | 40.5% | 15 |
| Total | 16.2% | 6 | 24.3% | 9 | 2.7% | 1 | 56.8% | 21 | | 37 |

This past year OPDC has made positive strides in increasing our hiring of individuals from under-represented racial/ethnic groups. A little over 24% of new hires were persons of color. The prior year none of the new hires were persons of color.

Special Reports

Affirmative Action Report

Hires July 1, 2022 to June 30, 2023

| Race/Ethnicity | Baby Boomers (1947 - 1964) | | Generation X (1965 - 1980) | | Generation Z (1997 - Current) | | Millennials (1981 - 1996) | | Blank | | Total | |
|---|----------------------------|--------|----------------------------|--------|-------------------------------|--------|---------------------------|--------|---------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Asian | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Black or African American | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Hispanic or Latino | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| I do not wish to answer | 33.3% | 1 | 33.3% | 1 | 0.0% | 0 | 33.3% | 1 | 0.0% | 0 | 20.0% | 3 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 8.3% | 1 | 16.7% | 2 | 8.3% | 1 | 58.3% | 7 | 8.3% | 1 | 80.0% | 12 |
| Total | 13.3% | 2 | 20.0% | 3 | 6.7% | 1 | 53.3% | 8 | 6.7% | 1 | | 15 |

Hires July 1, 2023 to June 30, 2024

| Race/Ethnicity | Baby Boomers (1947 - 1964) | | Generation X (1965 - 1980) | | Generation Z (1997 - Current) | | Millennials (1981 - 1996) | | Traditionalists (1917 - 1946) | | Blank | | Total | |
|---|----------------------------|--------|----------------------------|--------|-------------------------------|--------|---------------------------|--------|-------------------------------|--------|---------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 0 | 0.0% | 2 | 0.0% | 0 | 0.0% | 1 | 0.0% | 0 | 0.0% | 0 | 8.1% | 3 |
| Asian | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Black or African American | 33.3% | 1 | 0.0% | 0 | 0.0% | 0 | 66.7% | 2 | 0.0% | 0 | 0.0% | 0 | 8.1% | 3 |
| Hispanic or Latino | 0.0% | 0 | 0.0% | 0 | 100.0% | 2 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 5.4% | 2 |
| I do not wish to answer | 15.4% | 2 | 46.2% | 6 | 0.0% | 0 | 38.5% | 5 | 0.0% | 0 | 0.0% | 0 | 35.1% | 13 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 100.0% | 1 | 0.0% | 0 | 0.0% | 0 | 2.7% | 1 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 20.0% | 3 | 33.3% | 5 | 0.0% | 0 | 33.3% | 5 | 6.7% | 1 | 6.7% | 1 | 40.5% | 15 |
| Total | 16.2% | 6 | 35.1% | 13 | 5.4% | 2 | 37.8% | 14 | 2.7% | 1 | 2.7% | 1 | | 37 |

As noted earlier, most of our staff are Generation X and Millennials, and those two age groups are where we saw greater numbers of new hires although we appointed people from all five generations.

Hires July 1, 2022 to June 30, 2023

| Race/Ethnicity | Female | | Male | | Blank | | Total | |
|---|---------|--------|---------|--------|---------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Asian | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Black or African American | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Hispanic or Latino | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| I do not wish to answer | 66.7% | 2 | 33.3% | 1 | 0.0% | 0 | 20.0% | 3 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 41.7% | 5 | 50.0% | 6 | 8.3% | 1 | 80.0% | 12 |
| Total | 46.7% | 7 | 46.7% | 7 | 6.7% | 1 | | 15 |

Special Reports

Affirmative Action Report

Hires July 1, 2023 to June 30, 2024

| Race/Ethnicity | Female | | Male | | Blank | | Total | |
|---|---------|--------|---------|--------|---------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 2 | 0.0% | 1 | 0.0% | 0 | 8.1% | 3 |
| Asian | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Black or African American | 0.0% | 1 | 0.0% | 2 | 0.0% | 0 | 8.1% | 3 |
| Hispanic or Latino | 0.0% | 2 | 0.0% | 0 | 0.0% | 0 | 5.4% | 2 |
| I do not wish to answer | 69.2% | 9 | 30.8% | 4 | 0.0% | 0 | 35.1% | 13 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 1 | 0.0% | 0 | 2.7% | 1 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 33.3% | 5 | 60.0% | 9 | 6.7% | 1 | 40.5% | 15 |
| Total | 51.4% | 19 | 45.9% | 17 | 2.7% | 1 | | 37 |

As previously stated, females are well represented at OPDC. Hiring of female and male staff has been balanced pretty equally of the past two years.

Hires July 1, 2022 to June 30, 2023

| Race/Ethnicity | No Reported Disability | | Reported Disability | | Total | |
|---|------------------------|--------|---------------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0% | 0 | 0% | 0 | 0% | 0 |
| Asian | 0% | 0 | 0% | 0 | 0% | 0 |
| Black or African American | 0% | 0 | 0% | 0 | 0% | 0 |
| Hispanic or Latino | 0% | 0 | 0% | 0 | 0% | 0 |
| I do not wish to answer | 100% | 4 | 0% | 0 | 27% | 4 |
| Native Hawaiian or Other Pacific Islander | 0% | 0 | 0% | 0 | 0% | 0 |
| Two or More Races | 0% | 0 | 0% | 0 | 0% | 0 |
| White | 100% | 11 | 0% | 0 | 73% | 11 |
| Total | 100% | 15 | 0% | 0 | | 15 |

Special Reports

Affirmative Action Report

Hires July 1, 2023 to June 30, 2024

| Race/Ethnicity | No Reported Disability | | Reported Disability | | Total | |
|---|------------------------|--------|---------------------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 100.0% | 3 | 0% | 0 | 8.1% | 3 |
| Asian | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Black or African American | 100.0% | 3 | 0.0% | 0 | 8.1% | 3 |
| Hispanic or Latino | 100.0% | 2 | 0.0% | 0 | 5.4% | 2 |
| I do not wish to answer | 92.9% | 13 | 7.1% | 1 | 37.8% | 14 |
| Native Hawaiian or Other Pacific Islander | 100.0% | 1 | 0.0% | 0 | 2.7% | 1 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 92.9% | 13 | 7.1% | 1 | 37.8% | 14 |
| Total | 94.6% | 35 | 5.4% | 2 | | 37 |

While we have hired two individuals with disabilities this past year, our representation remains unchanged.

Hires July 1, 2022 to June 30, 2023

| Race/Ethnicity | Not a Veteran | | Veteran | | Total | |
|---|---------------|--------|---------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Asian | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Black or African American | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Hispanic or Latino | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| I do not wish to answer | 100.0% | 4 | 0.0% | 0 | 26.7% | 4 |
| Native Hawaiian or Other Pacific Islander | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 81.8% | 9 | 18.2% | 2 | 73.3% | 11 |
| Total | 86.7% | 13 | 13.3% | 2 | | 15 |

Special Reports

Affirmative Action Report

Hires July 1, 2023 to June 30, 2024

| Race/Ethnicity | Not a Veteran | | Veteran | | Total | |
|---|---------------|--------|---------|--------|---------|--------|
| | Percent | Number | Percent | Number | Percent | Number |
| American Indian or Alaska Native | 100.0% | 3 | 0.0% | 0 | 8.1% | 3 |
| Asian | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| Black or African American | 100.0% | 3 | 0.0% | 0 | 8.1% | 3 |
| Hispanic or Latino | 100.0% | 2 | 0.0% | 0 | 5.4% | 2 |
| I do not wish to answer | 100.0% | 14 | 0.0% | 0 | 37.8% | 14 |
| Native Hawaiian or Other Pacific Islander | 100.0% | 1 | 0.0% | 0 | 2.7% | 1 |
| Two or More Races | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 |
| White | 100.0% | 14 | 0.0% | 0 | 37.8% | 14 |
| Total | 100.0% | 37 | 0.0% | 0 | | 37 |

There were no new hires who identified as veterans this past year compared to two hired the prior year.

Next Biennium Affirmative Action Plan

OPDC Strategies and goals

Leadership at OPDC are currently undertaking creation of a strategic plan for the agency. In addition, OPDC is in the process of preparing for our transition from the Judicial Branch to the Executive Branch of Oregon State Government.

Human Resources staff completed strategic planning in May 2024. Priorities in the plan include the DEI Plan, Affirmative Action Plan, Succession Plan, with the expectations of these being completed in the next two months. As a new team, Human Resources is very excited to move these important initiatives forward.

Since affirmative action goals and strategies are interconnected to the agencies strategic plan and the other two plans, the goals in this document will be a work in progress and will likely evolve before the 2025-27 biennium begins to ensure goals support these plans.

Goals

1. Finalize development of DEI and Succession Plans.
2. Identify outreach opportunities for individuals with disabilities and veterans.

Special Reports

Affirmative Action Report

3. Finalize Training Plan for OPDC. Include DEI related training.
4. Finalize the Employee Engagement contract and present the survey to staff. Results will be utilized to assess current strategies and identify areas of opportunity.
5. Create a process for tracking our contracts with minority or women owned businesses.

Complaint Options

OPDC has Maintaining a Professional Workplace policy and Non-Discrimination and Harassment Free Workplace policies that provide a complaint process for staff to bring forward concerns and get resolution. As part of the agency's preparation for transition to the Executive Branch, these policies along with other HR policies will be reviewed to ensure alignment with CHRO HR policies. Where possible, we will consider adopting the CHRO policies.

Succession Plan

As indicated above, creation of a Succession Plan is in process and will be completed by no later than the end of the year.

Contracting

Prior to this year, OPDC has not used Oregon Buys. Since our new Facilities Manager was hired in March, we have started utilizing Oregon Buys.

OPDC contracts with many public defenders throughout the state including minorities and women. Unfortunately, there is no data as to whether any of these are COBID Certified. We are not included on the Procurement Equity Disparity Study Data Dashboard. One of our goals for the coming biennium will be to have a process in place to track this data.

Appendix

- A. OPDC Policy 404.010.009, Non-Discrimination and Harassment Free Workplace
- B. OPDC 404.010.017, Maintaining a Professional Workplace
- C. OPDC 404.010.716, Candidate Preference in Employment

Special Reports

Supervisory Span of Control



PROPOSED SUPERVISORY SPAN OF CONTROL REPORT

In accordance with the requirements of ORS 291.227, Oregon Public Defense Commission presents this report to the Joint Ways and Means Committee regarding the agency's Proposed Maximum Supervisory Ratio for the 2025-2027 biennium.

Supervisory Ratio for the last quarter of 2023-2023 biennium

The agency actual supervisory ratio as of 8/1/24 is 1: 12

The Agency actual supervisory ratio is calculated using the following calculation;

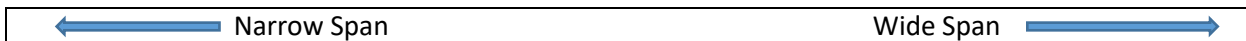
$$\frac{14}{\text{(Total supervisors)}} = \frac{13}{\text{(Employee in a supervisory role)}} + \frac{2}{\text{(Vacancies that if filled would perform a supervisory role)}} - \frac{1}{\text{(Agency head)}}$$

$$\frac{167}{\text{(Total non-supervisors)}} = \frac{124}{\text{(Employee in a non-supervisory role)}} + \frac{43}{\text{(Vacancies that if filled would perform a non-supervisory role)}}$$

The agency has a current actual supervisory ratio of-

$$1: \frac{12}{167} = \frac{167}{14}$$

When determining an agency maximum supervisory ratio all agencies shall begin of a baseline supervisory ratio of 1:11, and based upon some or all of the following factors may adjust the ratio up or down to fit the needs of the agency.



Special Reports

Supervisory Span of Control

Is safety of the public or of State employees a factor to be considered in determining the agency maximum supervisory ratio? Y/N

No impact.

Special Reports

Supervisory Span of Control

Is geographical location of the agency's employees a factor to be considered in determining the agency maximum supervisory ratio? Y/N

The agency is tasked to directly manage a progressively higher percentage of public defense cases over the coming biennium. To accomplish this, the agency's geographic growth is both necessary and inevitable. Currently, OPDC operates out of three main locations – Salem, Portland, and Roseburg. But to reach more areas in need of service, new offices must open in Northern, Southern, Central, and Eastern Oregon. The agency expects a minimum of three (3) new offices in the 25-27 biennium and at least another three (3) new offices in the 27-29 biennium. To ensure adequate levels of management and support, OPDC will need a greater number of supervisory positions to effectively oversee these locations resulting in a lower span.

Is the

complexity of the agency's duties a factor to be considered in determining the agency maximum supervisory ratio? Y/N

Special Reports

Supervisory Span of Control

Are there industry best practices and standards that should be a factor when determining the agency maximum supervisory ratio? Y/N

In considering workload, the agency aims to meet the National Public Defense Workload Standards in assigning caseloads to public defenders. These numbers ought not exceed the “recommended levels of 150 felonies, 400 non-traffic misdemeanors, 200 juvenile court cases, 200 Mental Health Act cases, or 25 non-capital appeals per attorney per year.” Considering these numbers are for attorneys actively and exclusively working on cases, we must also consider supervising attorneys who may be both working their own cases and supporting cases of those defenders which they oversee. To ensure those supervisors can effectively meet their responsibilities, there should be a slightly narrower span than the default.

Special Reports

Supervisory Span of Control

Is size and hours of operation of the agency a factor to be considered in determining the agency maximum supervisory ratio? Y/N

No impact.

Special Reports

Supervisory Span of Control

Are there unique personnel needs of the agency, including the agency's use of volunteers or seasonal or temporary employees, or exercise of supervisory authority by agency supervisory employees over personnel who are not agency employees a factor to be considered in determining the agency maximum supervisory ratio? Y/N

No impact.

Is
the

No impact.

financial scope and responsibility of the agency a factor to be considered in determining the agency maximum supervisory ratio? Y/N

Special Reports

Supervisory Span of Control

Based upon the described factors above the agency proposes a Maximum Supervisory Ratio of 1: 9

Unions Requiring Notification: AFSCME

Date unions notified _____

Submitted by: _____

Date: _____

Signature Line _____

Date _____

Signature Line _____

Date _____

Signature Line _____

Date _____

Signature Line _____

Date _____



August 26, 2024

Senate President Rob Wagner, Co-Chair
House Speaker Julie Fahey, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

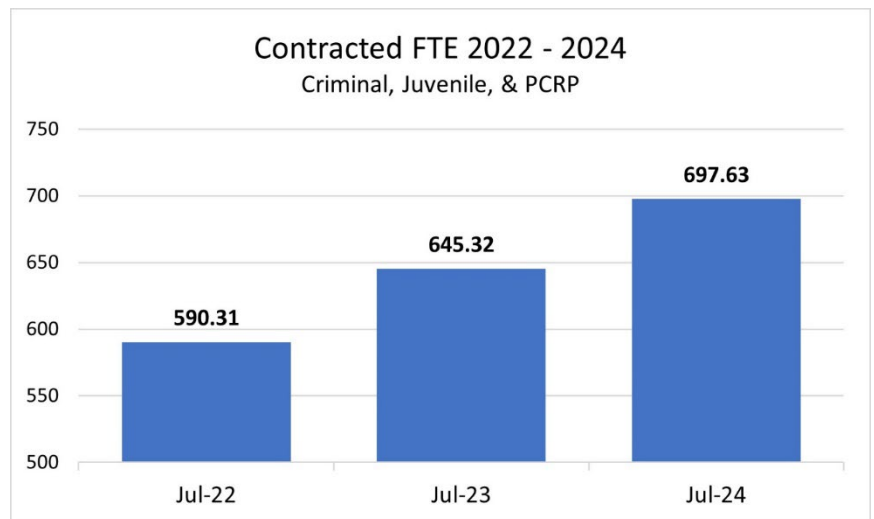
Nature of the Request

The Oregon Public Defense Commission (OPDC) requests \$4,203,413 from the General Fund to fund an additional 25 Maximum Attorney Caseloads (MAC) from October 2024 through June 2025.

On May 23, 2024, Governor Kotek requested that the Oregon Public Defense Commission (OPDC) submit a plan by August 1, 2024, to “eliminate Oregon’s unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.” OPDC submitted that plan to the Governor. The plan included interventions OPDC was taking or planned to take within existing resources, as well as interventions that would require Legislative approval, funding through the Emergency Board, or both. This request is in line with that crisis plan.

Agency Action

OPDC prioritizes attorney recruitment and retention. OPDC contractors are the first line in preventing individuals charged with crimes from going unrepresented, as they are the primary workforce appointed to represent new clients at their first court appearance. When contractors lack sufficient attorneys to provide representation to all of those eligible for a public defender, fewer clients are appointed lawyers in the normal course, and the unrepresented list grows.



The Legislature and OPDC recognize the value contractors bring and have invested in additional MAC and recruitment, training, and retention

incentives and programs. OPDC has increased contracted MAC by 18.18% through these investments, or 107.32 MAC, since July 2022.

While the retention rate has improved over previous contract cycles, attorneys still regularly leave contracts, resulting in vacancies. When a vacancy occurs, the contractor has at least 60 days to fill that vacant position in their contract and up to 120 days if they are a nonprofit public defender office or law firm primarily practicing public defense. When a vacancy expires after these time frames, OPDC may extend the vacancy should extenuating circumstances apply (e.g., the provider is actively recruiting or the position has an offer accepted). Alternatively, OPDC will reallocate that vacancy to another provider. As of August 11, 2024, OPDC Criminal Adult Trial contractors have 14.25 vacancies.

Additionally, OPDC has an unallocated MAC; this is MAC that varies from the Legislatively Adopted Budget at the end of the 2024 session. The Adult Trial Division contracted MAC has a 28.72 MAC deficit or a -6.01% variance from the adopted MAC from the 2024 Legislative session. This variance is mainly due to the additional MAC OPDC received in the 2024 session, funded in July. OPDC has requests from contractors for 32.88 additional MAC throughout the state and intends to add 26.08 MAC to contracts through amendments in September by using the existing unallocated MAC.

| Type | Level | MAC/FTE (as of 12.31.2023) | 2024 Session Adopted | Amendments as of 7/1/24 | Variance between 2024 Leg Adopted and 7/1/24 | Percent Variance |
|-----------------------------|---|----------------------------|----------------------|-------------------------|--|------------------|
| Adult Trial Division | | | | | | |
| Misdemeanor | Attorney 1 (Misdemeanor) | 88.23 | 13.4 | 66.83 | -34.8 | -34.24% |
| Minor Felony | Attorney 2 (Minor Felony, Civil Commitment) | 97.42 | 0 | 94.14 | -3.28 | -3.37% |
| Major Felony | Attorney 3 (Major Felony) | 153.33 | 10 | 165.56 | 2.23 | 1.37% |
| Murder | Attorney 4 (Capital Murder, Murder) | 115.87 | 0 | 123 | 7.13 | 6.15% |
| Total | | 454.85 | 23.4 | 449.53 | -28.72 | -6.01% |

*Though the variance appears to be caused by a lack of qualified Attorney 1s and 2s, Misdemeanor, and Minor Felony attorneys, we know that it is caused by attorneys at higher qualification levels leaving contracts. These MAC are often filled by attorneys at lower qualification levels, causing underutilization of allocated Attorney 1 and 2 MAC.

With this next round of amendments in September, OPDC will again be within 1% of full MAC, which means additional attorneys cannot be added to contracts unless other attorneys leave and vacancies are reallocated. OPDC has heard from providers that they want to hire more attorneys; this desire is especially true of nonprofits that can hire newly licensed attorneys in October 2024. Oregon is also the only state with a bar alternative program, the Supervised Provisional Practice Exam, which has attracted much interest from out-of-state law graduates. OPDC believes contractors could add 25 MAC to contracts between now and January 2025 if funding is provided.

These attorneys would take misdemeanor and C felony cases and provide added capacity in their jurisdiction to take court-appointed cases, preventing them from being added to the unrepresented list. Each additional MAC can be assigned up to 13 C felonies or 25 misdemeanors per month, which translates to up to 2,925 felony cases or 5,625 misdemeanor cases assigned to an attorney between October and the end of the biennium.

Action Requested

The Oregon Public Defense Commission requests \$4,203,413 General Fund to fund an additional 25 Maximum Attorney Caseloads (MAC) from October 2024 through June 2025.

Legislation Affected

Oregon Laws 2023, Chapter 481, section 1(4) \$4,203,413

Sincerely,

Jessica Kampfe
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer
John Borden, Principal Legislative Analyst, LFO
Kate Nass, Chief Financial Officer
Zack Gehringer, Policy and Budget Analyst, CFO



August 26, 2024

Senate President Rob Wagner, Co-Chair
House Speaker Julie Fahey, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

OPDC is requesting two Program Analyst 2 positions (0.66 FTE for 2023-25) to act as Assignment Coordinators and to assist in addressing the Unrepresented Crisis plan. The estimated cost of this request is \$189,058 from the General Fund.

On May 23, 2024, Governor Kotek requested that the Oregon Public Defense Commission (OPDC) submit a plan by August 1, 2024 to “eliminate Oregon’s unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.” OPDC submitted that plan to the Governor. The plan included interventions OPDC was taking or planned to take within existing resources, as well as interventions that would require Legislative approval, funding through the Emergency Board, or both. This request is in line with that crisis plan.

Agency Action

When it comes to assigning counsel to a person eligible for public defense, OPDC contractors are first in line. Under normal circumstances, the court will assign an available attorney upon arraignment. However, when no attorney is available due to lack of capacity or conflicts of interest, the court will assign OPDC as a placeholder. This puts the defendant on the unrepresented list and notifies OPDC of the need to locate counsel. OPDC’s assignment coordinators do this work. They contact hourly providers in the area, or contracted providers and state trial attorneys if there is known capacity, and work to assign those providers to unrepresented cases. Prior to the introduction of the Temporary Hourly Increase Program (THIP), about 1% of appointments were done this way; today, 10% of assignments go through OPDC assignment coordinators.

OPDC currently has two assignment coordinators 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. 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.

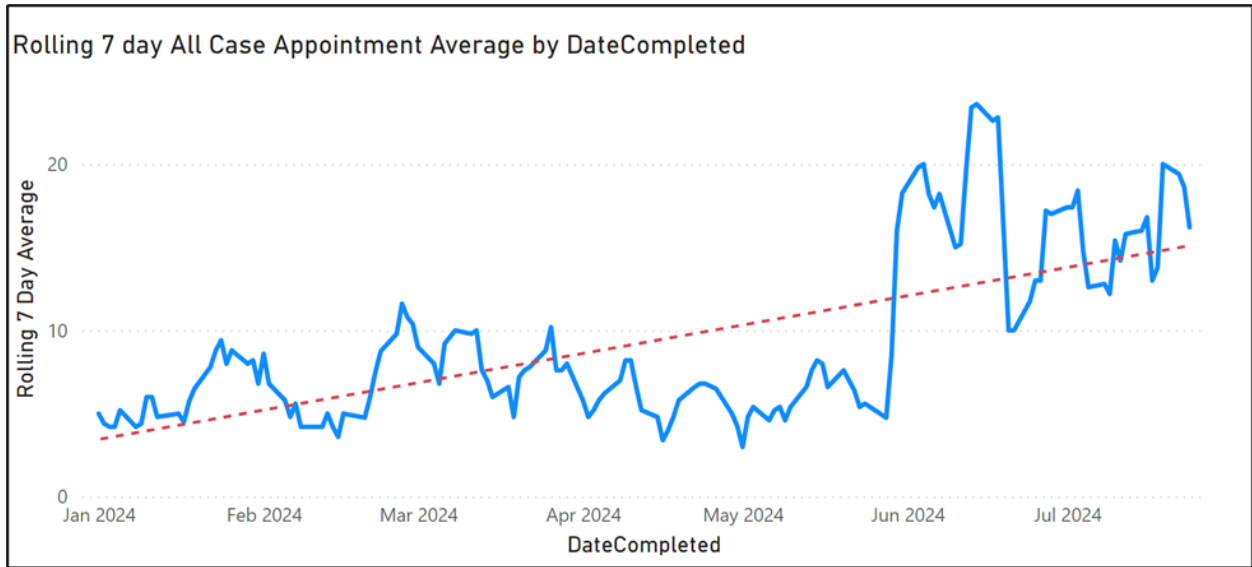
Over the last year, OPDC has been working to improve its assignment coordination. This began with process mapping to see where pinch points were within the assignment process. The main issue identified was the process used to communicate unrepresented information and priorities between OPDC and stakeholders, including courts, attorneys, and unrepresented persons. This communication was managed by a central inbox, which ultimately proved to be cluttered and overwhelming.

The OPDC data and research team worked with IT, the assignment coordinators, and the courts to develop an electronic intake form. This form allows stakeholders to submit case details, streamlining the assignment process and providing better data collection. It also generates an automatic workflow that has improved efficiency, transparency, and service delivery in handling unrepresented person cases statewide. Now, rather than using a clogged inbox, courts can submit a form for an unrepresented case. That form goes into a queue that the assignment coordinators are able to easily review, and when counsel is found, the form automatically notifies the court.

Data collection has also greatly improved, both through the use of this form and through work by OPDC's data team. OPDC now has multiple dashboards. The OPDC Hourly Agreements dashboard allows OPDC to see hourly assignment data including THIP cases, recent case assignments, and hourly attorney caseloads. The Trial Division dashboard summarizes real-time caseload data on OPDC Trial Division attorneys to measure attorney capacity and aid the attorney assignment process. The Caseload Reporting dashboard monitors contractor's reported caseload and assesses capacity. With these dashboards, OPDC's trial support and development team's resource counsel, who are subject matter experts on public defense, and assignment coordinators are able to identify potential capacity and prioritize case assignments.

Until May 2024, OPDC only had one full time assignment coordinator for the entire state. In May and June, OPDC reassigned an employee to assignment coordinator work, and another employee to part-time administrative tasks, such as data entry, to support the two assignment coordinators. Presently we have two full time assignment coordinators, and one part-time administrator who supports their work, facilitating the assignment of counsel on unrepresented cases statewide.

These process improvements and additional staff time have increased OPDC unrepresented case assignments eightfold. The improvements are obvious when looking at the rolling 7-day average of OPDC-appointed cases. There was a significant increase between May and June when both the form went statewide, and the additional assignment coordinator began.



Now that process improvements are in place, OPDC assignment coordinators are once again hitting capacity. Adding additional assignment coordinators will allow OPDC to increase the number of cases it assigns and capitalize on the benefits of the process improvements. OPDC estimates a 25% increase in case assignments for every additional assignment coordinator added.

Action Requested

OPDC requests funding and position authority for two Program Analyst 2 positions (0.66 FTE for 2023-25) to act as Assignment Coordinators and to assist in addressing the Unrepresented Crisis plan. The estimated cost of this request is \$189,058 General Fund.

Legislation Affected

Oregon Laws 2023, Chapter 481 section 1(2) \$189,058.00

Sincerely,

Jessica Kampfe
Executive Director

cc:

- Amanda Beitel, Legislative Fiscal Officer
- John Borden, Principal Legislative Analyst, LFO
- Kate Nass, Chief Financial Officer
- Zack Gehringer, Policy and Budget Analyst, CFO



August 26, 2024

Senate President Rob Wagner, Co-Chair
House Speaker Julie Fahey, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

OPDC requests funding and position authority to open a state trial office of six attorneys and nine support staff (15 positions and 4.95 FTE) in the Southwest, serving Douglas and Coos counties. The breakdown of these positions includes six Senior Deputy Defenders (1.98 FTE), two Program Analyst 2's (0.66 FTE), two Paralegals (0.66 FTE), two Legal Secretary's (0.66 FTE), one Manager 1 (0.33 FTE), one Office Specialist 2 (0.33 FTE) and an Administrative Specialist 2 (0.33 FTE). The estimated cost of this request is \$1.84 million from the General Fund.

On May 23, 2024 Governor Kotek requested that the Oregon Public Defense Commission (OPDC) submit a plan by August 1, 2024 to "eliminate Oregon's unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment." OPDC submitted that plan to the Governor. The plan included interventions OPDC was taking or planned to take within existing resources, as well as interventions that would require Legislative approval, funding through the Emergency Board, or both. This request is in line with that crisis plan.

Agency Action

OPDC has identified the Southwest region of the state as a growing unrepresented hotspot, as well as an underserved community that would benefit from a state trial office to stabilize the shrinking public defense workforce. OPDC currently has an office in Medford, serving Jackson, Douglas, and Klamath counties. While this office has been successfully taking cases in those counties, it primarily serves 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; however, practice shows that Southern Oregon and Southwest Oregon should be separate offices due to both the need in the region and the geographic barriers.

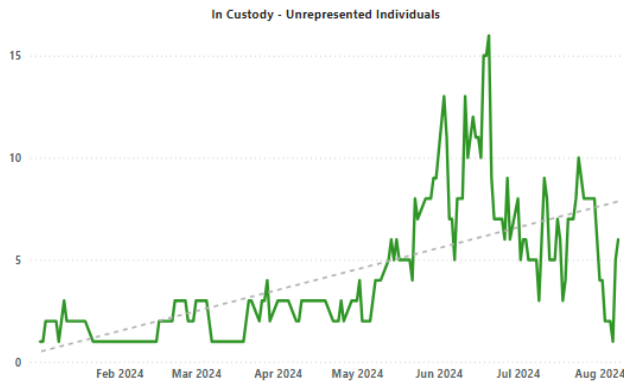
In addition to geographic challenges, Douglas and Coos counties have unrepresented populations disproportionate to their size. This is primarily due to a lack of staffing, the difficulties of recruiting to rural areas, and increased case filings in Coos. OPDC anticipates that these staffing challenges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

Unrepresented number in the Southwest

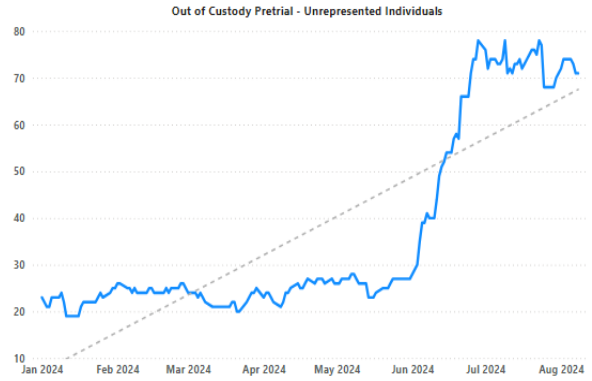
Coos County

Coos County has seen an increase in the number of people unrepresented in 2024, especially in the last 2 months. As of August 12, 2024, there are 76 out-of-custody pretrial unrepresented individuals in Coos County and 11 in-custody individuals. In-custody numbers peaked at 20 on June 20, 2024, and out-of-custody pretrial peaked at 78 on July 23, 2024. The total number of unrepresented individuals (of any category) has grown by 186% since the beginning of 2024.

Coos County In-Custody Trends since January 2024



Coos County Out-of-Custody Pretrial Trends since January 2024



Number of unrepresented individuals (of any category) in Coos County by case type

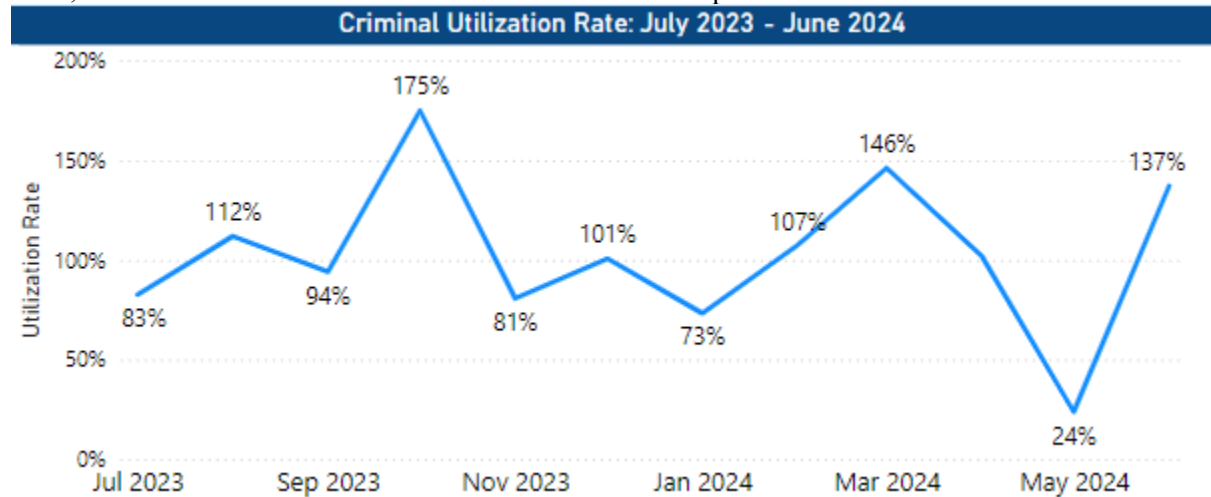
| Court | Unrepresented 1/1/24 | Unrepresented 8/9/24 | % Change |
|----------------|----------------------|----------------------|-------------|
| Coos | 35 | 100 | 186% |
| Contempt | 1 | 4 | 300% |
| Misdemeanor | 19 | 63 | 232% |
| Felony Class C | 9 | 27 | 200% |
| Felony Class B | 4 | 8 | 100% |
| Delinquency | 1 | 1 | 0% |
| Felony Class A | 2 | 2 | 0% |
| Total | 35 | 100 | 186% |

This sudden and sharp increase in unrepresented cases can be linked to staffing problems within Coos County contract. Since July 2024 Coos County has lost four contract attorneys who were contracted for a total of 3.25 attorney MAC, or 36% of their contracted FTE. At least 50% of the attorneys who left the Coos County contractor indicated through the OPDC Attorney Vacancy form that their reason for leaving was high workloads. The contractor is currently contracted for 3.25 vacancy FTE.

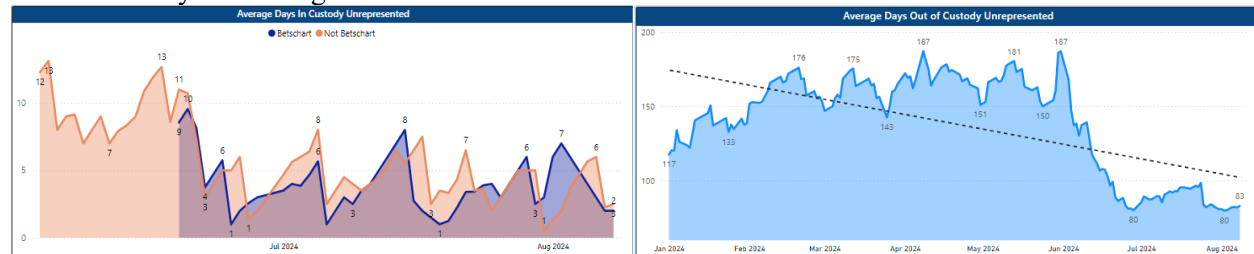
Coos County Contractor Vacancies

| Counties | Atty Name_Bar# | Current FTE | AQ |
|--------------|--------------------------|-------------|------------|
| Coos | Vacancy Vacancy - 000000 | 1.75 | Attorney 2 |
| Coos | Vacancy Vacancy - 000000 | 1.00 | Attorney 3 |
| Coos | Vacancy Vacancy - 000000 | 0.50 | Attorney 4 |
| Total | | 3.25 | |

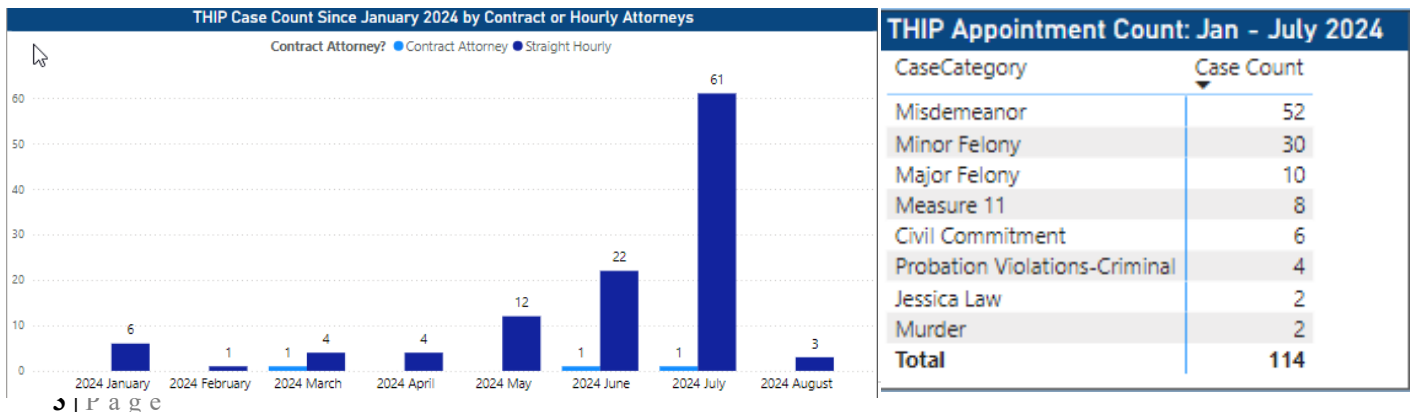
Three of the attorneys who left the Coos County contractor separated from the contract in July 2024. Combined these attorneys reported 22 new appointments and 21 open cases in June 2024. These cases will have to be covered by other attorneys within the provider contract, limiting their capacity to pick up new cases. The contract provider in Coos County has reached a 103% MAC utilization rate through June 2024, which includes the most recent contractor caseload reports.



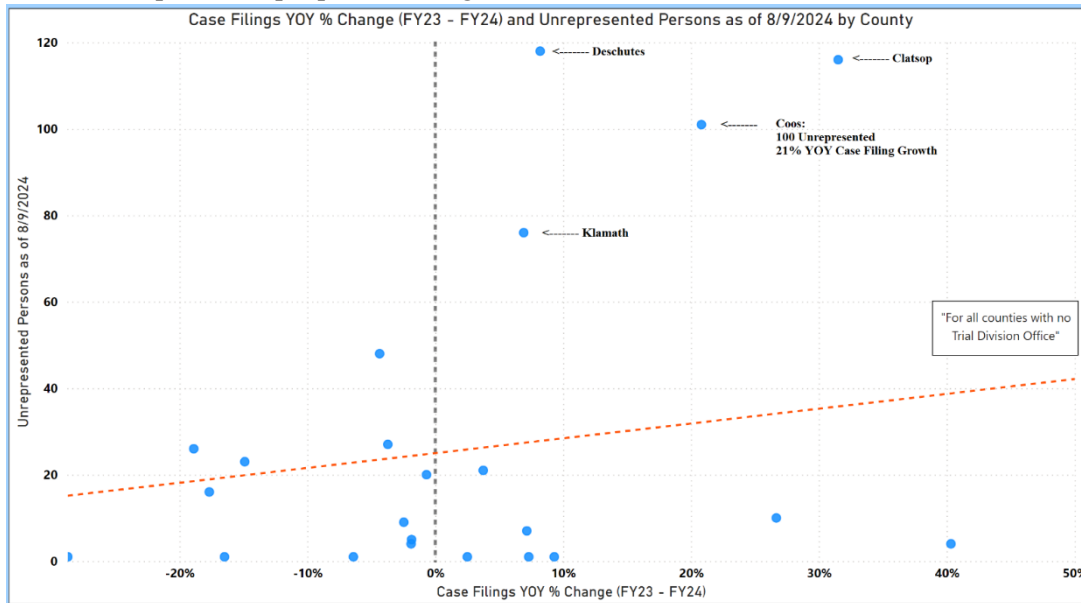
While Coos County has seen an increase in the number of people unrepresented, the amount of time an unrepresented person in Coos County waits for an attorney has decreased significantly. Since the beginning of June 2024, a person in custody spends an average of 11% fewer days unrepresented. The average time a person out of custody spent unrepresented at the end of May 2024 reached 187, which is down to 83 days as of August 8th for a 55% decrease.



This decrease is likely due to the increase in both case assignments under the Temporary Hourly Increase Program (THIP) and the increase in state trial attorneys taking cases in Coos on the most serious of cases. Since January 2024, 114 cases have been assigned to attorneys through the THIP in Coos County. Over 50% of these assignments occurred in July 2024.



Coos County is also seeing an increase in year-over-year filings from fiscal year 2023 to fiscal year 2024. The graph below shows the relationship between the percent change in case filings eligible for public defense between FY 2023 and FY 2024 against the Unrepresented Persons population as of August 9, 2024, for all counties that are not currently being served by Trial Division offices. Note that being in the top right of the graph indicates both a more intense growth in recent case filings and a higher count of unrepresented individuals. Coos County saw a 21% increase in case filings between FY 23 and FY 24 and has 100 unrepresented people as of August 9.

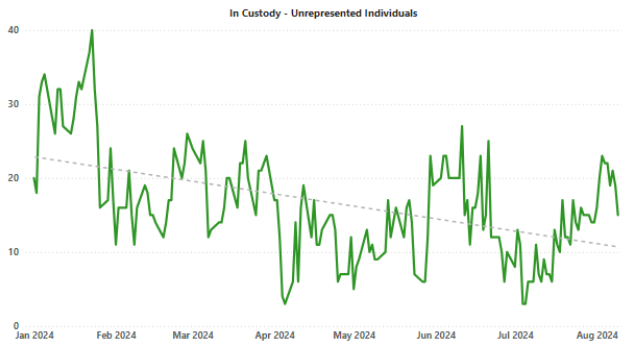


Douglas County

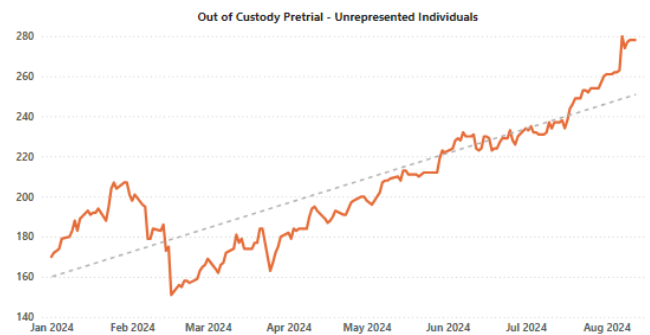
While unrepresented numbers were already high at the beginning of 2024, Douglas County has seen a 55% increase in the total number of unrepresented people of all categories between January 1 and August 9, 2024. As of August 12, 2024, there are 278 out-of-custody pretrial unrepresented individuals in Douglas County and 16 in-custody individuals. Since January, in-custody numbers peaked at 40 on January 23, 2024, and out-of-custody pretrial peaked at 280 on August 7, 2024. There has been an 84% increase in the out-of-custody pretrial unrepresented individuals in the last 6 months.

| Court | Unrepresented 1/1/24 | Unrepresented 8/9/24 | % Change |
|----------------|----------------------|----------------------|------------|
| Douglas | 223 | 345 | 55% |
| Misdemeanor | 88 | 169 | 92% |
| Felony Class A | 8 | 15 | 88% |
| Contempt | 13 | 24 | 85% |
| Felony Class B | 34 | 46 | 35% |
| Felony Class C | 95 | 115 | 21% |
| Delinquency | 1 | 1 | 0% |
| Total | 223 | 345 | 55% |

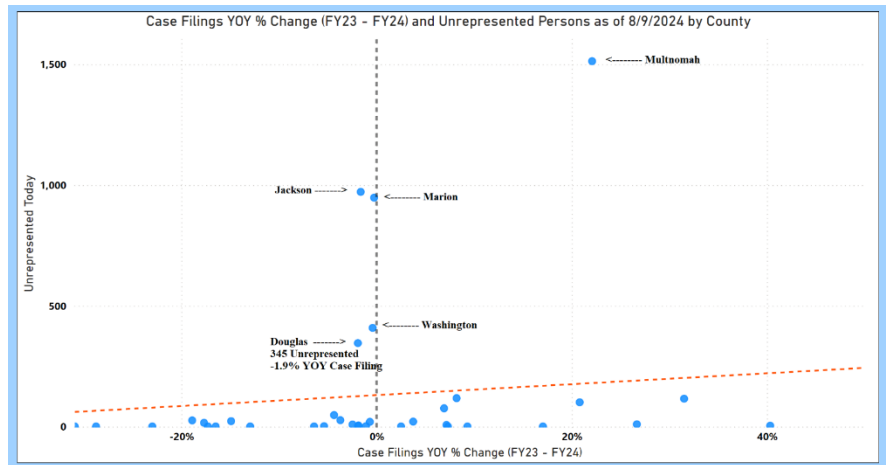
Douglas County In-Custody Unrepresented Trend Since January 2024



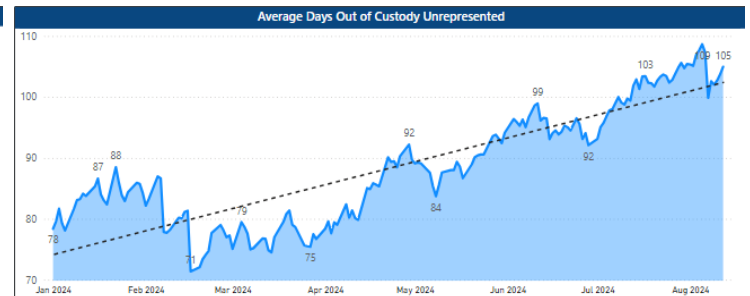
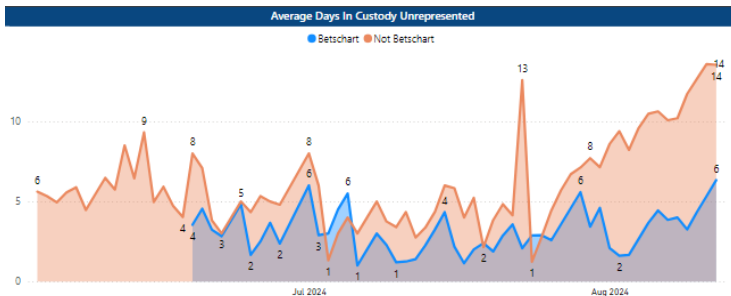
Douglas County Out-of-Custody Pretrial Unrepresented Trend Since January 2024



Douglas County has the 5th highest unrepresented persons count of any county in Oregon. This is true even though it is not a particularly populous county: it has more unrepresented individuals than larger counties such as Deschutes or Lane and nearly as many as Washington. The unrepresented persons population has continued to climb, although case filings actually decreased by about 2% between FY 23 and FY 24.

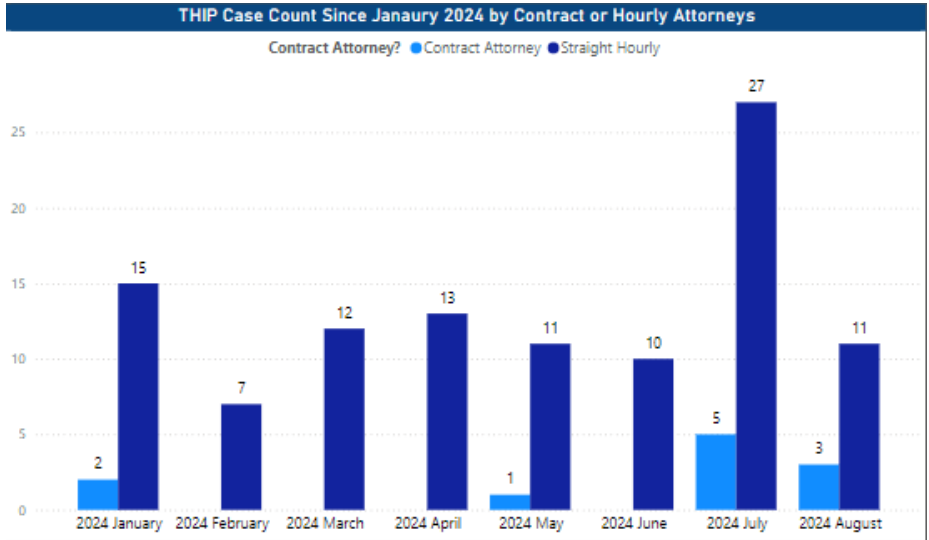


The average time a person spends in custody unrepresented has been increasing over the last few weeks. The number of individuals unrepresented out-of-custody has been increasing in 2024, as well as the amount of time an individual is waiting to receive representation. The average number of days spent out-of-custody unrepresented has increased 34% since January 2024.

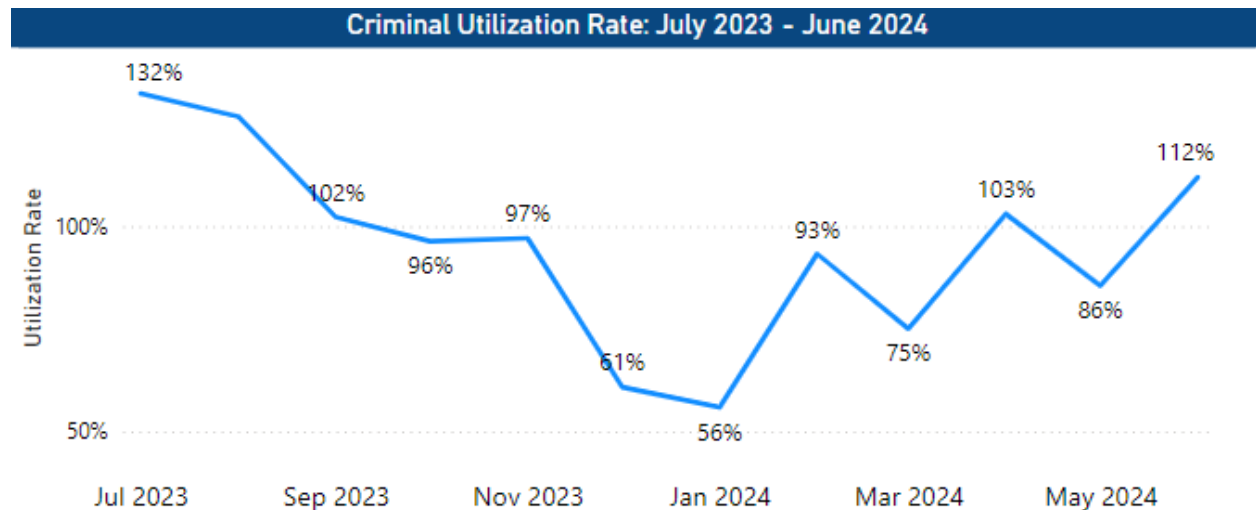


There have been 117 cases assigned to attorneys through the Temporary Hourly Increase Program in Douglas County since January 2024. Over 27% of these assignments happened in July.

| THIP Appointment Count: Jan - July 2024 | |
|---|------------|
| CaseCategory | Case Count |
| Major Felony | 12 |
| Measure 11 | 12 |
| Minor Felony | 45 |
| Misdemeanor | 42 |
| Murder | 1 |
| Probation Violations-Criminal | 5 |
| Total | 117 |



The criminal contract providers in Douglas County have reached a 91% utilization rate through June 2024, which includes the most recent contractor caseload reports. Douglas County has five active contracts. The contract with the lowest utilization rate is 78%, and the contractor with the highest utilization is 168%. One of the Douglas County providers submitted a contractor shut-off notice to OPDC indicating they were unable to accept new appointments for part of December 2023 and February 2024.



Since July 2023, Douglas County has increased the contracted FTE by 33%. There were 2.0 FTE vacancies contracted in July; excluding these, the contracted FTE has increased by 70% to date. Of the increased FTE, 1.8 (36%) came from 3 new attorneys being added to the contract in Douglas County. There are currently no funded vacancies in Douglas County.

State Trial Offices

As noted above, the OPDC Southern Trial Office in Medford primarily serves Jackson County for the reasons noted. Of the 171 cases taken by the Southern Trial Office, 141 have been in Jackson, 11 have been in Douglas, 9 have been in Grant, 9 have been in Klamath, and 2 have been in Marion.

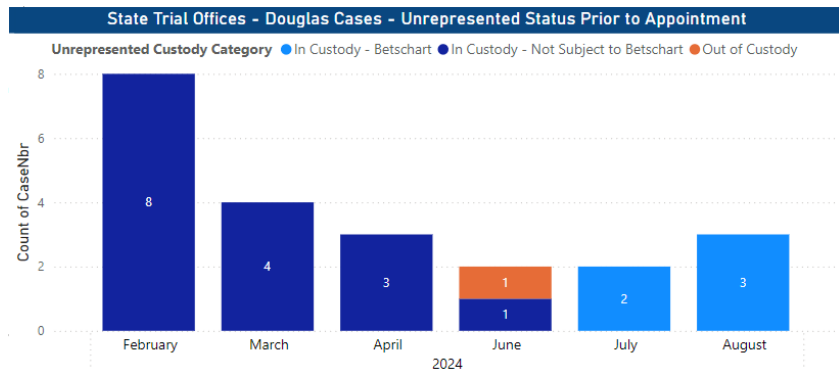
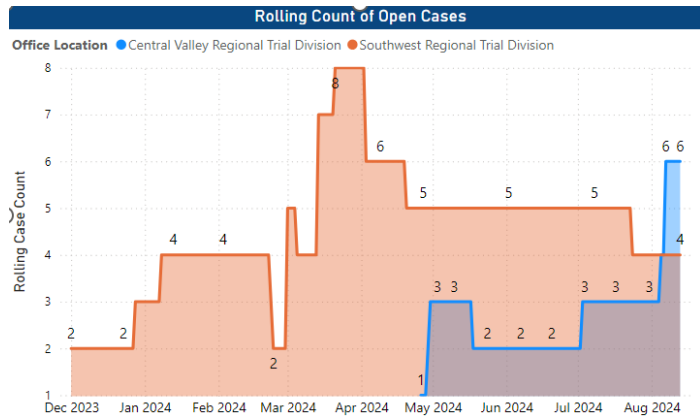
OPDC’s third trial office, which is located in Salem and called The Central Valley Regional Office, takes cases the Central Valley and has been providing an increasing amount of support for Coos and Douglas Counties. Of the 81 cases taken by the Central Valley Office, 3 have been in Coos, 10 have been in Douglas, 52 have been in Marion, 7 have been in Multnomah, 4 have been in Lane, 2 have been in Washington, and 1 has been in Yamhill.

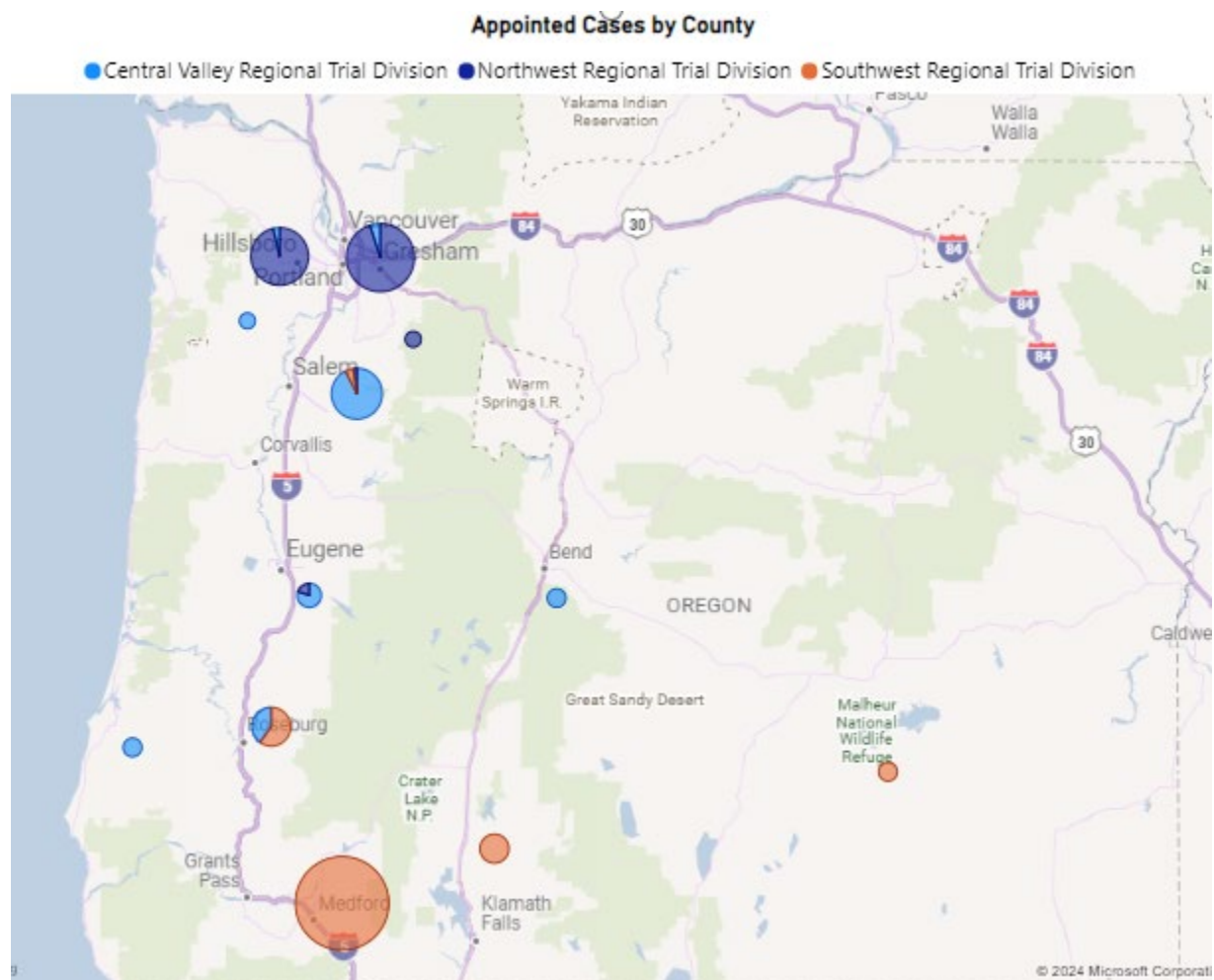
A review of the total number of cases OPDC has taken in Douglas County shows that, all but one were unrepresented in custody cases prior to OPDC being appointed. Of the in-custody cases, 31%, and all the cases taken in July and August, have been subject to *Betschart*.

The Central Valley Regional Trial Division office has recently been appointed in Coos County to represent three unrepresented in-custody individuals who were in custody and subject to *Betschart*. These cases are a high-level felony and a homicide/sex case. The attorneys have already logged almost 30 hours in travel time for these two cases, which is 26% of all time logged for these cases. Comparatively speaking, travel time accounts for 8% of all time tracked to date for the State Trial Offices. Central

Valley attorneys taking cases in Coos County require an increase in travel time, which ultimately reduces the amount of time the attorney has to devote to other cases.

The heat map below shows the relative amount of cases OPDC’s trial division is taking across the state, as well as the offices that are taking those cases.





Outcomes

The Southwest and Southern regions of the state represent 4 of the top 10 counties with the highest unrepresented persons numbers. A permanent office in the Southwest will:

- Stabilize the defense bar in a high-risk area and eliminate the region's chronic staffing issues;
- Allow for Coos County cases to be handled by attorneys located in Coos County;
- Provide Douglas County with the attention it needs, separating it from Jackson County;
- Greatly reduce drive time between the Central Valley office and Coos Bay, increasing attorney capacity.

The unrepresented lists in Douglas and Coos counties continue 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.

** This data was compiled by the OPDC Data and Research team. Third parties, whether they be providers, state agencies, or other stakeholders, should not extrapolate this data for other purposes.*

Action Requested

OPDC requests

Legislation Affected

Oregon Laws 2023, Chapter 481, section 1(4) \$1,840,926.00

Sincerely,

Jessica Kampfe
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer
John Borden, Principal Legislative Analyst, LFO
Kate Nass, Chief Financial Officer
Zack Gehringer, Policy and Budget Analyst, CFO



Oregon

Oregon Public Defense Commission

198 Commercial St. SE, Suite 205

Salem, Oregon 97301-3489

Telephone: (503) 378-2478

Fax: (503) 378-4463

www.oregon.gov/opdc

August 26, 2024

Senate President Rob Wagner, Co-Chair
House Speaker Julie Fahey, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

The Oregon Public Defense Commission (OPDC) requests funding and position authority for three Program Analyst 4 positions (0.99 FTE) for the Adult Trial Division and one Manager 3 (0.33 FTE) for the Executive Division. In total, the OPDC's organizational structure changes represent no cost to the agency and a net personal services savings of \$34,000 for the remainder of the biennium. The rollup cost for the 2025-2027 biennium will be approximately \$1.69 million General Fund.

This request will be the first step in implementing an organizational structure that aligns with agency standard practices. It will allow the Oregon Public Defense Commission (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 changes that will be reflected in OPDC's Package 60, including:

- Moving miscategorized positions to their correct place;
- Creating new sections within existing divisions to better define work;
- Moving positions to new sections to better meet the needs of the agency;
- Reclassing positions within the agency at a net zero cost;
- Creating new positions with cost savings from reclass at a net zero cost.

Agency Action

OPDC has been working on its organizational structure for some time. While OPDC has maintained an operational organizational chart in Workday, that chart did not align with budgeted resources. OPDC has been working with the Legislative Fiscal Office on this matter, and in June,

made significant progress which allowed OPDC to identify the changes necessary to standardize and align its organizational chart to the legislatively approved budget.

The first step was moving miscategorized positions to their correct place. These are all administrative fixes within the ORPICs system; they don't reflect how the positions were actually being used or managed.

- Four information technology specialists had been mislabeled under the Human Resources section and returned to the Information Technology section;
- A Program Analyst 4 was misplaced in the Procurement section and moved to the Research division under Compliance, Audit, and Performance (CAP);
- A Human Resources Analyst 2 was misplaced under the Information Technology section and returned to Human Resources.

Next, through package 60, OPDC will create new sections within existing divisions to better align with the budget and better define work. This includes:

- Separating Preauthorized Expenses from the Procurement Section within the Administrative Services Division (ASD) and making it its own section;
- Creating an Unrepresented section within the CAP division;
- Renaming the Pilot Program division within Adult Trial to the State Trial Program section.

OPDC then evaluated its current positions and moved positions to different sections to better meet the needs of the agency. This includes:

- Moving an office specialist 2 from Executive-Administration to the CAP-Unrepresented division, this position is providing unrepresented administrative support, including data entry, to the unrepresented program;
- Moving 2 Policy Analyst (Operations and Policy Analyst (OPA) 2 and 4) from Executive-Administration to CAP-Administration. These OPAs are policy writers and CAP Administration is where OPDC's policy team operates;
- Move the Training Coordinator (Administrative Specialist 2) from CAP-Administration to CAP-Trial Criminal Compliance;
- Move the Unrepresented Assignment Coordinator (OPA 2) from CAP-Research to CAP-Unrepresented (this position is also subject to a reclassification below);
- Move the CAP Manager (General Counsel) from CAP-Trial Criminal Compliance to CAP-Administration (this position is also subject to a reclassification below);
- Move the Rules and Records Coordinator (OPA 2) from CAP-Trial Criminal Compliance to CAP-Administration;
- Move a Policy Analyst (OPA 4) from CAP-Trial Criminal Compliance to CAP-Administration for

the policy team;

- Move the Office Specialist 1 from Appellate-Criminal Appellate to Appellate-Administration;
- Move the Unrepresented Assignment Coordinator (OPA 2) from Adult Trial Division-Administration to CAP-Unrepresented;
- Move the 3 Juvenile Resource Counsel (2 Deputy General Counsel and 1 General Counsel) from CAP-Juvenile Compliance to CAP-Trial Criminal Compliance. Contractors often have mixed caseloads (juvenile and adult criminal) and separating staff by contract type makes communication and customer service less efficient;
- Move the Parent Child Representation Program (PCRP) Resource Counsel (Deputy General Counsel) from PCRP-Administration to CAP-Adult Criminal Compliance for the same efficiency reasons as above;
- Move 5 Preauthorized Expenses positions (2 Program Analyst 1, 2 Program Analyst 2, 1 Program Analyst 3) from ASD-Procurement to ASD-Preauthorized Expenses;
- Move a vacant OPA 3 position from ADS-Financial/Case Management System to Executive-Communications and Government Relations to be OPDC's Communication Specialist. OPDC's Communications and Government Relations division is currently just the Government Relations Manager, and the Commission does not have any communications positions. This position will help to coordinate and manage both internal and external communications with stakeholders, providers, media, courts, and the Legislature.

These actions provided OPDC with a baseline organizational structure. From there, OPDC was able to evaluate current positions and identify problematic elements. The largest problem was the entanglement of how the procurement positions within the ASD-Procurement section were being used. These four Program Analyst (PA) 4 positions have been used, at least since 2019, as program administrators supporting contractors and administering contracts, they have been managed within the adult criminal sections (currently the CAP-Adult Criminal Compliance division). They were essentially administering the contracts while also providing the primary communication point for contractors.

It is OPDC's goal to disentangle this contract and program administration work. These are two clear bodies of work that require different skill sets and training. Procurement specialists should be writing and administering contracts to ensure contract compliance and program analysts should be providing support to contractors and helping facilitate communication and problem-solving when problems arise.

To achieve this OPDC will:

- Eliminate a vacant Deputy General Counsel position within CAP-Trial Criminal Compliance (\$462,477 biennial savings minus 1 position, 1.00 FTE);
- Use the savings to create three PA 4 positions, these positions will be in CAP-Trial Criminal Compliance and allow OPDC to move the four current PA 4 from the positions in ASD-Procurement to the newly created positions. This will vacate three of the four current PA 4 positions in ASD-Procurement (\$401,538 cost November-June 2025, adding 3 positions, 0.99 FTE).

- Move one PA 4 from ASD-Procurement to CAP-Trial Criminal Compliance. OPDC only needs three procurement positions, along with a procurement manager, in the ASD-Procurement unit. Whereas four Program Analyst 4 positions within CAP-Trial Criminal Compliance will allow OPDC to continue to manage providers in four regions (Zero Cost).
- Down class the remaining three PA4 positions within ASD-Procurement into two Procurement Analyst 1 and one Procurement Analyst 2. These classifications more appropriately align with the procurement work they will be doing in line with Executive branch standard practices (\$ biennial savings);
- Down class the Manager 4 in ASD-Procurement to a Manager 3. This is a more appropriate classification for this manager position.

With these moves, OPDC will be able to recruit for and fill its Procurement division with procurement trained staff, separate the contract work from the programmatic work, and allow the current Program Analyst to focus quality issues with providers.

In addition to these significant moves and position creations, OPDC will also be reclassifying and creating other positions at a net zero cost:

- The Unrepresented Coordinator in CAP-Unrepresented is currently an OPA 2 but is cross-filed as a Policy Analyst 2, reclassing this position to a Policy Analyst 2 will make it official (\$ Savings);
- The CAP Manager in CAP-Administration is currently a General Counsel position and is technically vacant as OPDC is using the Manager 4 position within ASD-Procurement to fill the CAP Manager role. OPDC would down class the General Counsel position to a Manager 4, allowing for the Procurement position to be vacated. The CAP Manager position manages the CAP division, primarily the CAP-Administration and CAP-Research divisions. These divisions write policy, build programs, and improve data collection and usage. A General Counsel is not required in this role, as the CAP-Trial Criminal Compliance has multiple attorneys, and OPDC as a whole has a General Counsel position. (\$20,746 savings);
- Create a Manager 3 position for the Executive-Communications and Legislation. The current Government Relations Manager position is a Deputy General Counsel position that is being underfilled as a Manager 3. By requesting that position, OPDC would be able to vacate the Deputy General Counsel position to bring on an attorney who could act as the Commission's subject matter expert on legal legislation along with managing the implementation of public defense reform laid out in SB 337 (2023), while allowing for a true division manager in the Manager 3 position who is able to build a more robust communications and legislative strategy and act as a subject matter expert on government relations and process (\$161,171 cost November-June 2025, adding 1 position, 0.33 FTE);
- Reclass the Manager 1 position within ASD-Accounting/Accounts Payable to a Manager 2. This is more inline with the work the Accounting Manager does as they oversee the Accounts Payable section and 12 employees (\$51,894 cost).

In total, the OPDC's organizational structure changes represent a net saving to the agency of \$34,000 for the remainder of the biennium, with a rollout cost of \$1.69 million for the 25-27 biennium. This includes:

- 21 position moves;
- 5 position reclassifications downward;
- 1 position reclassification upward;
- 4 new positions created;
- 1 position eliminated.

A full accounting of these position changes and costs is attached.

Action Requested

The Oregon Public Defense Commission (OPDC) requests funding and position authority for three Program Analyst 4 positions (0.99 FTE) for the Adult Trial Division and one Manager 3 (0.33 FTE) for the Executive Division. OPDC requests to move and reclassify as necessary positions to complete its organizational realignment plan. In total, the OPDC's organizational structure changes represent no cost to the agency and reflect a net personal services savings of \$34,000 for the remainder of the 2023-25 biennium. There will be a rollup cost of \$1.69 million for the 2025-2027 biennium.

Legislation Affected

Oregon Laws 2023, Chapter 481, section 1(1) (\$346,834)
Oregon Laws 2023, Chapter 481, section 1(2) \$1,934,819
Oregon Laws 2023, Chapter 481, section 1(4) (\$274,047)
Oregon Laws 2023, Chapter 481, section 1(8) (\$526,114)
Oregon Laws 2023, Chapter 481, section 1(9) (\$822,593)

Sincerely,

Jessica Kampfe
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer
John Borden, Principal Legislative Analyst, LFO
Kate Nass, Chief Financial Officer
Zack Gehringer, Policy and Budget Analyst, CFO



Oregon

Oregon Public Defense Commission

198 Commercial St. SE, Suite 205

Salem, Oregon 97301-3489

Telephone: (503) 378-2478

Fax: (503) 378-4463

www.oregon.gov/opdc

August 26, 2024

Senate President Rob Wagner, Co-Chair
House Speaker Julie Fahey, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

The Oregon Public Defense Commission (OPDC) requests funding and position authority for one Manager 3 (0.38 FTE) and one Information Technology Services 3 (0.38 FTE), three limited-duration Accounting Tech 3 (LF, 1.38 FTE) and two Program Analyst 1 (LF, 1.00 FTE) for the Administrative Services Division. The estimated cost of this request is \$1,051,401 million from the Executive Branch Transfer Special Purpose Appropriation (SPA).

Agency Action

Accounts Payable and Preauthorized Expenses Staffing

OPDC requests \$779,468 from the Executive Branch Transition Special Purpose Appropriation to fund the backfill and continue temporary staff brought on for Accounts Payable and Preauthorized Expenses.

To mitigate the increasing need for services due to the unrepresented persons crisis, the commission made a series of policy moves that have increased the number of hourly providers, increased the complexity of each bill, and increased the frequency of payment. The commission has instructed the agency to approve requested services and work in an expeditious manner and to pay invoices in an expedient manner as well. To accomplish this, the agency has added additional staff above what they are currently budgeted for. The agency has made several temporary hires in lieu of future available positions and requests limited-duration positions to continue accommodating the increased workload.

These positions have allowed OPDC to remain under the 45 days-to-payment requirement and will allow OPDC to remain within that timeframe as they transition to the executive branch. Remaining within 45 days is an essential part of not just entering the Executive branch as a well-functioning agency,

Requesting backfill funding for the following:

- Added one Accounting Tech 3, Accounts Payable processor position as a state temporary employee to fill a future recruitment that would be made available July 1, 2024, total cost of \$89,313 for August 2023 – June 2024.
- Added one Program Analyst 2, PAE Approver position as a state temporary employee to fill a future recruitment that would be made available July 1, 2024, total cost \$22,468 for March 2024 – June 2024.
- Have paid DePaul Industries (DPI) \$87,761 this biennium to add temporary staff to handle increased workload.

Requesting future ongoing funding for the following:

- Requesting 3 Accounting Tech 3, Accounts Payable processor positions in a limited duration capacity for 11 months, August 2024-June 2025 at a cost of \$306,354. (adding 3 positions (LF), 1.38 FTE)
- Requesting 2 Program Analyst 1, PAE intake positions in a limited duration capacity for 12 months, July 2024 – June 2025 at a cost of \$273,572. (adding 2 positions (LF), 1.00 FTE)

Gap Analysis Positions

OPDC also requests \$271,933 from the Executive Branch Transition Special Purpose Appropriation for two positions identified through the gap analysis.

Through a gap analysis based on the legislatively requested agency remediation plan, the agency has determined the need for various positions that will help with the smooth transition of OPDC into the executive branch. Crucial to the success of the agency's transition is the staffing support needs for the Information Technology Services transition. The Commission recently hired a Chief Information Officer (CIO) with numerous years of experience working with the Department of Administrative Services Enterprise Services to lead the commission's IT systems transition to the Executive Branch of government. The CIO has been working with DAS EIS and the agency human resources staff to do a needs assessment on existing staff, in addition to working with OJD ETSD to begin identifying needs while working through the transition plans.

The 2024 Legislature provided four essential positions as a start to moving the transition forward. However, additional positions will still be needed as the transition moves forward. The agency signaled that it would return in a future Emergency Boards to request the additional positions.

OPDC is requesting the addition of two additional Information Technology Services positions that are required to ensure the agency has the necessary staffing to address the move to the executive branch. An additional \$271,933 in General Fund will fund two positions for a combined 0.76 FTE. These positions were identified through a gap analysis of what services the Oregon Judicial Department is currently providing vs. what services will be provided by the Oregon Department of Administrative Services (DAS). This request directly ties to the remediation issue of evaluating the current IT structure and identifying

needs. These positions will have an estimated 2025-2027 roll-up cost of \$997,078 General Fund (2 positions and 2.00 FTE).

The positions include:

1. Manager 3 (1 position, 0.38 FTE) The responsibilities of a Chief Data Officer include overseeing the collection, management, and storage of data across the organization. Responsible for developing data storage strategy and policies, ensuring the security, preservation, and legal compliance of data. Maintaining a myriad of disparate data systems, including provider registries, contract management systems, payment systems, and case management systems. Additional responsibilities include the oversight of data retention, data classification, and data sharing. This position was identified as a need in response to the issue “Evaluate current data security and independence.” (Chief Data Officer)
2. ITS3 (1 position, 0.38 FTE) An IT Systems Auditor is responsible for conducting audits of malware and virus prevention systems, server event logs, and backup systems to ensure compliance with security policies. They regularly review server logs, intrusion detection logs, and network traffic logs for unusual or suspicious activity. They prepare reports on security breaches, including the extent of damage and recommendations for preventing future incidents. They review and manage end-user accounts, permissions, and access rights to ensure they align with security protocols. Additionally, they work closely with Enterprise Information Services and Cyber Security Services to ensure compliance and reporting requirements are met.

Action Requested

The Oregon Public Defense Commission (OPDC) requests funding and position authority for one Manager 3 (0.38 FTE), one Information Technology Services 3 (0.38 FTE), three limited duration positions for Accounts Payable (1.38 FTE) and two limited duration positions for the Preauthorized Expense Unit (1.00 FTE) within the Administrative Services Division. OPDC requests \$271,933 for permanent staff and \$779,468 for limited-duration staff. The estimated cost of this request is \$1,051,401 million from the Executive Branch Transfer Special Purpose Appropriation (SPA).

Legislation Affected

Oregon Laws 2023, Chapter 481, section 1(9) - \$1,051,401

Oregon Laws 2023, Chapter 605, section 113(1) - (\$1,051,401)

Sincerely,

Jessica Kampfe
Executive Director

cc:
Amanda Beitel, Legislative Fiscal Officer

John Borden, Principal Legislative Analyst, LFO
Kate Nass, Chief Financial Officer
Zack Gehringer, Policy and Budget Analyst, CFO

DRAFT



Oregon

Oregon Public Defense Commission

198 Commercial St. SE, Suite 205

Salem, Oregon 97301-3489

Telephone: (503) 378-2478

Fax: (503) 378-4463

www.oregon.gov/opdc

August 26, 2024

Senate President Rob Wagner, Co-Chair
House Speaker Julie Fahey, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

OPDC requests that the Emergency Board acknowledge the provided report on the status of the Legislatively approved extension of the Temporary Hourly Increase Program (THIP) from July 1, 2024, through December 31, 2024, and acknowledge the request to extend THIP from January 1, 2025 through June 30, 2025, and defer funding of these extensions to the December 2024 meeting of the Emergency Board, while holding \$5 million of the \$6.2 million special purpose appropriation (SPA) for public defense in reserve to fund the extensions of the program.

At this time, OPDC is not requesting additional funds or access to the SPA. OPDC is providing the Emergency Board with an update on the current THIP extension and requesting approval of the January-June 2025 extension. Based on the budget projections, actuals, and additional THIP data, OPDC will return to the December Emergency Board with a request to fund both of these extensions through a rebalance of Court Mandated Expenses (CME) and potential access to the SPA.

On May 23, 2024 Governor Kotek requested that the Oregon Public Defense Commission (OPDC) submit a plan by August 1, 2024 to “eliminate Oregon’s unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.” OPDC submitted that plan to the Governor. The plan included interventions OPDC was taking or planned to take within existing resources, as well as interventions that would require Legislative approval, funding through the Emergency Board, or both. This request is in line with that crisis plan.

Agency Action

Temporary Hourly Increase Program

When it comes to assigning counsel to a person eligible for public defense, OPDC contractors are first in line. Under normal circumstances, the court will assign an available attorney upon arraignment. However, when no attorney is available due to lack of capacity or conflicts of interest, the court will assign OPDC as a placeholder. This puts the defendant on the unrepresented list and notifies OPDC of the need to locate counsel. OPDC’s most effective tool for locating counsel is the Temporary Hourly Increase Program (THIP). Beginning in August 2022, THIP 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 always intended to be a temporary program. Initially, it was intended as an emergency program, then later extended as a bridge until state employees started taking cases. In that time, it has been an incredibly successful program. Through THIP, OPDC is assigning an average of 200 cases per month directly off of the in-custody unrepresented list. Since its inception, 345 attorneys have taken 6,392 cases representing 4,453 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.

THIP has also brought in new lawyers into the system. Before 2022, when the hourly rate was \$75 and \$105/hour, about 1% of OPDC-assigned cases were taken hourly. Today, hourly cases account for nearly 10% of all OPDC-assigned cases. Of the 214 currently active THIP attorneys, 140 are not contracted providers with OPDC. Additionally, attorneys under contract have to have reached their monthly MAC before they are able to take on a THIP case, ensuring that OPDC is utilizing contracted capacity before paying hourly.

July-December 2024 Update

Though THIP will expire, higher hourly rates and case-related expenses apply throughout the duration of the case, and many of those cases will continue even after the program concludes. When an attorney takes on a case under THIP, for example, on December 28, 2024, they will likely work on it for a year and up to three on complex cases, and the agency will continue to incur costs that will have to be paid.

The extension of THIP from July 2024 to December 2024 is projected to take 1663 cases at a total cost of \$18,920,249 over the life of the cases. OPDC projects that \$13,024,101 of that will be billed in the 25-27 biennium and included in POP 107 in 2025. Of the remaining \$5,896,147

Types of unrepresented cases taken through THIP since August 2022, both by number of clients and by number of cases.

| Case Category | THIP Distinct Client Count | THIP Distinct Case Count |
|-------------------------------|----------------------------|--------------------------|
| Misdemeanor | 1,866 | 2,482 |
| Minor Felony | 1,414 | 1,773 |
| Measure 11 | 504 | 522 |
| Probation Violations-Criminal | 376 | 464 |
| Major Felony | 404 | 438 |
| Dependency/Termination | 209 | 248 |
| Murder | 166 | 165 |
| Delinquency | 101 | 126 |
| PCR/Habeas | 79 | 80 |
| Civil Commitment | 72 | 74 |
| Jessica Law | 58 | 58 |
| Probation Violations-Juvenile | 6 | 14 |
| Other | 3 | 3 |
| Total | 4,453 | 6,392 |

that will be billed in the 23-25 biennium, \$2,981,278 will be paid for with the remaining THIP budget. Rather than accessing the SPA to cover the remaining \$2,914,869 expected to be billed in 2025, OPDC could use existing resources within the non-THIP CME budget through a rebalance in December 2024.

The charts below show these numbers broken down by Court Mandated Expenses (CME), which include attorney costs and costs mandated by the court, such as court-ordered psychological evaluations, and Preauthorized Expenses (PAE), which include investigation, professional services, expert witnesses, and psychological evaluations not ordered by the court.

Total Cost of THIP Extention from July 2024-December 2024 over the life of the cases:

| July 2024 thru December 2024 Caseload: THIP Expected Costs Summary | | | | | | |
|--|--------------------|-----------------|------------------------|----------------------------|--------------------|------------------------------|
| Case Category | Projected Caseload | Cost Per Case | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Costs | 6 Month Pickup Expected Cost |
| Civil Commitment | 14 | \$851 | \$11,316 | \$0 | \$428 | \$11,744 |
| Delinquency | 14 | \$7,217 | \$70,159 | \$9,315 | \$20,120 | \$99,595 |
| Dependency/Termination | 7 | \$9,377 | \$57,712 | \$1,553 | \$5,437 | \$64,701 |
| Jessica Law | 28 | \$40,916 | \$678,960 | \$198,720 | \$251,602 | \$1,129,282 |
| Major Felony | 117 | \$9,639 | \$841,628 | \$140,760 | \$148,267 | \$1,130,655 |
| Measure 11 | 221 | \$20,966 | \$2,782,080 | \$828,000 | \$1,019,213 | \$4,629,293 |
| Minor Felony | 407 | \$4,992 | \$1,535,581 | \$213,728 | \$282,935 | \$2,032,243 |
| Misdemeanor | 656 | \$2,810 | \$1,612,530 | \$98,325 | \$131,100 | \$1,841,955 |
| Murder | 48 | \$151,199 | \$3,477,600 | \$1,141,088 | \$2,684,224 | \$7,302,912 |
| PCR/Habeas | 14 | \$34,391 | \$169,740 | \$33,120 | \$271,736 | \$474,596 |
| Probation Violations-Criminal | 138 | \$1,473 | \$181,056 | \$10,350 | \$11,868 | \$203,274 |
| Total | 1663 | \$11,378 | \$11,418,362 | \$2,674,958 | \$4,826,930 | \$18,920,249 |

2023-2025 Biennium

Projected costs of billing for THIP cases taken July 2024-December 2024 during the 2023-2025 Biennium:

| July 2024 thru Dec 2024 Caseload: THIP Expected Costs during FY 25 | | | | |
|--|------------------------|----------------------------|--------------------|-----------------------------------|
| Case Category | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost (during FY25) |
| Civil Commitment | \$9,176 | \$0 | \$347 | \$9,523 |
| Delinquency | \$66,280 | \$8,800 | \$19,008 | \$94,088 |
| Dependency/Termination | \$175,511 | \$4,721 | \$16,535 | \$196,768 |
| Jessica Law | \$129,126 | \$37,793 | \$47,850 | \$214,770 |
| Major Felony | \$559,767 | \$93,620 | \$98,613 | \$752,000 |
| Measure 11 | \$554,609 | \$165,062 | \$203,181 | \$922,852 |
| Minor Felony | \$536,578 | \$74,683 | \$98,866 | \$710,127 |
| Misdemeanor | \$374,640 | \$22,844 | \$30,459 | \$427,942 |
| Murder | \$1,154,483 | \$378,815 | \$891,101 | \$2,424,399 |
| PCR/Habeas | \$34,752 | \$6,781 | \$55,634 | \$97,167 |
| Probation Violations-Criminal | \$41,428 | \$2,368 | \$2,716 | \$46,511 |
| Total | \$3,558,322 | \$833,601 | \$1,504,224 | \$5,896,147 |

THIP Budget, Actuals, and Projections for the 2023-2025 Biennium:

| | CME | PAE | Total |
|--|--------------|----------------|----------------|
| THIP Budget 23-25 | \$ 9,935,850 | \$ 3,277,524 | \$ 13,213,374 |
| THIP Actuals July 23-June 24 | \$ 6,604,334 | \$ 3,627,762 | \$ 10,232,096 |
| THIP Remaining Budget | \$ 3,331,516 | \$ (350,238) | \$ 2,981,278 |
| THIP Projected Expenses in FY25 | \$ 3,558,322 | \$ 2,337,825 | \$ 5,896,147 |
| Variance Between Remaining Budget and Projected Expenses | \$ (226,806) | \$ (2,688,063) | \$ (2,914,869) |

At this time, OPDC has a Legislatively approved budget for THIP of \$13,213,374. This comes from investments in SB 5532 (2023) which provided \$2 million for PAE and CME for the unrepresented crisis, and \$3.4 million, which was disappropriated from the 2021-23 biennium and repurposed to provide funding for package 083 SB 5532, and SB 5701 (2024) which invested \$7.9 million for the THIP extension and backfill of THIP from October 2023-June 2024. From January 1, 2024 to June 30, 2024, OPDC has paid \$10,232,096 in THIP expenses. Based on these numbers, it would seem that the THIP extension from July-December 2024 would be \$2,914,869 over budget and require SPA resources.

However, OPDC is looking at existing resources within CME and PAE overall. THIP is a type of hourly attorney and, as such, is paid through the same CME budget as other hourly providers. THIP cases also use the normal PAE process, besides getting an enhanced rate for investigators. It should also be noted that OPDC would pay the standard hourly rate and all PAE expenses in the normal course of business if it weren't for the unrepresented crisis, so many of these costs were already factored into the PAE and CME budgets. THIP has significantly increased the number of hourly cases taken while decreasing the cases taken at the standard hourly rate. This has led to savings within non-THIP CME and PAE, which allowed OPDC to fund the initial portion of the THIP extension in 2022.

OPDC's CME and PAE budget is based on historic trends. These trends had the majority of psychological evaluations being ordered by the courts and, therefore, coming from the CME budget. However, recent trends have seen a move towards evidence-based sentencing. This has led to most psychological evaluations initiated by the defense counsel and, therefore, coming from the PAE budget. This trend has caused a significant imbalance in OPDC's PAE and CME budgets.

When non-THIP resources are factored in, OPDC would be able to cover all projected expenses from the June-December 2024 THIP extension through savings in the non-THIP Court Mandated Expenses budget, which would require a rebalance in December.

Non-THIP CME and PAE Budgeted, Actuals, and Projections for the 2023-2025 Biennium:

| | CME | PAE | Total |
|--|---------------|-----------------|----------------|
| Non-THIP CME/PAE Budget 23-25 | \$ 65,897,147 | \$ 55,340,161 | \$ 121,237,308 |
| Non-THIP CME/PAE Actuals July 23-June 24 | \$ 9,511,048 | \$ 34,100,956 | \$ 43,612,004 |
| Non-THIP CME/PAE Remaining Budget | \$ 56,386,099 | \$ 21,239,205 | \$ 77,625,304 |
| Non-THIP CME/PAE Projected Expenses July 24-June 25 | \$ 9,511,048 | \$ 34,100,956 | \$ 43,612,004 |
| Variance Between Remaining Budget and Projected Expenses | \$ 46,875,051 | \$ (12,861,750) | \$ 34,013,301 |

Balance of Non-THIP and THIP Projections:

| | CME | PAE | Total |
|---|----------------------|------------------------|----------------------|
| Variance Between Remaining Non-THIP Budget and Projected Expenses | \$ 46,875,051 | \$ (12,861,750) | \$ 34,013,301 |
| Variance Between Remaining THIP Budget and Projected Expenses | \$ (226,806) | \$ (2,688,063) | \$ (2,914,869) |
| Variance of THIP and Non-THIP CME/PAE | \$ 46,648,245 | \$ (15,549,813) | \$ 31,098,432 |
| Non-THIP CME after covering THIP CME Variance | \$ 46,648,245 | | |
| Non-THIP CME after covering Non-THIP PAE Variance | \$ 33,786,495 | | |
| Non-THIP CME after covering THIP PAE Variance | \$ 31,098,432 | | |

2025-2027 Biennium

As LFO acknowledged in their recommendation in May, THIP represents a continuing financial obligation to the state until a case assigned under the program is resolved. Expenditures continue into the second year of the biennium and into the 2025-27 biennium for unadjudicated cases. In addition, THIP costs include payment for not just hourly attorneys (Court Mandated Expenses or CME) but related costs such as expert witness and investigation expenses (Preauthorized Expenses or PAE), which can be material. THIP attorneys and investigators may also be reimbursed for travel and other allowable expenses. These cases also come with roll-up costs into future biennium. OPDC has calculated those costs to provide full transparency to the Emergency Board. These roll-up costs will be included in OPDC’s Policy Option Package 107 THIP Funding Continuation in the 2025 session. That POP is not a request to continue THIP but rather a request to fund the bills that will come in from cases previously assigned under THIP.

Projected costs of billing for THIP cases taken July 2024-December 2024 during the 2025-2027 biennium:

| July 2024 thru Dec 2024 Caseload: THIP Expected Cost Remainder after FY 25 | | | | |
|--|------------------------|----------------------------|--------------------|-----------------------------------|
| Case Category | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost (After FY 25) |
| Civil Commitment | \$2,140 | \$0 | \$81 | \$2,221 |
| Delinquency | \$3,879 | \$515 | \$1,112 | \$5,506 |
| Dependency/Termination | (\$117,799) | (\$3,169) | (\$11,098) | (\$132,066) |
| Jessica Law | \$549,834 | \$160,927 | \$203,751 | \$914,512 |
| Major Felony | \$281,860 | \$47,140 | \$49,655 | \$378,655 |
| Measure 11 | \$2,227,471 | \$662,938 | \$816,032 | \$3,706,440 |
| Minor Felony | \$999,003 | \$139,045 | \$184,069 | \$1,322,117 |
| Misdemeanor | \$1,237,890 | \$75,481 | \$100,641 | \$1,414,013 |
| Murder | \$2,323,117 | \$762,273 | \$1,793,123 | \$4,878,513 |
| PCR/Habeas | \$134,988 | \$26,339 | \$216,102 | \$377,429 |
| Probation Violations-Criminal | \$139,628 | \$7,982 | \$9,152 | \$156,763 |
| Total | \$7,860,039 | \$1,841,356 | \$3,322,706 | \$13,024,101 |

| | CME | PAE | Total |
|---|--------------|-------------|--------------|
| THIP Projected Expenses in 25-27 Biennium | \$ 7,860,039 | \$5,164,062 | \$13,024,101 |

Extention Request: January-June 2025

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 rates took over. In order to bridge that gap, OPDC is requesting an extension of THIP from January 1, 2025 to June 30, 2025. This extension will allow OPDC to:

- Maintain the hourly attorneys we have now;
- Bridge the gap between the end of THIP in December 2024 and the new hourly rates anticipated in July 2025;
- Allow for a smooth transition from THIP to an hourly panel of attorneys come July 2025.

Should THIP end before the stabilized hourly rates go into effect, OPDC could lose up to 200 cases per month that are currently being assigned under this program. That would result in those cases remaining unrepresented in custody and cause the list to grow rapidly.

The extension of THIP from January to June 2025 is projected to take 1663 cases at a total cost of \$18,920,249 over the life of the cases. OPDC projects that \$13,024,101 of that will be billed in the 25-27 biennium and included in POP 107 in 2025. OPDC requests to return in to the

December Emergency Board to request a rebalance of Court Mandated Expenses to cover the projected \$5,896,147 that will be billed in the 23-25 biennium.

The charts below show these numbers broken down by Court Mandated Expenses (CME), which include attorney costs and costs mandated by the court, such as court-ordered psychological evaluations and Preauthorized Expenses (PAE), which include investigation, professional services, expert witnesses, and psychological evaluations not ordered by the court. OPDC does not believe they will need to access the \$5 million of the SPA being held for this purpose.

Total Cost of THIP Extention from January-June 2025 over the life of the cases:

| January 2025 thru June 2025 Caseload: THIP Expected Costs Summary | | | | | | | |
|---|--------------------|-----------------|------------------------|----------------------------|--------------------|------------------------------|--|
| Case Category | Projected Caseload | Cost Per Case | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Costs | 6 Month Pickup Expected Cost | |
| Civil Commitment | 14 | \$851 | \$11,316 | \$0 | \$428 | \$11,744 | |
| Delinquency | 14 | \$7,217 | \$70,159 | \$9,315 | \$20,120 | \$99,595 | |
| Dependency/Termination | 7 | \$9,377 | \$57,712 | \$1,553 | \$5,437 | \$64,701 | |
| Jessica Law | 28 | \$40,916 | \$678,960 | \$198,720 | \$251,602 | \$1,129,282 | |
| Major Felony | 117 | \$9,639 | \$841,628 | \$140,760 | \$148,267 | \$1,130,655 | |
| Measure 11 | 221 | \$20,966 | \$2,782,080 | \$828,000 | \$1,019,213 | \$4,629,293 | |
| Minor Felony | 407 | \$4,992 | \$1,535,581 | \$213,728 | \$282,935 | \$2,032,243 | |
| Misdemeanor | 656 | \$2,810 | \$1,612,530 | \$98,325 | \$131,100 | \$1,841,955 | |
| Murder | 48 | \$151,199 | \$3,477,600 | \$1,141,088 | \$2,684,224 | \$7,302,912 | |
| PCR/Habeas | 14 | \$34,391 | \$169,740 | \$33,120 | \$271,736 | \$474,596 | |
| Probation Violations-Criminal | 138 | \$1,473 | \$181,056 | \$10,350 | \$11,868 | \$203,274 | |
| Total | 1663 | \$11,378 | \$11,418,362 | \$2,674,958 | \$4,826,930 | \$18,920,249 | |

2023-2025 Biennium

Projected costs of billing for THIP cases taken January-June 2025 during the 2025 fiscal year (July 2024-June 2025):

| January 2025 thru June 2025 Caseload: THIP Expected Costs During FY 25 | | | | |
|--|------------------------|----------------------------|--------------------|-----------------------------------|
| Case Category | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost (during FY25) |
| Civil Commitment | \$9,176 | \$0 | \$347 | \$9,523 |
| Delinquency | \$66,280 | \$8,800 | \$19,008 | \$94,088 |
| Dependency/Termination | \$175,511 | \$4,721 | \$16,535 | \$196,768 |
| Jessica Law | \$129,126 | \$37,793 | \$47,850 | \$214,770 |
| Major Felony | \$559,767 | \$93,620 | \$98,613 | \$752,000 |
| Measure 11 | \$554,609 | \$165,062 | \$203,181 | \$922,852 |
| Minor Felony | \$536,578 | \$74,683 | \$98,866 | \$710,127 |
| Misdemeanor | \$374,640 | \$22,844 | \$30,459 | \$427,942 |
| Murder | \$1,154,483 | \$378,815 | \$891,101 | \$2,424,399 |
| PCR/Habeas | \$34,752 | \$6,781 | \$55,634 | \$97,167 |
| Probation Violations-Criminal | \$41,428 | \$2,368 | \$2,716 | \$46,511 |
| Total | \$3,558,322 | \$833,601 | \$1,504,224 | \$5,896,147 |

THIP Budget, Actuals, and Projections for the 2023-2025 Biennium*

| | CME | PAE | Total |
|--|--------------|----------------|----------------|
| THIP Budget 23-25 | \$ 9,935,850 | \$ 3,277,524 | \$ 13,213,374 |
| THIP Actuals July 23-June 24 | \$ 6,604,334 | \$ 3,627,762 | \$ 10,232,096 |
| THIP Remaining Budget | \$ 3,331,516 | \$ (350,238) | \$ 2,981,278 |
| THIP Projected Expenses January-June 2025 | \$ 3,558,322 | \$ 2,337,825 | \$ 5,896,147 |
| Variance Between Remaining Budget and Projected Expenses | \$ (226,806) | \$ (2,688,063) | \$ (2,914,869) |

*These numbers do not factor in the July-December 2024 projected expenditure. These requests are combined at the end of this letter.

At this time, OPDC has a Legislatively approved budget for THIP of \$13,213,374. From January 1, 2024 to June 30, 2024, OPDC has paid \$10,232,096 in THIP expenses. Based on these numbers, it would seem that the THIP extension from January-June 2025 would be \$2,914,869 over budget and require SPA resources.

However, OPDC is looking at existing resources within CME and PAE overall. THIP is a type of hourly attorney and, as such, is paid through the same CME budget as other hourly providers. THIP cases also use the normal PAE process, besides getting an enhanced rate for investigators. It should also be noted that OPDC would pay the standard hourly rate and all PAE expenses in the normal course of business if it weren't for the unrepresented crisis, so many of these costs were already factored into the PAE and CME budgets. THIP has significantly increased the number of hourly cases taken while decreasing the cases taken at the standard hourly rate. This has led to savings within non-THIP CME and PAE, which allowed OPDC to fund the initial portion of the THIP extension in 2022.

When non-THIP resources are factored in, OPDC would be able to cover all projected expenses from the proposed January-June 2025 extension through savings in the non-THIP Court Mandated Expenses budget.

Non-THIP CME and PAE Budgeted, Actuals, and Projections for the 2023-2025 Biennium

| | CME | PAE | Total |
|---|---------------|---------------|----------------|
| Non-THIP CME/PAE Budget 23-25 | \$ 65,897,147 | \$ 55,340,161 | \$ 121,237,308 |
| Non-THIP CME/PAE Actuals July 23-June 24 | \$ 9,511,048 | \$ 34,100,956 | \$ 43,612,004 |
| Non-THIP CME/PAE Remaining Budget | \$ 56,386,099 | \$ 21,239,205 | \$ 77,625,304 |
| Non-THIP CME/PAE Projected Expenses July 24-June 25 | \$ 9,511,048 | \$ 34,100,956 | \$ 43,612,004 |

| | | | |
|--|---------------|-----------------|---------------|
| Variance Between Remaining Budget and Projected Expenses | \$ 46,875,051 | \$ (12,861,750) | \$ 34,013,301 |
|--|---------------|-----------------|---------------|

Balance of Non-THIP and THIP Projections*

| | CME | PAE | Total |
|---|---------------|-----------------|----------------|
| Variance Between Remaining Non-THIP Budget and Projected Expenses | \$ 46,875,051 | \$ (12,861,750) | \$ 34,013,301 |
| Variance Between Remaining THIP Budget and Projected Expenses | \$ (226,806) | \$ (2,688,063) | \$ (2,914,869) |
| Variance of THIP and Non-THIP CME/PAE | \$ 46,648,245 | \$ (15,549,813) | \$ 31,098,432 |
| Non-THIP CME after covering THIP CME Variance | \$ 46,648,245 | | |
| Non-THIP CME after covering Non-THIP PAE Variance | \$ 33,786,495 | | |
| Non-THIP CME after covering THIP PAE Variance | \$ 31,098,432 | | |

*These numbers do not factor in the July-December 2024 projected expenditure. These requests are combined at the end of this letter.

2025-2027 Biennium

As LFO acknowledged in their recommendation in May, THIP represents a continuing financial obligation to the state until a case assigned under the program is resolved. Expenditures continue into the second year of the biennium and into the 2025-27 biennium for unadjudicated cases. In addition, THIP costs include payment for not just hourly attorneys (Court Mandated Expenses or CME) but related costs such as expert witness and investigation expenses (Preauthorized Expenses or PAE), which can be material. THIP attorneys and investigators may also be reimbursed for travel and other allowable expenses. These cases also come with roll-up costs into future biennium. OPDC has calculated those costs to provide full transparency to the Emergency Board. These roll-up costs will be included in OPDC’s Policy Option Package 107 THIP Funding Continuation in the 2025 session. That POP is not a request to continue THIP but rather a request to fund the bills that will come in from cases previously assigned under THIP.

Projected costs of billing for THIP cases taken January-June 2025 during the 2025-2027 biennium:

| January 2025 thru June 2025 Caseload: THIP Expected Costs Remainder after FY 25 | | | | |
|---|------------------------|----------------------------|--------------------|-----------------------------------|
| Case Category | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost (After FY 25) |
| Civil Commitment | \$2,140 | \$0 | \$81 | \$2,221 |
| Delinquency | \$3,879 | \$515 | \$1,112 | \$5,506 |
| Dependency/Termination | (\$117,799) | (\$3,169) | (\$11,098) | (\$132,066) |
| Jessica Law | \$549,834 | \$160,927 | \$203,751 | \$914,512 |
| Major Felony | \$281,860 | \$47,140 | \$49,655 | \$378,655 |
| Measure 11 | \$2,227,471 | \$662,938 | \$816,032 | \$3,706,440 |
| Minor Felony | \$999,003 | \$139,045 | \$184,069 | \$1,322,117 |
| Misdemeanor | \$1,237,890 | \$75,481 | \$100,641 | \$1,414,013 |
| Murder | \$2,323,117 | \$762,273 | \$1,793,123 | \$4,878,513 |
| PCR/Habeas | \$134,988 | \$26,339 | \$216,102 | \$377,429 |
| Probation Violations-Criminal | \$139,628 | \$7,982 | \$9,152 | \$156,763 |
| Total | \$7,860,039 | \$1,841,356 | \$3,322,706 | \$13,024,101 |

| | CME | PAE | Total |
|---|--------------|-------------|--------------|
| THIP Projected Expenses in 25-27 Biennium | \$ 7,860,039 | \$5,164,062 | \$13,024,101 |

Combined Request: THIP Funding for July 2024-June 2025

OPDC felt it was important to report on the two THIP extensions separately to keep the expenses garnered by both distinct. However, these extensions are interdependent, especially the proposed extension from January to June 2025. The charts below combine these two extensions to show how they would affect the OPDC budget. This gives the Emergency Board a full picture of what a CME rebalance would likely look like in December.

Total Cost of THIP Extension from July 2024-June 2025 over the life of the cases:

| July 2024 thru June 2025 Caseload: THIP Expected Costs Summary | | | | | | |
|--|--------------------|-----------------|------------------------|----------------------------|--------------------|---------------------|
| Case Category | Projected Caseload | Cost Per Case | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost |
| Civil Commitment | 28 | \$851 | \$22,632 | \$0 | \$856 | \$23,488 |
| Delinquency | 28 | \$7,217 | \$140,318 | \$18,630 | \$40,241 | \$199,189 |
| Dependency/Termination | 14 | \$9,377 | \$115,423 | \$3,105 | \$10,874 | \$129,403 |
| Jessica Law | 55 | \$40,916 | \$1,357,920 | \$397,440 | \$503,203 | \$2,258,563 |
| Major Felony | 235 | \$9,639 | \$1,683,255 | \$281,520 | \$296,534 | \$2,261,309 |
| Measure 11 | 442 | \$20,966 | \$5,564,160 | \$1,656,000 | \$2,038,426 | \$9,258,586 |
| Minor Felony | 814 | \$4,992 | \$3,071,162 | \$427,455 | \$565,869 | \$4,064,486 |
| Misdemeanor | 1311 | \$2,810 | \$3,225,060 | \$196,650 | \$262,200 | \$3,683,910 |
| Murder | 97 | \$151,199 | \$6,955,200 | \$2,282,175 | \$5,368,448 | \$14,605,823 |
| PCR/Habeas | 28 | \$34,391 | \$339,480 | \$66,240 | \$543,472 | \$949,192 |
| Probation Violations-Criminal | 276 | \$1,473 | \$362,112 | \$20,700 | \$23,736 | \$406,548 |
| Total | 3326 | \$11,378 | \$22,836,723 | \$5,349,915 | \$9,653,859 | \$37,840,497 |

2023-2025 Biennium

Projected costs of billing for THIP cases taken July 2024-June 2025 during the 2025 fiscal year (July 2024-June 2025):

| July 2024 thru June 2025 Caseload: THIP Expected Costs during FY 25 | | | | |
|---|------------------------|----------------------------|--------------------|------------------------------------|
| Case Category | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost (during FY 25) |
| Civil Commitment | \$18,251 | \$0 | \$690 | \$18,941 |
| Delinquency | \$131,836 | \$17,504 | \$37,808 | \$187,148 |
| Dependency/Termination | \$349,103 | \$9,391 | \$32,890 | \$391,385 |
| Jessica Law | \$256,842 | \$75,173 | \$95,178 | \$427,193 |
| Major Felony | \$1,113,417 | \$186,216 | \$196,148 | \$1,495,781 |
| Measure 11 | \$1,103,157 | \$328,321 | \$404,141 | \$1,835,619 |
| Minor Felony | \$1,067,292 | \$148,549 | \$196,651 | \$1,412,492 |
| Misdemeanor | \$745,185 | \$45,438 | \$60,584 | \$851,208 |
| Murder | \$2,296,350 | \$753,490 | \$1,772,463 | \$4,822,302 |
| PCR/Habeas | \$69,124 | \$13,488 | \$110,660 | \$193,272 |
| Probation Violations-Criminal | \$82,402 | \$4,711 | \$5,401 | \$92,514 |
| Total | \$7,077,756 | \$1,658,092 | \$2,992,008 | \$11,727,856 |

THIP Budget, Actuals, and Projections for the 2023-2025 Biennium:

| | CME | PAE | Total |
|---|---------------|---------------|---------------|
| THIP Budget 23-25 | \$9,935,850 | \$3,277,524 | \$13,213,374 |
| THIP Actuals July 23-June 24 | \$6,604,334 | \$3,627,762 | \$10,232,096 |
| THIP Projected Expenses July-December 2024 | \$3,558,322 | \$2,337,825 | \$5,896,147 |
| THIP Projected Expenses January-June 2025 | \$3,558,322 | \$2,337,825 | \$5,896,147 |
| Variance Between THIP Budget and Actuals + Projected Expenses | \$(3,785,128) | \$(5,025,888) | \$(8,811,016) |

At this time, OPDC has a Legislatively approved budget for THIP of \$13,213,374. From January 1, 2024 to June 30, 2024, OPDC has paid \$10,232,096 in THIP expenses. Based on these numbers, it would seem that the THIP extension from July 2024-June 2025 would be \$8,811,016 over budget and require SPA and additional resources.

When non-THIP resources are factored in, OPDC would be able to cover all projected expenses from both the current extension and the proposed January-June 2025 extension through savings in the non-THIP Court Mandated Expenses budget.

Non-THIP CME and PAE Budgeted, Actuals, and Projections for the 2023-2025 Biennium

| | CME | PAE | Total |
|--|---------------|-----------------|----------------|
| Non-THIP CME/PAE Budget 23-25 | \$ 65,897,147 | \$ 55,340,161 | \$ 121,237,308 |
| Non-THIP CME/PAE Actuals July 23-June 24 | \$ 9,511,048 | \$ 34,100,956 | \$ 43,612,004 |
| Non-THIP CME/PAE Remaining Budget | \$ 56,386,099 | \$ 21,239,205 | \$ 77,625,304 |
| Non-THIP CME/PAE Projected Expenses July-June 24 | \$ 9,511,048 | \$ 34,100,956 | \$ 43,612,004 |
| Variance Between Remaining Budget and Projected Expenses | \$ 46,875,051 | \$ (12,861,750) | \$ 34,013,301 |

Balance of Non-THIP and THIP Projections

| | CME | PAE | Total |
|---|----------------------|------------------------|----------------------|
| Variance Between Remaining Non THIP Budget and Projected Expenses | \$ 46,875,051 | \$ (12,861,750) | \$ 34,013,301 |
| Variance Between Remaining THIP Budget and Projected Expenses | \$ (3,785,128) | \$ (5,025,888) | \$ (8,811,016) |
| Variance of THIP and Non-THIP CME/PAE | \$ 43,089,923 | \$ (17,887,638) | \$ 25,202,285 |
| Non-THIP CME after covering THIP CME Variance | \$ 43,089,923 | | |
| Non-THIP CME after covering Non-THIP PAE Variance | \$ 30,228,173 | | |
| Non-THIP CME after covering THIP PAE Variance | \$ 25,202,285 | | |

While OPDC does not at this time anticipate needing to access the SPA due to the \$25.2 million in savings within the non-THIP Court Mandate Expenses, it is requesting that \$5 million of the SPA continue to be held for this potential use at the December 2024 Emergency Board. These calculations and the assumptions in the charts below are based on past performance. The Commission is implementing, or requesting authority to implement, several changes that could increase the rate of bills paid from THIP and non-THIP PAE and CME accounts.

- Emergency Board request for two additional assignment coordinators. These positions will increase OPDC’s administrative ability to assign THIP cases. If more THIP cases are assigned, both CME and PAE costs will increase.
- Emergency Board request for additional MAC. More attorneys accepting cases under contract will result in an increased utilization of PAE for experts and investigators.
- THIP process improvements coming online. OPDC has seen a marked increase in the number of THIP cases being assigned since implementing various process improvements May-July. July saw the highest number of THIP cases assigned yet. If these numbers continue to grow, THIP will utilize more PAE and CME than currently predicted.

- Bill processing changes. OPDC is seeing an increase in bills being processed each month. This is due to a series of factors, including:
 - As THIP cases age, they have more bills to submit to the agency;
 - OPDC has eliminated its backlog of preauthorized expense requests, which has increased the volume of bills paid through accounts payable;
 - The Commission has updated policies to encourage providers to bill the agency monthly and for vendors to submit their invoices when completed rather than at the end of each case.
 - To compensate providers more fairly for their time, the commission changed the policy on mileage and travel time, which has substantially increased the number of billings for those areas,
 - Aside from the current investments, the biennial budgets for PAE and CME are built on a historical basis, which did not consider the increased caseload, which has substantially changed from when the 2023-25 budgets were established.
 - OPDC has seen a spike in the number of requests for psychological evaluations, which was not anticipated, and is watching this trend.

For these reasons, OPDC hesitates to request the SPA be released from holding. Should expenses increase significantly, the projected savings of \$25.2 million could diminish, requiring OPDC to access the SPA in December. Should billings remain closer to anticipated costs, agency savings would revert to the Legislature and could be used to cover ongoing THIP expenses in the 25-27 biennium.

2025-2027 Biennium

| July 2024 thru June 2025 Caseload: THIP Expected Costs Remaining after FY 25 | | | | |
|--|------------------------|----------------------------|--------------------|-----------------------------------|
| Case Category | Expected Attorney Cost | Expected Investigator Cost | Expected PAE Cost | Expected Total Cost (After FY 25) |
| Civil Commitment | \$4,381 | \$0 | \$166 | \$4,546 |
| Delinquency | \$8,482 | \$1,126 | \$2,433 | \$12,041 |
| Dependency/Termination | (\$233,680) | (\$6,286) | (\$22,016) | (\$261,982) |
| Jessica Law | \$1,101,078 | \$322,267 | \$408,026 | \$1,831,371 |
| Major Felony | \$569,838 | \$95,304 | \$100,387 | \$765,528 |
| Measure 11 | \$4,461,003 | \$1,327,679 | \$1,634,285 | \$7,422,967 |
| Minor Felony | \$2,003,870 | \$278,906 | \$369,218 | \$2,651,994 |
| Misdemeanor | \$2,479,875 | \$151,212 | \$201,616 | \$2,832,702 |
| Murder | \$4,658,850 | \$1,528,685 | \$3,595,985 | \$9,783,521 |
| PCR/Habeas | \$270,356 | \$52,752 | \$432,811 | \$755,919 |
| Probation Violations-Criminal | \$279,710 | \$15,989 | \$18,335 | \$314,034 |
| Total | \$15,758,967 | \$3,691,823 | \$6,661,851 | \$26,112,641 |

| | CME | PAE | Total |
|---|---------------|--------------|--------------|
| THIP Projected Expenses in 25-27 Biennium | \$ 15,758,967 | \$10,353,674 | \$26,112,641 |

Action Requested

The Oregon Public Defense Commission requests the Emergency board acknowledge the report on the extension of Temporary Hourly Increase Program through December 2024, the extension of the existing Temporary Hourly Increase Program from July 1 to December 31, 2024. OPDC further requests that funding for the extension was deferred to a future meeting of the Emergency Board.

Legislation Affected

None

Sincerely,

Jessica Kampfe
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer
John Borden, Principal Legislative Analyst, LFO
Kate Nass, Chief Financial Officer
Zack Gehringer, Policy and Budget Analyst, CFO

Oregon Public Defense Commission

FINANCIAL CASE MANAGEMENT SYSTEM STATUS REPORT

August 16, 2024

NATURE OF THE REPORT

The budget report for SB 5506 (2023), the omnibus budget measure, included the following budget note for the Public Defense Commission (OPDC):

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 before the 2024 Legislative session on the status of the Financial/Case Management System (FCMS) information technology project. The Commission's reports to the Legislature shall include (a) updates on project scope, schedule, budget, and total cost of ownership; (b) current project risks, likely impacts, and mitigation strategies; (c) independent quality assurance reporting; (d) stakeholder/provider involvement in the planning and governance of the project; and (e) other information that helps inform the Legislature on the status of the project or issues that have arisen as the result of the project. The Commission is to follow the Joint Stage Gate, or a similar disciplined process related to information technology projects, including developing key artifacts and independent quality assurance oversight.

OPDC submitted a report pursuant to the above budget note in January 2024. During the 2024 Legislative Session, OPDC was directed to report to the Emergency Board in May 2024 on the status of the Financial Case Management System (FCMS). At the May Emergency Board, the Commission was directed to submit another status report in September.

The following report outlines the work and progress made by OPDC on this project to date. The success of this project will help the agency work towards a unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing administration to fulfill OPDC's mission to ensure constitutionally competent and effective legal representation for persons eligible for a public defender.

The following report is responsive to this budget note. This report was approved at the OPDC meeting on August 21, 2024.

CONTENTS

| | |
|--|----|
| Nature of the Report | 1 |
| Executive Summary..... | 3 |
| Project Status | 5 |
| Project Scope | 5 |
| Budget..... | 5 |
| Proposed Total Cost of Ownership | 5 |
| Schedule..... | 5 |
| Resources | 6 |
| Risks | 7 |
| Policy Option Package 101 | 7 |
| Bond Funding | 7 |
| Governance Alignment..... | 8 |
| Executive Steering Committee, Change Control Board – Governance Alignment Overview | 10 |
| Stage Gate 1 & Stage Gate 2 | 11 |
| Appendix | 12 |

EXECUTIVE SUMMARY

Project Overview

The Financial Case Management System (FCMS) project is progressing through the Joint Stage Gate process and has made significant advancements in scope refinement, scheduling, budgeting, and total cost projections. Stage Gate 1 was approved July 11, 2024. Additionally, the project is on track with its procurement timeline, with key milestones such as the publication of the RFP and the evaluation of proposals scheduled for the coming months. These achievements demonstrate the project team's dedication to maintaining momentum and ensuring the project remains on schedule.

Moreover, the project has seen positive developments in staffing, with significant strides made in recruiting essential roles. Four out of five project positions have been filled, and additional hires, including a Project Manager and Business Analyst, are set to join the team in August. This proactive approach to staffing and a strong governance structure through the newly formed Executive Steering Committee and Change Control Board positions the project for continued success. Collaborating with independent quality assurance has further strengthened the project's foundation, ensuring that risks are identified early and addressed effectively.

Project Scope

The FCMS Charter has been updated and simplified to reflect the refined project scope accurately. Submitted during Stage Gate 1, these updates ensure alignment with project objectives and strategic goals. The project remains on course, with crucial milestones established to guide it through its subsequent phases.

Schedule

As of July 10, 2024, the project schedule is progressing as planned. Key procurement activities are on track, with the Request for Proposals (RFP) set to be published on September 23, 2024. Subsequent milestones, including evaluating proposals and selecting a vendor, are scheduled to be completed by the end of December 2024. The project team is also working towards finalizing all Stage 2 before the RFP.

Budget and Total Cost of Ownership

The FCMS project budget remains within its lawful appropriation, with expenditures on quality assurance, personnel, and consulting services. As of June 30, 2024, total project costs are \$1,072,330.01, with no significant changes in the projected total cost of ownership. Ongoing and future expenses, including system updates, maintenance, and staffing, are anticipated but will be refined once a vendor is selected. The project is in the process of securing bond funding, with meetings held with the office of the Department of Administrative Services Chief Financial Officer and the FCMS financial team to complete necessary documentation.

Risks and Mitigation Strategies

The FCMS project has identified several key risks, which are detailed in Hittner & Associates' comprehensive risk report. The most pressing risks include potential procurement delays and the critical need to fill essential project roles, such as the Chief Data Officer (CDO). Mitigation strategies include accelerated recruitment efforts and close monitoring of procurement timelines to avoid delays.

Independent Quality Assurance Reporting

Independent quality assurance by Hittner & Associates continues to play a crucial role in the project's oversight. Their latest report, submitted in June 2024, includes an overall project status rating and highlights areas needing attention. These insights have been instrumental in guiding the project team's decision-making processes.

Stakeholder and Provider Involvement

The FCMS project governance has undergone significant restructuring to enhance stakeholder involvement. The newly formed Executive Steering Committee (ESC) and Change Control Board (CCB) ensure that internal and external stakeholders are actively engaged in the project's governance. This streamlined governance structure, developed with oversight from EIS and alignment with DAS, is designed to facilitate more effective decision-making and project execution.

These developments reflect OPDC's commitment to enhancing the efficiency and accountability of public defense services in Oregon. The FCMS project is poised to provide a robust and integrated platform, ensuring that public defense attorneys have the tools and support necessary to deliver competent and effective representation to indigent Oregonians. Through diligent planning, strategic hires, and rigorous adherence to project management best practices, OPDC is well-positioned to achieve its mission and meet the evolving needs of the public defense community.

DRAFT

PROJECT STATUS

PROJECT SCOPE

The FCMS Charter, submitted to Stage Gate 1, has been simplified and updated to reflect the project scope (see appendix).

BUDGET

Through the fiscal month ending June 2024, the FCMS operating budget remains primarily within its lawful appropriation. A new resource plan (see Figure 1) will coincide with fluctuations in the operating budget. Four of the five project positions are hired by the resource plan. The only project-associated expenditures are for the quality assurance vendor, personnel costs, and the consultant who helped the project team develop a prospective RFP.

Total FCMS Costs as of 6/30/2024

| | 2023 | 2025 | Total |
|--|--------------|--------------|----------------|
| ASD – Financial/Case Management System | \$423,023.08 | \$649,306.93 | \$1,072,330.01 |
| Personal Services | \$357,355.68 | \$460,068.37 | \$817,424.05 |
| Services and Supplies | \$65,667.40 | \$189,238.56 | \$254,905.96 |
| Total | \$423,023.08 | \$649,306.93 | \$1,072,330.01 |

PROPOSED TOTAL COST OF OWNERSHIP

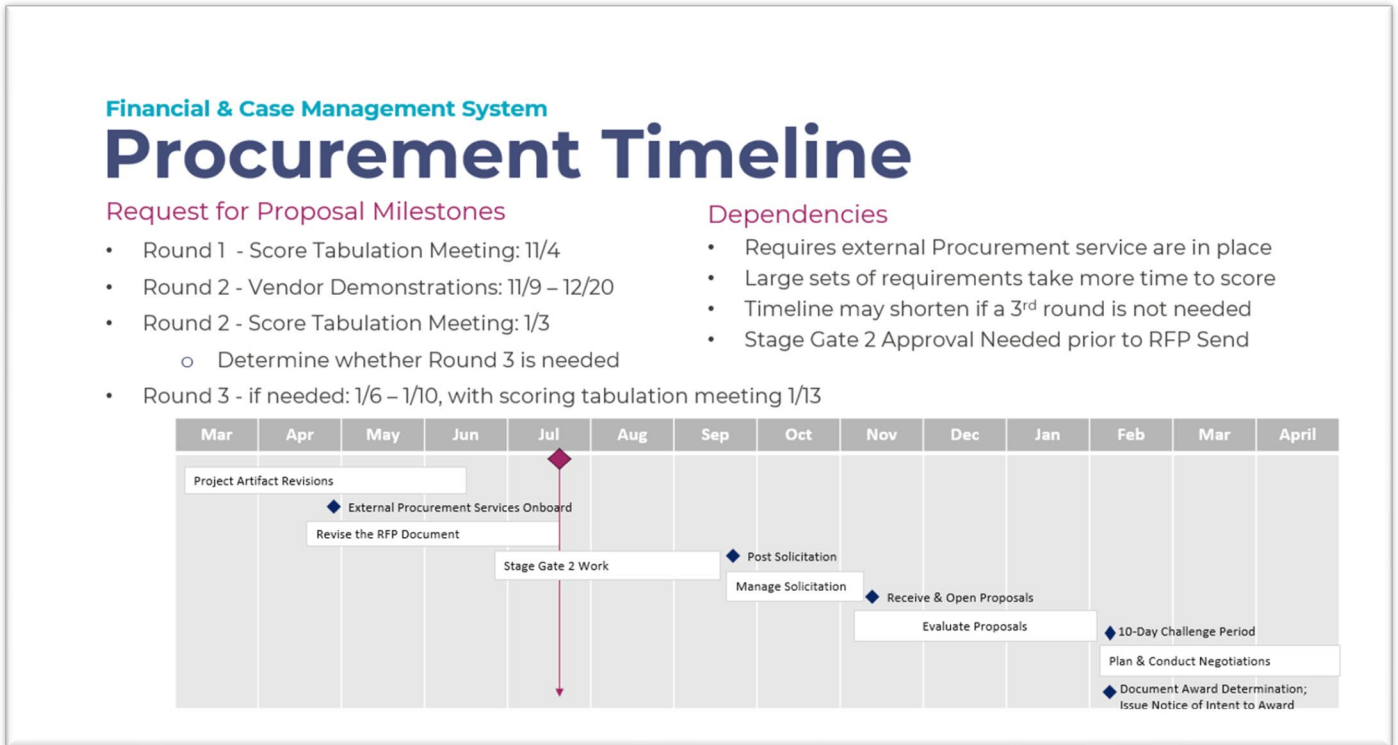
The proposed total cost of ownership has not significantly changed from the initial estimates of the submitted business case. Since neither the RFI nor the RFP has been solicited, it remains premature to change any initial projections. Beyond the completion date of the project and the warranty period, it is reasonable to assume that there will be ongoing costs associated with the solution, such as periodic maintenance and operation costs. The OPDC should assume that regular system updates and future upgrades will be needed to keep the system compliant, secure, and versatile. The OPDC can also assume that there will be a permanent need for a system architect, business analysts, and other technical staff to maintain the system and support all users internally and externally. Once a vendor is selected, the OPDC can provide an updated total cost of ownership.

SCHEDULE

Procurement Timeline: Updated as of July 10th, 2024

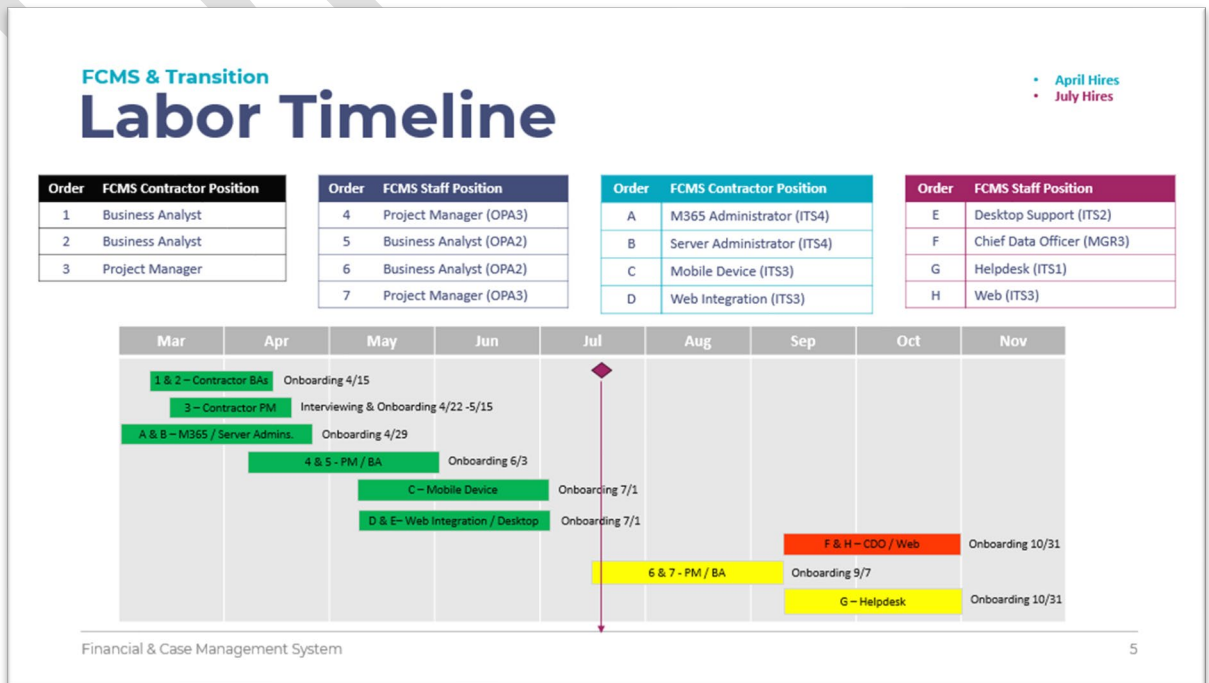
- Publish RFP September 23, 2024
- Deadline for Questions, October 17, 2024
- RFP Addendum answering questions published October 23, 2024
- RFP Protest period ends October 30, 2024
- Proposals due deadline, November 14, 2024
- Evaluations complete December 3, 2024
- Demos held December 11-12, 2024
- Notice of Intent to Award published December 19, 2024
- Protest period ends December 27, 2024

Figure 1 OPDC FCMS Visual Timeline *Building out MS Project WBS with Milestones – will be complete July 31st. Below is a Procurement Timeline for FCMS.



RESOURCES

FCMS has made significant strides in hiring for the project. We have identified the open roles needing to be filled in Policy Option Package 101. We are putting a full effort into recruiting and hired an additional PM and BA for FCMS with start dates between August 4th – August 19th. The CDO role is the most critical role to fill aside and will be sought after for approval in POP101.



RISKS

The most current risks identified and rated by Hittner are included in a comprehensive rated report (see appendix Hittner FCMS Project Risk Report June 2024). See below for the overall current Project Status rating for FCMS by Hittner & Associates.

POLICY OPTION PACKAGE 101

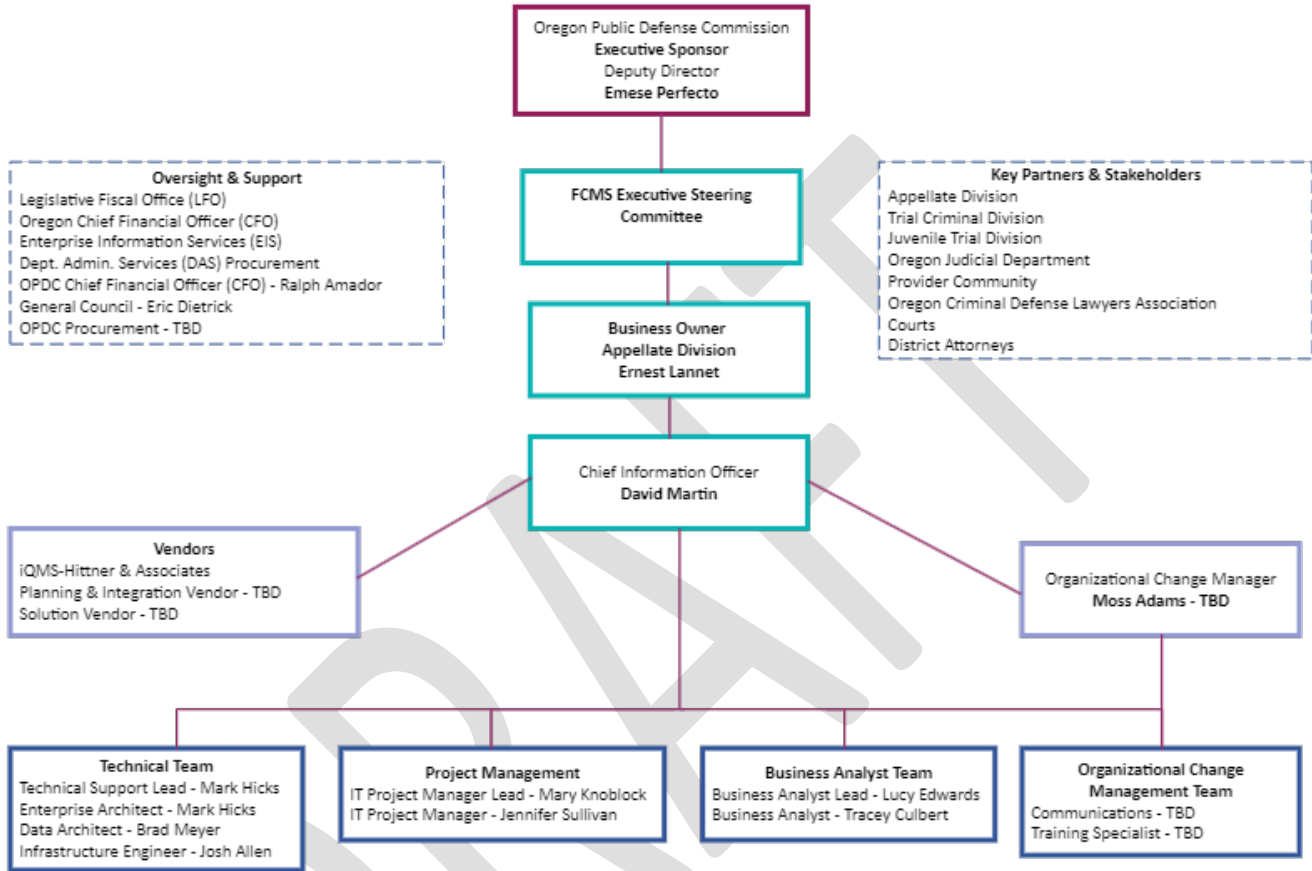
FCMS POP 101 contains the request for continued FCMS funding along with 8 additional staff members for FCMS, the Chief Data Officer, and temp to perm roles being significant to ensure FCMS is staffed to make the project successful. (see appendix)

BOND FUNDING

The process of starting the bond funding application has begun. We've met with the DAS CFO and FCMS financial team to go over the documents needed for bond funding.

DRAFT

Program Organizational Chart



Expanded Team: Agency operational staff will provide subject matter expertise, conduct user-acceptance testing, and perform other activities such as training and instruction activities as part of the project's expanded team. Numbers of employees, timing, and duration of assignment will be determined based on needs of the project.

Financial & Case Management Systems
Oregon Public Defense Commission



Executive Steering Committee (ESC)

Voting Members

Executive Sponsor - Emese Perfecto
Business Owner - Ernest Lannet

Chief Financial Officer - Ralph Amador
General Counsel - Eric Dietrick
Chief Information Officer - David Martin

Division Representative - Kali Montague
Division Representative - Aaron Jeffers

External Partner - Michelle Bartov
External Partner - Ginger Mooney

Oversight & Key Partners (Non-Voting Members)

Enterprise Information Services

ASCIO - Scott Emry
Sr. IT Portfolio Manager - Laura Medcalf
Oversight Analyst - Ben Manion

Legislative Fiscal Office

Budget Analyst - Sean McSpaden
Legislative Analyst - John Borden

Department of Administrative Services

CFO Policy & Budget Analyst - Zach Gehringer

iQMS

Hittner & Associates
Ron Hittner

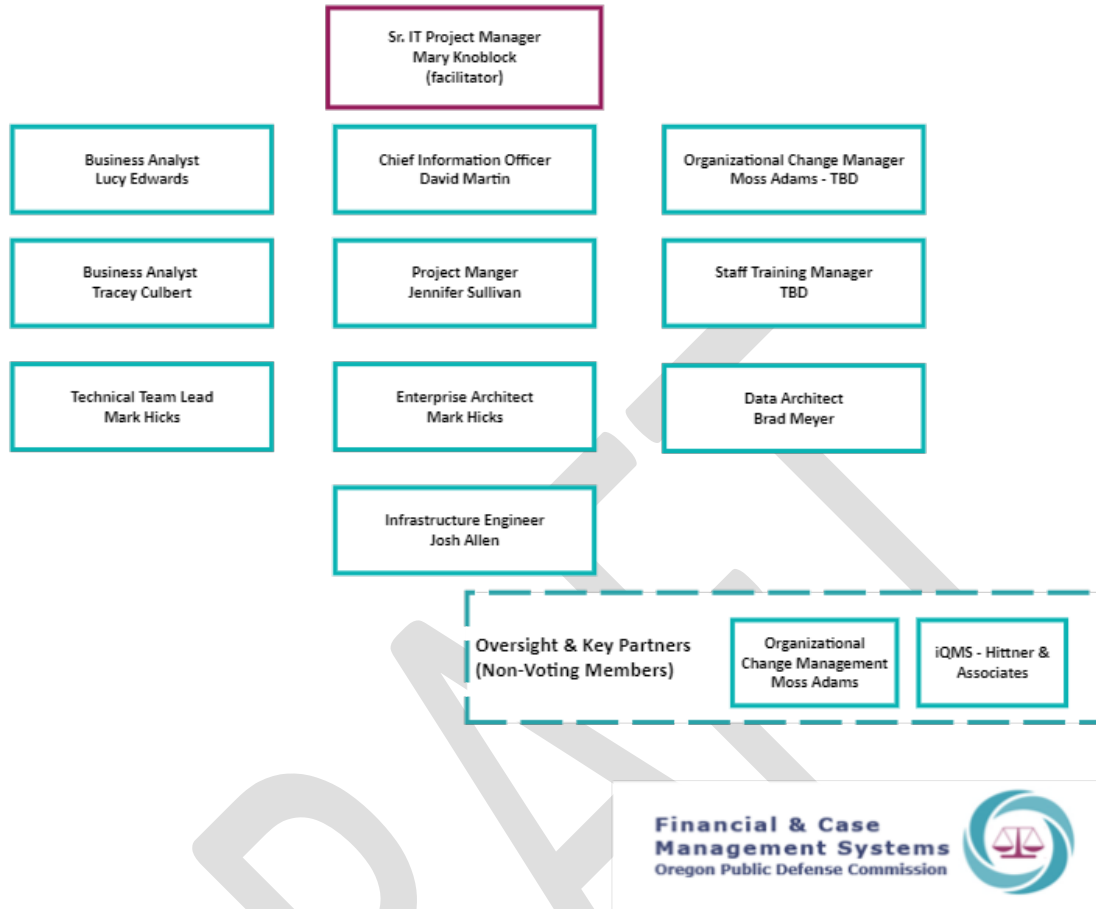
Project Staff

Sr. IT Project Manager - Mary Knoblock (Executive Steering Committee Facilitator)
Organizational Change Manager - Moss Adams TBD

Financial & Case
Management Systems
Oregon Public Defense Commission



Change Control Board



Executive Steering Committee, Change Control Board – Governance Alignment Overview

The FCMS project went through a pivot with Governance structure aided by EIS oversight and DAS alignment. From the collaborative work, we formed a simpler governance structure consisting of the Executive Steering Committee, and Change Control Board. We are confident with this new structure FCMS will be able to move through Stage 2 more effectively and be in a better position to implement the project successfully. We have more roles to fill for the Change Control Board and are confirming our external partners for the ESC.

STAGE GATE 1 & STAGE GATE 2

Stage Gate 1 documents were revised and reviewed in collaboration with EIS for the business case and project charter. All Stage 1 documents were submitted to P3, and Stage Gate 1 was approved July 11. We are now officially preparing Stage 2 artifacts. To date, the business requirements were completed July 10, and the RFP as well as the Procurement Plan are near completion as of July 10 (see appendix). We have successfully engaged with legal sufficiency review for the RFP that is in progress as well. The other Stage 2 artifacts which are outlined by EIS for FCMS, are in progress and have a target date of completion July 31 (see appendix).

DRAFT

APPENDIX

FCMS STATUS REPORTS

FCMS OPDC Project Status - June 7th, 2024

FCMS Program Status Report July 2024 Final

FCMS OPDC Project Status - July 12th, 2024

FCMS OPDC Project Status - May 3rd 2024

FCMS OPDC Project Status - May 9th, 2024

FCMS OPDC Project Status - May 17th, 2024

FCMS OPDC Project Status - May 24th, 2024

FCMS Project OPDC Governance Committee Bi-Weekly Meeting Agenda May 16th 2024

FCMS Project OPDC Governance Committee Bi-Weekly Meeting Agenda May 2nd 2024

FCMS Project OPDC Governance Committee Bi-Weekly Meeting Agenda May 30th 2024

FCMS Project OPDC Governance Committee Bi-Weekly Meeting Agenda May 9th 2024

OPDC FCMS Stage 1 Artifacts

OPDC FCMS Business Case *available upon request

OPDC FCMS Charter

OPDC FCMS Stage 2 Artifacts in Progress - Available upon request

Project Management Plan

Cost Management Plan

Stakeholder Management Plan

Resource Management Plan

Procurement Management Plan

Requirements Management Plan

Communications Management Plan

Risk and Issue Management Plan

Change Management Plan

Quality Management Plan

Solutions Analysis

Market Research

Current, Future, and Gap Analysis

Detailed Project Risk and Issue Log

Stakeholder Registry

RACI

Scope

Schedule

Budget

System Security Plan

Cloud Workbook

Hittner & Associates Documents

FCMS iQMS Deliverable 4.1.6 - Quarterly Quality Status Report v0.6

Documents available upon request

FCMS Requirements Artifact

Database Consolidation Workbook

Technology Tech Stack Analysis

DRAFT

Oregon Public Defense Commission

STATUS OF THE UNREPRESENTED
DEFENDANT/PERSONS CRISIS

August 20, 2024

NATURE OF THE REPORT

The May 2024 Emergency Board item #9 states:

The Subcommittee's recommendation also includes instruction for the Public Defense Commission and the Judicial Department to report to the Emergency Board in September 2024 on the status of the unrepresented defendant/persons crisis, including how Public Defense Commission Regional Pilot Programs have been established and are performing, and how Judicial Crisis Plans authorized under SB 337 (2023) are being implemented.

This report provides an update from the Oregon Public Defense Commission (OPDC) on the current status of the unrepresented persons crisis. It includes an overview of the crisis, a summary of the Unrepresented Crisis Plan submitted to the Governor in July 2024, and an update on the Regional Pilot Programs established by the Commission.

DRAFT

CONTENTS

| | |
|---|-------------------------------------|
| Nature of the Report..... | 1 |
| Unrepresented Overview | 3 |
| Background | 5 |
| Current Status..... | 6 |
| Numbers..... | 9 |
| Betschart V. Oregon | 10 |
| Temporary Hourly Increase Program | 11 |
| OPDC Unrepresented Plan | 18 |
| Summary | 18 |
| Crisis Plan | 18 |
| 90 Days..... | 18 |
| Next Steps..... | 19 |
| 6-Year Plan..... | 19 |
| Regional Pilot Programs | Error! Bookmark not defined. |
| Overview | Error! Bookmark not defined. |
| Future Planning | 15 |
| SW Request | 15 |
| 2025-2027 Biennium..... | 15 |

EXECUTIVE SUMMARY

As of September 2024, Oregon continues to face a significant crisis in providing legal representation to unrepresented defendants. Despite various initiatives, including the introduction of Regional Pilot Programs, the Temporary Hourly Increase Program (THIP), and increased funding, the shortage of public defenders remains a critical challenge. This report outlines the current status of the crisis, the impact of recent legislative changes, and the effectiveness of OPDC's strategies to mitigate the issue.

Unrepresented Crisis:

The shortage of public defenders in Oregon has led to a growing number of unrepresented individuals. As of this report, there are 3,377 defendants currently without legal representation, including 179 who are in custody. This crisis has underlying causes dating back decades through underfunding and overworking of the public defense bar, these underpinnings have been well described by the Sixth Amendment Center's 2019 report "The Right to Counsel in Oregon"¹, and the American Bar Association's 2022 report "The Oregon Project: An Analysis of the Oregon Public Defense System and Attorney Workloads Standards"². The Legislature's 2021 amendment to Oregon's public defense statute mandated the adoption of national and regional best practices for caseloads. This led to the implementation of Maximum Attorney Caseloads (MAC), which exposed the severe shortage of public defenders in Oregon but also highlighted the limitations of using outdated caseload models that do not account for the complexities of modern public defense work.

The Commission recently adopted caseload and workload standards based on modern national best practices and will submit a series of Policy Option Packages (POP) over the next three biennium to implement these workload standards. These standards are key to the long-term solution to of the unrepresented crisis.

The unrepresented persons crisis varies across Oregon's counties based on factors such as population size, local practices, and provider capacity. Since January 2024, the in-custody unrepresented numbers have remained stable, but the out-of-custody numbers have increased. OPDC has implemented several initiatives to address the crisis, including:

- Opening three state trial offices staffed by state employees;
- Increasing the number of public defenders under contracts and hourly agreements;
- Enhancing recruitment and retention efforts;
- Collaborating with public safety partners to improve coordination.

However, despite these efforts, the crisis persists, particularly in light of the Ninth Circuit Court of Appeals' *Betschart* ruling, which mandates the release of certain defendants if not provided with an attorney within seven days of appearing in court. To address this ruling, the OPDC has had to prioritized certain *Betschart* cases to prevent releases but faces ongoing challenges.

¹ [Sixth Amendment Center, 2019, The Right to Counsel in Oregon](#)

² [American Bar Association, 2022, The Oregon Project: An Analysis of the Oregon Public Defense System and Attorney Workloads Standards](#)

Regional Pilot Programs and State Trial Offices:

In response to Senate Bill 337 (2023), which requires OPDC to employ 20% of the public defense workforce by 2031 and 30% by 2035, three Regional Pilot Programs have been established in the Northwest, Southern, and Mid-Willamette Valley regions. These offices have made progress in reducing the unrepresented list but face geographical and limited staffing challenges, particularly in rural areas. OPDC plans to expand these efforts with additional funding requests to the Emergency Board and the 2025 Legislative session to establish new offices in critical regions.

Conclusion:

The unrepresented persons crisis in Oregon remains a significant challenge despite implementing various strategies and establishing Regional Pilot Programs. Continued legislative support and increased funding are essential to addressing this crisis and ensuring all Oregonians can access effective legal representation. OPDC is committed to expanding its efforts and working collaboratively with public safety partners to achieve long-term solutions.

DRAFT

UNREPRESENTED OVERVIEW

BACKGROUND

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

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

To date, OPDC has enacted the following initiatives to address the unrepresented persons crisis³:

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

³ See Appendix C of attached plan: OPDC Unrepresented Initiatives to Date.

BUDGET

OPDC has enacted several interventions⁴ to address the unrepresented numbers. Below is an accounting of resources the Legislature has allocated to the crisis for unrepresented specific programs. This does not include the funding of current service level MAC, Preauthorized Expenses (PAE), or Court Mandate Expenses (CME).

| Program | Source | Type | 23-25 Biennium Legislative Budget | 23-25 Biennium Actuals* |
|--|----------------|--------------|-----------------------------------|-------------------------|
| One Time disappropriations | SB 5701 (2024) | OPDC | \$ (12,000,000) | |
| Unrepresented Assignment Coordinator (OPA 2) | SB 5701 (2024) | OPDC | \$ 157,253 | \$ 34,848 |
| 10 Additional MAC (6.25 FTE) | SB 5701 (2024) | Provider | \$ 3,000,000 | \$ 1,050,408 |
| State Trial Offices Salem Office | SB 5701 (2024) | Trial Office | \$ 3,147,289 | \$ 511,244 |
| THIP Oct 2023-June 2024 | SB 5701 (2024) | THIP | \$ 7,900,000 | \$ 7,851,793 |
| CME for Unrepresented Crisis | HB 5532 (2024) | Hourly | \$ 1,500,000 | \$ 2,696,555 |
| PAE for Unrepresented Crisis | HB 5532 (2024) | Hourly | \$ 480,000 | \$ 665,026 |
| Hourly Rates for attorneys, investigators, and interpreters. | SB 337 (2023) | Hourly | \$ 14,656,343 | \$ 11,927,879 |
| Expedited Case Resolution Docket (Multnomah) | SB 337 (2023) | Provider | \$ 368,000 | \$ 368,000 |
| Juvenile Trial Retention Bonus for attorneys | SB 337 (2023) | Provider | \$ 1,234,365 | \$ 617,183 |
| Retention Bonus for attorneys (Other) | SB 337 (2023) | Provider | \$ 1,234,365 | \$ 617,183 |
| Adult Trial Retention Bonus for attorneys | SB 337 (2023) | Provider | \$ 7,406,190 | \$ 3,703,858 |
| State Trial Offices Pilot Program | SB 337 (2023) | Trial Office | \$ 4,301,204 | \$ 1,401,387 |
| Totals | | | \$34,766,590 | \$18,635,490 |

| Program | Source | Type | 21-23 Self-Funded Budget | 21-23 Biennium Legislative Budget | 21-23 Biennium Actuals |
|---|-------------|----------|--------------------------|-----------------------------------|------------------------|
| On a one-time basis, procurement of indigent defense counsel in | 5202 (2022) | Provider | | \$ 12,800,000 | \$ 6,800,000 |

⁴ See Appendix C of attached plan: OPDC Unrepresented Initiatives to Date.

| | | | | | |
|---|---------------|----------|-----------------------|----------------------|----------------------|
| Multnomah, Washington, Marion, and Lane counties | | | | | |
| Initial THIP start-up costs | Self-Fund | THIP | \$ 2,200,000 | | |
| Natural Savings from attrition and new 4 tier structure | Self-Fund | OPDC | \$ (14,400,000) | | |
| 10 million Eboard appropriation | | | \$ 6,000,000 | \$ 6,600,000 | \$ 12,594,200 |
| THIP July 2022-June 2023 | Dec 22 Eboard | THIP | | \$ 1,600,000 | \$ 6,980,245 |
| Strategic reserves | Dec 22 Eboard | OPDC | | \$ 2,500,000 | \$ (2,880,245) |
| Supervised Civil Attorney pilot program | Dec 22 Eboard | OPDC | | \$ 395,000 | \$ 394,200 |
| Retention incentives | Dec 22 Eboard | Provider | \$ 6,000,000 | \$ 2,105,000 | \$ 8,100,000 |
| | | | | | |
| Totals | | | \$ (6,200,000) | \$ 19,400,000 | \$ 19,394,200 |
| | | | | | |

Quantifiable Results

The results of all these programs cannot necessarily be counted by the number of cases taken. OPDC does try to measure both quantitative and qualitative metrics when possible. Some interventions, like the attorney retention bonus, had positive results in retaining attorneys, but it's difficult to say how many attorneys would have left the public defense without that bonus. However, OPDC surveyed providers who received the bonus, and 80% responded that it was beneficial in retaining attorneys. In the case of added MAC, especially before the 2023 contracts, OPDC cannot say this attorney was contracted with these specific dollars. Still, we can estimate how many cases would be covered with the number of MAC purchased. MAC is also not taking cases directly from the unrepresented list but instead preventing cases from joining the list. Below is the best estimate of these interventions' impact on the unrepresented crisis.

| Program | Cases Taken 21-23 Biennium | Cases Taken 23-25 Biennium | Notes |
|--|----------------------------|----------------------------|---|
| One Time disappropriations | | | The disappropriation offset the cost of the 2024 Legislature's investments in public defense. |
| Unrepresented Assignment Coordinator (OPA 2) | | | Not nearly as many THIP cases would have been assigned without this position. |

| | | | |
|---|------------------------------|--|--|
| 10 Additional MAC (6.25 FTE) | | 1696 | **Case estimate based on 13 C Felonies/MAC/Month for 10 MAC funded for 15 months. Includes an 87% utilization rate. |
| State Trial Offices Salem Office | | 46 | As of June 30, 2024, the Salem state trial office had taken 46 cases. |
| THIP Oct 2023-June 2024 | | 6119 | As of June 30, 2024, THIP had taken 6,119 unrepresented cases. This case count represents the total of all THIP and some hourly investments. |
| CME for Unrepresented Crisis | | | |
| PAE for Unrepresented Crisis | | | |
| Hourly Rates for attorneys, investigators, and interpreters. | | | |
| Expedited Case Resolution Docket (Multnomah) | | | |
| Juvenile Trial Retention Bonus for attorneys | | 80% of providers surveyed said this program positively impacted their ability to retain attorneys. | |
| Retention Bonus for attorneys (Other) | | | |
| Adult Trial Retention Bonus for attorneys | | | |
| State Trial Offices Pilot Program | | 257 | As of June 30, 2024, the Northern and Southern state trial offices had taken 257 cases. |
| On a one-time basis, procurement of indigent defense counsel in Multnomah, Washington, Marion, and Lane counties. | | | |
| Initial THIP Start-up Costs | Included in THIP case total. | | |
| Natural Savings from attrition and new 4 tier structure | | | |
| 10 million Eboard appropriation | | | |
| THIP July 2022-June 2023 | Included in THIP case total. | | |
| Strategic reserves | | | Used on THIP increase. |
| Supervised Civil Attorney pilot program | | | The program 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. |
| Retention Incentives | | | 80% of providers surveyed said this program positively impacted their ability to retain attorneys. |

*23-25 Biennium Actuals through 6/30/2024 **Estimate

CURRENT STATUS

NUMBERS

As of August 7, 2024, there are 3,324 unrepresented individuals in Oregon. Of those, 155 are in custody, and 31 are potentially subject to *Betschart*. After removing the 53 cross-county individuals, the custody number goes down to 102.

Since January 2024, the in-custody numbers have remained relatively steady, while the out-of-custody numbers have increased. The crisis varies between counties. This is due to various and differing factors, including population, staffing challenges in public defense offices, DA charging practices, court practices, jail practices, the experience of the county's public defense bar, and provider capacity.

Cross-County Holds:

OJD's in-custody list includes individuals without legal representation on any case if they are in the physical custody of a jail. Some are in custody for a represented case while out-of-custody for an unrepresented case. These individuals are not held by their unrepresented case because they are in a different jail than their unrepresented case.

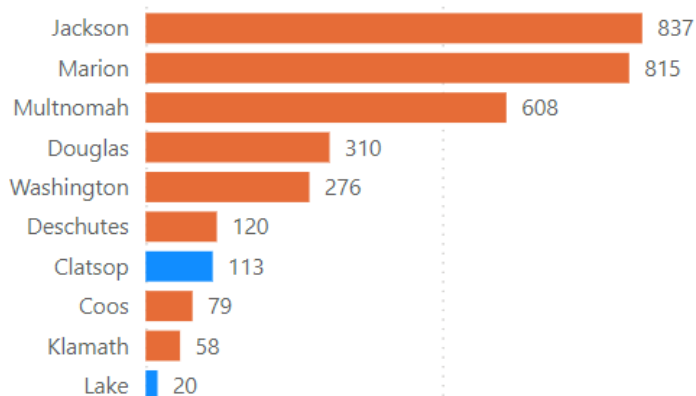
These "cross-county" cases are not prioritized as in-custody unrepresented. OPDC is working with OJD to improve tracking and communication of unrepresented numbers.

| Case Type | In-Custody Count |
|-------------|------------------|
| Murder | 1 |
| A Felony | 8 |
| B Felony | 17 |
| C Felony | 53 |
| Misdemeanor | 40 |
| Contempt | 4 |
| Habeas | 1 |

Out-of-custody top 10 counties:

Unrepresented By County

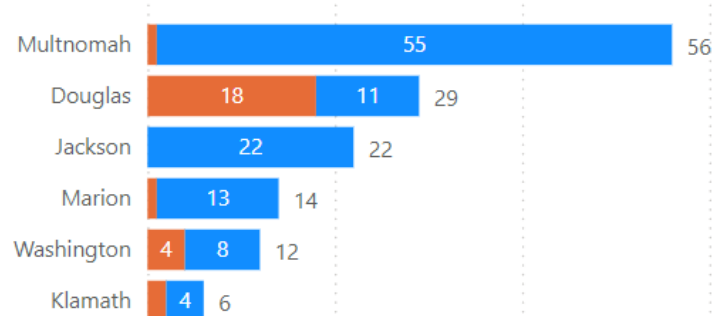
Orange Counties Required to Convene Crisis Teams (CJO 23-024)



In-custody top 6 counties. All other counties under 5 in-custody persons:

Unrepresented and In Custody By County

● In Custody - Potentially Subject to Betschart < 7 ... ● In Custody - Not Subject to Bet...



*Images captured 8/7/24 from Oregon Judicial Department Unrepresented Dashboard.

BETSCHART V. OREGON

On May 31, 2024, the Ninth Circuit Court of Appeals majority affirmed Judge McShane's ruling ordering the release of Oregonians arrested for crimes if they weren't provided an attorney by the state within seven days of appearing in court, subject to reasonable court-imposed conditions for release. This order does not apply to many cases, including murder and defendants who have had their release revoked.

Since this order took effect on June 19, OPDC has been working to prioritize these *Betschart* cases to prevent release under the order. It should be noted that release happens for many reasons unrelated to *Betschart*; OPDC efforts focus on cases that would be released only due to reaching the 7-day mark.

The following is a snapshot of a day managing *Betschart* cases:

On July 31, 2024, OJD reported 32 potential *Betschart* cases. Of those, 5 were on their 7th day in custody and would need to be released under the order (unless something else was holding them in custody, such as a parole hold or being in custody on a non-*Betschart* case). The remaining 27 were in custody for less than 7 days and, therefore, not yet subject to the order. Each day, OPDC staff review each case for up-to-date court and jail data. With their full picture in mind they must prioritize *Betschart* cases accordingly. On this day, that prioritization looked as follows

Of the 32 reported cases:

- 4 had been assigned counsel;
- 6 were released for non-*Betschart* reasons (typically non-person misdemeanors);
- 10 were being held on other non-*Betschart* charges, so they wouldn't be released if/when they reach 7 days; this includes all five \geq 7-day cases.

- This leaves 12 cases potentially subject to release under *Betschart*: 7 Measure 11 felonies;
- 4 Class C felonies;
- 1 Misdemeanor.

OPDC staff then spent the day working to find counsel for those case.

In addition to these efforts, OPDC meets weekly with OJD and the Oregon District Attorneys Association to review *Betschart* cases and flag any priorities or concerns.

OPDC has drafted a memo outlining how cases are prioritized. This process prioritizes cases based on severity, *Betschart* status, and custody status. As drafted, a Tier 1 case would be any murder or Jessica's Law case, any *Betschart* person felony, measure 11 or firearm case, or a domestic violence misdemeanor, and in-custody aid and assist cases. Tier 2 includes in-custody non-*Betschart* cases for the charges listed in Tier 1 and in-custody cases where a defendant has asserted their right to trial within 90 days under ORS 135.760. Tier 3 includes in-custody, regardless of *Betschart*, non-person felonies or person misdemeanors, property crimes, DUII, out-of-custody person felonies, aid and assist, and domestic violence misdemeanors. Tier 4 includes all cases not in Tiers 1-3.

OPDC has discussed these priorities with system partners and plans to present the memo to the Commission at the August meeting for final approval. The memo will then be shared with system partners, including OJD, DAs, and sheriffs.

OPDC PROVIDERS

When looking at OPDC provider types, there are those primarily taking unrepresented cases: THIP and state employees. Then there are OPDC contract providers taking cases in the ordinary course, preventing cases from becoming unrepresented and growing the list. Increasing the number of attorneys taking cases results in fewer cases going unrepresented, whether that's by appointing through contracts before cases join the list or taking cases directly off of the unrepresented list. Below is a summary of how different provider types impact the unrepresented numbers. For more information on caseloads and capacity, see the Remediation Plan IV under Caseloads.

TEMPORARY HOURLY INCREASE PROGRAM

When it comes to assigning counsel to a person eligible for public defense, OPDC contractors are first in line. Under normal circumstances, the court will assign an available attorney upon arraignment. However, when no attorney is available due to lack of capacity or conflicts of interest, the court will assign OPDC as a placeholder. This puts the defendant on the unrepresented list and notifies OPDC of the need to locate counsel. OPDC's most effective tool for locating counsel is the Temporary Hourly Increase Program (THIP). Beginning in August 2022, THIP 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.

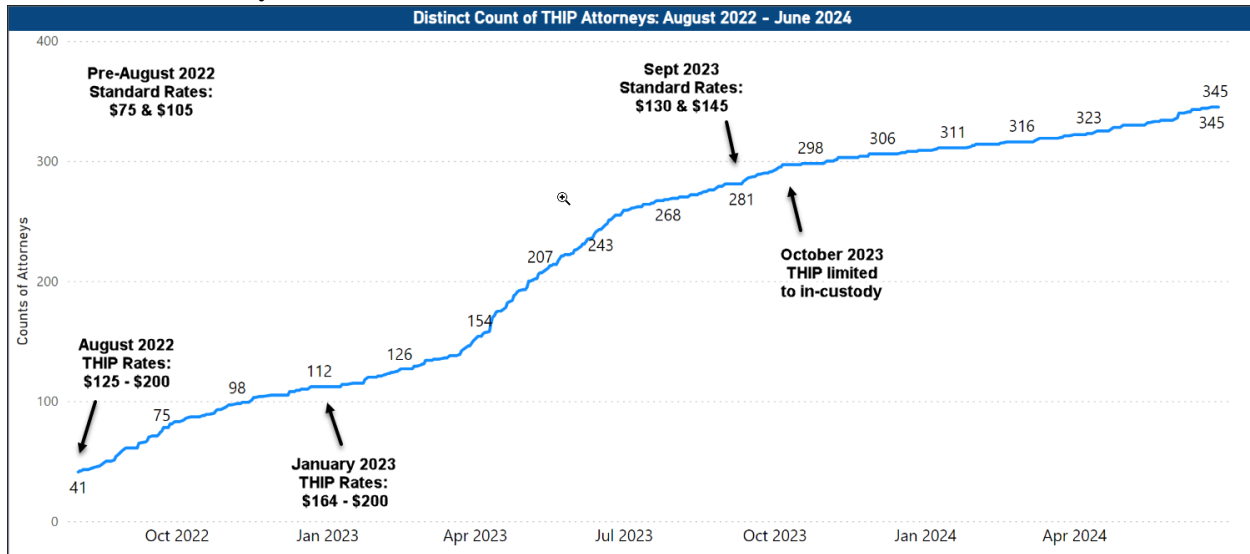
THIP was always intended to be a temporary program. Initially, it was designed as an emergency program, then later extended as a bridge until state employees started taking cases. In that time, it has been an incredibly successful program. Through THIP, OPDC assigns an average of 200 cases per month directly off the in-custody unrepresented list. Since its inception, 345 attorneys have taken 6,392 cases representing 4,453 clients through THIP. Since narrowing to only in-custody unrepresented cases, THIP has taken 1,442 cases representing 947 clients directly from the in-custody unrepresented list.

THIP has also brought in new lawyers into the system. Before 2022, when the hourly rate was \$75 and \$105/hour, about 1% of OPDC-assigned cases were taken hourly. Today, hourly cases account for nearly 10% of all OPDC-assigned cases. Of the 214 currently active THIP attorneys, 140 are not contracted providers with OPDC. Additionally, attorneys under contract have reached their monthly MAC before they are able to take on a THIP case, ensuring that OPDC is utilizing contracted capacity before paying hourly.

Table 2: Types of unrepresented cases taken through THIP since August 2022, both by number of clients and by number of cases.

| Case Category | THIP Distinct Client Count | THIP Distinct Case Count |
|-------------------------------|----------------------------|--------------------------|
| Misdemeanor | 1,866 | 2,482 |
| Minor Felony | 1,414 | 1,773 |
| Measure 11 | 504 | 522 |
| Probation Violations-Criminal | 376 | 464 |
| Major Felony | 404 | 438 |
| Dependency/Termination | 209 | 248 |
| Murder | 166 | 165 |
| Delinquency | 101 | 126 |
| PCR/Habeas | 79 | 80 |
| Civil Commitment | 72 | 74 |
| Jessica Law | 58 | 58 |
| Probation Violations-Juvenile | 6 | 14 |
| Other | 3 | 3 |
| Total | 4,453 | 6,392 |

Total THIP Attorneys over time



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 rates took over. In order to bridge that gap, OPDC will request an extension of THIP from January 1, 2025- June 30, 2025. This extension will allow OPDC to:

- Maintain the hourly attorneys with OPDC contracts;
- 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.

Even with state employees on board and taking cases at or above capacity, the 10 trial division attorneys could not take on an additional 200 cases per month.

STATE TRIAL OFFICES

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. The first phase of implementing these goals is the Regional Pilot Programs funded by the Legislature during the 2023 session. This program established three regional offices: a Northwest office serving Multnomah, Washington, and Clackamas Counties and a

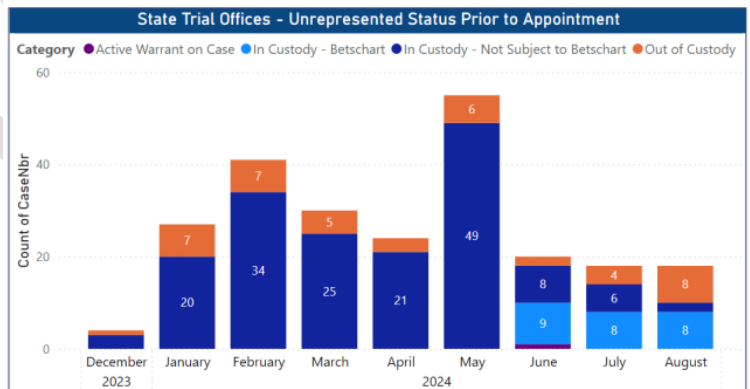
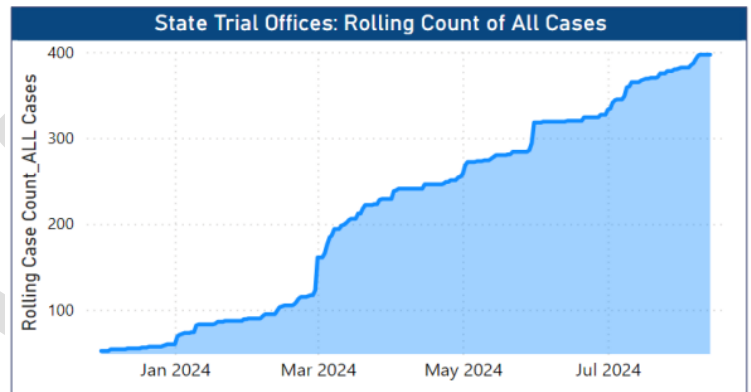
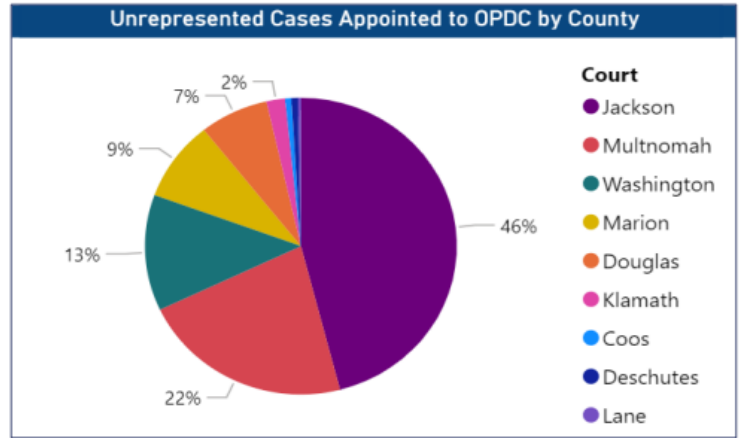
| OPDC Trial Division Appointments | | | |
|----------------------------------|------------|------------|------------|
| Case Type | Closed | Open | Total |
| Mid Level Felony | 25 | 68 | 93 |
| Low Level Felony | 27 | 45 | 72 |
| Low Level Misdemeanor | 38 | 34 | 72 |
| Complex Misdemeanor | 44 | 10 | 54 |
| High Level Felony | 8 | 45 | 53 |
| Probation Violation | 18 | 20 | 38 |
| Homicide and Sex Cases | 1 | 15 | 16 |
| Total | 161 | 237 | 398 |

As of 8/12/2024

Southern office serving Jackson, Klamath, and Douglas Counties. In early 2024, the Legislature approved OPDC accessing a Special Purpose Appropriation to establish an office in the Mid-Willamette Valley; this office is not geographically confined.

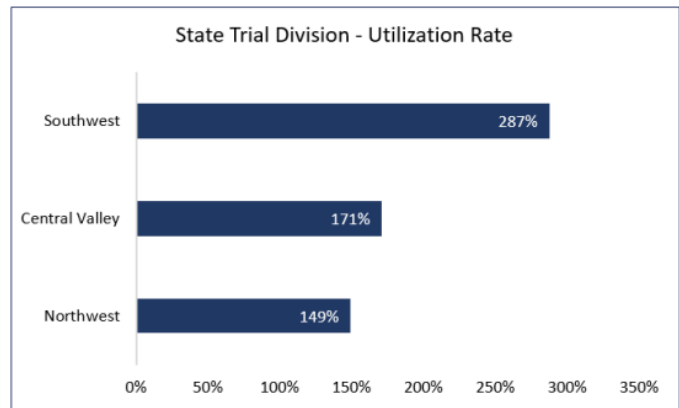
A Chief Defender was hired in August 2023 and worked with others in the agency to establish this new program. The first state trial attorney took their first case in December 2023, since that time, OPDC has hired eleven additional senior deputy defenders and taken 411 cases as of August 20, 2024. HB 4002 (2024) funded an additional eight deputy defenders who are currently being hired and onboarded. The included charts below show the total number of cases taken by the State Trial Offices, broken down by case type, and the location of those cases, along with a rolling case count to show the growth of the Trial Offices.

9 of the 11 attorneys currently have at least one homicide or sex case; one attorney has 4 homicide/sex cases. all attorneys are carrying between 2-9 high-level felonies and a mixture of mid-level and lower cases. In addition to targeting high-level cases, OPDC trial attorneys have proven valuable in securing counsel for *Betschart* cases. When counsel cannot be found for a person approaching 7 days in custody, OPDC appointment coordinators can work directly with the OPDC Trial Division to review workloads and take on cases at risk of release. Since June, the Trial Division has taken 25 *Betschart* cases.



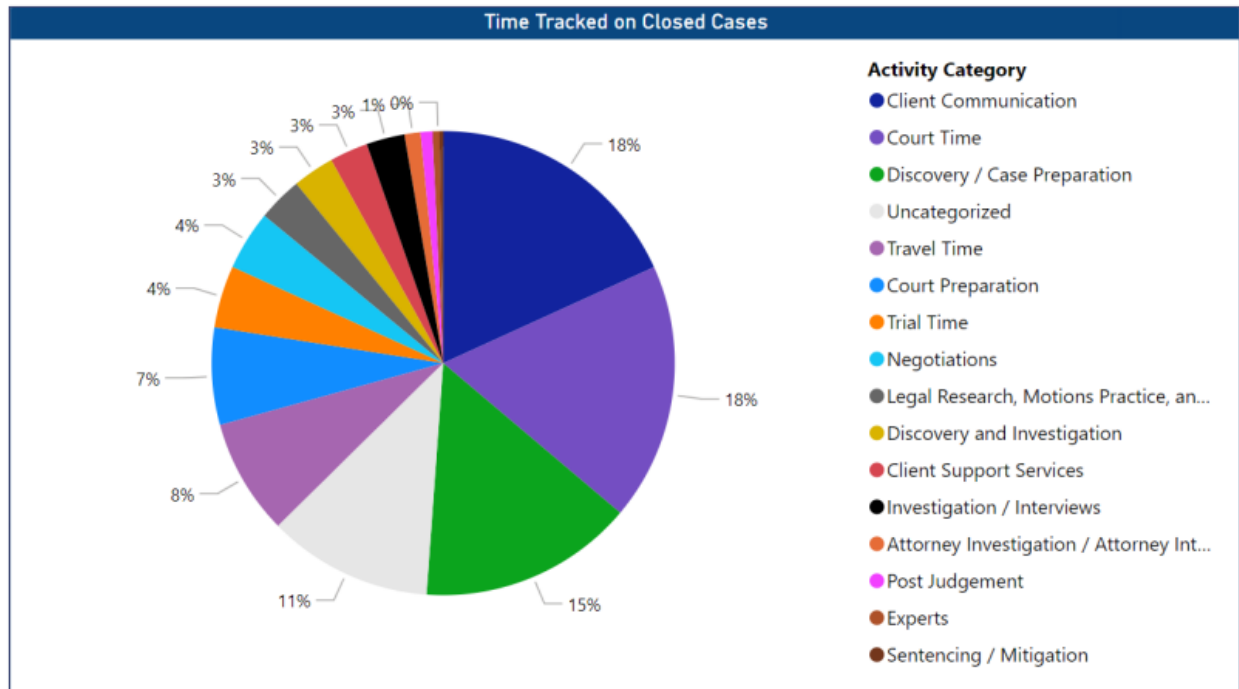
CASE MANAGEMENT

The OPDC Trial Offices manage their workload based on the Oregon Project report standards. This means that cases are weighted by case type on a 2,080-work-hour basis. Trial attorneys track their time, which uploads to a caseload dashboard, allowing real-time workload monitoring. This data enables the Chief Defender to track in real-time how much capacity individual lawyers may have and to whom additional cases can be assigned. It also allows OPDC to see how attorneys are spending time on cases and if that time aligns with the expected time based on the Oregon Project. All three offices are currently over their projected standards.



The trial offices are still using the Oregon standard and will switch to the National Public Defense Workload Standards⁵ that were adopted by the Commission in May once Moss Adams updates the 6-year plan. OPDC does not currently have the crosswalk to apply the case weights developed for Oregon’s charges to the NPDWS. Moss Adams is doing that mapping now, and once it's complete, the Trial Division will switch to the standard adopted by the Commission.

These offices also track their time, which provides OPDC with valuable data. Of the 161 closed cases, 1,445 hours were tracked. 18% of those hours were tracked as "Client Communication," and 18% were tracked as "Court Time." Across all 398 cases, 16% (1,338 hours) were tracked by investigators, and 13% were tracked as "Discovery/Case Prep."



⁵ [National Public Defense Workload Standards](#)

FUTURE PLANNING

OPDC is committed to ensuring competent, client-centered representation for all those eligible for public defense in Oregon. To meet SB 337 goals for state-hired trial attorneys by 2031 and 2035 and reduce, eliminate, and prevent future unrepresented crises, OPDC is planning ways to expand the Trial Division. This expansion needs to balance the immediate need to take unrepresented cases, particularly in rural areas, and sustainably grow the Trial Division with appropriate managerial and staff support. The first is addressed through and September 2024 Emergency Board request to open an office serving the Southwest portion of the state. The Commission's Policy Option Package 103 for the 2025 Legislative session addresses the second.

SW REQUEST

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 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.

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.

2025-2027 BIENNIUM

During the 2025 session, OPDC will be submitting a Policy Option Package to increase the number of public defenders by forty, support staff by forty-six, managers by nine, and administrative staff by two. This would involve expanding the existing three offices and establishing three new offices in areas where there is a critical shortage of legal representation, and existing attorney capacity cannot meet the demand. 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. These positions and offices will be added gradually during the 2025-2027 biennium.

| Office / Region | Attorneys | Legal professionals | Investigators | Other |
|--------------------------------|------------------|----------------------------|----------------------|--------------|
| 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 |
| 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.

CONTRACT PROVIDERS

Contract providers take the majority of public defense cases through contracted MAC. OPDC is currently contracted for 449.53 Adult Trial MAC, not including statewide and supervision MAC.

PROVIDER CAPACITY

OPDC can now monitor providers' maximum attorney caseload (MAC). A full-time contracted public defense provider is considered a 1.0 MAC, meaning they could take a maximum of 300 weighted misdemeanors per year. However, until recently, saying a contractor was a 1.0 MAC was misleading, as it did not factor in when that attorney started their contract. For example, an attorney could join a provider in January as a full-time 1.0 MAC, but OPDC would not expect them to take the total 300 weighted misdemeanors in the remaining 6 months of the contracted fiscal year. Even if they reached their maximum caseload by the end of the fiscal year (150 misdemeanors), it would appear they had only fulfilled 50% of their contracted MAC.

To correct this, OPDC has begun to report prorated MAC; this is the actual MAC an individual attorney can take on, dependent on the start date of their contract. Prorated MAC provides a more accurate data

point to compare against reported MAC or the number of cases providers have reported taking. Using the prorated MAC and the reported MAC, OPDC is able to determine the MAC utilization rate.

OPDC program analyst reviewed criminal MAC utilization in April and identified any providers under 85%. They then met with those contract administrators from late April to early June to discuss caseloads and reported MAC utilization. Of the 29 providers below 85%, six were for ethical reasons, mainly due to taking on complex murder cases, six are currently in discussion about how to increase caseloads, five had reporting errors that were artificially reducing their utilization rates, and corrections are being made, four have specialty contracts that are meeting expectations, three have recent staffing issues including medical leave which should resolve soon, three are still pending review, and two are having amendments made to reduce MAC so it can be reallocated to providers who can take more cases.

OPDC has submitted an organizational structure report to the September Emergency Board, which outlines package 60 changes. The most significant change in this package is the disentanglement of the contract/procurement work and the programmatic work these program analysts are currently doing. By creating new program analyst positions and hiring procurement positions, the current program analyst will be able to focus on quality management work, like reviewing provider capacity. They will be able to regularly monitor MAC utilization and work with providers to remove barriers before they occur or address potential problems earlier.

It is essential to note that while the introduction of MAC was a fiscally conservative solution and an important first step to ending the pay-per-case model, it has many shortcomings. The MAC standard only regulates the annual number of cases a lawyer may accept. It does not account for the number of hours needed for each case. Further, the standard itself is based on caseload models of the 1970s and, therefore, does not reflect the current complexities of public defense work. In short, it does not accurately utilize the attorneys available, does not ensure quality representation, and is an impediment to new attorney recruitment.

| Criminal MAC Utilization: July 2023 thru June 2024 | | | | |
|--|-------------------|----------------|----------------|----------------------|
| HomeCounty | Count of Contract | Prorated MAC | Reported MAC | MAC Utilization Rate |
| Baker | 2 | 2.528 | 1.522 | 60% |
| Benton | 1 | 8.436 | 7.265 | 86% |
| Clackamas | 2 | 27.732 | 27.738 | 100% |
| Clatsop | 2 | 4.745 | 4.864 | 103% |
| Clatsop, Columbia | 1 | 0.413 | 0.344 | 83% |
| Columbia | 2 | 4.657 | 4.127 | 89% |
| Coos | 1 | 6.327 | 6.488 | 103% |
| Crook, Jefferson | 1 | 8.944 | 8.197 | 92% |
| Curry | 1 | 2.223 | 2.205 | 99% |
| Deschutes | 3 | 20.855 | 19.054 | 91% |
| Douglas | 5 | 8.692 | 7.929 | 91% |
| Gilliam, Hood River, Sherman, Wasco, Wheeler | 2 | 5.539 | 4.913 | 89% |
| Grant, Harney | 3 | 2.905 | 2.423 | 83% |
| Jackson | 4 | 22.485 | 21.306 | 95% |
| Josephine | 2 | 11.104 | 7.842 | 71% |
| Klamath | 10 | 9.003 | 10.439 | 116% |
| Lake | 2 | 0.724 | 1.028 | 142% |
| Lane | 2 | 32.570 | 26.033 | 80% |
| Lincoln | 1 | 6.215 | 6.988 | 112% |
| Linn | 1 | 13.523 | 13.459 | 100% |
| Malheur | 5 | 7.264 | 5.248 | 72% |
| Marion | 4 | 36.801 | 25.224 | 69% |
| Morrow, Umatilla | 1 | 3.802 | 3.256 | 86% |
| Multnomah | 5 | 78.360 | 65.573 | 84% |
| Polk | 2 | 4.203 | 4.170 | 99% |
| Statewide | 12 | 29.452 | 17.370 | 59% |
| Tillamook | 1 | 2.554 | 2.254 | 88% |
| Umatilla | 4 | 7.336 | 7.232 | 99% |
| Union, Wallowa | 2 | 3.655 | 3.331 | 91% |
| Washington | 7 | 44.018 | 41.812 | 95% |
| Yamhill | 3 | 8.166 | 8.772 | 107% |
| Total | 94 | 425.233 | 368.407 | 87% |

OPDC UNREPRESENTED PLAN

SUMMARY

On May 24, 2024, Governor Kotek sent a letter to OPDC to “to identify solutions and work towards resolving this crisis” and to provide a plan by August 1, 2024, “to eliminate Oregon’s unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.” OPDC submitted a plan to the Governor on July 26, 2024⁶.

OPDC’s objective is to eliminate the in-custody unrepresented list by the end of March 2025 and the out-of-custody list by the end of March 2026. OPDC believes this can be accomplished by implementing the initiatives laid out in the plan.

Below is OPDC’s short-term crisis plan, which is a stop-gap measure to address the unrepresented crisis as OPDC works toward sustainable reform. It combines no-cost and low-cost strategies with strategic e-board requests. The objective of this plan is to eliminate the in-custody unrepresented list by March 2025 and the out-of-custody unrepresented list by March 2026⁷.

Please see the full Plan submitted to the Governor, which is appended to this report for details.

CRISIS PLAN

90 DAYS

In the next 90 days⁸, OPDC will enact the following initiatives to reduce the unrepresented numbers:

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

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

⁶ See Appendix A: OPDC July 2024 Unrepresented Plan.

⁷ Calculations dependent on external factors that may increase or decrease the unrepresented list. Please see Appendix A of attached plan: OPDC Unrepresented Plan Limitations Memo and Appendix B: OPDC Unrepresented Plan Workbook.

⁸ See Appendix D of attached plan: Unrepresented Crisis Plan Report Summary

NEXT STEPS

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

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

6-YEAR PLAN

OPDC has adopted a 6-year plan⁹ to build, stabilize, and maintain the public defense workforce as a long-term solution to these issues. While this letter is focused on immediate and near-term solutions, addressing the underlying problems within Oregon’s public defense system is the only way to fully resolve this crisis. Without investments in long-term solutions, the interventions above will only be stop-gap measures, and the cycle will continue.

⁹ [OPDC Six-Year Plan to Reduce the Public Defense Deficit](#)

Oregon Public Defense Commission

EXECUTIVE BRANCH TRANSITION

August 20, 2024

NATURE OF THE REPORT

A budget note included with SB 5701(2024) directs the Oregon Public Defense Commission (OPDC) to submit the following report:

The Public Defense Commission is to report to the Emergency Board's May 2024 and September 2024 meetings on the status of the agency's transition from the judicial to the Executive Branch of government. The reports are to include up-to-date scope, schedule, and cost information.

The following report is responsive to this budget note. This report was approved at the OPDC meeting on August 21, 2024.

DRAFT

CONTENTS

| | |
|----------------------------------|----|
| Nature of the Report..... | 1 |
| Executive Summary | 3 |
| Executive Branch Transition..... | 4 |
| Scope | 4 |
| Schedule..... | 4 |
| Budget..... | 4 |
| Transition Teams | 6 |
| Administration..... | 6 |
| Human Resources | 7 |
| Facilities..... | 8 |
| Procurement..... | 8 |
| Budget..... | 9 |
| Information Technology | 10 |

DRAFT

EXECUTIVE SUMMARY

The Oregon Public Defense Commission (OPDC) 's executive branch transition (SB 337, 2023) represents a significant organizational endeavor, ensuring alignment with executive standards, strategic planning, and effective IT integration. With comprehensive planning, strategic partnerships, and diligent execution, OPDC aims for a successful transition by January 1, 2025, positioning itself for long-term growth and operational excellence within the Executive Branch.

Moss Adams has been brought on as a consultant to develop a transition plan for OPDC. They have developed that plan, providing action items for each transition area and tools to track progress and elevate risks.

Scope: The transition project encompasses many tasks, including policy review, strategic planning, staffing assessment, and IT integration. Each task is crucial to the successful alignment of OPDC with Executive Branch standards and expectations, as guided by the Governor's directives.

Schedule: A detailed timeline outlines critical milestones, such as initial conversations with the Executive Branch, policy review, strategic planning, and staff assessment. Using the Moss Adams Transition Plan, OPDC can quickly review tasks and see if they are on schedule. Please see the spreadsheet attached to this plan for complete details.

Budget: A \$5 million special purpose appropriation (SPA) supports the transition, and OPDC is well within the SPA allocation.

Transition Teams: OPDC has established specialized work teams focusing on administration, information technology, human resources, procurement, finance, and facilities. Each team aligns policies and procedures with Executive Branch standards and addresses the Governor's expectations.

Risk: Information technology (IT) and procurement continue to be the highest areas of risk for this transition.

- IT: High-level discussions and planning are underway with Enterprise Information Services (EIS), Data Center Services (DCS), and Microsoft. Weekly status meetings include key stakeholders such as executive and IT leadership from OPDC, OJD, EIS, Legislative, and the Governor's Office. These meetings aim to communicate plans, progress, and risks.
- Procurement: OPDC has contacted the State Procurement Office in DAS to discuss the next steps towards assimilating the state procurement standards into the Commission's procurement standards and practices. OPDC is working with DOJ to develop provider contracts for the 2025-2027 biennium contract cycle to ensure compliance with state contracting standards and requirements. OPDC has also reorganized to utilize its procurement positions for procurement analyst work and is currently recruiting for a Procurement Analyst.

EXECUTIVE BRANCH TRANSITION

SCOPE

Senate Bill 337 (2023) transitions the Oregon Public Defense Commission (OPDC) from the Judicial to the Executive branch of government on January 1, 2025. The goal of this transition is for OPDC to enter the Executive Branch as a functioning agency that meets the Executive Branch's standard operating procedures and expectations.

All actions necessary to meet standard operating procedures and expectations are within the scope of the transition project. Along with standard procedures and policies, OPDC is working to meet the Governor's expectations of executive agencies as outlined in her [letter](#) dated January 11, 2023, and detailed [here](#). OPDC is using these expectations to measure its efforts as well as to determine if an activity falls within this project's scope.

SCHEDULE

Below is an overview of the transition work as developed by Moss Adams. 388 tasks have been identified as part of the transition: 78 have been completed, 83 are in progress, and 225 are upcoming. 76% of tasks are on track, with 26% being at risk (mainly in procurement and IT), and less than 1% are off track. This report provides a summary of the objectives for each workgroup, though each objective has multiple sub-tasks. The full schedule, including the status of all 380 tasks, is in the spreadsheet attached to this report.

Working Group Progress Overview

| Department | Number of Tasks | Upcoming Tasks | In Progress Tasks | Completed Tasks | % Complete | On Track | At Risk | Off Track |
|-----------------|-----------------|----------------|-------------------|-----------------|------------|------------|-----------|-----------|
| Administration | 91 | 40 | 21 | 28 | 31% | 91 | 0 | 2 |
| Facilities | 41 | 11 | 7 | 23 | 56% | 33 | 8 | 0 |
| Finance | 9 | 0 | 6 | 3 | 33% | 7 | 0 | 0 |
| Human Resources | 74 | 32 | 23 | 19 | 26% | 74 | 0 | 0 |
| IT | 133 | 113 | 17 | 3 | 2% | 85 | 49 | 0 |
| Procurement | 40 | 29 | 9 | 2 | 5% | 8 | 32 | 0 |
| Total | 388 | 225 | 83 | 78 | 20% | 298 | 89 | 2 |

BUDGET

OPDC 2023-25 Budget included a \$5 million special purpose appropriation (SPA) for transferring the OPDC to the Executive branch. During the 2024 session, OPDC received \$1.23 million of the SPA for

staffing identified through a gap analysis; at the May Emergency board, OPDC received a further \$286,000 for staffing costs from the second gap analysis. OPDC will request \$1,050,000 at the September Emergency Board for expenses related to the Executive transition. Should those requests be funded, OPDC will have \$2,434,000 remaining in the Executive transition SPA for the December Emergency Board.

OPDC also requested \$500,000 to contract with a consultant to assist with the transition. This request was for SPA funding, but the Legislature provided General Fund (GF) dollars instead. OPDC's contract with Moss Adams is \$250,000 with a not-to-exceed \$500,000. This not-to-exceed language allows Moss Adams, at the OPDC's request, to bring on additional resources, should they be needed, to facilitate the implementation of the transition plan.

The transition budget is still well within the \$5 million SPA allocated, and the Moss Adams contract has not exceeded the \$500,000 GF appropriation.

DRAFT

TRANSITION TEAMS

In preparation for the transition, ODPC has put multiple workgroups in place. In addition to meeting the governor’s expectations, the agency has done significant work to align policies and procedures with the executive branch. This work has been divided into six work teams: Administration, Information Technology, Human Resources, Procurement, Facilities, and Finance. These teams are led by division/department managers. They are focused on evaluating, updating, and creating policies and procedures to align with the Executive Branch, and three of the groups are also working on implementing Governor expectations.

| Governor Expectation | Team |
|---|--------------------------------|
| Performance Reviews for Agency Directors | Administration/Human Resources |
| Performance Feedback for Employees | Human Resources |
| Measuring Employee Satisfaction | Human Resources |
| Supporting Strategic Planning and Measuring Agency Performance | Administration |
| Managing Information Technology Progress | Information Technology |
| Succession Planning for the Workforce | Human Resources |
| State Government Commitment to Diversity, Equity, and Inclusion | Administration/Human Resources |
| Agency Emergency Preparedness | Administration/Facilities |
| Agency Hiring Practices | Human Resources |
| Audit Accountability | Administration |
| Developing New Employees and Managers | Human Resources |
| Agency Identified Area of Work | |
| Procurement | Procurement |
| Facilities | Facilities |
| Risk Management | Administration |
| Budget | Finance |
| Finance | Finance |

ADMINISTRATION

OPDC’s administration team is comprised of the agency’s executive team. It is responsible for aligning the agency’s administrative functions with the Executive Branch. As part of this work, the administration team:

- Finalized a Transition Plan with Moss Adams;
- Is monitoring the progress of the plan through a project management tool;
- Hired an Administrative Rules Coordinator;
- Worked with OEA to produce a public defense caseload forecast.

OPDC hired an Executive Project Manager for the transition in August 2023. This manager left the agency at the end of May 2024. OPDC is currently recruiting for a replacement in this position. Before leaving, this manager set the agency up for a successful transition, including working with Moss Adams on the Transition Plan.

| Health | ACTION/TASK | STATUS | START | END | % COMPLETE |
|-----------|--|-------------|----------|----------|------------|
| On Track | Initial Conversations with Exec Branch | Complete | 05/01/23 | 06/30/23 | 100% |
| On Track | Consultant engaged to support transition planning and implementation | Complete | 03/18/24 | 03/18/24 | 100% |
| On Track | Develop agency strategic plan. | In Progress | 03/01/24 | | 66% |
| Off Track | Executive Project Manager Starts | On Hold | 08/01/23 | 08/31/23 | 0% |
| On Track | Establish Executive Transition Workgroups | Complete | 08/01/23 | 09/30/23 | 100% |
| On Track | Develop an agency transition plan | Complete | 03/01/24 | 07/31/24 | 100% |
| At Risk | Identify and train administrative rules coordinator | In Progress | 07/01/24 | 08/31/24 | 30% |
| On Track | Agency director performance 360 | In Progress | 08/01/24 | 11/30/24 | 20% |
| On Track | Develop an agency emergency preparedness plan | Upcoming | 09/01/24 | 12/31/24 | 0% |
| On Track | Submit Legislatively Required Reports | In Progress | 01/01/24 | 12/20/24 | 66% |
| On Track | Developed OPDC Remediation Plan | Complete | 10/01/23 | 01/31/24 | 100% |
| On Track | Review Existing Executive Policies and Identify Gaps | In Progress | 09/01/23 | 10/01/24 | 60% |
| On Track | Organization Staffing & Structure Assessment | Upcoming | 09/01/24 | 01/01/25 | 0% |
| On Track | Risk Management | In Progress | 10/01/23 | 11/30/24 | 50% |
| On Track | DAS-OEA Population Forecast | In Progress | 10/01/23 | 04/30/25 | 80% |
| On Track | Audit and Accountability | In Progress | 06/15/24 | 12/01/24 | 50% |

HUMAN RESOURCES

OPDC is exempt from ORS 240, the statute that regulates most human-resource-related issues within state agencies. However, OPDC is committed to adopting and adhering to Executive Branch policies as the default. As part of this work, the human resources workgroup:

- Has updated its organizational chart to align with OPDC's budget;
- Is requesting package 60 and other reorganization changes to implement the new organizational chart;
- Is holding competitive recruitments for all positions.

| Health | ACTION/TASK | STATUS | START | END | % COMPLETE |
|----------|---|-------------|----------|----------|------------|
| On Track | Create and update necessary HR policies to align with Exec Branch | In Progress | 11/01/23 | 09/30/24 | 50% |

| | | | | | |
|----------|--|-------------|----------|----------|-----|
| On Track | Update organizational charts | In Progress | 11/01/23 | 08/30/24 | 80% |
| On Track | Review position descriptions to ensure they correctly align with class/comp standards. | In Progress | 12/01/23 | 11/29/24 | 75% |
| On Track | Employee onboarding process | In Progress | 02/01/24 | 12/31/24 | 20% |
| On Track | Employee satisfaction plan | In Progress | 04/01/24 | 12/31/24 | 30% |
| On Track | Employee development plan | In Progress | 04/01/24 | 12/31/24 | 20% |
| On Track | Employee training plan | In Progress | 04/01/24 | 12/31/24 | 20% |
| On Track | Develop performance reviews for Directors and Employees | In Progress | 06/01/24 | 08/30/24 | 50% |
| On Track | Succession planning | In Progress | 07/01/24 | 12/31/24 | 33% |
| On Track | Review/update of DEI Plan | In Progress | 08/01/24 | 10/31/24 | 33% |

FACILITIES

OPDC does not currently have office space in any state-owned facilities, but it does engage DAS Leasing services when acquiring office space. OPDC is reviewing DAS policies related to facility use and working to adopt those that apply to OPDC leased facilities. As part of this work, OPDC:

- Has worked with DAS to lease office space for the Northwest, Southern, and Central Trial Division Office;
- Is planning for the development of the agency's Emergency Preparedness plan.

| Health | ACTION/TASK | STATUS | START | END | % COMPLETE |
|----------|---|-------------|----------|----------|------------|
| On Track | Work with DAS to lease office space for Northwest, Southern, and Central Trial Division offices | Complete | 10/01/23 | 05/31/24 | 100% |
| On Track | A new Facilities Manager was hired | Complete | 02/01/24 | 02/29/24 | 100% |
| On Track | Update and write policies to align with the Exec branch | In Progress | 11/01/23 | 09/30/24 | 80% |
| On Track | Review agency continuity plan. | In Progress | 07/01/24 | 06/01/25 | 10% |

PROCUREMENT

Procurement is a significant change area for OPDC. The agency has been exempted from procurement statutes since its inception. This has led to OPDC contracts being administered by program analysts, who also serve as program administrators. The result is that the same people technically responsible for contract administration are tasked with supporting providers in their contracts. This process has led to

numerous monthly contract amendments to accommodate provider workload and qualification changes and address provider staffing issues. Due to the large volume of procurement work generated regularly, analysts cannot provide the oversight to monitor the program and adequately evaluate performance.

OPDC recognizes the need to develop a procurement team with DAS-required training before transitioning to the Executive branch. In February 2024, OPDC requested three procurement positions, none of which were funded. Since that time, OPDC has worked to realign its organizational chart. Through that work, OPDC will present a request to the September Emergency Board to make appropriate position changes and moves to utilize existing staff and recruit a Procurement Manager and the proper Procurement and Contract Specialist to perform and meet the Commission's procurement and contract needs.

In the meantime, OPDC is working with DOJ to develop provider contracts for the 2025-2027 biennium contract cycle to ensure compliance with state contracting standards and requirements. The new agreements will separate contractual language and deliverables from program elements and refer to established commission policies and procedures.

In preparation for the transition, OPDC has:

- Posted for a vacant Procurement Analyst 2 position to begin building a true procurement section; applications close August 20;
- Reorganized the organizational chart to align with the budget; will be requesting program analyst positions to vacate the current procurement positions;
- Worked closely with OJD on developing contracts for 2025-2027;
- Contacted the State Procurement Office in DAS to discuss the next steps towards assimilating the state procurement standards into the Commission's procurement standards and practices.

| Health | ACTION/TASK | STATUS | START | END | % COMPLETE |
|----------|--|-------------|----------|----------|------------|
| On Track | Review current contracting work and position descriptions | Complete | 04/01/24 | 06/01/24 | 100% |
| On Track | Develop a process for provider contracts to align with statewide procurement requirements. | In Progress | 11/01/23 | 04/01/25 | 50% |
| At Risk | Update and write policies to align with the exec branch | In Progress | 11/01/23 | 09/30/24 | 30% |
| On Track | Procurement training and certifications (contingent on positions being approved and staff being hired) | Upcoming | 09/01/24 | 12/31/24 | 0% |
| On Track | Work with DOJ to develop 2025-2027 provider Contracts | In Progress | 04/01/24 | 04/01/25 | 50% |

BUDGET

OPDC currently operates in concurrence with DAS accounting policies and rules. In preparation for a smooth transition to the Executive branch, OPDC has:

- Participated in the Executive Branch budget development process;
- Received the Chief Financial Office’s Gold Star Certificate for fiscal year 2023;
- Participated in the Chief Financial Office’s 2025-27 exercises.

| Health | ACTION/TASK | STATUS | START | END | % COMPLETE |
|----------|---|-------------|----------|------------|------------|
| On Track | Reviewing and updating relevant accounting policies/processes | Complete | 07/01/23 | 10/31/2023 | 100% |
| On Track | Conduct monthly CFO check-ins in preparation for the move | In Progress | 02/01/24 | 12/31/24 | 65% |
| On Track | Review and compare budget policies and processes between DAS and OPDC for alignment and needed changes. | Complete | 07/01/23 | 10/30/23 | 100% |
| On Track | Update relevant budget policies and procedures | In Progress | 11/01/23 | 09/30/24 | 80% |
| On Track | CFO 25-27 exercise | Complete | 03/01/24 | 04/30/24 | 100% |
| On Track | Build 2025-2027 current service and agency request budgets | In Progress | 03/15/24 | 08/30/24 | 80% |

INFORMATION TECHNOLOGY

Information Technology (IT) is one of the most significant pieces of the transition from the judicial branch to the executive branch; as such, it is being given particular focus. OPDC’s newly hired CIO leads the information technology team, which a project manager joins specifically focused on the IT transition work.

Following the transition, OPDC will require a complete suite of IT services, as OJD currently provides most IT services. Between October and December 2023, OPDC worked with OJD and DAS-EIS on a gap analysis to identify information technology positions needed within OPDC following the transition. During the 2024 legislative session, OPDC received approval to hire six additional IT staff members; recruitment for these positions was completed, and positions were filled. These positions directly address the technical needs of the agency based on the gap analysis. Additional gap analysis will be performed quarterly with OJD and DAS-EIS to determine additional IT needs as the transition approaches.

In addition to the general transition of IT and a review of IT policy and procedures, the IT team is responsible for managing information technology progress per the Governor’s expectation, which includes creating [an IT strategic plan](#) for the agency.

High-level discussions and planning are underway with Enterprise Information Services (EIS), Data Center Services (DCS), and Microsoft. Weekly status meetings, including key stakeholders such as executive and IT leadership from OPDC, OJD, EIS, Legislative, and the Governor’s Office, are actively scheduled. These meetings communicate plans, progress, and risks. OPDC has developed an agency IT Transition work breakdown structure to provide cohesive communication across all stakeholders and document tasks, resourcing, and schedule.

| Health | ACTION/TASK | STATUS | START | END | % COMPLETE |
|----------|----------------|-------------|----------|---------|------------|
| At Risk | Applications | In Progress | 06/01/23 | 6/30/25 | 75% |
| On Track | EISO | Upcoming | | 6/30/25 | 0% |
| On Track | Infrastructure | In Progress | 06/01/23 | 6/30/25 | 10% |

DRAFT

Oregon Public Defense Commission

REMEDIATION PLAN

Version IV
AUGUST 20, 2024

NATURE OF THE REPORT

The budget report for SB 5532 (2023) includes Budget Note #1: Comprehensive Remediation Plan:

The Public Defense Services Commission (PDSC) is directed to report to the Interim Joint Committee on Ways & Means throughout the fall of 2023, the Joint Committee on Ways and Means during the Legislative Session in 2024, and quarterly thereafter to the Legislative Emergency Board, on the Commission's restructuring and modernization efforts, including updated caseloads, financial forecasts, and procurement activities including contract amendments and the alignment of contracting with the biennial budget process.

In addition, reporting by the Commission is to include, and be based upon, a comprehensive remediation plan adopted by the Commission that includes the following elements: (1) Issue – identify each specific issue with a concise problem statement (2) Priority – assign each issue a priority; (3) Evidence of Concern – identify evidence supporting the existence of the issue; (4) Objective – identify what objective the agency is trying to achieve through the resolution of the issue; (5) Best Practice(s) – identify what best practices exist related to the resolution of the issue, which can be used to benchmark the options available as well as the recommended option; (6) Options to resolve the issue – identify what specific options exist to resolve the issue; (7) Recommended Option – identify which is the agency's recommended option to resolve the issue, and on what basis was the option selected; (8) Timeframe – identify the timeframe for implementing the recommended option; (9) Fiscal Impact – identify the cost of implementing the recommended option; and (10) Expected Outcome – identify what outcome is expected from the recommended option and how will it be measured.

The following report is an update to the remediation report submitted by the Oregon Public Defense Commission (OPDC) in January 2024. This report updates the top 25 issues OPDC identified as needing improvement. Addressing these issues focuses OPDC on working towards a unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing administration to enable OPDC to fulfill its mission of ensuring constitutionally competent and effective legal representation for persons eligible for a public defender.

This report was approved at the OPDC meeting on August 21, 2024.

CONTENTS

| | |
|---|----|
| Nature of the Report | 1 |
| Executive Summary | 3 |
| Caseloads | 5 |
| Maximum Attorney Caseload (MAC) | 7 |
| Financial Forecasts | 9 |
| Procurement – Provider contracts | 10 |
| Remediation Plan | 14 |
| Unified Commission and Agency | 14 |
| Commission Oversight | 15 |
| Decisive Leadership | 16 |
| Gap Analysis | 17 |
| Updated Governing Statutes and Policy | 18 |
| Standard Financial Practices | 19 |
| Standard Human Resource Practices | 20 |
| Standard Procurement Practices | 21 |
| Improved Agency Culture | 23 |
| Efficient and Effective Programming | 24 |
| Implement FCMS | 25 |
| Data-Informed Decision-Making | 26 |
| Accurate and Timely Vendor Payments | 27 |
| Strategic Plan | 28 |
| Internal Quality Control and Audits | 30 |
| Develop Internal Data Analytics | 31 |
| Data Security and Independence | 32 |
| IT Structure | 33 |
| CAP: Develop CAP Program | 34 |
| CAP: Performance Standards | 35 |
| CAP: Audits and Quality Control | 36 |
| CAP: Compliance Measures | 37 |
| Accountability to Legislature | 38 |
| Build & Repair Relationships | 39 |
| Accountable Complaint Process | 40 |
| Previous Reports | 41 |

EXECUTIVE SUMMARY

The Oregon Public Defense Commission (OPDC) has been working on implementing reforms outlined in the Commission's Remediation Plan. Since submitting the Remediation Plan III report in May 2024, the Commission has made significant progress addressing these issues.

Oversight and Leadership

- Submitted Unrepresented Crisis Plan to Governor to eliminate the in-custody unrepresented list by the end of March 2025 and the out-of-custody list by the end of March 2026, dependent on the initiatives laid out in the plan being funded and implemented;
- Governance and Legislative subcommittees meeting monthly;
- Drafts of Legislative reports going to Legislative subcommittee for review before full Commission approval;
- Governance subcommittee developing new agency audit committee charter and process to evaluate the executive director;
- Weekly communication between the Commission's executive leadership and chair and co-chair.

Agency Remediation

- The Commission has adopted three internal policies and six external policies since May 2024;
- OPDC has received the Chief Financial Office's Gold Star Certificate for fiscal year 2023.
- The organizational chart has been cleaned up and correctly structured in order for the Commission to request standard Package 60 changes for the 2025-2027 biennium;
- A new organizational chart allows the Commission to do a full gap analysis to make position requests in the 2025-2027 biennium;
- A new organizational chart allows the Commission to reclassify and use agency savings to align procurement positions within the agency correctly.

Efficiency and Effectiveness

- Three regional trial offices have been established; 11 attorneys have taken 365 cases;
- Unrepresented:
 - The 9th circuit's decision in Betschart v. Garrett went into effect, impacting OPDC and OJD business practices for assigning counsel on unrepresented persons cases and increasing the need for strong collaboration among stakeholders;
 - In custody, unrepresented numbers continue to trend downward, 55% lower than the peak in July 2023;
 - Increased OPDC assigned counsel by 71% since January 2024 through additional staff and process improvements;
 - Unrepresented electronic form is now a statewide program, allowing courts to directly inform OPDC about unrepresented in-custody cases and providing prioritization input;
- Preauthorized expense (PAE):
 - PAE backlog eliminated as of June 2024;
 - PAE customer service improved through better phone coverage and regular PAE office hours;

- Additional PAE short forms have been created due to provider feedback;
- Accounts Payable (AP):
- AP day to payment is currently at 42 days, a decrease from a high of 49 days in June 2024;
 - Emergency AP policy adopted by the Commission in June that streamlines the review process of invoices to ensure prompt payment to attorneys and vendors when invoices are 35 days past their submission date.
- Data:
 - Data Quality Control measures implemented;
 - Clearer and more valuable metrics added to the database, including contractor retention and case manager time;
- FCMS received Stage 1 Endorsement on July 11, 2024.
- Strategic Planning:
 - OPDC has completed two of the three facilitated work sessions to develop the draft strategic plan elements.
 - Completed sessions have addressed the development of the vision, mission, values, and goals.
 - The upcoming work session will address the development of objectives, activities, and performance measures.

Accountability and Transparency

- All reports requested by the Legislature have been submitted for September Legislative Days;

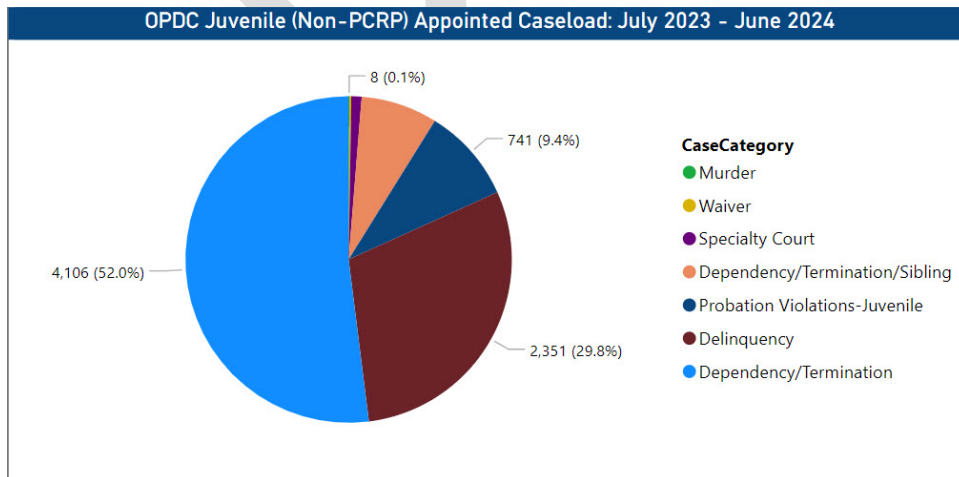
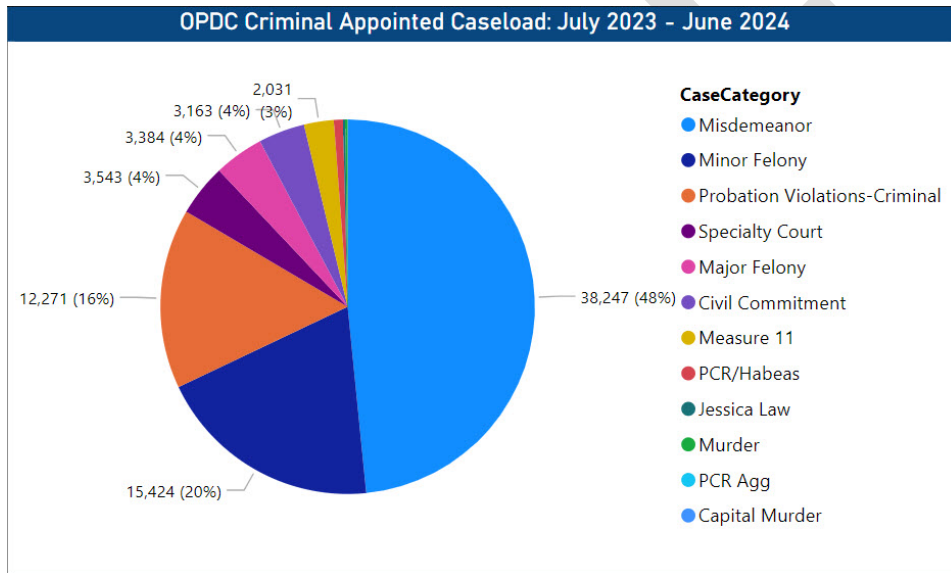
The following remediation report provides updates to the remediation plan submitted by OPDC in April 2024 and heard by the Joint Committee on Ways and Means during the May 2024 legislative days. Rather than republishing each issue's 10-point problem identification plans, the January [report](#) is provided here. OPDC has restated the issue and objective and provides status, next steps, and timeline updates.

CASELOADS

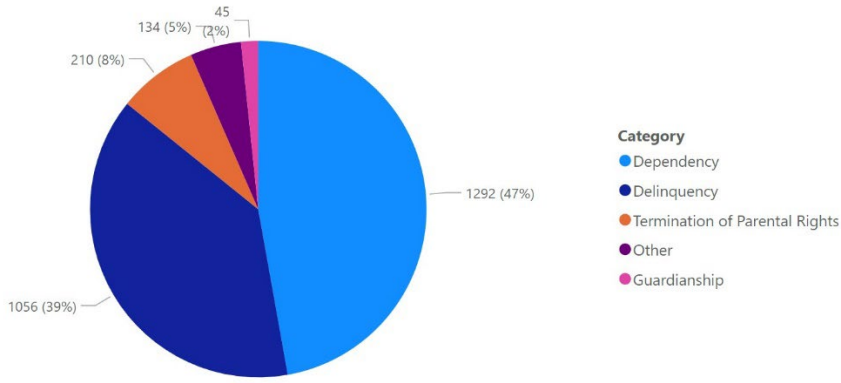
Caseload appointment data (as of July 29, 2024) for the contract cycle beginning July 1, 2023.

| | |
|---|---------------|
| Criminal cases taken by contract providers: | 78,477 |
| Juvenile cases taken by non-PCRCP contract providers: | 7,868 |
| Juvenile cases taken by PCRCP contract providers: | 2,647 |
| Hourly providers at standard rate: | 1,328 |
| All cases taken through the | |
| Temporary Hourly Increased Program (THIP): | 2,949 |
| OPDC trial attorneys (state employees): | 321 |
| Total appointments made since July 1, 2023: | 93,590 |

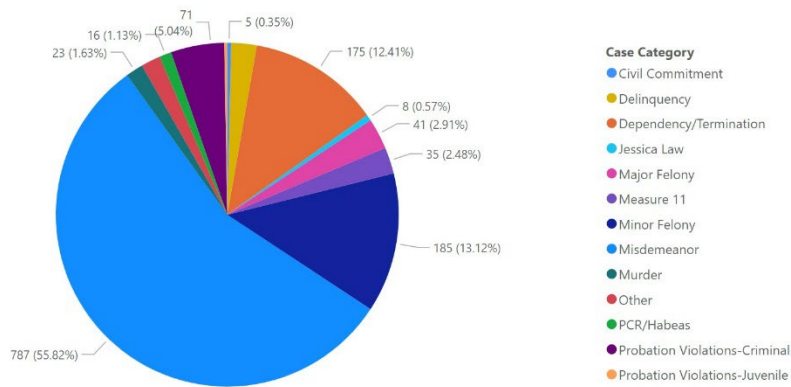
The charts below showcases by case type taken by the different provider types (as of July 29, 2024):



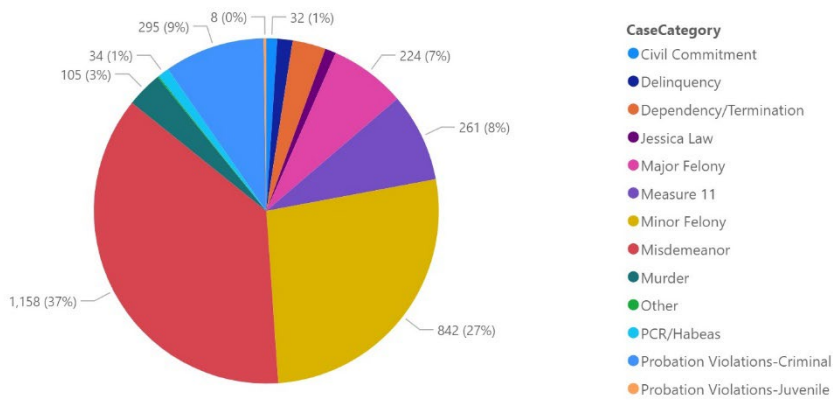
OPDC PCRP Cases: July 2023 - June 2024

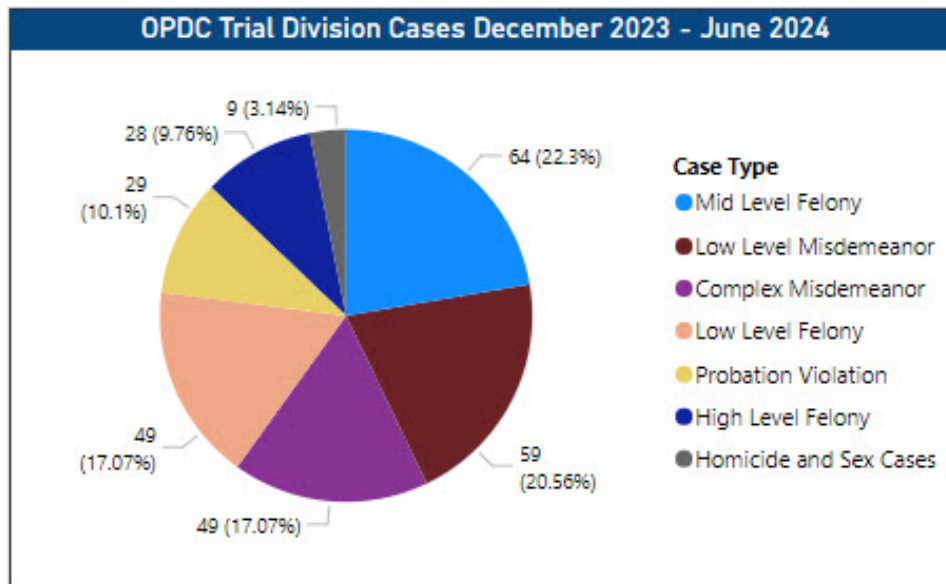


Standard Rate Hourly Cases Stamped: July 2023 thru July 2024



THIP Appointment Count: July 2023 thru July 2024





MAXIMUM ATTORNEY CASELOAD (MAC)

OPDC can now monitor providers' maximum attorney caseload (MAC). A full-time contracted public defense provider is considered a 1.0 MAC, meaning they could take a maximum of 300 weighted misdemeanors per year. However, until recently, saying a contractor was a 1.0 MAC was misleading, as it did not factor in when that attorney started their contract. For example, an attorney could join a provider in January as a full-time 1.0 MAC, but they would be expected to take only part of the 300 weighted misdemeanors in the remaining six months of the contracted fiscal year. Even if they reached their maximum caseload by the end of the fiscal year (150 misdemeanors), it would appear they had only fulfilled 50% of their contracted MAC.

| Criminal Case Type | Annual Maximum per 1.0 FTE | Individual Case Weight (out of 300) |
|---------------------|----------------------------|-------------------------------------|
| Murder | 6 | 50 |
| Jessica Law | 6 | 50 |
| Ballot Measure 11 | 45 | 6.7 |
| Major (A/B) Felony | 138 | 2.2 |
| Minor (C) Felony | 165 | 1.8 |
| Misdemeanors | 300 | 1 |
| Probation Violation | 825 | 0.36 |
| Civil Commitments | 230 | 1.3 |

To correct this, OPDC has begun to report prorated MAC; this is the actual MAC an individual attorney can take on, dependent on the start date of their contract. Prorated MAC provides a more accurate data point to compare against reported MAC or the number of cases providers have reported taking. Using the prorated MAC and the reported MAC, OPDC can determine the MAC utilization rate.

OPDC program analyst reviewed criminal MAC utilization in April and identified any providers under 85%. They then met with those contract administrators from late April to early June to discuss caseloads and reported MAC utilization. Of the 29 providers below 85%, six were for ethical reasons, mainly due to taking on complex murder cases, six are currently in discussion about how to increase caseloads, five had reporting errors that were artificially reducing their utilization rates, and corrections are being made, four have specialty contracts that are meeting expectations, three have recent staffing issues including medical leave which should resolve soon, three are still pending review, and two are having amendments made to reduce MAC so it can be reallocated to providers who can take more cases.

It is essential to note that while the introduction of MAC was a fiscally conservative solution and an important first step to ending the pay-per-case model, it has many shortcomings. The MAC standard only regulates the annual number of cases a lawyer may accept. It does not account for the number of hours needed for each case. Further,

the standard itself is based on caseload models of the 1970s and, therefore, does not reflect the current complexities of public defense work. In short, it does not accurately utilize the attorneys available, does not ensure quality representation, and impedes new attorney recruitment.

| Criminal MAC Utilization: July 2023 thru June 2024 | | | | |
|--|-------------------|----------------|----------------|----------------------|
| HomeCounty | Count of Contract | Prorated MAC | Reported MAC | MAC Utilization Rate |
| Baker | 2 | 2.528 | 1.522 | 60% |
| Benton | 1 | 8.436 | 7.265 | 86% |
| Clackamas | 2 | 27.732 | 27.738 | 100% |
| Clatsop | 2 | 4.745 | 4.864 | 103% |
| Clatsop, Columbia | 1 | 0.413 | 0.344 | 83% |
| Columbia | 2 | 4.657 | 4.127 | 89% |
| Coos | 1 | 6.327 | 6.488 | 103% |
| Crook, Jefferson | 1 | 8.944 | 8.197 | 92% |
| Curry | 1 | 2.223 | 2.205 | 99% |
| Deschutes | 3 | 20.855 | 19.054 | 91% |
| Douglas | 5 | 8.692 | 7.929 | 91% |
| Gilliam, Hood River, Sherman, Wasco, Wheeler | 2 | 5.539 | 4.913 | 89% |
| Grant, Harney | 3 | 2.905 | 2.423 | 83% |
| Jackson | 4 | 22.485 | 21.306 | 95% |
| Josephine | 2 | 11.104 | 7.842 | 71% |
| Klamath | 10 | 9.003 | 10.439 | 116% |
| Lake | 2 | 0.724 | 1.028 | 142% |
| Lane | 2 | 32.570 | 26.033 | 80% |
| Lincoln | 1 | 6.215 | 6.988 | 112% |
| Linn | 1 | 13.523 | 13.459 | 100% |
| Malheur | 5 | 7.264 | 5.248 | 72% |
| Marion | 4 | 36.801 | 25.224 | 69% |
| Morrow, Umatilla | 1 | 3.802 | 3.256 | 86% |
| Multnomah | 5 | 78.360 | 65.573 | 84% |
| Polk | 2 | 4.203 | 4.170 | 99% |
| Statewide | 12 | 29.452 | 17.370 | 59% |
| Tillamook | 1 | 2.554 | 2.254 | 88% |
| Umatilla | 4 | 7.336 | 7.232 | 99% |
| Union, Wallowa | 2 | 3.655 | 3.331 | 91% |
| Washington | 7 | 44.018 | 41.812 | 95% |
| Yamhill | 3 | 8.166 | 8.772 | 107% |
| Total | 94 | 425.233 | 368.407 | 87% |

FINANCIAL FORECASTS

| <i>Month Ending May 31, 2024</i> | LAB | Forecast | Variance |
|--|--------------------|--------------------|---------------------|
| Administrative Services Division | 26,598,620 | 22,093,540 | (4,505,080) |
| Adult Trial Division | 290,008,379 | 281,000,531 | (9,007,848) |
| Appellate Division | 26,424,696 | 25,723,143 | (701,553) |
| Compliance, Audit, and Performance Division | 7,069,293 | 6,870,795 | (198,498) |
| Court Mandated Expenses | 80,282,573 | 77,318,572 | (2,964,001) |
| Executive Division | 4,647,432 | 4,226,732 | (420,700) |
| Juvenile Trial Division | 51,227,439 | 52,363,617 | 1,136,178 |
| Preauthorized Expenses | 58,617,686 | 52,205,446 | (6,412,240) |
| Parent-Child Representation Program | 56,634,287 | 56,013,078 | (621,209) |
| Special Programs, Contracts, and Distributions | 12,438,908 | 11,884,895 | (554,013) |
| TOTAL FUNDS | 613,949,313 | 589,700,349 | (24,248,964) |

DRAFT

PROCUREMENT – PROVIDER CONTRACTS

OPDC’s contracting is aligned with the biennial budget. Provider contracts are two years, from July 1, 2023, to June 30, 2025. Costs and maximum attorney caseloads (MAC) are prorated when attorneys change their MAC, join, or start a contract mid-cycle. MAC totals can fluctuate throughout a contract cycle as providers enter and exit contracts. MAC for a contract can be increased when a contractor identifies an attorney qualified to handle public defense cases and requests that OPDC authorize and fund that attorney to provide public defense services. MAC increases are only permitted when funded MAC is available.

When an attorney leaves a contract, the contractor retains the funding for that attorney for a short period to find a replacement. If replacement is not located, the MAC and associated funding are reallocated to providers who can fill that capacity. It should also be noted that when an attorney leaves a contract, OPDC works with that attorney to manage the disposition of the remainder of their open caseload and will fund those cases for which the attorney continues to provide representation at an hourly rate.

Below are the MAC totals used to determine the rebalance approved by the Legislature during the 2024 session. These are the contracted totals as of 12/31/24. This provides a starting place for comparison purposes. It then shows the MAC/FTE changes under the quarterly amendments made in July 2024 and the shift from the original MAC/FTE numbers as numbers and percentages.

Adult Trial

| Type | Level | MAC/FTE (as of 12.31.2023) | 2024 Session Adopted | Amendments as of 7/1/24 | Variance between 2024 Leg Adopted and Contracted as of 7/1/24 | Percent Variance |
|---|---|----------------------------------|----------------------------|----------------------------|---|---------------------|
| Adult Trial Division | | | | | | |
| Misdemeanor | Attorney 1 (Misdemeanor) | 88.23 | 13.4 | 66.83 | -34.8 | -34.24% |
| Minor Felony | Attorney 2 (Minor Felony, Civil Commitment) | 97.42 | 0 | 94.14 | -3.28 | -3.37% |
| Major Felony | Attorney 3 (Major Felony) | 153.33 | 10 | 165.56 | 2.23 | 1.37% |
| Murder | Attorney 4 (Capital Murder, Murder) | 115.87 | 0 | 123 | 7.13 | 6.15% |
| | Total | 454.85 | 23.4 | 449.53 | -28.72 | -6.01% |
| Adult Trial Division - Statewide Contracts | | | | | | |
| Post Conviction Relief/Habeas Corpus | Attorney 4 | 16.15 | 0 | 16.15 | 0 | 0.00% |
| Post Conviction Relief appeals | Attorney 4 | 4.65 | 0 | 4.65 | 0 | 0.00% |
| Civil commitment appeals | Attorney 4 | 2.5 | 0 | 2.5 | 0 | 0.00% |

| | | | | | | |
|--|--------------|---------------|-------------|--------------|---------------|---------------|
| Civil commitment appeals- PSRB, Padilla Referral contract | Attorney 3 | 2.49 | 0 | 3.19 | 0.7 | 28.11% |
| PSRB requiring supervision | Attorney 2 | 1.6 | 0 | 0.9 | -0.7 | -43.75% |
| Murder | Attorney 4 | 14.79 | 0 | 13 | -1.79 | -12.10% |
| | Total | 42.18 | 0 | 40.39 | -1.79 | -4.24% |
| Adult Trial Division - Supervision FTE | | | | | | |
| | Supervisor-1 | 0 | 0 | 0 | 0 | NA |
| | Supervisor-2 | 0.64 | 0 | 0.57 | -0.07 | -10.94% |
| | Supervisor-3 | 1.85 | 0 | 2 | 0.15 | 8.11% |
| | Supervisor-4 | 17.04 | 0 | 17.82 | 0.78 | 4.58% |
| | Total | 19.53 | 0 | 20.39 | 0.86 | 4.40% |
| Adult Trial Division - Investigation FTE | | | | | | |
| | Investigator | 57.18 | 0 | 51.59 | -5.59 | -9.78% |
| | Total | 57.18 | 0 | 51.59 | -5.59 | -9.78% |
| Adult Trial Total (Contracts, Statewide, & FTE) | | 573.74 | 23.4 | 561.9 | -35.24 | -5.90% |
| | Total | | | | | |

Juvenile Trial

| Type | Level | MAC/FTE (as of 12.31.2023) | Amendments as of 7/1/24 | Variance between 2024 Leg Adopted and Contracted as of 7/1/24 | Percent Variance |
|--------------------------------|---|----------------------------|-------------------------|---|------------------|
| Juvenile Trial Division | | | | | |
| Misdemeanor | | 0 | 0 | 0 | NA |
| Minor Felony | Attorney 2 (Delinquency) | 5.57 | 4.02 | -1.55 | -27.83% |
| Major Felony | Attorney 3 (Dependency, Dependency & Delinquency) | 78.3 | 80.25 | 1.95 | 2.49% |

| | | | | | |
|---|------------------------|---------------|---------------|-------------|--------------|
| Murder | Attorney 4 (Murder) | 11.29 | 11.16 | -0.13 | -1.15% |
| | Total | 95.16 | 95.43 | 0.27 | 0.28% |
| Juvenile Trial Division - Statewide Contracts | | | | | |
| Juvenile appeals | Attorney 4 | 2.8 | 2.8 | 0 | 0.00% |
| Murder | Attorney 4 | 0.6 | 0.66 | 0.06 | 10.00% |
| | Total | 3.4 | 3.46 | 0.06 | 1.76% |
| Juvenile Trial Division - Supervision FTE | | | | | |
| | Supervisor-1 | 0 | | 0 | NA |
| | Supervisor-2 | 0 | | 0 | NA |
| | Supervisor-3 | 0.43 | 0.43 | 0 | 0.00% |
| | Supervisor-4 | 0.77 | 0.77 | 0 | 0.00% |
| | Total | 1.2 | 1.2 | 0 | 0.00% |
| Juvenile Trial Division - Investigation FTE | | | | | |
| | Investigator | 2.42 | 2.42 | 0 | 0.00% |
| | Total | 2.42 | 2.42 | 0 | 0.00% |
| Juvenile Trial Total (Contracts, Statewide, & FTE) | | 102.18 | 102.51 | 0.33 | 0.32% |

Parent-Child Representation

| Type | Level | MAC/FTE (as of 12.31.2023) | Amendments as of 7/1/24 | Variance between 2024 Leg Adopted and Contracted as of 7/1/24 | Percent Variance |
|--|---------------|----------------------------------|----------------------------|--|---------------------|
| Parent-Child Representation Program | | | | | |
| Juvenile Delinquency | PCRP attorney | 0.85 | 0.15 | -0.7 | -82.35% |
| Dependency | PCRP attorney | 11.15 | 10.5 | -0.65 | -5.83% |
| Termination of Parental Rights | PCRP attorney | 72.03 | 72.23 | 0.2 | 0.28% |

| | | | | | |
|---|-----------------------|---------------|---------------|--------------|---------------|
| Non-practicing Administration | PCR attorney | 0 | 0 | 0 | NA |
| Supervisor | | 2.77 | 2.45 | -0.32 | -11.55% |
| Investigator | | 3.75 | 3.54 | -0.21 | -5.60% |
| | Total | 90.55 | 88.87 | -1.68 | -1.86% |
| PCR Hourly Providers | | | | | |
| Contract Case Manager | | 6.8 | 6.47 | -0.33 | -4.85% |
| Independent Case Manager | | 17.8 | 19.3 | 1.5 | 8.43% |
| Case Manager Administrator | Level 1 Administrator | 1 | 1 | 0 | 0.00% |
| Senior Case Manager Administrator | Level 2 Administrator | 1 | 1 | 0 | 0.00% |
| *1 FTE = 1920 hours/year | Total | 26.6 | 27.77 | 1.17 | 4.40% |
| PCR Total (Contracts & Hourly FTE) | Total | 117.15 | 116.64 | -0.51 | -0.44% |

DRAFT

REMEDIATION PLAN

UNIFIED COMMISSION AND AGENCY

Issue: Cultivate a unified relationship between the Commission and the agency with clearly defined roles and authority.

Objective: Ensure the agency and commission are acting as one.

Status Update: The Commission held an onboarding retreat in December 2023. In January, the Commission created a subcommittee on governance, which was charged with gathering information and making recommendations to the full commission on (1) commission bylaws, (2) the authorization of additional commission subcommittees, and (3) any additional actions to ensure good governance of the OPDC. The subcommittee meets monthly. The commission has approved bylaws that the subcommittee recommended, and it has also created a legislative subcommittee.

In addition, the Commission held a two-day in-person retreat/meeting in March dedicated to team building, governance, and setting a foundation for organizational development and strategic planning.

Next Steps: The Governance Subcommittee is currently (1) conducting its evaluation of the commission's compliance with DAS Best Practices for Boards and Commissions, (2) reviewing the audit committee charter, and (3) planning for a performance evaluation of the executive director.

Timeline: August 2024: Commission administrator starts.

Approve Audit Committee Charter.

September 2024: Complete evaluation of the Commission's compliance with DAS Best Practices.

November 2024: Complete performance evaluation of executive director.

COMMISSION OVERSIGHT

Issue: Commission oversight in addressing issues within the public defense system.

Objective: Have the Commission exercise oversight on the issues and overall functioning of the public defense system.

Status Update: The Commission had an onboarding retreat in December 2023, which included a presentation from the Sixth Amendment Center on the proper role of commission oversight and a summary of the DAS Best Practices for Boards and Commissions. In January, the Commission created a subcommittee on governance, which was charged with gathering information and making recommendations to the full commission on (1) commission bylaws, (2) the authorization of additional commission subcommittees, and (3) any additional actions that will ensure good governance of the OPDC.

The bylaws' key focus is establishing the Commission's precise role in agency oversight. The approved bylaws provide additional guidance on the Commission members' roles. The Commission has relied upon the mandates of ORS Chapter 151 in assigning roles. It has also relied on the best practices of other boards and commissions to provide additional guidance.

In March, the Commission held a two-day meeting dedicated to team building, governance, and setting a foundation for organizational development transition and strategic planning. The Commission received another presentation on the DAS best practices for board and commission governance. Since that foundational work, the Commission has turned to its more substantive policy work. The Commission reviewed reports regarding public defense caseload, workload, and compensation in April and May. In response, the Commission has provided direction on how to meet the mandates of ORS 151.216 and authorized a Six-Year Plan. It has worked closely with agency staff on the development of the agency's proposed 2025-2027 budget. It has also reviewed proposed performance standards for public defense core support staff.

Next Steps: Final approval of the agency's proposed budget. Work with Moss Adams on organizational development and strategic planning—Buildout service delivery model for July '25.

Timeline: Summer 2024: Strategic planning.

Summer 2024: Approve the agency's proposed budget.

Fall 2024: Begin buildout of service delivery model.

DECISIVE LEADERSHIP

Issue: Demonstrate decisive leadership and decision-making.

Objective: Establish OPDC as the trusted subject matter expert on issues within public defense.

Status Update: The Commission has shown leadership and been proactive on public defense matters over the last quarter. During the 2024 legislative session, the Commission submitted testimony and provided reliable fiscal analysis to the legislature regarding HB 4002. OPDC continued to monitor policies impacting the number of unrepresented persons and took action to extend the Temporary Hourly Increase Program (THIP) to continue addressing the unrepresented numbers. At the same time, state trial offices have been built.

The Commission has addressed the more substantive core mandates of ORS 151.216 regarding public defender caseload, workload, and compensation. It has gathered and reviewed information from agency staff, consultants, public defense providers, and national experts. It has made critical decisions regarding the policies surrounding caseload, workload, and compensation and has adopted a Six-Year Plan to implement those policies. It has worked closely with agency staff to develop the proposed budget to implement those policies.

Next Steps: The Commission will finalize the agency's proposed budget in August. It will then turn to developing the service delivery model changes required by ORS 151.216.

Timeline: Summer 2024: Strategic planning and organizational development.

March-May 2024: Adopt caseload/workload standards. Adopt a Six-Year Plan to implement those standards and other mandates of ORS 151.216.

June-August 2024: Review and approve the agency's proposed budget.

September 2024: Begin buildout of new service delivery model for 2025-2027 contracts.

Spring 2025: Complete buildout of service delivery model for 2025-2027 contracts, including qualification standards, performance standards, workload model, and means of compensation.

GAP ANALYSIS

Issue: Perform a gap analysis to assess where goals are being met and identify needs (i.e., positions/expertise, IT deficiencies, agency coordination).

Objective: Identify agency needs and opportunities for improvement.

Status Update: OPDC has worked with the Legislative Fiscal Office (LFO) to clean up and realign its organizational chart. This reorganization has allowed OPDC to see the gaps within its organizational structure. In addition to making changes through package 60, OPDC uses this new organizational chart to identify gaps and request positions during the 2025 Legislative Session.

Next Steps: OPDC will submit an organizational alignment request to the September Emergency Board to request package 60 changes, position reclassifications, and position authority at a net zero cost. OPDC will then submit a policy option package (POP) to the 2025 Legislature requesting position authority for various administrative roles identified through this gap analysis.

Timeline: June-July: Finalize organizational chart and identify gaps within the chart.

August 2024: The Commission approves September requests and sends them to the emergency board; the Commission also approved POPs for the 2025 session.

September 2024: Bring organizational alignment request to the Emergency Board and implement the new structure if approved.

October-November 2024: Hire approved positions.

January 2024: Bring administrative positions POP to the Legislature.

UPDATED GOVERNING STATUTES AND POLICY

Issue: Review and update as necessary statutes, policies, and procedures that govern the commission and agency.

Objective: Establish a routine review process so the Commission can ensure modern and appropriate governing statutes and policies.

Status Update: The Commission's efforts to adopt bylaws have led to areas where Commission members and staff believe additional clarity could be added to ORS Chapter 151. Additionally, statutory gaps have been identified as part of the rollout of the OPDC Trial Division offices. During the 2024 legislative session, OPDC was able to remedy one specific statutory gap by advocating for legislation that allowed the agency to establish client trust accounts.

There have been no updates since the submission of the previous report.

Next Steps: Monitor the effectiveness of bylaws. Produce a list of needed statutory changes and divide it into changes with a fiscal impact and those without a budgetary impact.

Timeline: April-July: Continue to monitor bylaws effectiveness and SB 337 implementation.

September-January: Work with the Legislature on potential ORS Ch. 151 changes.

DRAFT

STANDARD FINANCIAL PRACTICES

Issue: Adhere to standard budgeting, financial management, and accounting practices.

Objective: Ensure OPDC adheres to agency standardization on budgeting, financial, and accounting matters.

Status Update: OPDC has received the Chief Financial Office's Gold Star Certificate for fiscal year 2023. OPDC adheres to all standard budget, financial management, and accounting practices. OPDC is currently engaged with the Secretary of State in the Statewide Audit of Oregon's Annual Comprehensive Financial Report and is completing the DAS requirements for year-end closing.

OPDC accounting staff has returned to work full-time, and the agency has recently hired and is training additional accounting staff. Due to the increased levels of work caused in part by the unrepresented persons' crisis and the decisions made by the Commission, the accounts payable unit has been approved to hire additional state temporary staff to reduce the amount of time it takes to pay vendors and to meet the increased number of invoices being submitted by hourly providers.

Next Steps: OPDC is also working with DAS on additional accounting assistance and will request additional accounting staff through the agency staffing POP in the 2025 session.

Timeline: January 2024: Additional accounting staff requested through agency staffing POP.

DRAFT

STANDARD HUMAN RESOURCE PRACTICES

Issue: Adhere to hiring and human resource (HR) management professional standards, including competitive recruitments, up-to-date job descriptions, and performance reviews.

Objective: Ensure OPDC is adhering to agency standardization within human resource management.

Status Update: OPDC HR has been updating current policies to better align with DAS CHRO policies and will continue implementing quarterly feedback check-ins in line with the Governor's expectations. They are reviewing and updating the Affirmative Action and DEI Plan and continuing to review and implement strategies to meet all the Governor's expectations. OPDC HR has developed and implemented a consistent candidate scoring methodology, is meeting the target goal of a 50-day average time to fill positions, and has identified the need for an agency-wide class/comp study and pay analysis.

Next Steps: Identify a vendor for the agency-wide class/comp study and pay analysis. Create the Agency Succession Plan by DAS standards.

Timeline: Nov 2023-Sep 2024: Review and update policies to align with the Executive Branch.

Dec 2023- Mar 2024: Review position descriptions to ensure they correctly align with class/comp standards.

January 2024- December 2024: Manager training plan development and implementation.

Jun 2024- December 2024: Develop employee onboarding process.

June 2024- December 2024: Develop/implement performance accountability feedback.

July 2024-October 2024: Employee satisfaction/ Employee Engagement plan.

July 2024-October 2024: Develop agency succession plan.

July 2024-September 2024: Review/update of diversity, equity, and inclusion DEI Plan.

August 2024 – November 2024: Identify vendor and initiate a contract for class/comp study and pay analysis.

STANDARD PROCUREMENT PRACTICES

Issue: Adhere to state government procurement practices, including competitive contracting processes.

Objective: Ensure conformity with state government procurement standards.

Status Update: Procurement and IT are the most significant change areas for OPDC. The agency has been exempted from procurement statutes since its inception. This has led to OPDC contracts being administered by program analysts, who also serve as program administrators. The result is that the same people technically responsible for contract administration are tasked with supporting providers in their contracts. This process has led to numerous monthly contract amendments to accommodate provider workload and qualification changes and address provider staffing issues. Due to the large volume of procurement work generated regularly, analysts cannot provide the oversight to monitor the program and adequately evaluate performance.

As OPDC has evolved, the lines of responsibility have blurred, and the division of labor, expertise, and decision-making has been compromised. Procurement staff must comply with procurement law, post procurements, and manage the procurement process. At the same time, program analysts should perform contract administration, performance monitoring, and program development, including establishing policies and processes. Analysts have had to prioritize the contract work while setting aside the evaluation of the program outcomes to determine success. This dynamic places OPDC at risk as analysts are not focused on developing programmatic needs as OPDC grows from a pass-through agency to one that will not only contract with providers but also provide direct services. This process is cumbersome and creates a liability for OPDC when trying to report to the Legislature and account for caseloads and funding.

OPDC has contacted the State Procurement Office in DAS to discuss the next steps towards assimilating the state procurement standards into the Commission's procurement standards and practices.

OPDC is working with DOJ to develop provider contracts for the 2025-2027 biennium contract cycle to ensure compliance with state contracting standards and requirements. The new agreements will separate contractual language and deliverables from program elements and refer to established commission policies and procedures. The program analyst will refocus and help establish the agency's new programmatic needs while working with the CAP unit to help develop and enhance measures for performance monitoring.

Next Steps: OPDC recognizes the need to develop a procurement team with DAS-required training before transitioning to the Executive branch. In February 2024, OPDC requested three procurement positions, none of which were funded. Since that time, OPDC has worked to realign its organizational chart. Through that work, OPDC will be presenting a request to the September Emergency Board to make appropriate position changes and moves to utilize existing staff and recruit a Procurement Manager and the proper Procurement and Contract Specialist to perform and meet the procurement and contract needs of the Commission.

Timeline: April 2024-July 2025: Work with DOJ to develop 25-27 provider contracts.

April 2023-September 2024: Update and write policies to align with the Executive Branch.

June 2024: Contract with the State Procurement Office to align OPDC procurement standards with DAS standards.

June-July: Finalize the organizational chart and identify gaps within the chart.

September 2024: Bring organizational alignment request to the Emergency Board and implement the new structure if approved.

October-December 2024: Hire and onboard the new procurement positions requested at the Emergency Board and provide appropriate training in alignment with DAS procurement.

DRAFT

IMPROVED AGENCY CULTURE

Issue: Improve agency culture and morale to become an employer of choice.

Objective: Improve employee morale and become an employer of choice.

Status Update: OPDC's management/leadership team participates in Ascent, a foundational management training program. To improve internal communications, OPDC is publishing monthly newsletters for all staff.

OPDC is currently working with a vendor to establish a contract for employee engagement and satisfaction.

Next Steps: OPDC employee satisfaction/engagement survey further steps will be determined based off analysis of survey results.

Timeline: July 2024-October 2024: Employee satisfaction/ Employee Engagement plan.

November 2024- December 2024 – Analyze survey results.

DRAFT

EFFICIENT AND EFFECTIVE PROGRAMMING

Issue: Ensure programs and activities are coordinated and operate efficiently and effectively.

Objective: Improve communication and coordination among agency divisions and staff to ensure efficient and effective programs and activities.

Status Update: Communication and coordination have improved in some agency areas. Examples of improved coordination:

- Weekly newsletter updating the current days to payment for accounts payable;
- The Trial Support Team, Data, and Government Relations have worked together to coordinate on the unrepresented in-custody list, specifically for cases potentially subject to the *Betschart* ruling;
- The Trial Division is managing their caseloads, so they are available to prevent releases under *Betschart*;
- Multiple divisions worked on the Unrepresented Crisis Plan that was submitted to the Governor; the initiatives within the plan worked together to maximize effectiveness in resolving the crisis;
- OPDC hired a communications specialist to increase agency communication both internally and externally;
- Staffing and process improvements have increased OPDC unrepresented case assignments eightfold.

Next Steps: Continue cross-divisional work to maximize agency efficiencies, implement the new organizational structure to delineate roles and responsibilities, and hire new positions to increase agency efficiency.

Timeline: June-July: Finalize organizational chart and identify gaps within the chart.

August 2024: The Commission approves September requests and takes requests to the emergency board.

September 2024: Bring organizational alignment request to the Emergency Board and implement the new structure if approved.

October-November 2024: Hire approved positions.

IMPLEMENT FCMS

Issue: Procure and implement a financial case management system (FCMS) that will allow for more efficient financial processing and the collection of statewide data relating to caseloads and case-related activities.

Objective: Create an integrated FCMS that improves data collection and analysis and allows for compelling case and financial management.

Status Update: OPDC proposes an integrated financial and case management system (FCMS) to enhance efficiency and accountability in Oregon's public defense services, specifically in timekeeping, case management, and financial processes. This system will reduce manual data entry, record time 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.

OPDC has made significant strides in the Financial and Case Management System (FCMS) project, achieving several key milestones. The FCMS requirements underwent a comprehensive refresh and update, culminating in their completion on July 10, 2024. FCMS received Stage 1 Endorsement on July 11, 2024. FCMS also hired a State of Oregon Project Manager (PM) and extended offers to an additional Project Manager and a Business Analyst (BA) for the two open contractor roles. Below are key milestones achieved:

- FCMS Requirements – Completed July 10;
- Stage Gate 1 Endorsement – Received July 11;
- Policy Option Package 101 Draft – Completed July 10;
- FCMS Cloud Workbook – Stage 2 Approved July 19;
- FCMS System Security Plan – Stage 2 Approved July 19;
- Stage 2: Artifacts 1st Batch – Sent to iQMS July 19;
- Interviews for 2nd BA – Completed July 17.

Next Project Steps:

- Stage 2 Artifacts Second Batch – Project Team Drafts. Target July 26;
- Stage 2 Artifacts iQMS Second Batch Review. Target July 31;
- Stage 2 Artifacts submission to P3. Target July 31 - August 9;
- Bond Funding submission. Target July 31;
- Agency Budget Request Report for FCMS. Target August 2;
- **Procurement Timeline: Updated as of July 10, 2024;**
 - Publish RFP September 23;
 - Deadline for Questions October 17;
 - RFP Addendum answering questions published October 23;
 - The RFP Protest period ends October 30;
 - Proposals due deadline, November 14;
 - Evaluations complete December 3;
 - Demos held December 11-12;
 - Notice of Intent to Award published December 19;
 - The protest period ends on December 27.

DATA-INFORMED DECISION-MAKING

Issue: Use data related to forecasting, procurement, budgeting, quality control, and performance management in a manner that allows quantitative decision-making.

Objective: Engage in a rigorous quantitative decision-making process for activities related to forecasting, procurement, budgeting, quality control, and performance management.

Status Update: OPDC is implementing data-informed decision-making in various ways:

- Data was used to predict the impacts the various interventions would have on the unrepresented list in the Unrepresented Crisis Plan submitted to the Governor;
- Data is used in the assignment of counsel to in-custody and *Betschart* cases; staff can see where cases are growing;
- Data was used to determine the allocation of attorneys under HB 4002 (2024);
- Data was used in developing OPDC POPs and Emergency Board requests, specifically for projecting Temporary Hourly Increase Program (THIP) cases to determine how long it will take them to close and when OPDC can expect billing to come in.

OPDC's is also improving data collection, integrity, and utilization so OPDC will be better situated to make data-informed decisions now and in the future:

- All OPDC data related to forecasting, procurement, budgeting, quality control, and performance management is obtained by formal request to the data team;
- The Data and Research Team has created internal dashboards to assist with the continued need for data requests and to address areas of concern in our data collection;
- Ongoing cross-sectional work with the Trial Support Team, Program Analysts, and Data and Research team to address areas of attention in caseload reporting data and continued training on utilization of internal dashboards;
- Continue with a contract for consultation with data elements using Power BI;
- OPDC executed an expanded data share/data warehouse agreement with OJD;
- The Data and Research team is working with Accounts Payable and the Pre-Authorized Expense team to create internal dashboards to monitor agency expenditures, track processing times, address inconsistencies in invoices received, and address the most common errors.

Next Steps: Continue cross-sectional meetings with IT, Trial Support and Development, budgeting, accounts payable, Pre-Authorized Expenses, and government relations.

Timeline: Ongoing.

ACCURATE AND TIMELY VENDOR PAYMENTS

Issue: Vendor payments must be accurate and timely to meet state standards.

Objective: Ensure conformity with the state government's timely payment policy.

Status Update: Accounts Payable (AP) and Preauthorized Expense (PAE) units are experiencing backlogs. AP is processing bills approximately 43 days out. The delays are due to increased workload and the complexity of information due to recent policy changes. In addition, increases in attorney capacity without subsequent addition of back-office support have contributed to the increased backload. Finally, the pace and material viewed impact the staff and create stress points in the system. There remain issues with the third-party submission system Nintex. Recent updates and changes that are not published or announced generate stress on the AP system, which is out of the control of OPDC, but OPDC is still responsible for the untimely payments to vendors.

The Commission reviewed an emergency invoice process that goes into effect when invoices are 35 days past the invoice submission date. Once the invoices are no longer 35 days out, the Emergency Invoice Processing Policy will no longer be in effect. This process will establish a streamlined review process for invoices to ensure prompt payment to attorneys and vendors and the authority to develop guidelines for quality assurance reviews of submitted invoices. This policy applies to all accounting and financial activities related to expenses, expenditures, and payables to vendors for Pre-Authorized Expenses (PAE), Routine Expenses, and @ Temporary Hourly Increase Policy (THIP) invoices.

The primary goal of this effort is to expedite invoice payment to ensure that attorneys and vendors are paid in a timely manner. All invoices that receive streamlined approval are subject to quality assurance review. To ensure accountability and stewardship of OPDC's resources, OPDC will establish quality assurance guidelines for invoices that have been paid through the streamlined process.

Next Steps: Accounts Payable would like to reduce their time and remain under 35 days. The agency has added temporary staff to the PAE unit. This includes hiring a temporary employee before a position can come online in July 2024. This also includes adding two contract temporary employees to help work on the intake of requests. AP's move to a paperless process provides increased efficiency, helping to decrease payment times. AP staff continue to spend more time educating vendors about rate changes; many vendors are unaware of the inflationary increases and are not using the increased rates.

Timeline: Sept. 2024: Request funding for backfill and continue temporary staff brought on for Accounts Payable and Preauthorized Expenses.

Ongoing: Continue to work on decreasing the time to payment for Accounts Payable.

STRATEGIC PLAN

Issue: Develop and adopt a mission-driven strategic plan centering on improved oversight and management of public defense in Oregon. The plan will focus on persons eligible for public defense services.

Objective: Establish a strategic plan for the Commission to base decision-making and planning.

Status Update: OPDC is involved in several major initiatives, such as transitioning to the Executive Branch, addressing the public defender deficiency crisis, and modernizing operations. The plan is designed to help the Agency establish a clear and comprehensive path to making and reporting on progress toward achieving its goals over the next six years.

OPDC has contracted with Moss Adams to facilitate the development of a new strategic plan. The strategic planning process includes the following five phases:

Plan: Develop a comprehensive project plan that addresses the full scope of work and outlines the project's roles and responsibilities.

- Discover: Conduct an environmental scan of OPDC through interviews, document review, and focus groups with key collaborators.
- Facilitate: Host strategic planning work sessions to create and refine the plan's elements, including the visions, mission, and values, as well as strategic goals, objectives, activities, and performance measures.
- Document: Draft a strategic plan for review by OPDC leadership and Commission members. A draft implementation and reporting plan will be developed alongside the strategic plan to keep critical partners informed.
- Launch: Produce the final strategic plan, including the implementation plan with milestones and benchmarks that OPDC can use to manage activities and measure progress.

The strategic plan will identify organizational goals and objectives that align with the Executive Branch expectations laid out by the Governor's January 11, 2023 letter. The final strategic plan will capture the Agency's:

- Vision
- Mission
- Values
- Goals
- Objectives
- Activities
- Performance Measure

Timeline:

| Phase | Status | Schedule |
|------------|---|----------------|
| Plan | Complete | March-April |
| Discover | Complete | April-June |
| Facilitate | In Progress- 66% <ul style="list-style-type: none">• OPDC has completed 2 of the three facilitated work | July-September |

| | | |
|----------|---|-------------------|
| | <p>sessions to develop the draft strategic plan elements.</p> <ul style="list-style-type: none"> • Completed sessions have addressed the development of the vision, mission, values, and goals. • The upcoming work session will address the development of objectives, activities, and performance measures. | |
| Document | Upcoming | September-October |
| Launch | Upcoming | November |

DRAFT

INTERNAL QUALITY CONTROL AND AUDITS

Issue: Develop processes for internal quality control reviews and auditing capabilities.

Objective: Conduct rigorous internal quality control assessments based on meaningful performance measures.

Status Update: OPDC's commissioners are working with OPDC's Audit Committee and chief internal auditor to adopt a new charter that includes best practices for internal audit and makes clear roles and responsibilities and reporting structure for the audit committee and internal auditor. OPDC has undertaken this work in its governance subcommittee, which holds public meetings to work on governance issues such as bylaws, audits, and procedures for performance reviews for the executive director. The subcommittee will present the proposed Audit Committee charter to the full commission in August 2024 for a briefing with the goal of the Commission adopting the new charter in September 2024.

OPDC's internal auditor has completed a training audit of OPDC's SPOTs card usage and an audit of the agency's implementation of the CAP program and is working on audits identified in the existing agency risk assessment. The completed audits have been provided to the audit committee and the agency's executive leadership, and executive summaries have been distributed to OPDC's commissioners. The internal auditor recently attended an agency-wide manager meeting to brief the management team on the audit plan, and the internal auditor has standing meetings with the executive director to brief her on audit functions. The next two internal audits identified in the audit plan will examine preauthorized expenses and data migration.

The internal audit function, apart from the Compliance, Audit, and Performance (CAP) program, has leveraged the existing agency Risk Assessment, feedback from the Legislative Subcommittee on Public Safety (February 8, 2024), and follow-up discussions with management to build a three-year internal audit plan for auditing risks within the agency (consistent with the Audit Committee charter). Successful execution of this plan will depend, in part, on OPDC's collective support of Internal Audit's recently adopted strategic goals and objectives. The goals and objectives are defined across four operational perspectives, similar to a balanced scorecard approach, to ensure a broad organizational reach. Apart from the goals and objectives, the three-year audit plan remains relevant through completing annual risk assessments, monthly meetings with management (and applicable stakeholders), trade group training, peer agency discussion forums, regional and national news publications, and insights gained from ongoing audit activity. When new risks are identified, Internal Audit will collaborate with OPDC management and the Audit Committee to ensure oversight of the identified internal risks and potentially reprioritize future audits to support agency needs.

Next Steps: The Audit Committee met on April 1, 2024, and approved the three-year audit plan and the strategic goals and objectives for the internal audit. Implementation of both plans is currently underway, and the initial status of each will be reported during the next reporting cycle. A voting member of the Commission has also joined the audit committee.

Timeline: The status of the two efforts will be discussed during each month's administrative meetings with OPDC management and each quarter with the Audit Committee. Applicable discussions will review progress, emerging trends or insights, access, training, or resource limitations.

DEVELOP INTERNAL DATA ANALYTICS

Issue: Implement internal data analytics capability beyond reporting to include research and complex data analysis.

Objective: Create a data collection program that includes reporting, research, and complex data analysis.

Status Update: The OPDC Data and Research team has developed multiple dashboards for better data collection, visualization, and reporting. These include:

OPDC Hourly Agreements: Used to summarize Hourly attorney caseloads, summarize and project THIP spending, and aid attorney assignment process on Unrepresented Cases.

OPDC Trial Division: This section summarizes real-time caseload data on OPDC Trial Division attorneys working directly for the state to measure attorney capacity and aid the attorney assignment process.

Caseload Reporting Monitors the contractor's reported caseload and assesses capacity. It is often shared with providers to inform their practices.

Contracts: Contracted values, including FTE for attorneys, supervisors, and investigators, and contracted qualification levels. Quality control work has begun on this dataset, increasing data integrity and collaboration access teams.

PAE and AP (Accounts Payable): This is the central location for research, which can help understand agency finances and billing processes and identify opportunities.

Attorneys: This dashboard provides a roster of active public defense attorneys, including which counties they are willing to work in and their qualification levels.

New Tools available to OPDC based on OJD Data Sharing:

OPDS Unrepresented: OJD's Unrepresented dashboard (and underlying data tables), which are made available to OPDC internally, allows for edits to the dashboard in ways that best support our daily business processes and needs. This also enables OPDC analysts to analyze Unrepresented data and trends in new and potentially valuable ways.

Active CAA Caseloads: OJD's Court Appointed Attorney Caseloads dashboard (and underlying data tables), which are made available to OPDC internally, allows new opportunities for future research with Court Appointed Odyssey data.

SB 337 Statewide: OJD's SB 337 dashboard (and underlying data tables), which are made available to OPDC internally, allows new research opportunities relevant to counties identified in SB 337 Crisis Team planning.

Next Steps: The data team will create additional internal dashboards with the DAS forecasting information and the OJD and OPDC data. The data team is working with our accounts payable and pre-authorized expense teams to create internal dashboards to track expenditures, monitor invoice processing times, track invoice types with errors, and monitor the time from PAE approval to submission of invoices for payment.

Timeline: January 2024 – December 2024

DATA SECURITY AND INDEPENDENCE

Issue: Evaluate current data security and independence.

Objective: Ensure public defense data is secure and appropriately firewalled.

Status Update: High-level discussions and planning are underway with Enterprise Information Services (EIS), Data Center Services (DCS), and Microsoft. Weekly status meetings include key stakeholders such as executive and IT leadership from OPDC, OJD, EIS, Legislative, and the Governor's Office. These meetings aim to communicate plans, progress, and risks.

State Data Center tickets have been opened to engage Data Center Services (DCS) in all key areas of technology service transition, including LAN/WAN, Windows Server, and Microsoft 365.

Next Steps: Tactical planning between DCS and OJD will continue. DCS Teams such as Cloud Computing, Windows Server, M365, and LAN/WAN Networking continue.

Timeline: May 2024-Oct 2024: First round IT transition work (M365, web services, desktop and mobile support, Nintex, and triage).

Oct 2024-Feb 2025: Second round IT transition work (based on 2nd gap analysis).

Nov 2024-Feb 2025: Testing/finalizing/transferring work between OJD and Executive.

Feb 2025-June 2025: Final testing/finalizing/transferring.

July 2025: IT contract with OJD ends; IT provided by OPDC and DAS.

IT STRUCTURE

Issue: Evaluate the current IT structure and identify needs.

Objective: Ensure OPDC's Information Technology Section can fully support the agency.

Status Update: Most new IT Staff have been hired based on available position authority and agency needs.
Positions filled to date:

- Microsoft 365 Administrator
- Enterprise Architect
- Server Administrator
- Endpoint Administrator
- SharePoint Administrator
- *ITS1 Desktop Unfilled

IT positions still in the hiring scope based on legislative approval are Chief Data Officer (CDO) and ITS3 SharePoint Integrations. It is recommended that the ITS3 SharePoint Integrations position be redefined as Security Systems Auditor, responsible for performing risk assessments, monitoring system logs, and reporting on security-related concerns.

Next Steps: OPDC IT subject matter experts actively engage OJD and Data Center Services (DCS) and facilitate technical meetings between both parties.

Timeline: May 2024-Oct 2024: First round IT transition work (M365, web services, desktop and mobile support, Nintex, and triage).

June 2024-Dec 2024: State Data Center LAN/WAN Network Build-out.

May 2024-Feb 2025: M365 and Server Virtualization Environment Transitioned.

Oct 2024-Feb 2025: Second round IT transition work (based on 2nd gap analysis).

Nov 2024-Feb 2025: Testing/finalizing/transferring work between OJD and Executive.

Feb 2025-June 2025: Final testing/finalizing/transferring.

July 2025: IT contract with OJD ends; IT services provided by OPDC and DAS.

CAP: DEVELOP CAP PROGRAM

Issue: Develop a Compliance, Audit, and Performance program plan that can independently monitor, measure, and report on the quality of public defense being provided by OPDC.

Objective: Create a CAP division that provides the Commission and the executive director with honest analyses and assessments of the public defense system and agency operations.

Status Update: The CAP division is organized into the following sections: (1) Administration; (2) Trial Criminal Compliance; (3) Juvenile/Parent-Child Representation Program (PCRCP) Compliance; (4) Research, and (5) Internal Audit, which reports directly to the Commission. Within these sections are the policy writers in Administration, Resource Counsel within Criminal and Juvenile/PCRCP Compliance, data analysts within Research, and two internal auditors within the Internal Audit. Functionally, three program analysts from the Administrative Division of OPDC work with the Resource Counsel of Adult and Juvenile/PCRCP to support providers in their contracts. The Resource Counsel and Program Analyst are called the Trial Support and Development team (TS&D). This team, along with the Data Team (Research) and the Policy Team (Administration), are working to build and carry out the functions of CAP.

Resource Counsel has worked with public defense stakeholders to develop qualification and performance standards for all non-attorney core staff roles in Oregon's public defense system for which OPDC provides funding. Those standards will be presented to the Commission for adoption in the fall of 2024.

Next Steps: TS&D will develop qualification and performance standards for attorneys working in public defense in Oregon; Data, with support from TS&D, will develop metrics for monitoring provider adherence to those standards; Policy will build policy around enforcement of the standards; and TS&D will develop training standards to ensure providers have the support needed to meet applicable qualification and performance standards.

Timeline: Sept 2024-Apr 2025: Revise existing qualification standards and develop performance standards for attorneys working in public defense.

Sept 2024-Apr 2025: Metrics for evaluating the performance of individuals in these core roles and overall system functioning statewide and in each jurisdiction.

Jan-June 2025: Develop training standards and programs to support public defense providers in meeting qualification and performance standards applicable to their particular area(s) of practice.

Ongoing: Regularly review all qualification and performance standards, metrics systems, and structures to identify areas for improvement and update.

CAP: PERFORMANCE STANDARDS

Issue: Develop standards for public defense providers based on national best practices and consider meaningful representation quality and performance measurement.

Objective: Clear standards for public defense providers in Oregon.

Status Update: Establish a comprehensive plan for developing and maintaining performance measures that will ensure that all recipients of public defense services in Oregon receive constitutionally competent and effective legal representation. Establishing these measures follows this basic logic: What is OPDC measuring? (Standards) How are those standards measured? (Metrics) What happens when standards are not being met? (Training).

Resource Counsel have worked with public defense stakeholders to develop qualification and performance standards for all non-attorney, core staff roles in Oregon's public defense system for which OPDC provides funding. Those standards will be presented to the Commission for potential adoption in fall 2024.

Next Steps: CAP will implement the Quality Management Plan, establish qualification and performance standards for public defense providers in Oregon, metrics for monitoring provider adherence to those standards, and training standards to ensure providers have the support needed to meet applicable qualification and performance standards.

Timeline: Sept 2024-Apr 2025: Revise existing qualification standards and develop performance standards for attorneys working in public defense.

Sept 2024-Apr 2025: Metrics for evaluating the performance of individuals in these core roles and overall system functioning statewide and in each jurisdiction.

Jan-June 2025: Develop training standards and programs to support public defense providers in meeting qualification and performance standards applicable to their particular area(s) of practice.

Ongoing: Regularly review all qualification and performance standards, metrics systems, and structures to identify areas for improvement and update.

CAP: AUDITS AND QUALITY CONTROL

Issue: Develop processes for external quality control reviews and auditing capabilities.

Objective: Conduct rigorous external quality control assessments based on meaningful performance measures.

Status Update: To implement quality control and expenditure audits, OPDC must first establish performance metrics. With metrics, CAP will know what to control or audit. The CAP division is not at this stage yet. Still, OPDC fully recognizes the importance of vendor compliance through quality control and expenditure audits of vendor contracts and agency expenses.

Current quality control work within the agency includes reviewing data accuracy within the databases, including attorney qualifications, caseload reports received, and data entry errors.

Next Steps: Continue to improve data quality control, including providing training for common data errors. Establish performance metrics within CAP. Establish audits and quality control measures for vendors.

Timeline: June-Dec 2024

DRAFT

CAP: COMPLIANCE MEASURES

Issue: Employ processes to enforce quality control measures and provide remediation to those below standards, including training and policy review.

Objective: Once performance standards are in place, CAP will ensure compliance with them and identify opportunities for improvement when they are not met.

Status Update: The contracts have been reconciled to the contracts database. This ensures the information listed within the contract matches the data entry into the contracts database, i.e., contract amount, contract extension amounts, and start date of the contracts. The data and research team, working in partnership with the Program Analysts, have created internal dashboards to review the performance of each of our contractors/providers. The Program Analysts meet with each contractor/provider two to three times per year to review performance, share the data, and ensure the contractor/providers are accurately reporting their caseload correctly through the monthly caseload reports. With continuous feedback on additional data that can be shared with contractors/providers, the Program Analysts work with the data and research team to enhance our internal dashboards. As the data team works to create additional internal dashboards to assist the agency with performance and compliance measures – new internal dashboards: Pro-rated MAC, MAC utilization by contractor/provider, public-facing dashboard with results by county.

Next Steps: OPDC will ensure all vendors follow their contracts by setting up a quality control system that monitors vendor compliance and flags vendors out of compliance. Through this quality control system, OPDC can effectively implement vendor contract compliance measures to ensure accountability, transparency, and quality service delivery in line with its mission and objectives.

Once performance standards are in place, CAP will ensure compliance with standards and opportunities for improvement when standards still need to be met.

In the future: OPDC will validate caseload reports against OJD data to ensure all caseload information is reported.

Timeline: Now – June 2025

ACCOUNTABILITY TO LEGISLATURE

Issue: Demonstrate accountability for taxpayer money by adhering to a legislatively approved budget and following legislative direction.

Objective: Rebuild legislative trust in the agency by adhering to legislative direction and budget authority.

Status Update:

Legislative Direction

OPDC has submitted all legislative reports on time as of September 2024 Legislative Days. OPDC is in the process of implementing SB 337 and believes it is on track to meet the milestones on the bill.

The Commission has reviewed and will approve an organizational chart at its September meeting.

Legislative Budget

OPDC is adhering to the 2023-25 Legislatively Adopted Budget.

Next Steps:

Legislative Direction

Continue to provide requested Legislative reports and continue the implementation of SB 337.

Legislative Budget

OPDC is working to improve the ability to provide fiscals on bills. During the 2024 session, OPDC submitted many ‘indeterminate’ fiscals, and our goal is to reduce the number of such fiscals in the future. OPDC will work with LFO on pricing legislation that creates new crimes when the agency can’t estimate potential arrests.

Timeline: August 2024: Build 25-27 Policy Option Packages.

September 2024: Submit required reports.

December 2024: Submit required reports.

BUILD & REPAIR RELATIONSHIPS

Issue: Build and repair relationships and break down silos with public safety partners, stakeholders, and other state agencies.

Objective: Become a trusted partner on public defense matters.

Status Update: OPDC hired a communication specialist to help facilitate communication, which is vital to building relationships. OPDC is now creating a monthly and post-commission meeting newsletter summarizing actions taken. The communication specialist also sends out ad-hoc notices as needed, like the weekly AP backlog updates.

OPDC is also engaging more stakeholders. The agency has expanded its monthly 'office hours' to address other areas within the agency, such as Data and Research team with Caseload Reporting, Pre-Authorized Expense, accounts payable, government relations, and other topics of interest to our providers. OPDC is also holding a working session for providers to give feedback on standards for core staff positions.

OPDC meets weekly with OJD and the Oregon District Attorney Association to review Betschart cases and flag any concerns.

Next Steps: Continue with regular newsletters and action alerts. Expand stakeholder engagement and ensure stakeholder processes are embedded in agency work.

Timeline: Ongoing

DRAFT

ACCOUNTABLE COMPLAINT PROCESS

Issue: Create a standard, transparent, and accountable complaint process.

Objective: Ensure all complaints are treated in a standard and transparent way.

Status Update: The agency receives complaints about public defense providers and complaints about the agency itself.

OPDC has long had a complaint policy regarding attorneys, although the responses to these complaints vary and are poorly documented. Currently, agency staff has been assigned to update this policy, improve the consistency of its application, and better document issues associated with the complaints.

As a part of its emphasis on improving governance, OPDC has been developing a process for complaints about the agency itself, as distinct from its service providers. Developing an expanded complaints process has been a topic for the Subcommittee on Governance in its development of Commission bylaws. Section 6 of the Commission's Adopted Bylaws creates procedures regarding grievances, and it assigns various tasks to either Commission members or agency staff.

Next Steps: Continue working to update complaint policies and procedures for public defense providers. Continue monitoring and reviewing grievances about the agency.

Timeline: Fall/Winter 2024: Update attorney complaint policy and procedures.

PREVIOUS REPORTS

Remediation Plan Outline:

Submitted August 21, 2023

Heard September 28, 2023

[276904 \(oregonlegislature.gov\)](https://olis.oregonlegislature.gov/liz/2023I1/Downloads/CommitteeMeetingDocument/276904)

Remediation Plan I:

Submitted October 13, 2024

Heard November 7, 2024

[277546 \(oregonlegislature.gov\)](https://olis.oregonlegislature.gov/liz/2024I1/Downloads/CommitteeMeetingDocument/277546)

Remediation Plan II:

Submitted January 16, 2024

Heard February 8, 2024

[280579 \(oregonlegislature.gov\)](https://olis.oregonlegislature.gov/liz/2024I1/Downloads/CommitteeMeetingDocument/280579)

Remediation Plan III:

Submitted April 23, 2024

Heard March 29, 2024

olis.oregonlegislature.gov/liz/2023I1/Downloads/CommitteeMeetingDocument/283972



Final format for memo for Commission packet

Date: August 21, 2024

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

From: Jessica Kampfe, Agency Director

Re: Proposed OPDC Org. Structure for 25-27 Biennium

Nature of Presentation:

Briefing and Action Item

Background:

OPDC has been working to finalize and formally adopt an organizational structure that aligns and balances operational needs with its budgetary programming. The primary goals include streamlining internal oversights, maintaining current service levels, and ensuring the sustainability of future growth.

With the transition to the Executive Branch in January 2025 and the preparation for the 25-27 Agency Request Budget, now is the ideal time to formalize this future structure.

Agency Recommendation:

OPDC is recommending the Commission give formal approval for the proposed changes in the agency's 25-27 organizational structure.

Fiscal Impact:

All newly proposed positions would include legislative funding.

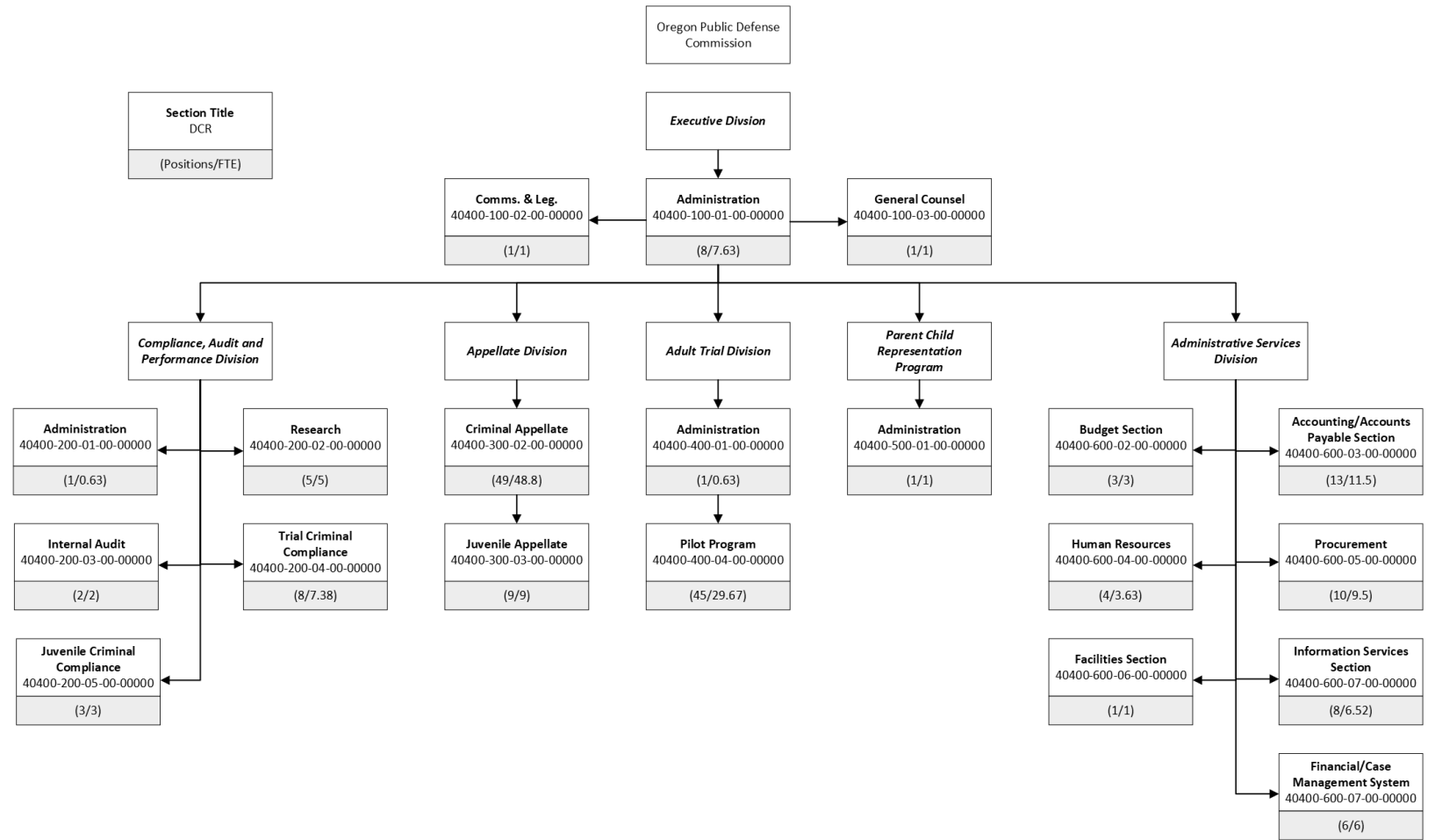
Agency Proposed Motion:

Move to approve the proposed organizational structure.

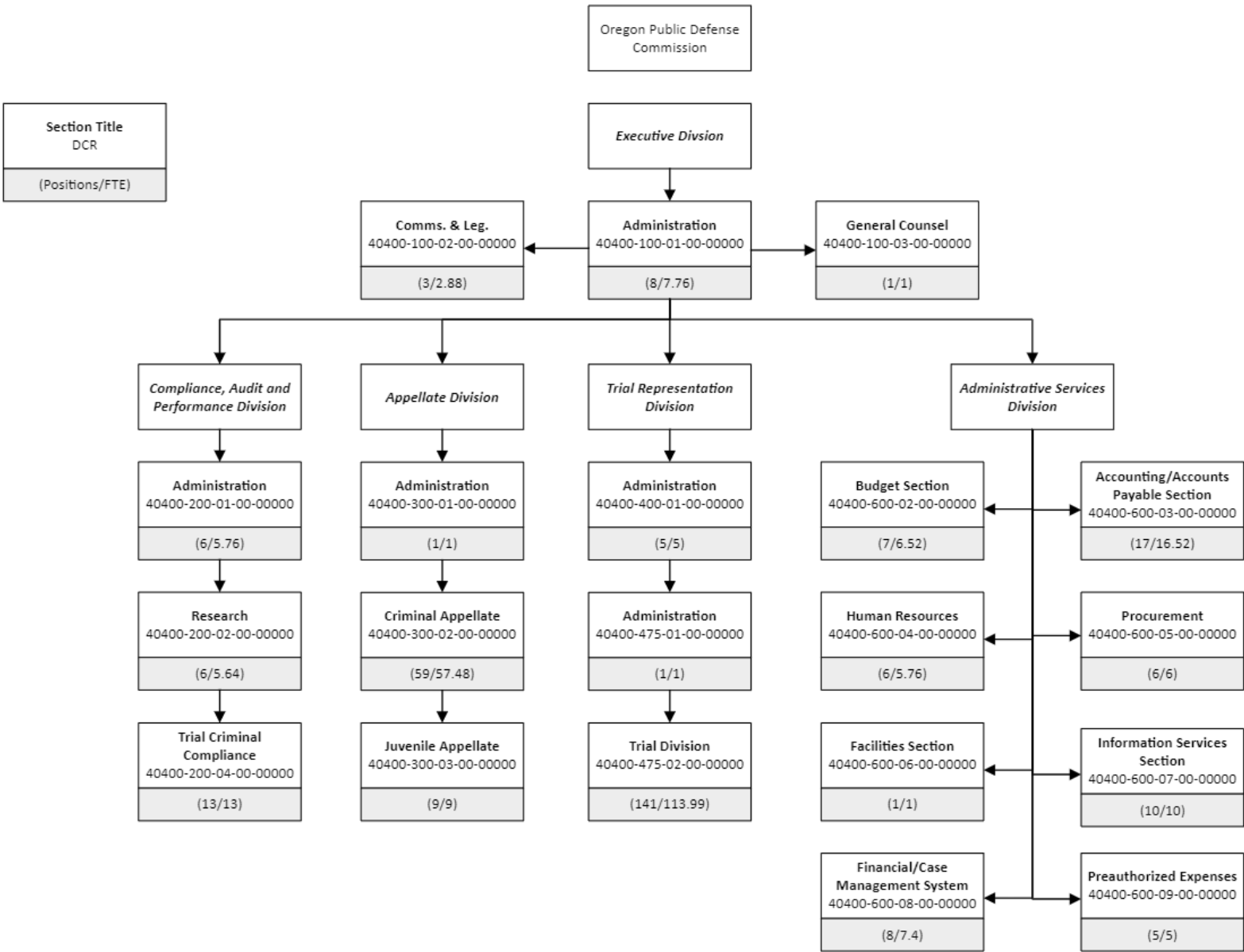
Proposed Agency Structure

25-27 Biennium

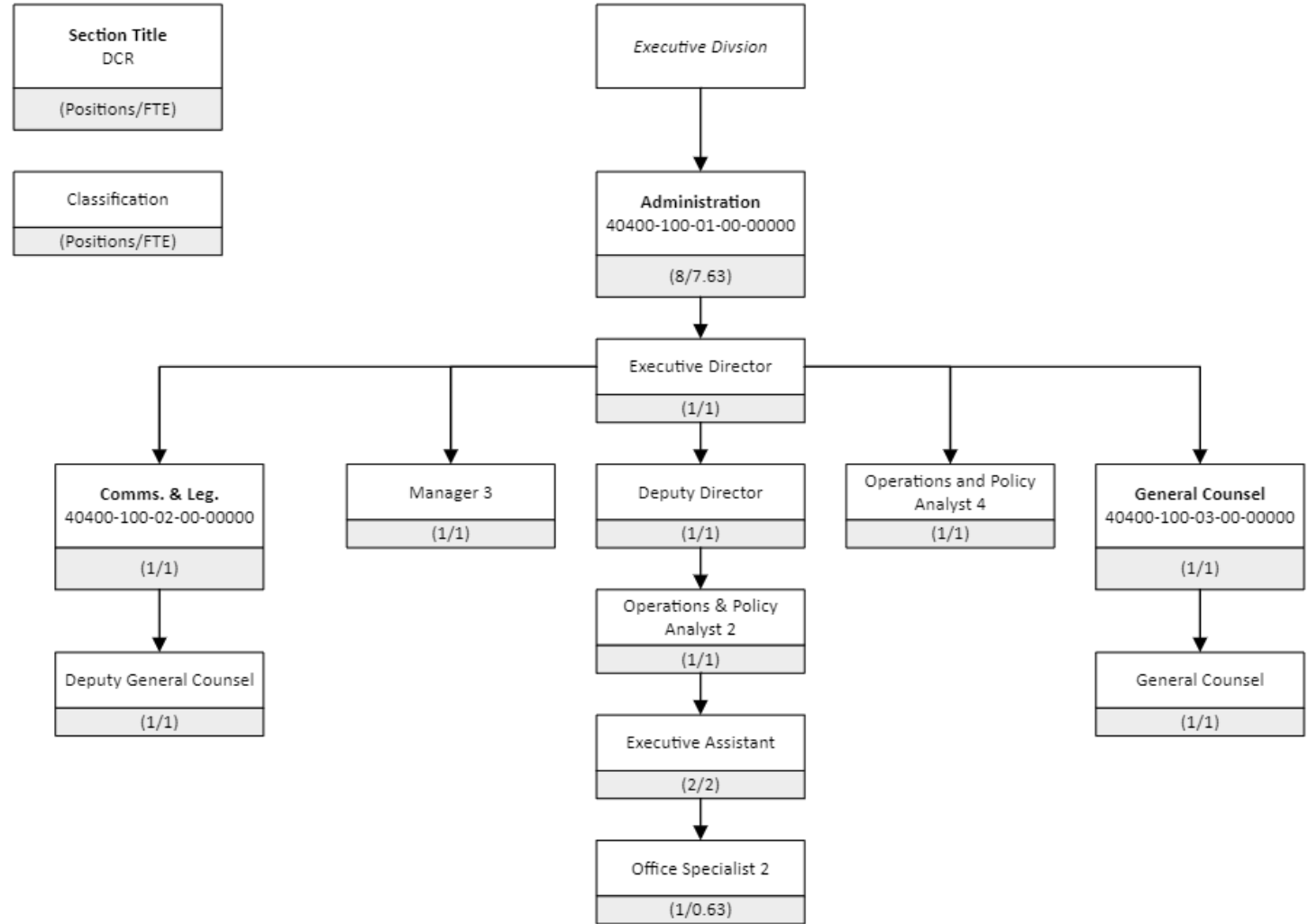
Overall Agency Structure: 23-25



Overall Agency Structure: 25-27



Executive Division: 23-25



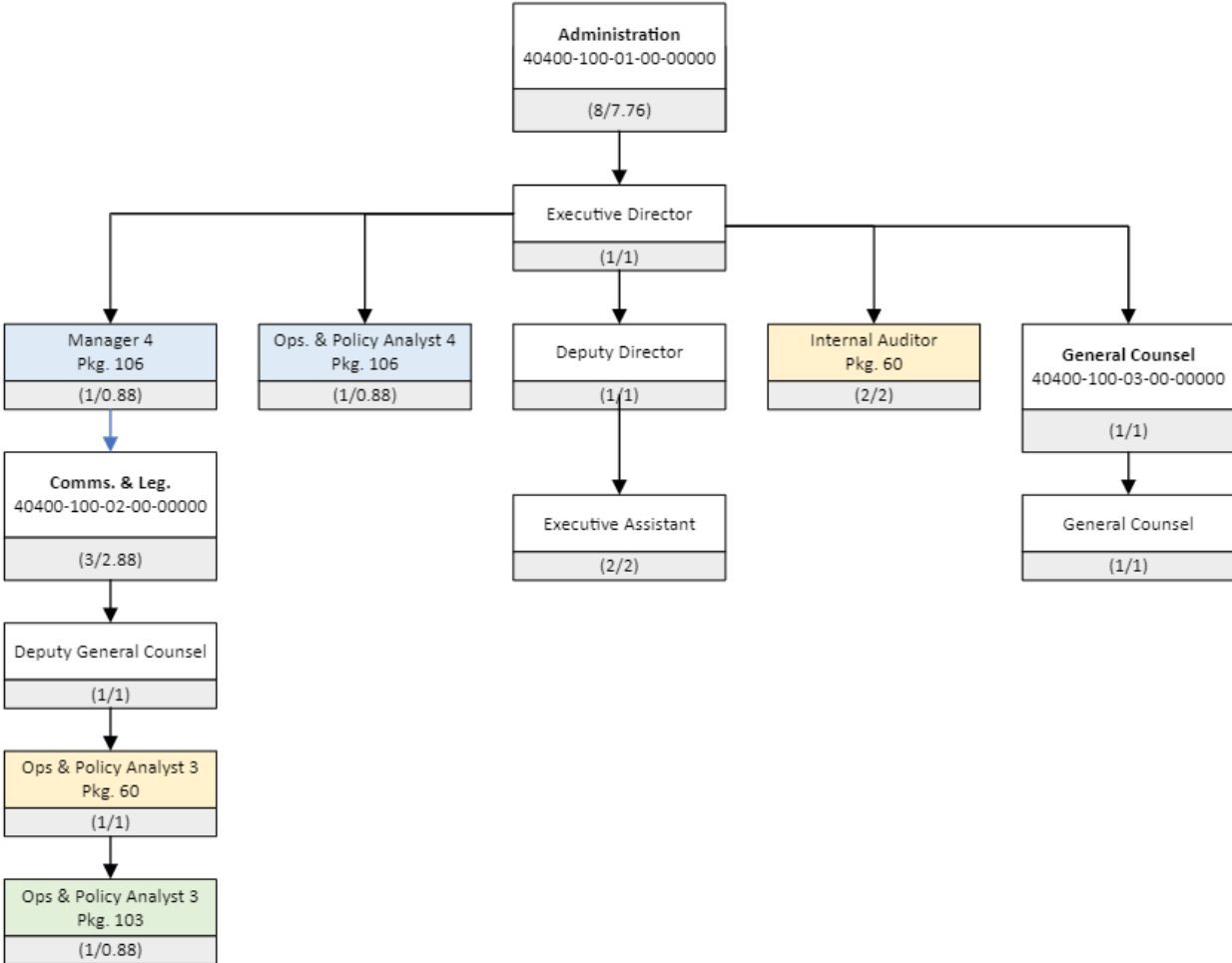
| |
|-----------------------------|
| Section Title DCR |
| (Positions/FTE) |

| |
|-----------------------|
| Classification |
| (Positions/FTE) |

Executive Division: 25-27

Section Title
DCR
(Positions/FTE)

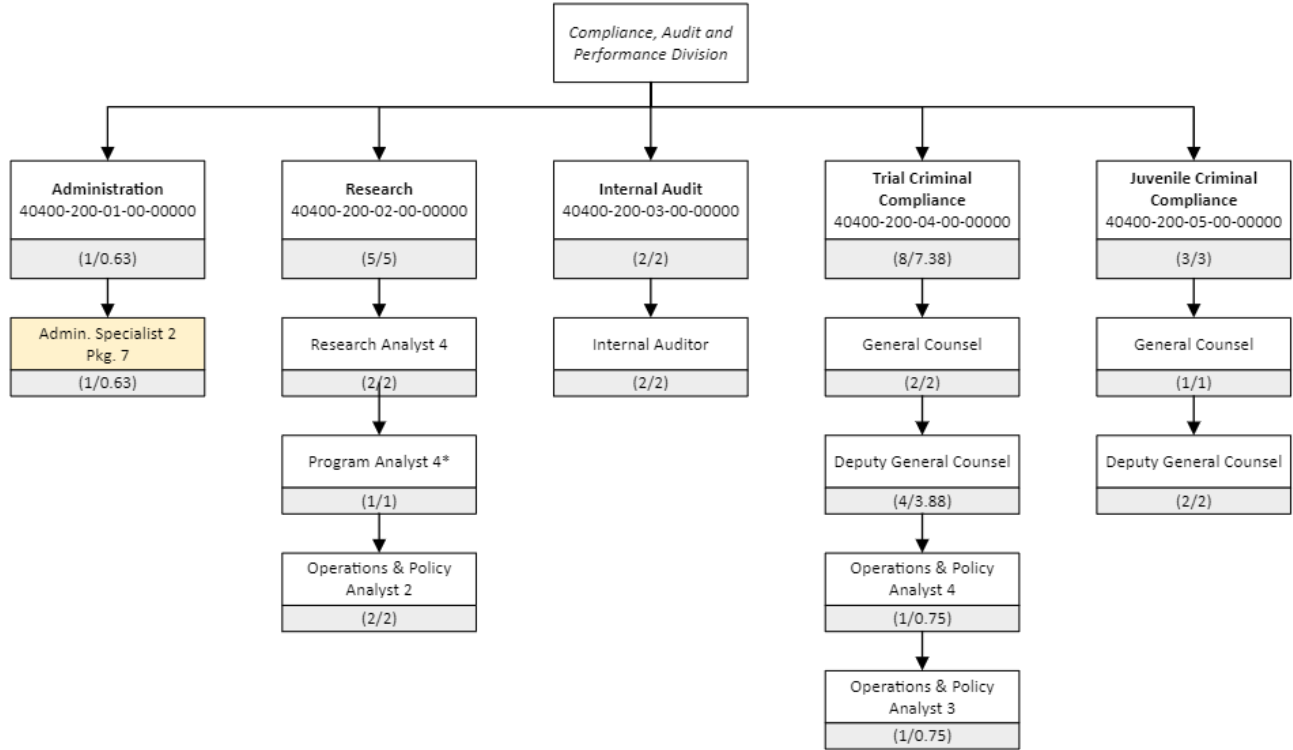
Classification
(Positions/FTE)



CAP Division: 23-25

| |
|----------------------|
| Section Title DCR |
| (Positions/FTE) |

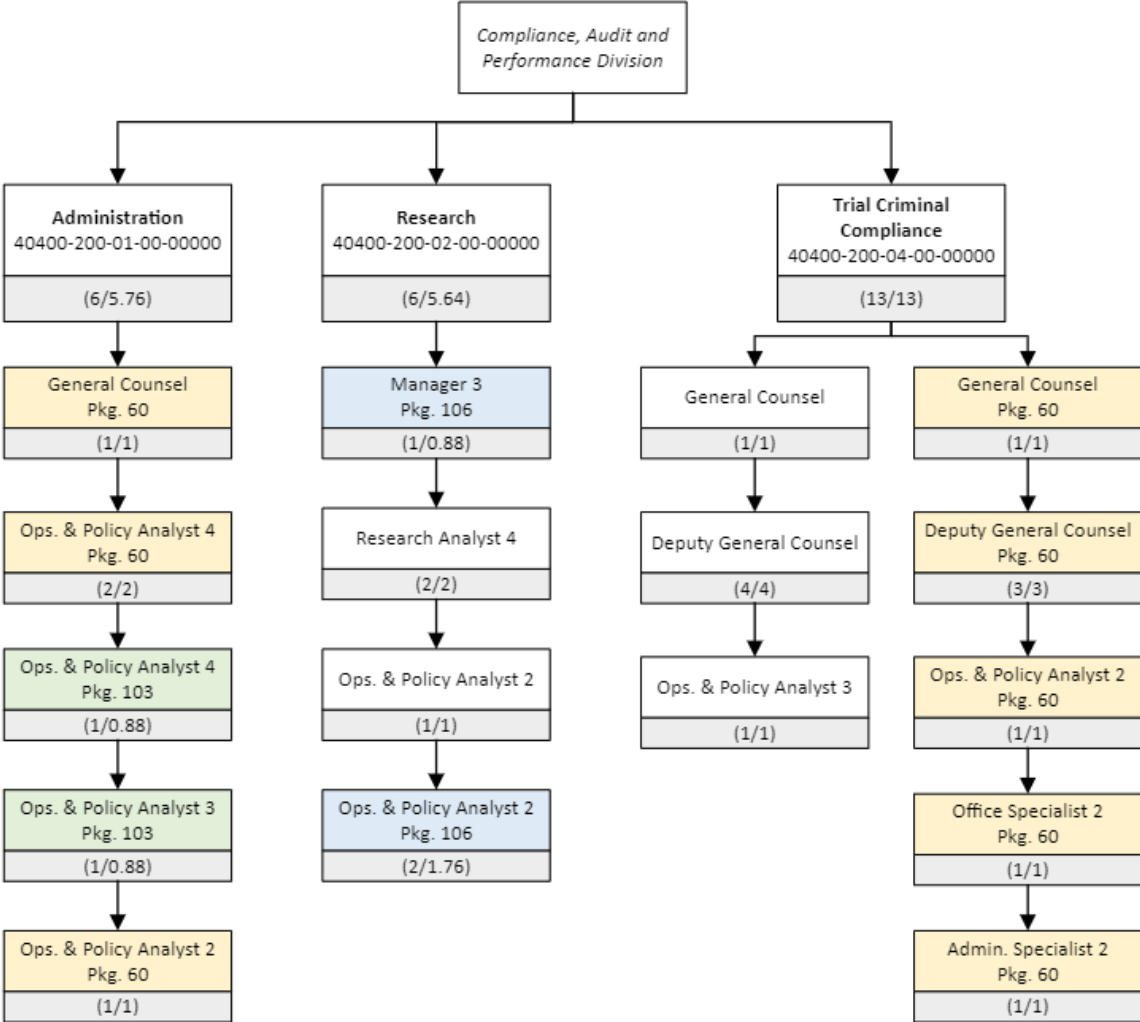
| |
|-----------------|
| Classification |
| (Positions/FTE) |



CAP Division: 25-27

| |
|-----------------------------|
| Section Title DCR |
| (Positions/FTE) |

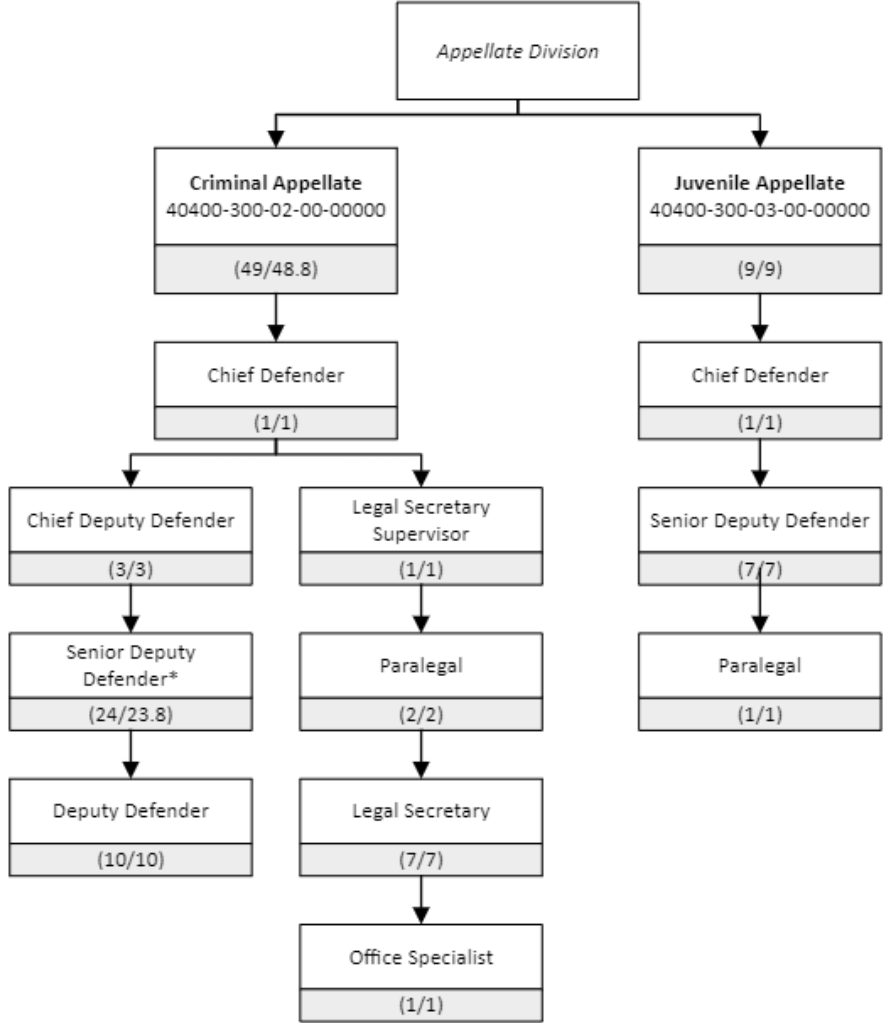
| |
|-----------------|
| Classification |
| (Positions/FTE) |



Appellate Division: 23-25

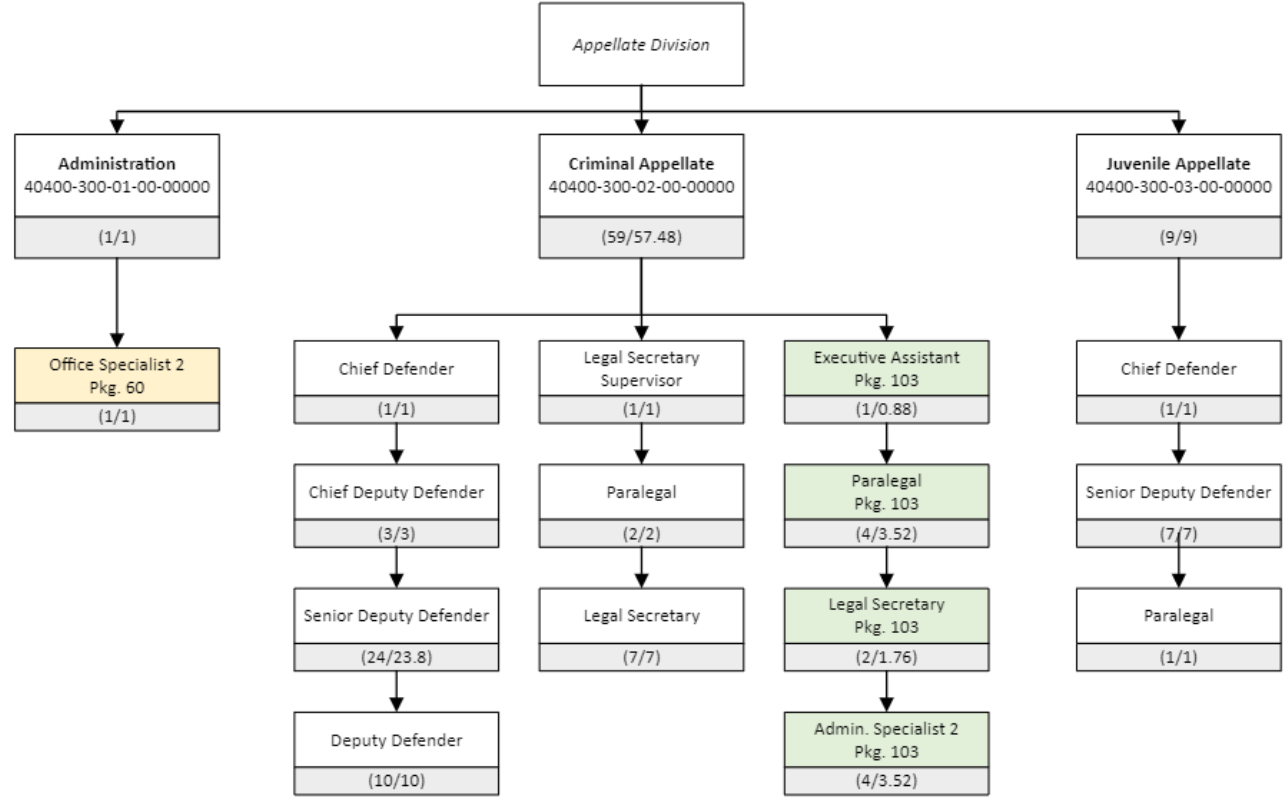
| |
|-----------------------------|
| Section Title DCR |
| (Positions/FTE) |

| |
|-----------------------|
| Classification |
| (Positions/FTE) |



Appellate Division: 25- 27

| |
|-----------------------------|
| Section Title DCR |
| (Positions/FTE) |
| Classification |
| (Positions/FTE) |



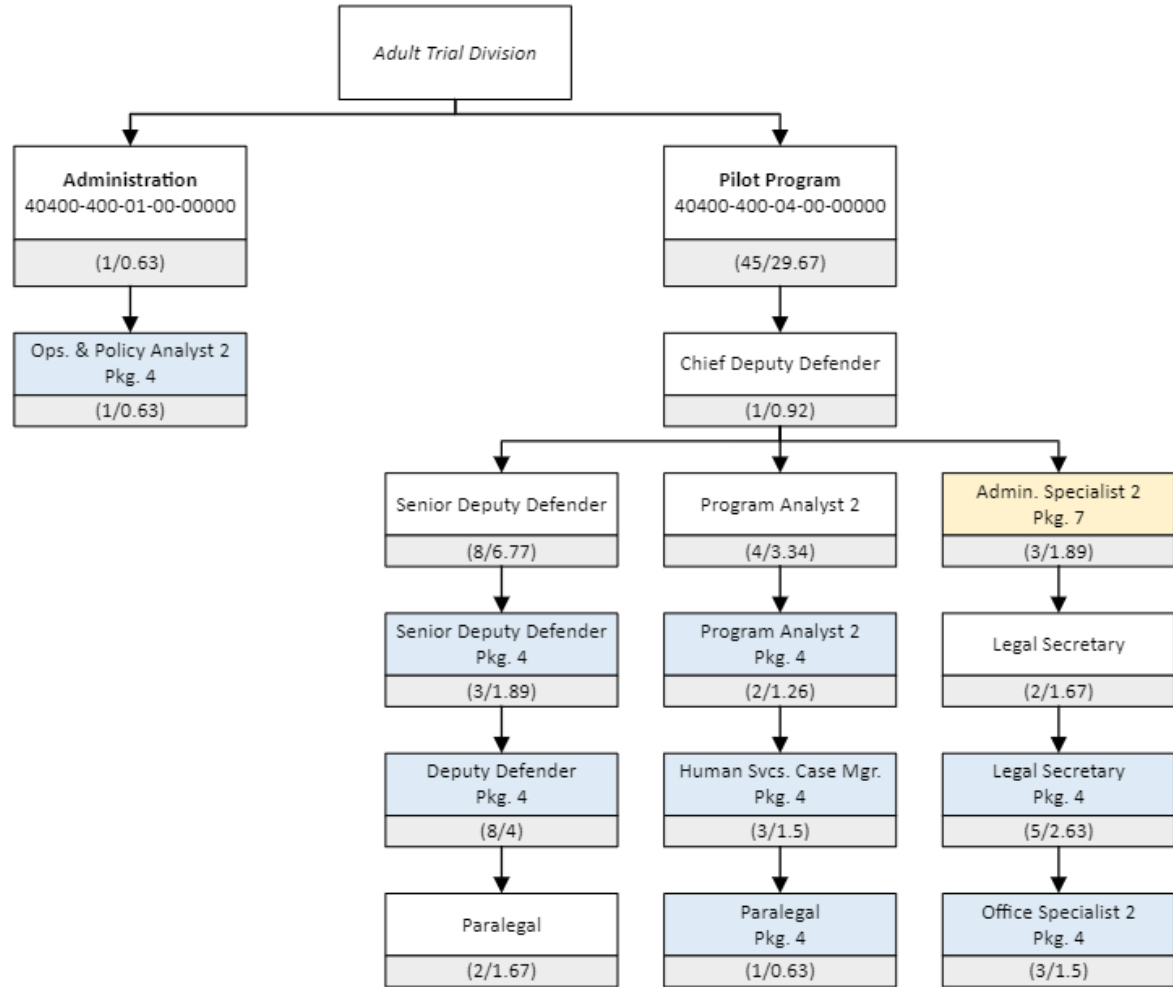
Adult Trial Division: 23-25

Section Title
DCR

(Positions/FTE)

Classification

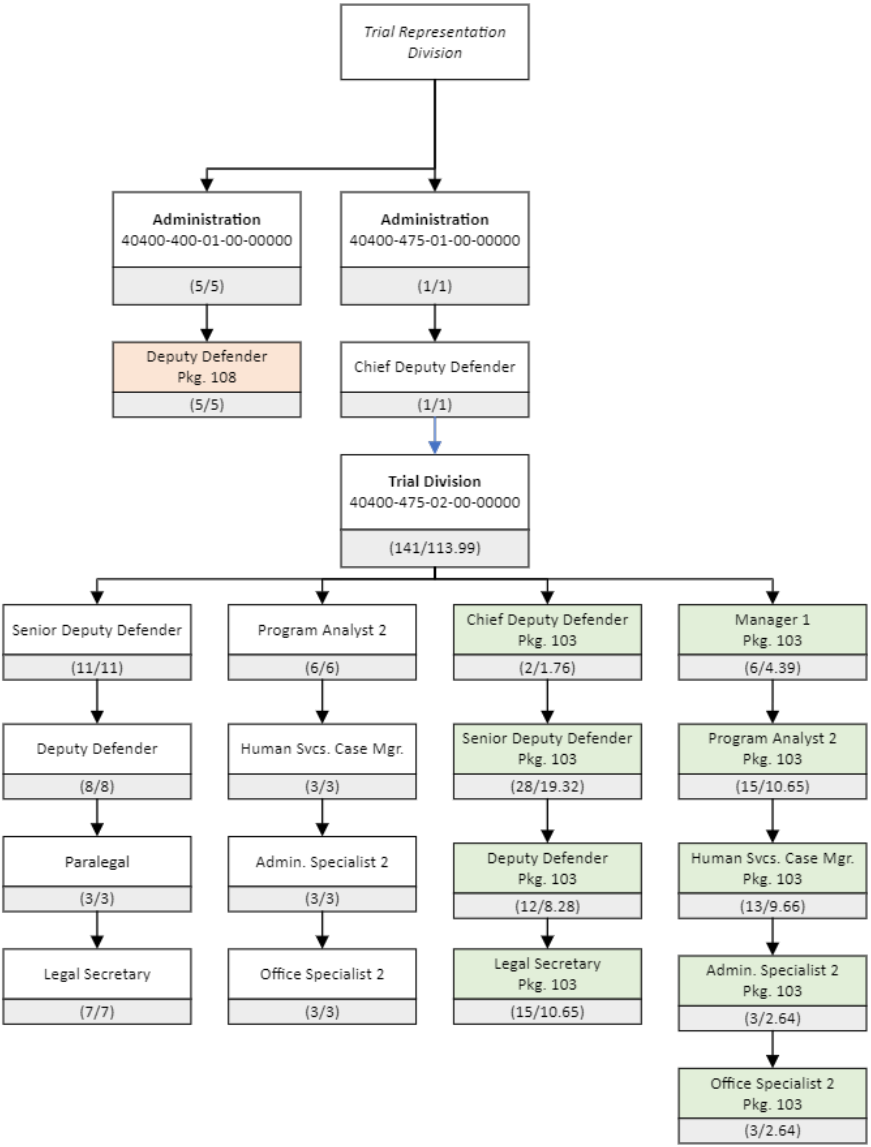
(Positions/FTE)



Adult Trial Division: 25- 27

| |
|----------------------|
| Section Title DCR |
| (Positions/FTE) |

| |
|-----------------|
| Classification |
| (Positions/FTE) |



Parent Child
Representation
Program: 23-25

| |
|-----------------------------|
| Section Title DCR |
| (Positions/FTE) |

| |
|-----------------------|
| Classification |
| (Positions/FTE) |

| |
|--|
| <i>Parent Child Representation Program</i> |
|--|



| |
|--|
| Administration 40400-500-01-00-00000 |
| (1/1) |

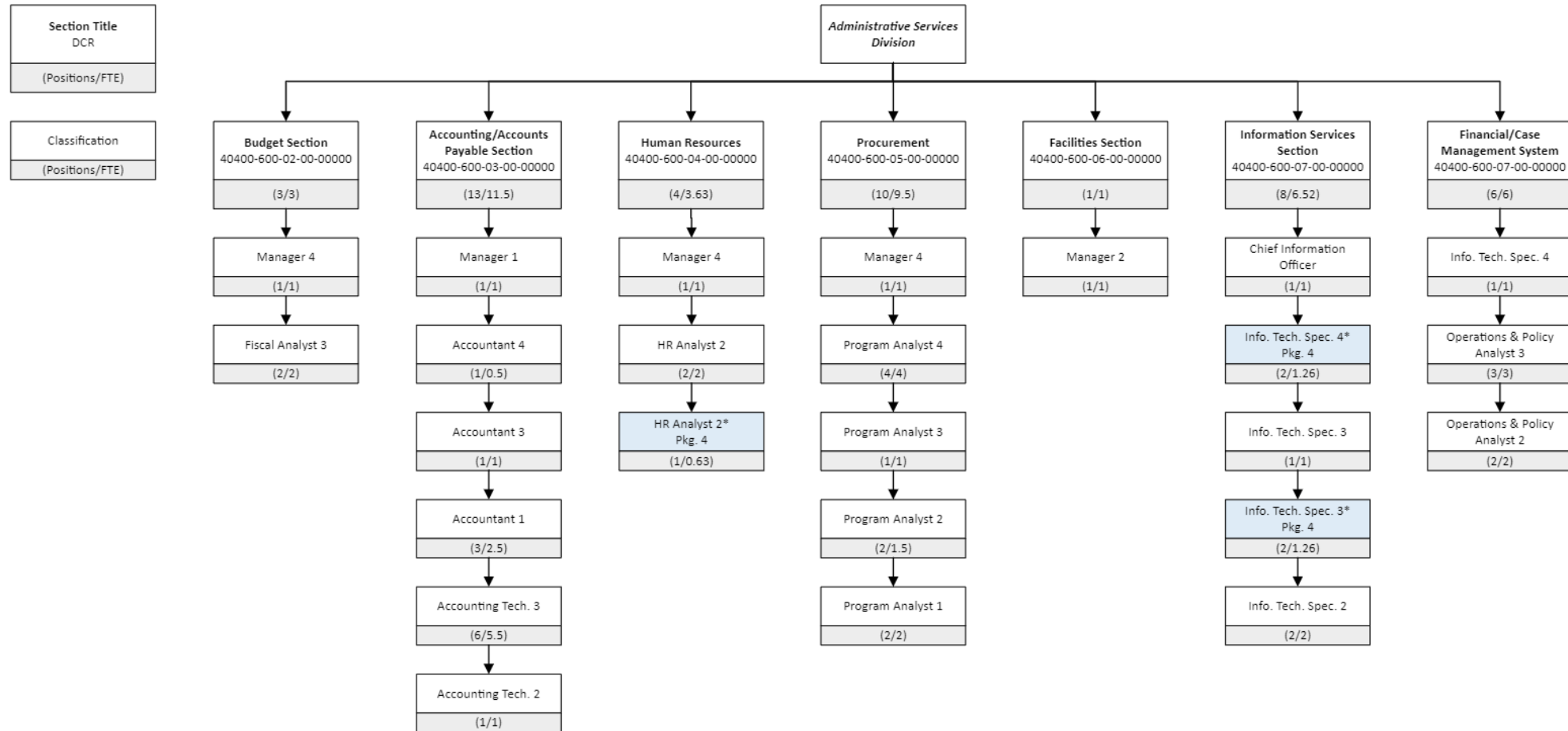


| |
|------------------------|
| General Counsel |
| (1/1) |

Parent Child
Representation
Program: 25-27

PCRCP will be made
part of CAP under
Trial Criminal
Compliance

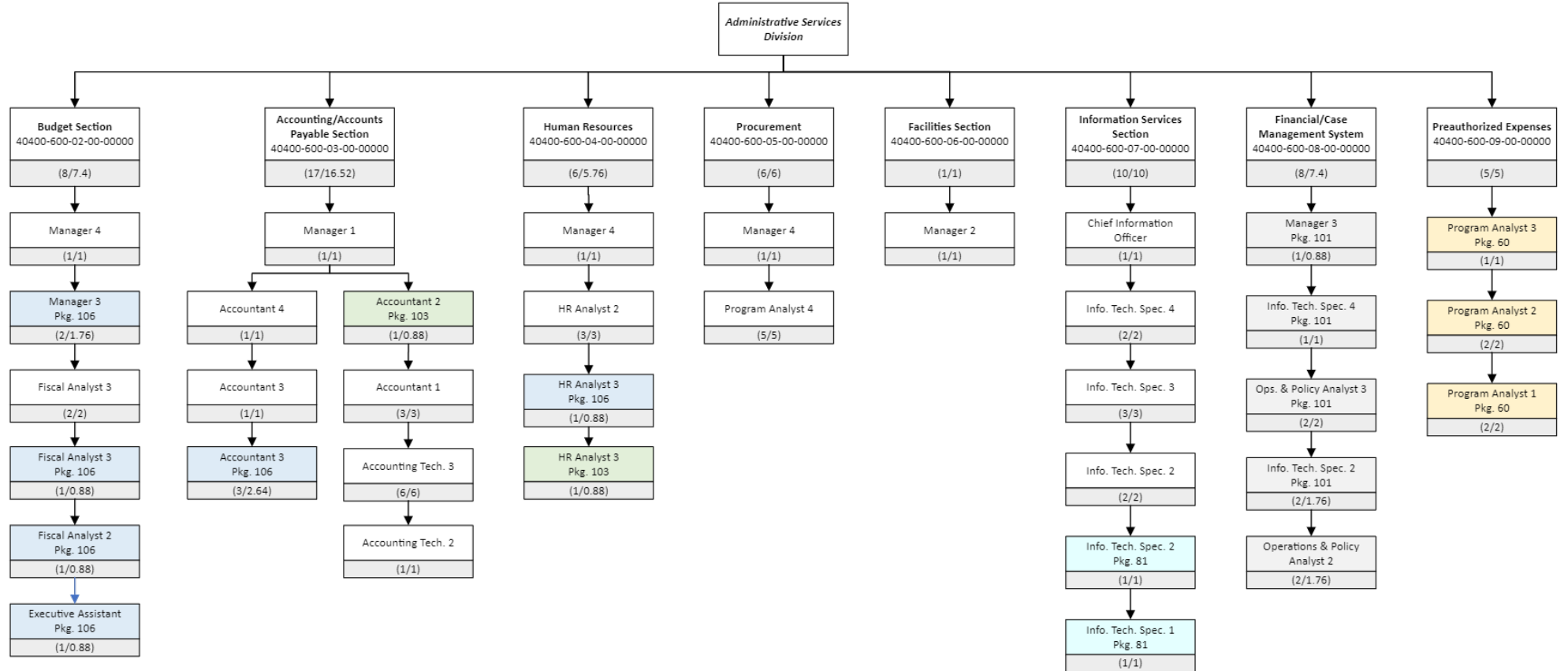
Administrative Services Division: 23-25



Administrative Services Division: 25-27

| |
|----------------------|
| Section Title DCR |
| (Positions/FTE) |

| |
|-----------------|
| Classification |
| (Positions/FTE) |





Date: August 21st, 2024

To: Jennifer Nash, Chair
OPDC Commissioners

From: Jessica Kampfe, Executive Director

Re: State Trial Division Data

Nature of Presentation: Briefing

Background: The Oregon Public Defense Commission opened the first state trial division office in Portland in December 2023. Since then, offices in both Medford and Salem have opened. This briefing is to provide the Commission a data focused update on the work the state trial division has been doing.

Agency Recommendation: N/A

Fiscal Impact: N/A

Agency Proposed Motion: N/A

Oregon Public Defense Commission

State Trial Division

Jessica Kampfe, Executive Director
Jessica.Kampfe@opds.state.or.us

August 21st, 2024



State Trial Division

Office Locations

Northwest

- Located in Portland,
- Opened December 2023
- 4 attorneys, 2 investigators, 3 support staff

Southwest

- Located in Medford
- Opened February 2024
- 4 attorneys, 2 investigators, 2 support staff

Central Valley

- Located in Salem
- Opened April 2024
- 4 attorneys, 2 investigators, 2 support staff

Clients & Cases

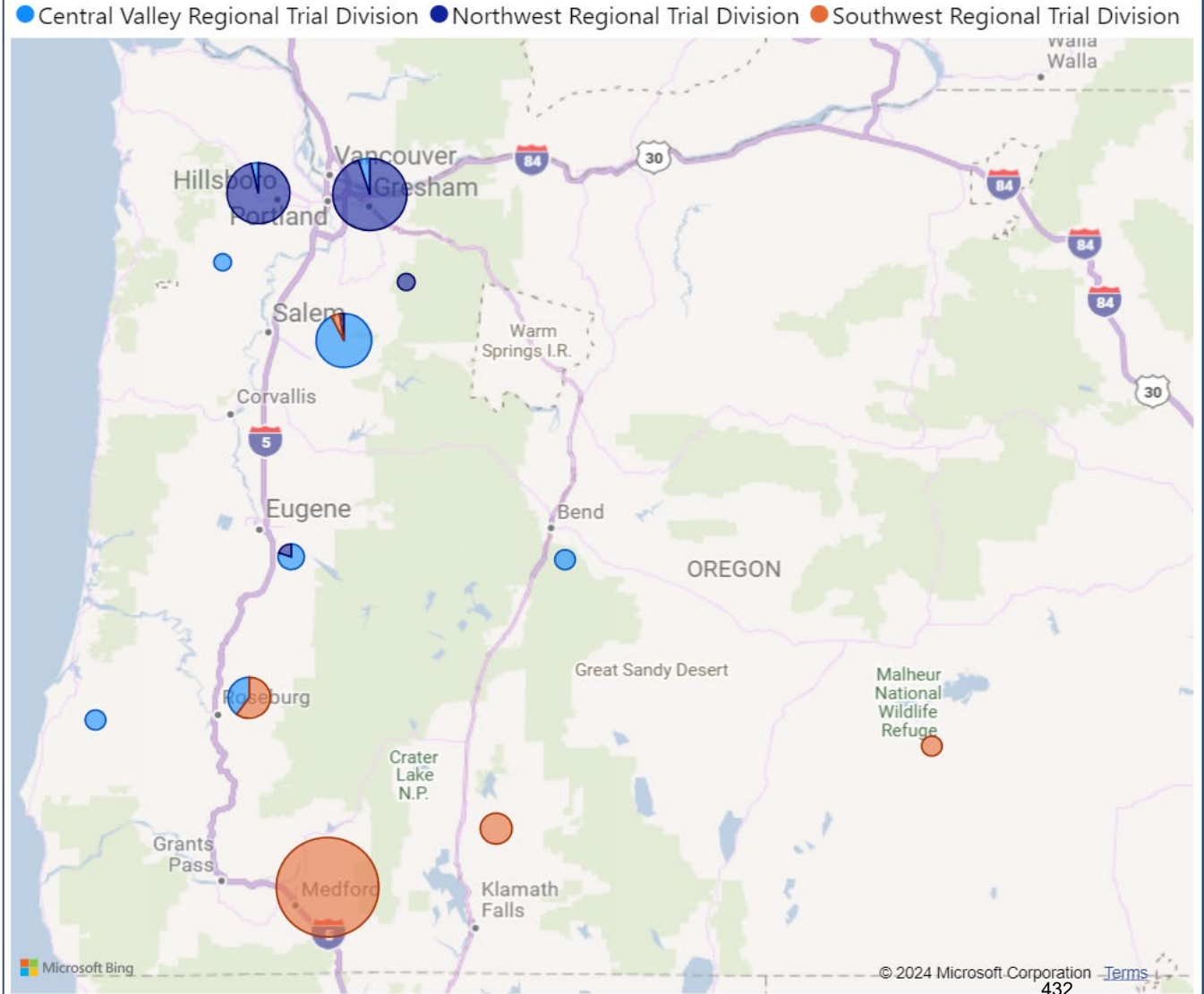
398

Cases

223

Clients

Appointed Cases by County



Data as of 8/12/2024

Clio - Case Management

- Utilizing The Oregon Project report standards
 - 2080 hours/case weight
 - Case types representing different weights
- Real time caseload data
 - Dashboard allows for caseload monitoring and appointment decisions daily
- Time tracking

| OPDC Trial Division Appointments | | | |
|----------------------------------|------------|------------|------------|
| Case Type | Closed | Open | Total |
| Mid Level Felony | 25 | 68 | 93 |
| Low Level Felony | 27 | 45 | 72 |
| Low Level Misdemeanor | 38 | 34 | 72 |
| Complex Misdemeanor | 44 | 10 | 54 |
| High Level Felony | 8 | 45 | 53 |
| Probation Violation | 18 | 20 | 38 |
| Homicide and Sex Cases | 1 | 15 | 16 |
| Total | 161 | 237 | 398 |

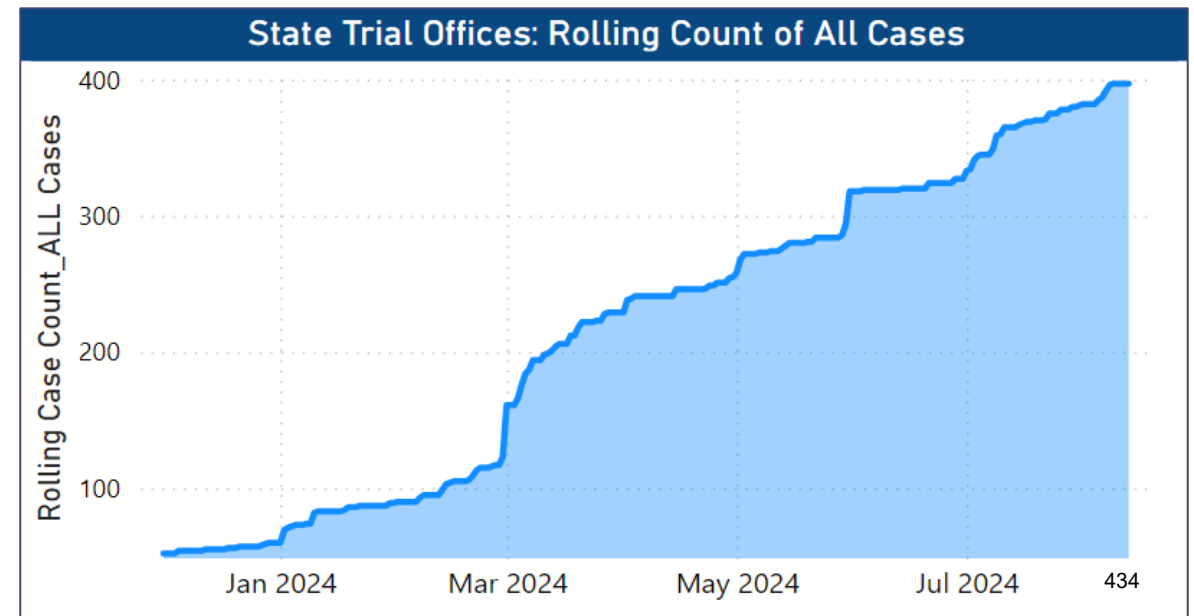
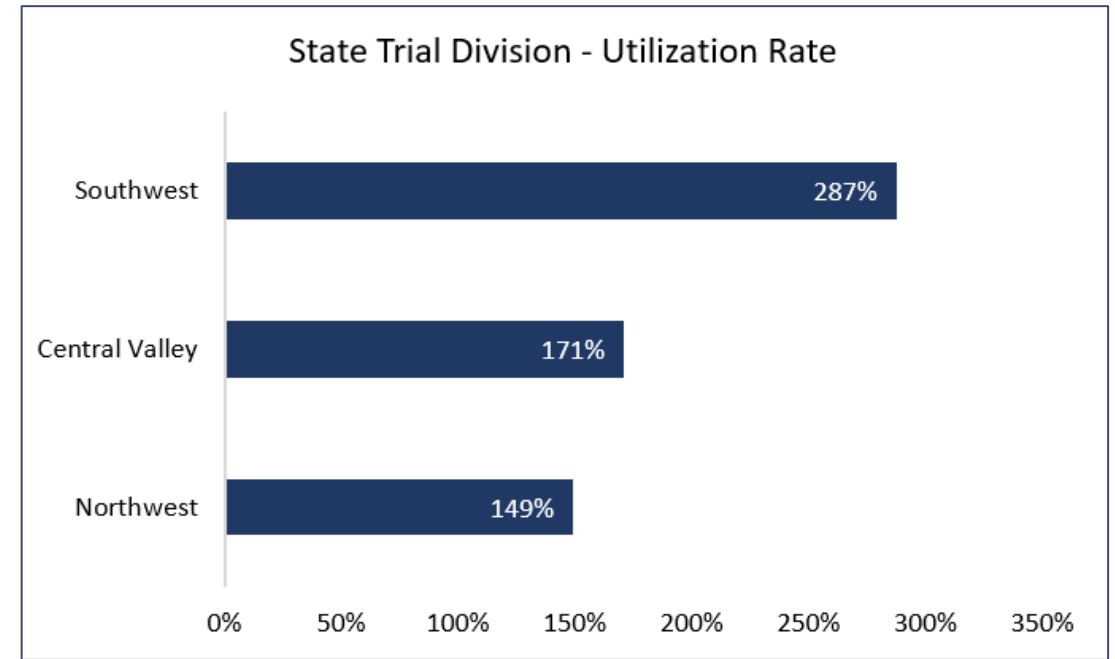
As of 8/12/2024

State Trial Division

Utilization

Utilization rate is the sum of case weights for appointed cases divided by the expected weight of an office.

- Oregon Project standard of 2080 hours is 173.33 hours per month
- $173.33 \times \text{number of months an attorney has been working} = \text{expected weight}$



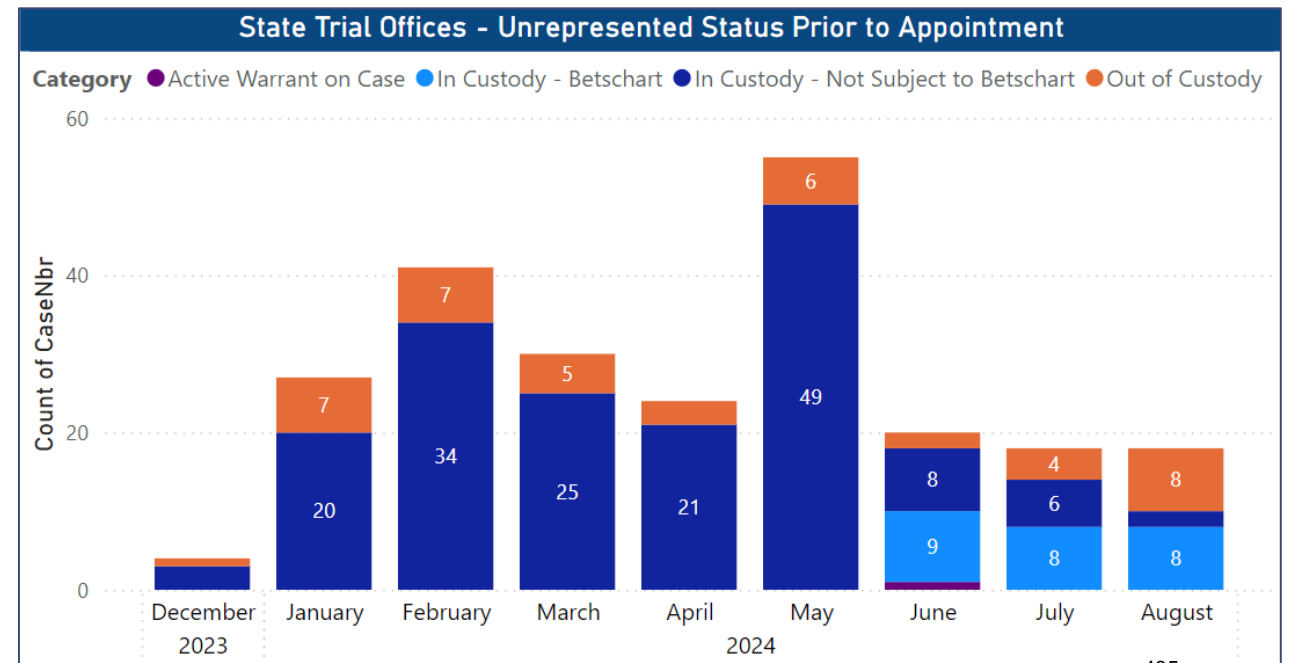
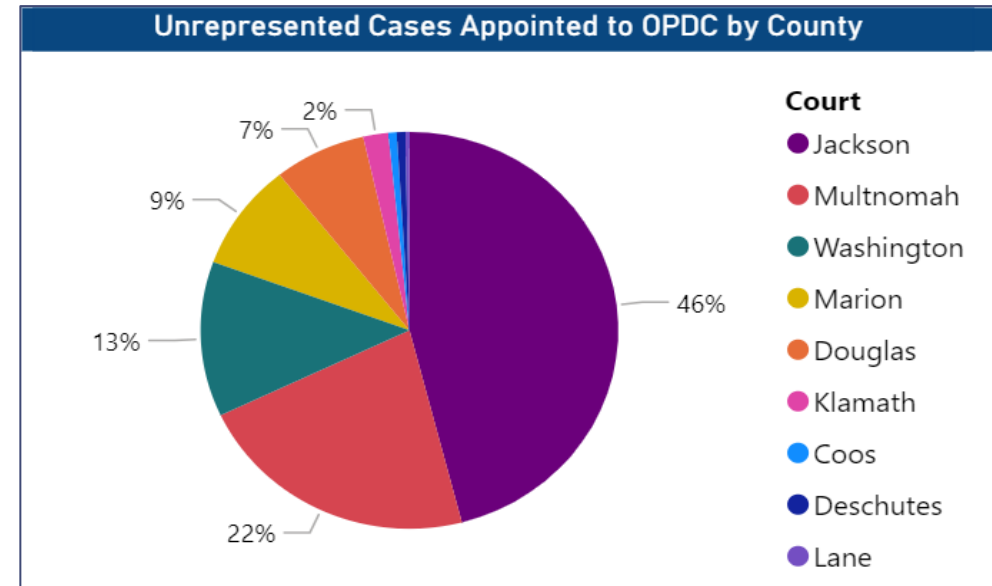
State Trial Division

Unrepresented

- 81%* of cases taken by the State Trial Offices have been In Custody unrepresented.

*Excluding the Special Set Southwest cases

- State Trial Offices helping take cases potentially subject to Betschart.



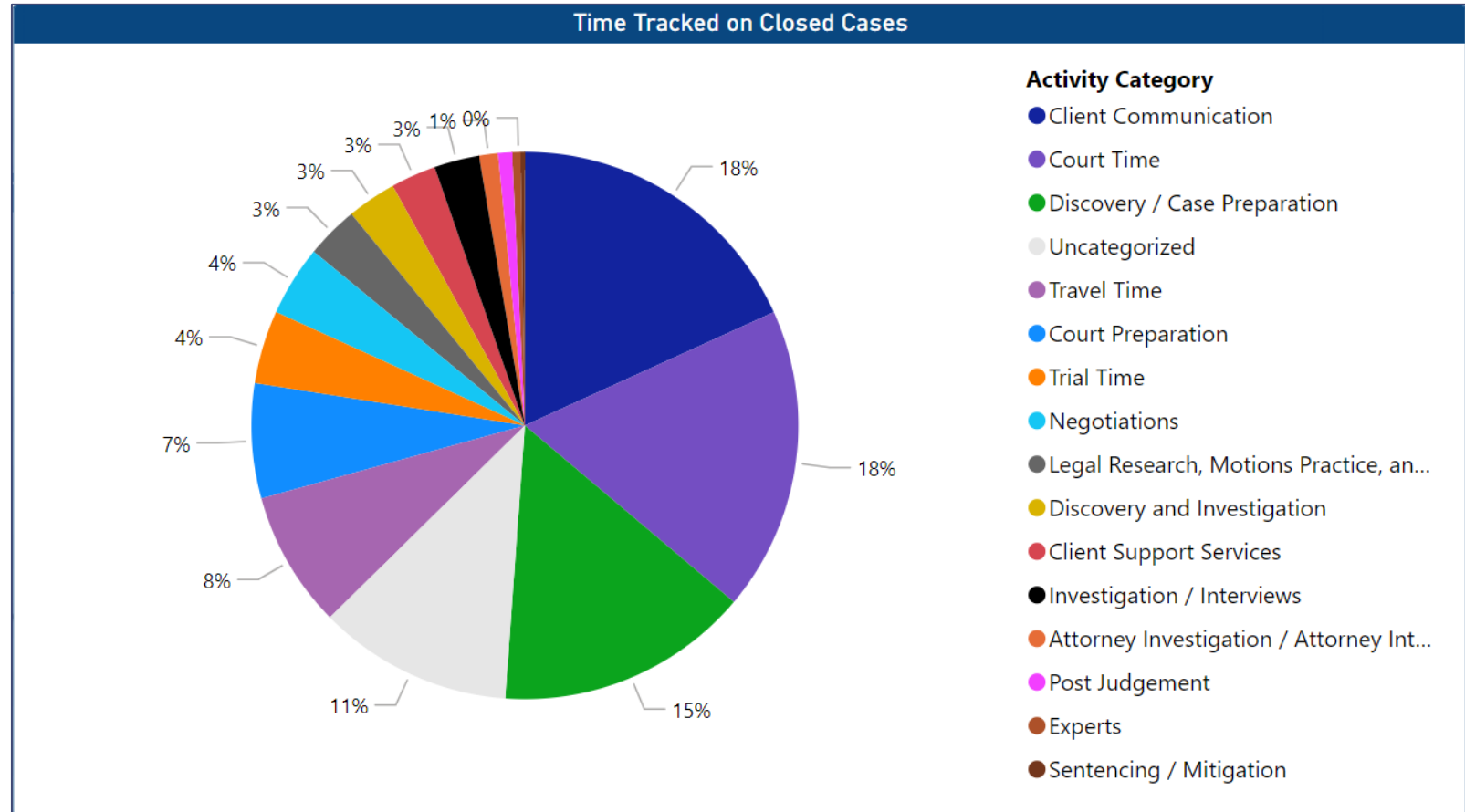
Time Tracking

161 Closed Cases with 1,445 hours tracked.

- 18% of time tracked as "Client Communication"
- 18% of time tracked as "Court Time"

Across all 398 cases:

- 16% (1,338 hours) tracked by investigators
- 13% Discovery/Case Prep



Thank you





Date: August 21, 2024

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

From: Eric Deitrick, General Counsel

Re: Public Service Loan Forgiveness (PSLF) Policy Update

Action: Briefing.

Background: In 2007, the PSLF program was established under the College Cost Reduction and Access Act. The program authorized loan forgiveness for persons who worked full-time for qualifying public service employers and made 120 qualifying monthly payments on their loans while doing so. Non-profit organizations and government offices are qualified employers.

The program was not accessed as frequently as expected. Applicants with existing student loans were required to refinance those loans to access the program, and the administrative rules regarding qualifying loan types were not clear. In 2021, the federal government offered a limited duration waiver of the preexisting administrative rules and extended the PSLF program to any loan type.

On July 1, 2023, the federal government again updated its administrative rules and extended PSLF to those “who work as a contracted employee for a qualifying employer in a position or providing services which, under applicable state law, cannot be filled or provided by a direct employee of the qualifying employer.” Such contractors are eligible for PSLF if they provide a public service “full-time,” which is defined as 30 hours or more per week on average for the employment period.

There has been significant discussion in public defense circles about what this rule change means for public defense providers, particularly for those in states like Oregon that rely, or have relied, exclusively on contractors. Prior to SB 337 (2023), OPDC was prohibited from employing trial-level public defenders. There are non-profit public defender organizations in Oregon. However, those organizations have not been funded by the state in all judicial districts. Additionally, even if they were, Oregon’s Rules of Professional Conduct impute an attorney’s conflict of interest to the entire firm, making it necessary for Oregon’s public defense system to rely upon contract attorneys not employed by non-profit public defender offices. As a matter of law, there are positions within Oregon’s public defense system that could not be filled by employees of qualified employers.

For contract attorneys in consortia or law firms, OPDC does not have data upon which it can rely to certify that an attorney meets the PSLF definition of “full-time.” This draft policy contemplates that OPDC will certify a PSLF application when:

- A public defense provider applies for PSLF and attests they meet the criteria;
- OPDC receives an independent attestation from a contract administrator that the applicant was a public defense provider;
- OPDC receive an independent attestation from a contract administrator or their employer that they meet the PSLF definition of “full-time” for the defined period.

OPDC is developing template forms to satisfy the attestations. Once the policy is approved, agency staff will place the policy and relevant attestations on the website.

OPDC cannot guarantee that the federal government will approve a PSLF application, as it remains unclear how the “under applicable state law, cannot be filled or provided by a direct employee of the qualifying employer” provision will be interpreted and applied.

Agency Recommendation:

OPDC staff is recommending the Commission accept the briefing, with the understanding that the policy will be on the September agenda for final approval.

Fiscal Impact:

None.

Agency Proposed Motions:

None.



| | |
|--|---------------------|
| Policy Name: Public Service Loan Forgiveness for Contractors | Number: 404.070.008 |
| Division: Administrative Services | Effective Date: |
| Responsible Section: Compliance, Audit, and Performance | |
| Approved by: Executive Team | Approval Date: |

PURPOSE: Establish criteria for agency certification for Contractors that have contracted with the Oregon Public Defense Commission (OPDC) that provide representation to those entitled to public defense services to be eligible for Public Service Loan Forgiveness (PSLF).

AUTHORITY: ORS 151.216 (1)(b)(A), 34 CFR § 685.219 (b)

APPLICABILITY: This policy applies for all requests for PSLF for Contractors that have contracted with OPDC.

FORMS:

POLICY:

SECTION 1 – IN GENERAL

The Public Service Loan Forgiveness Program is intended to encourage individuals to enter and continue in full-time public service employment by forgiving the remaining balance of their direct loans after they satisfy certain public service and loan payment requirements. As of July 10, 2023, 34 CFR § 685.219 (b) was amended to expand the definition of “employee” for PSLF program purposes to include “an individual who works as a contracted employee for a qualifying employing employer in a position or *providing services which, under applicable state law, cannot be filled or provided by a direct employee of the qualifying employer.*” Contractors that have provided trial-level public defense services may fall within the expanded definition of “employee”.

With the change to federal regulations regarding PSLF, more public defense providers may be eligible for the program. Under the new PSLF rules, these individuals may now be eligible for student loan forgiveness under PSLF, even though they are not W-2 employees but are instead contractors working for qualifying organizations. Prior to the change, PSLF was only available to public defenders that were employed by the government or at a non-profit with the requirement of ten years of full-time employment to be eligible. For OPDC, this means that attorneys in consortia and other private bar attorneys may be eligible for PSLF. Now, any public defense contractor may be eligible if

they have been engaged in public defense work “full-time” for ten years, which is defined by PSLF as working during the period of being certified:

Full-Time employment, for PSLF purposes, means working 30 or more hours per week on average for the employment period on the form regardless of whether the employer considers that Full-Time for other purposes. Working less than 30 hours per week on average is considered Part-Time. When determining if a borrower is Full-Time, an employer must include all hours, including vacation, leave time, or any leave taken under the Family Medical Leave Act of 1993. However, do not include time spent performing volunteer services.

SECTION 2 – REQUESTS FOR OPDC CERTIFICATION

OPDC is directed to adopt policies for public defense providers that ensure resources are in accordance with national and regional best practices and to promote policies for public defense provider resources. Under authority of ORS 151.216 (1)(b)(A), OPDC agrees to independently certify an eligible Contractor’s PSLF application if:

- The Contractor certifies to OPDC (under penalty of perjury) that the information contained in their individual PSLF application is accurate, and
- The relevant contract administrator and/or employer certifies to OPDC (under penalty of perjury) that the information contained in the Contractor’s PSLF application is accurate. For each application, the contract administrator must certify that the applicant provided public defense services pursuant to the contract. In addition, either the contract administrator or the applicant’s employer must certify that the applicant meets the PSLF definition of “full-time.”

A Contractor can submit a request for a Contractor Certification for PSLF to OPDC for eligibility review. All submitted requests are subject for review and will be reviewed within thirty days of receipt. To submit a request for Contractor Certification the following required documents are to be submitted through policy@opdc.state.or.us.

- Completed and Signed Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application. [Public Service Loan Forgiveness \(PSLF\) & Temporary Expanded PSLF \(TEPSLF\) Certification & Application \(studentaid.gov\)](https://studentaid.gov/public-service-loan-forgiveness-pslf-temporary-expanded-pslf-tepslf-certification-application)
- An attestation/certification by the contract administrator establishing the time period that the applicant provided public defense services pursuant to the contract.
- An attestation/certification by the contract administrator or the applicant’s employer establishing that the service provided by the applicant meet the PSLF definition of “Full-time.”

SECTION 3 – ELIGIBILITY REVIEW

In order to certify the PSLF application, OPDC will review the submitted Contractor Certification request to confirm the Contractor meets the eligibility criteria for OPDC approval to certify. OPDC will certify the PSLF application once the following requirements are met:

- Review and verify the information provided by the Contractor in Section 4 of the Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application is accurate.
- Verify the periods of time the Contractor was providing public defense services.
- Confirm the Contractor meets the full-time eligibility criteria to qualify for the PSLF Program.
- Verify the OPDC Attestation Forms are complete.
- OPDC to complete and sign Section 5A once OPDC Attestation Forms are verified.

OPDC will provide an approval letter to certify the approval of Public Service Loan Forgiveness to the Contractor once the submitted eligibility criteria has been verified. An approval from OPDC does not guarantee that the federal government will approve the application, as it is not yet clear how the federal government will interpret and apply the new rule.

If OPDC determines the Contractor does not meet the eligibility requirement to provide the certification, then OPDC will send a Notice of Denial.

SECTION 4 – ACCOUNTABILITY

OPDC will review the OPDC Attestation Forms signed by the contract administrators and the public defender’s employer to verify the public defender completed “full-time” work for ten years. If OPDC concludes an application is untruthful, the OPDC will notify PSLF and any other agency with regulatory authority over the person’s licensure and/or profession.



**Oregon
Public
Defense
Commission**

Date: August 21, 2024

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

From: Eric Deitrick, General Counsel

Re: Service Delivery Transition

Action: Briefing.

Background: HB 2002 (2021) directed the agency to adopt caseload standards that are in accordance with national and regional best practices and to adopt a statewide workload plan. SB 337 (2023) provided numerous directives to the agency to transition its service delivery model. By July 1, 2027, public defense services will be provided by OPDC employees, attorneys employed at non-profit public defender offices, and panel attorneys reimbursed on an hourly rate basis. There are also directives to OPDC regarding standard setting, training, data collection, and oversight.

Attached is in an initial project plan to begin the service delivery transition work. The project plan will be built out with schedules and timelines once the key components to the deliverables are built out and established. Also enclosed is a memo from Nancy Bennett of the Sixth Amendment Center, which summarizes the key components to managed private assigned counsel system. Ms. Bennett previously served as Deputy Chief Counsel at the Massachusetts' Committee for Public Counsel Services, overseeing the state's private counsel division. OPDC anticipates she will provide technical assistance to this work.

To assist this work, Director Kampfe will be forming an advisory committee, which will include commission members and public defense providers.

Agency Recommendation:
OPDC staff is recommending the Commission accept the briefing.

Fiscal Impact:
None.

Agency Proposed Motions:
None.

PUBLIC DEFENSE DELIVERY TRANSITION

Initial Project Plan

Overview

PROJECT BACKGROUND AND DESCRIPTION

In 2023, Oregon enacted SB 337, which created the Oregon Public Defense Commission (OPDC) and made significant changes to Oregon's public defense system. Specifically, SB 337 directs OPDC to change the public defense service delivery model over a several year period.

- Effective July 1, 2025, OPDC:
 - May contract with any entity type.
 - Is prohibited from entering contracts that pay a flat fee per case and may not enter contracts with disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel.
 - Must establish, supervise, and maintain a panel of qualified counsel who contract with the commission and are directly assigned cases.
 - Will employ attorneys who accept appointments to trial level cases.

- Effective July 1, 2027, OPDC:
 - Is subject to the same contracting prohibitions as above.
 - May only contract with individual attorneys admitted to the panel and non-profit organizations that employ attorneys.
 - Public defense in Oregon will be provided by OPDC employees, employees at non-profit organizations, and the panel of qualified attorneys who are compensated on an hourly rate basis.

Additionally, OPDC has a preexisting statutory obligation to adopt policies that ensure caseloads are in accordance with national and regional best practices and to adopt a statewide workload plan.

PROJECT SCOPE

This project will focus specifically on the infrastructure necessary to transition the current service delivery model toward compliance with SB 337 and implement a workload model. The expectation is that members of the Trial Support and Development, Data, Policy, Accounts Payable, and Budget teams will work collaboratively to meet the requirements outlined in SB 337 to update the delivery of public defense in Oregon. The agency will establish a Service Delivery Transition Advisory Committee to assist this work. The deadline for the completion of this project is July 1, 2025, with an expectation that the agency be prepared to provide an update to the legislature in December 2024.

STATUTORY REQUIREMENTS

SECTION 3 (SB 337 (2023)) - *effective July 13, 2023*

- Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions.
- Set minimum standards by which appointed counsel are trained and supervised.
- Establish a system, policies, and procedures for mandatory collection of data concerning the operation of the commission and all public defense providers.
- Enter into contracts and hire attorneys to bring delivery of public defense services into and maintain compliance with minimum policies, procedures, standards and guidelines. All contracts for the provision of public defense services to which the OPDC is a part must include a requirement for collection by OPDC of data determined by OPDC to be qualitatively necessary.
- Develop standard operating expectations for persons and entities providing public defense services.
- Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by OPDC.
- The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. OPDC may develop workload controls to enhance appointed counsel's ability to provide effective representation.
- OPDC shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.
- OPDC and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

SECTION 4 (SB 337 (2023)) - *effective July 13, 2023*

- Establish an external advisory group to assist in developing the standard operating expectations for persons and entities providing public defense services.

SECTION 94 (SB 337 (2023)) - *effective July 1, 2025*

- OPDC shall establish, supervise, and maintain a panel of qualified counsel who contract with the OPDC and are directly assigned cases. OPDC shall develop a process for certification of attorneys to the panel with periodic eligibility and case review.
 - The payment of counsel:
 - May not be lower than the hourly rate established by OPDC.
 - Shall be adjusted to reflect the same percentage amount of any positive cost of living adjustment granted to employees in the management service in other executive branch agencies.

- May not provide a financial conflict of interest or economic incentive or disincentive that impairs an attorney’s ability to provide effective representation.
- OPDC may enter into contracts for the provision of public defense services with nonprofit public defense organizations.
- OPDC may enter into contracts with entities that subcontract with other entities or persons for the provision of public defense services.
- OPDC may not enter into a contract or agreement that pays appointed counsel a flat fee per case.

SECTION 101 (SB 337 (2023)) - *effective July 1, 2027*

- OPDC may not enter into contracts with entities that subcontract with other entities or persons for the provision of public defense services.

PROJECT TEAM

EXECUTIVE SPONSOR

- Jessica Kampfe

PROJECT STEERING TEAMS

- Service Delivery Transition Advisory Committee (TBD)
- OPDC Executive Team

PROJECT TEAM

- Eric Deitrick, Project Sponsor
- Nancy Bennett, Technical Consultant, Sixth Amendment Center
- Jessie Lenhardt, Project Management, Moss Adams
- Shannon Flowers and designees
- Kim Freeman and designees
- Karla Bethel and designees
- Ralph Amador and designees

DELIVERABLES

- Attorney qualification, performance, and training standards.
- Policies and procedures for OPDC to assume responsibility for assigning counsel.
- Panel of qualified attorneys to accept appointment to cases.
- Workload model implementation plan.
- Policies and procedures for oversight of non-panel contract attorneys.
- Policies and procedures for mandatory collection of data related to the operation of public defense providers.

AFFECTED PARTIES

- Public defense providers
- Persons eligible for a public defender
- Circuit Courts

AFFECTED BUSINESS PROCESSES OR SYSTEMS

- Contracting/Procurement
- Standards, Training, and Oversight
- Data
- Policy
- Accounts Payable
- Budget

SPECIFIC EXCLUSIONS FROM SCOPE

- Trial division pilot program
- FCMS project
- Provider contract development

TIMELINE/SCHEDULE

Once key components to deliverables are built out and established a timeline/schedule will be drafted.

Dt: August 5, 2024

To: Eric J. Deitrick, General Counsel
Oregon Office of Public Defense Services
198 Commercial Street SE
Salem, Oregon 97301

Fr: Nancy Bennett, Senior Program Manager
Sixth Amendment Center

Re: Key components of a Managed Private Assigned Counsel (MPAC) system

FOUNDATIONAL COMPONENTS

1. Local Bar Leadership Supporting Roles

Respected local lawyers committed to equal justice should participate in advisory, training and other leadership roles with the MPAC to show that the local legal community supports high quality public defense and that the MPAC respects the local bar. This leadership sets the tone for a local culture of excellence and encourages support from the universe of potential providers.

2. Independent Assignment Mechanism

Judges must remain impartial referees in cases, showing equal consideration to prosecution and defense, while avoiding exposure to facts not offered in evidence. This impartial role presents an ethical and legal bar to judges exercising effective management of defense functions like case assignments, though feedback from judges on provider performance can and should be sought by the MPAC. Assignment of cases by employees of for-profit law firms will likely be influenced by the business needs of the firm.

Independent assignment and reassignment of counsel to cases by MPAC employees can promote delivery of counsel at first appearance and vertical representation. Case assignments by MPAC staff also protect attorneys' independence, preserve client confidentiality (when information about the client or case is relevant to the choice of counsel) and enable the MPAC to drive cases to the most qualified and productive attorneys. Assignment administrators will

be most effective if they are located in or connected to local legal communities to enhance their knowledge of local providers and court needs.

3. Hourly Rates

Hourly rates, not flat rates, are the only payment mechanism that incentivizes vigorous defense litigation without the need for adjustments in individual cases. If contracts are used, payments must be readily adjustable by the MPAC based on individual case litigation. Prompt payment with audit capacity by the MPAC requires online billing in a system with large numbers of providers because the large quantity of data to be entered to support bills requires delegation to the providers of the entry of most data.

4. Online Billing

An online billing system provides prompt compensation to attorneys and gathers cost, caseload and other data in an accessible format thus supporting both quality and fiscal oversight. The data entered can be tailored to show qualification and performance data (like prompt client visits, trials, motion practice and dispositions) to support oversight, the attorney qualification process, complaint investigation, training needs and enforcement of qualification standards. Online billing enables fiscal oversight with very modest agency resources since the data is accessible for auditing as patterns and anomalies are easily identified.

5. Financial Audit Capacity

Auditing even a small percentage of attorney bills, with unpublished criteria for the selection of bills to audit, promotes fair billing and provides evidence to funders that expenditures are warranted.

6. Selective Qualification Standards

Selective objective qualification standards assure competence when paired with the exercise of discretion in selection of panel attorneys by the MPAC program. Selectivity makes acceptance indicative of quality, supporting a culture of excellence. Engaging respected local lawyers in the review of providers' qualifications increases acceptance of the MPAC's exercise of discretion. If adequate numbers of providers cannot meet an appropriately selective standard, provisional qualification for a set term to allow the applicant to meet the standard is preferable to lowering the standard.

Example: MA serious felony qualification requires 6 criminal jury trials tried to verdict as lead counsel within the preceding 5 years as a precondition for application. Murder case certification requires 10 criminal jury trials in the same timeframe, and substantial experience with expert witnesses. Applications are then judged by a blue-ribbon panel of respected local lawyers who advise the state agency decision-maker.

The application for qualification should include the attorney's explicit agreement to keep apprised of and comply with MPAC policies, cooperate with oversight, notify the MPAC of information bearing on eligibility (such as bar discipline or criminal charges within the jurisdiction) and waive claims against the MPAC for performing its oversight role.

7. Caseload Limits

Caseload limits assure both fair distribution of fee generating public appointments among qualified attorneys, and assignment of cases to providers who have adequate time to do the work well. Reasonable caseload limits including an open case limit must be enforced to assure quality in any delivery system including staff, contract or MPAC.

8. Performance Standards with Benchmarks

These articulate the mission of the MPAC and provide a checklist for high quality representation and the data points that demonstrate it. Published standards provide the measurement tool for subsequently implementing performance assessments and periodic redetermination of the qualifications of private counsel providers. Engaging respected local lawyers in formulating the standards increases buy-in by the bar.

9. Complaint Investigation

Fair and prompt complaint investigation and resolution, with secure but accessible complaint data maintenance by the MPAC, reduces bar complaints against attorneys, and is crucial to avoiding scandals, enforcement of performance standards and to fairness in managing periodic redetermination of qualification. The MPAC should assure that all assigned clients, including those with limited literacy or language skills, can easily access oversight resources.

10. Training

Training provided or approved by the MPAC to achieve qualification supports competence, provides entry opportunities to the panel and aids the attorneys' professional development in

private practice. Training and knowledge sharing by the MPAC has monetary value for private counsel, and thus aids recruitment by the MPAC.

Example: MA lowest court certification requires 7-day training after selection.

CLE required and approved, or offered by the MPAC at low cost, supports both the mission of excellence in assigned cases and the private practices of the participating attorneys.

Moderated online practice support communities give providers the sense of being part of a mission and enable the rapid sharing of creative tactics, information about opponents and developments in the law.

Partnering with agency staff offices can deliver cost effective training to agency and MPAC providers alike.

11. Mentoring

A structured mentor system supports competence and cost-effectiveness through efficiency, as mentors reduce the time assigned counsel spend mastering complex issues. Selection by the MPAC to be a mentor is an honor which can increase the engagement of local bar leaders. Mentors must have set minimum qualifications, training on mentoring, desirable payment, and individual assignments by the MPAC of mentees which are near universal. Working with a mentor should be the norm, not a stigma.

12. Local Supervising Attorneys

Respected local lawyers paid by the MPAC program to deliver training, investigate complaints and assess performance implement MPAC program policies while engaging the local bar in supporting quality standards. This is training and quality oversight that the MPAC can allocate in a flexible way by using short-term contracts.

13. Awards

Awards ceremonies articulate the mission and grow the key idea that high quality indigent defense is something the whole legal community is proud to support.

SECOND LEVEL COMPONENTS

1. Performance Assessments with Case Review

You get what you measure. Assessments of selected tasks, keyed to published performance standards and conducted by respected local supervising attorneys, deliver coaching, improve practice and provide the data basis for a fair process of periodic redetermination of qualification. Data collected through online billing allows the MPAC to focus performance assessment resources to maximize impact.

2. Periodic Redetermination of Qualification Based on Performance Data

Requiring periodic redetermination of qualification for eligibility for case assignments, keyed to published and measured performance standards, for all participating attorneys, produces adherence to performance standards. Including productivity as a measured criterion for renewed qualification promotes fair billing. Sharing objective performance data (gathered through online billing) by the MPAC program with the attorneys demonstrates fairness and promotes positive change.

Example: The MA requirement for attorney redetermination of qualification every 5 years, where the process shared performance and cost data with attorneys and allowed a 1-year period to correct deficiencies, in 4+ years demonstrably raised compliance with performance standards from 50% to 80% with the majority of the remaining 20% non-complying attorneys voluntarily withdrawing from the program. Billing remained consistent over that period.

Oregon Public Defense Commission

Executive Director Performance Review Plan

Susan Mandiberg, Chair, Governance Subcommittee
8-21-2024

MEMORANDUM

TO: OPDC Commission
FR: Susan Mandiberg, Chair, Governance Subcommittee
RE: Considerations for Executive Director Performance Review
DT: July 13, 2024

I. WHY AN E.D. PERFORMANCE REVIEW? WHY NOW?

Under ORS 151.213(6)(b), the voting members of the Commission currently appoint an executive director (ED) for a four-year term and have the power to terminate the appointment for cause.¹ To carry out our responsibilities in this regard, the Governance Subcommittee has been researching and developing a plan to evaluate Jessie's performance. The Subcommittee considers it essential to complete the review prior to January 1, 2025, when we transition to the executive branch of government. Conducting our first ED performance review in 2024, while OPDC is in the Judicial branch, will allow the Commission to establish a benchmark for comparison with ED performance after the move. To meet this goal, we must have a plan for the Commission to vote on as an action item at the September Commission meeting, with a release of the review survey to evaluators shortly thereafter. Best practices suggest allowing the Commission to discuss the plan at the August meeting so that amendments can be made prior to the September action item.

Through meetings on June 6 and July 18, the Subcommittee developed a draft, which Eric Deitrick and I then discussed with Laura Sanchez, OPDC's Human Resources Director. Schedules have made it impossible to meet since that conversation. As time is of the essence, as noted above, I have refined the Subcommittee's last draft to reflect Laura's input. This Memo is the result.

II. METHODOLOGY

The results of a fall, 2024 performance review are likely to be studied by those in the executive branch after the January move.² Thus, it seems prudent to conduct the review in a manner that produces results understandable by the executive branch.

The executive branch has published a guidance document for bi-annual performance reviews of directors of small, independent agencies ("Guidance," attached as Appendix A). The Guidance contains a list of categories from which evaluators must be selected, required topics to be covered in the review, and a required rating scale.

¹ "The voting members of the commission shall [a]ppoint, by a two-thirds vote, an executive director for a term of office of four ear. The term may be terminated for cause by a majority vote of the voting members after notice and a hearing."

² Beginning in January, 2025, when we transition to the executive branch, the OPDC executive director serves at the pleasure of the Governor. SB 337, Sec. 77(3) (2023).

It is important to remember that we are evaluating the ED, not the agency or Commission. This means that evaluators should be individuals who have had significant personal interaction with Jessie. At a later date, with more preparation time, the Commission can conduct a review of OPDC generally that can include input from stakeholders with no significant contact with the ED.³

The Guidance provides suggestions for contacting potential evaluators; collecting, aggregating, and summarizing the data; and sharing the results. As we are not yet in the executive branch, it will not be necessary to share results this fall with the Department of Administrative Services.

The Guidance indicates that the performance review should be distributed to evaluators by the Board Chair and Human Resources manager. We propose that Laura Sanchez, OPDC's Human Resources Director use a dedicated and confidential Survey Monkey application to distribute the questions to the indicated evaluators and evaluate the results. She and Board Chair Nash will make the results and evaluation available to the Commission at an executive session.⁴

III. EVALUATORS

The Guidance sets out four categories of required evaluators: Commission Members, Direct Reports and Executive Team Members, Parties of Interest, and Peers.

Commission Members. All Commission members need to respond.

Direct Reports and Executive Team Members

Executive Team & Direct Reports

1. Emese Pefecto, Deputy Director
2. Eric Deitrick, General Counsel
3. Ernie Lannet, Chief Defender, Criminal Appellate Section
4. Lisa Taylor, Government Relations Manager
5. Ralph Amador, Chief Financial Officer

Direct Reports

1. Mary Shannon-Storey, Chief Defender, Juvenile Appellate Section

³ The Governance Subcommittee has discussed reviews outside of the parameters set by the executive branch Guidance. Laura Sanchez, OPDC's Human Resources Director, strongly suggests that we address these issues separately from the current review of the Executive Director. Reviews the Commission may want to consider undertaking in the future include how stakeholders view OPDC generally and how volunteer commissioners view the ED's relationship with the Commission (the Governance Subcommittee has considered a list of possible questions for such a review.)

⁴ ORS 192.660(2)(a) allows the Commission to conduct an executive session to consider the employment of a public officer, employee, staff member, or individual agent.

2. Scott Martin, Chief Audit Executive

Parties of Interest & Peers

The Guidance indicates that the agency has discretion to choose the number of evaluators from the combined groups of “peers” and “parties of interest” but that the “best practice” is 12-15 evaluators in total. As noted above, to ensure that respondents evaluate the Executive Director, not OPDC in general, evaluators must have had significant personal contact with Jessie. This requirement narrows the scope of potential evaluators.⁵ Nevertheless, given the range of stakeholders and peers that OPDC deals with, we recommend contacting 20 potential evaluators

The Subcommittee recommends the following:

Parties of Interest

The Guidance defines “parties of interest” as parties that “benefit[] in some way from the relationship.” If we define “parties of interest” to include OPDC’s providers, we must choose among possible evaluators to keep the number close to the “best practices” range. In doing so we should aim for diversity in region, type of practice, and type of representation.

Lawyers in consortia

1. Karen Stenard (Lane County, juvenile)
2. Michele Bartov, (Clackamas County, criminal & juvenile)

Lawyers with law firm contracts

3. John Lamborn (Harney County, criminal & juvenile)
4. Jack Morris (Hood River & Wasco Counties, criminal & juvenile)

Lawyers in nonprofits

5. Grant Hartley (Multnomah County, criminal & juvenile)
6. Shannon Wilson (Marion County, criminal & juvenile)
7. Robert Manske, (Coos County, criminal & juvenile)

Investigators

8. James Comstock (Multnomah County)

⁵ Group meetings in Clackamas, Douglas, Klamath, Jackson, Coos, Umatilla, Deschutes, and Malheur counties have included providers, judges, trial court administrators, and elected district attorneys. However, these meetings do not reflect sustained, substantial personal interactions with Jessie; in addition, our timing and lack of staff support do not permit us to track down the names of individuals who attended.

Peers

The Guidance does not define “peers”; we suggest including other agency directors, legislators and legislative staff, executive branch staff, the Chief Justice, and judiciary staff.

The following are peers with whom Jessie is in frequent contact:

1. Lisa Sumption, E.D. Oregon State Parks (current mentor)
2. Helen Hirschbiel, E.D. Oregon State Bar
3. John Borden, OPDC’s Legislative Fiscal Officer
4. Sen. Janeen Sollman, Co-chair Ways and Means Public Safety Subcommittee
5. Rep. Jason Kropf, Co-chair Judiciary Committee
7. Constantine Severe (Governor’s public safety advisor)
8. Zach Gehringer (CFO for Department of Administrative Services)
9. Christy Monson (Oregon Department of Justice)
10. Meagan A. Flynn (Chief Justice)
11. Nancy Cozine (State Court Administrator)
12. Phillip Lemman (Deputy State Court Administrator)

IV. REQUIRED QUESTIONS AND SCORING

The Guidance has two types of questions, and they are to be asked of all evaluators.

Questions Requiring Responses Using a Scale

The Guidance sets out the following scale:

- Unacceptable
- Acceptable
- Effective
- Very effective
- No opportunity to observe
- [There is also a space for textual comments]

There is one question we should eliminate, as it pertains only to agencies already in the executive branch.⁶ The remaining required questions (using the precise language from the Guidance) are:

1. This individual promotes a customer service centered organization.
2. This individual collaboratively manages the resources they are entrusted with to achieve the best possible outcomes for Oregonians.
3. This individual embraces and leads through change.
4. This individual creates and fosters an environment where everyone has access and opportunity to thrive.

⁶ This individual aligns to the goals and direction of the Governor.

5. This individual owns and takes responsibility for quality of outcomes for Oregonians.
6. This individual operates with urgency, transparency, and accountability.
7. This individual is honest and transparent regardless of the situation.
8. This individual is consistent in communicating to their own agency what is happening at the enterprise level (executive branch).
9. This individual regularly shares what is happening within their agency.
10. This individual builds DEI organizational capacity.
11. This individual fosters and promotes an inclusive workplace environment.

Questions Requiring a Textual Answer

1. What are some leadership strengths you have observed in this individual?
2. What are some leadership opportunities for growth in this individual?
3. Additional comments or feedback.

There are certainly other topics on which the Commission might want to evaluate the ED. We are, however, trying to stay as close as possible to the executive branch Guidance, and it will be possible to cover those issues in a later survey, specific to the Commission's needs, regarding OPDC generally

OPDC FCMS Status Report August 2024

Executive Sponsor: Emese Perfecto | Senior Project Manager: Mary Knoblock | FCMS Business Owner: Ernest Lannet

Major Accomplishments

Stage Gate 2

The FCMS Stage Gate 2 Artifacts were sent to Quality Assurance by August 1st.

Stage Gate 2 – Artifacts for Portfolio Management Review (P3)

Stage Gate 2 Artifacts sent to Portfolio Management Review by August 31st.

Change Management

Moss Adams Change Management Consultants onboarded with kick-off meeting and FCMS 8/13.

RFP Legal Sufficiency Review - Completed

RFP went through 2 rounds of Legal Sufficiency review with OJD and has green light for approval.

FCMS POP – Completed

The FCMS POP for the 2023-2025 Biennium completed 8/13.

Key Upcoming Activities

Stage Gate 2 Approval

We anticipate Stage 2 artifacts to go through 1-2 edits each prior to approval. Target 9/20.

Policy Package 101 - F/CMS Financing Suggestion (Article XI-Q Bonding)

FCMS is in the process of seeking Bond Funding for the project. Target completion: 9/1.

Moss Adams Change Management Consulting Track

Moss Adams Change Management team will be engaging FCMS project stakeholders in regular meetings to review current, future state process' and change impact for FCMS. They will also be engaging with our Provider community with strategic communications. Target 9/15.

RFP Send

Depending on Stage 2 approvals from Dept. Administrative Services, we will be aiming to send the RFP out for bids and start the Procurement process. Target 9/23.

Program Health



Program health remains amber due to budget, resource, and schedule health concerns stated below.

Budget Health



Budget health remains amber until solution vendor contract is signed and implementation costs are known.

Resource Health



Resource health remains amber until open positions are filled.

Scope Health



Scope health updates to green due to RFP approval. Scope is stable and is being properly managed through the change control process.

Schedule Health

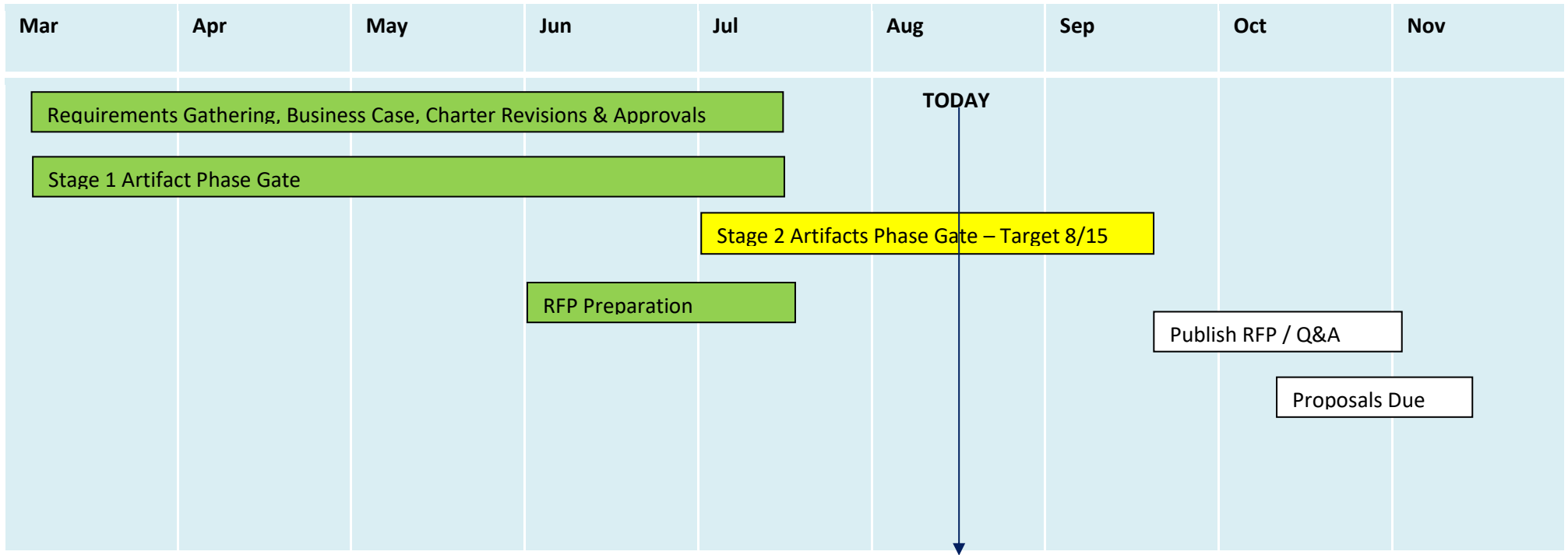


Schedule health remains amber until baseline schedule is finalized in Stage 2. Interim schedule in use.

Risk Management

The table below includes a selection of our flagged risks. Full risk log is available upon request.

| Risk Management Watchlist | | |
|---|------------------------------|--|
| Risk | Risk Owner | Top Risk Mitigation / Contingency Plan |
| <p>📧 Bond Funding OPDC may encounter delays in securing bond funding.</p> | Ralph Amador | <ul style="list-style-type: none"> Identify who will be responsible for the bond funding process Finalize bond funding alignment with DAS Capacity planning for gaps in resources to execute this work in a timely manner |
| <p>📧 EIS Stage Gate Approvals Stage Gate Approvals may not be obtained within the expected timeframe.</p> | David Martin & Mary Knoblock | <ul style="list-style-type: none"> Hire additional staff or services if PMs are over-allocated and unable to complete project documentation Meet with LFO & EIS to level set expectations Refine visual timeline to align expectations Establish a plan with new EIS resources for Stage Gate approvals and timeframes |
| <p>📧 Ineffective interagency/oversight coordination and/or misalignment The program may encounter roadblocks/delays related to coordination/alignment with EIS, LFO, and/or DAS.</p> | Mary Knoblock | <ul style="list-style-type: none"> Implement close and focused communication with DAS, EIS, DAS CHRO, LFO Provide time in the schedule and a plan for disagreements to be resolved Document decision making process and ensure stakeholder signoff Keep a log of decisions and activities for reference Build champions in external stakeholders Formally define roles of all influencing stakeholders |
| <p>📧 Cloud Readiness OPDC may not be prepared to support, or support the implementation of, a cloud-based solution.</p> | David Martin | <ul style="list-style-type: none"> Identify technical and business objectives. Assess team skillsets and identify gaps. Identify operational readiness. Identify security requirements (if different than on premises). Assess infrastructure. Develop and implement governance, process, and operational needs. Develop a cloud roadmap |
| <p>📧 Immature Organizational Change Management End users may be reluctant and/or unprepared to implement new systems, processes, and/or workflows</p> | Moss Adams | <ul style="list-style-type: none"> Communicate to all levels the purpose of OCM and how it can help Conduct assessments to understand what the feels are now around LT Create a Sponsorship plan to assist leadership with their role in OCM Create OCM strategy and Plan Begin addressing DOJ's culture of uniqueness Monitor and control communication with stakeholders |



Procurement Timeline: Updated as of August 13th, 2024

- New Procurement Schedule Approved: July 10th, 2024
- Publish RFP September 23, 2024
- Deadline for Questions, October 17, 2024
- RFP Addendum answering questions published October 23, 2024
- RFP Protest period ends October 30, 2024
- Proposals due deadline, November 14, 2024
- Evaluations complete December 3, 2024 – March 30, 2024 (updated)
- Demos held April, 2024 (TBD)
- Notice of Intent to Award published April, 2024 (TBD)
- Protest period ends April, 2024 (TBD)