

Members:

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



Nonvoting Members:

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

Executive Director:

Jessica Kampfe

Oregon Public Defense Commission

Meeting will occur virtually.
Wednesday, January 15, 2025
9:00 AM – approx. 1:00 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 and Introduction to Commissioner Lipscomb	Chair Nash
9:05-9:20	Public Comment	
9:20-9:30	Update: Unrepresented Persons in Oregon Courts	Jessica Kampfe Harry Noone
9:30-10:00	Update: Budget	Ralph Amador
10:00-10:25	Action Item: Approve OPDC Audit Committee Policies: <ul style="list-style-type: none"> Internal Audit Risk Assessment Policy Internal Audit Report Distribution Policy 	Scott Martin
10:25-10:40	Action Item: Interim Hourly Attorney Policy	Shannon Flowers
10:40-10:55	Action Item: Contract Funding for Supervised Practice Portfolio Examination Provisional Licensees Policy	Shannon Flowers
10:55-11:05	**Break**	

11:05-11:35	Briefing: <ul style="list-style-type: none"> • Draft Core Staff Role Definitions, Qualification Standards and Performance Standards • Development Process for Attorney Qualification Standards 	Shannon Flowers
11:35-11:50	Update: Legislative	Anna Braun
11:50-12:00	Update: Financial Case Management System	David Martin
12:00-12:15	Briefing: Local Court Spotlight: Marion County	Presiding Judge Tracy Prall
12:15-12:25	Update: Director’s Update	Jessica Kampfe
1:00 (Approximately)	***Adjourn***	

**To join the Zoom meeting, click this link <https://zoom.us/j/93936058231>. 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 info@opdc.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. There is a limited amount of time to provide public comment during the meeting, with each commentator allowed up to three minutes of time. However, the time limit per person for public comment may be limited by the chair if time constraints require. If you are interested in providing virtual public comment to the OPDC, please submit your request no later than 5:00 PM PT January 13, 2025 using our [online form](#). Please include your full name, organization/entity name, email, and phone number with your request.*

The commission also welcomes written public comment. If you wish to provide written public comment, please submit your comment using our [online form](#). Please include your full name, organization/entity name, email, and phone number on your submission. Written comment regarding action items shall be submitted no later than two (2) business days prior to the meeting. All written comment received by the close of business two (2) business days in advance of the meeting will be provided to Voting and Non-voting Members and posted to the public on the OPDC website prior to the meeting. If you would like to provide attachments to accompany your written comment, please email them to info@opdc.state.or.us. Please include your name and a reference to your written comment in your email.

Written comment on agenda topics can be submitted up to two business days after the meeting. Any written comment that is received after meeting and within two business days from the posted meeting time will be provided to Voting and Non-voting Members, posted to the public on the OPDC website as soon as practicable, and will be included in the material for the subsequent OPDC regular meeting. To submit written public comment after the meeting, please email info@opdc.state.or.us. Please include your full name, organization/entity name, email, and phone number with your written comment.

Next meeting: February 19, 2025, 9am – 1pm via Zoom.

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



Oregon Judicial Department

Unrepresented Crisis – December 2024

Key Insights

[Unrepresented Trends](#)

The total number of unrepresented persons and unrepresented cases continues to increase, reaching a new high on December 1, 2024, with 4,071 unrepresented persons and 4,478 unrepresented cases ([Figure 1](#) and [Figure 2](#)). Daily updates are available on the [Unrepresented Dashboard](#) on the OJD website.

[Unrepresented – Out-of-Custody](#)

The average number of days an out-of-custody felony case is unrepresented has increased throughout 2024 to an average of 128 days in November 2024 ([Figure 4](#)). The average number of days an out-of-custody misdemeanor case is unrepresented has remained stable at an average of 86 days each month since May 2024.

[Unrepresented – In-Custody](#)

The average number of days a person who is in custody and is unrepresented on any case has increased to 27 days ([Figure 5](#)). That number has almost doubled in the last four months. A person might be represented in their in-custody case and unrepresented in a different case, or a variety of other circumstances. In addition, the unrepresented case might not be subject to the federal court ruling in *Betschart* and therefore not be prioritized by OPDC for appointment of counsel.

[Criminal Case Filings](#)

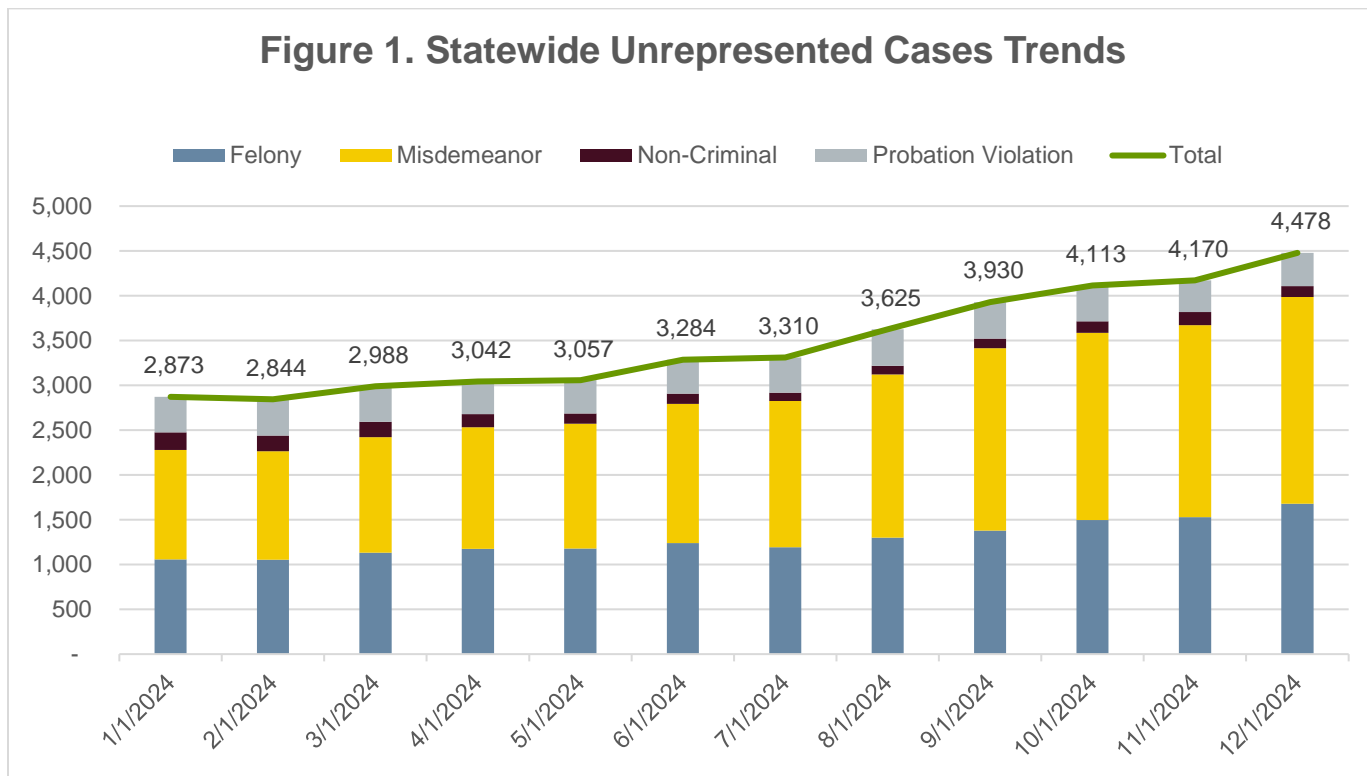
Monthly criminal case filings peaked in October 2024 at 6,097 filings and decreased in November 2024 to 5,399 filings ([Figure 6](#)). Criminal case filings in 2024 are almost 9 percent above 2023 levels and are approximately the same as 2020 filings.

[Unrepresented by County](#)

Multnomah, Marion, Jackson, Washington, Douglas, and Coos counties continue to have the highest number of unrepresented persons in the state ([Figure 7](#)). Multnomah County had 995 unrepresented individuals on December 15, 2024.

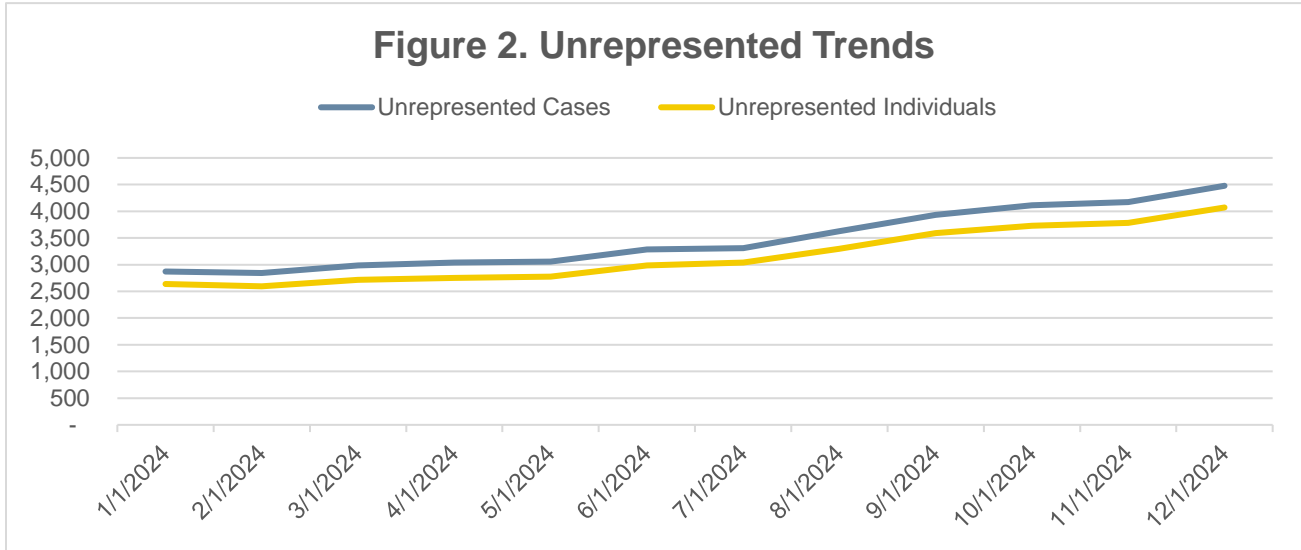
Unrepresented Trends

Figure 1 shows the number of unrepresented cases by case type. The number of unrepresented cases continues to increase, reaching another new record high on December 1, 2024, of 4,478 cases. The number of unrepresented felony, misdemeanor, and probation violation cases increased in the past month, and the number unrepresented non-criminal cases decreased.



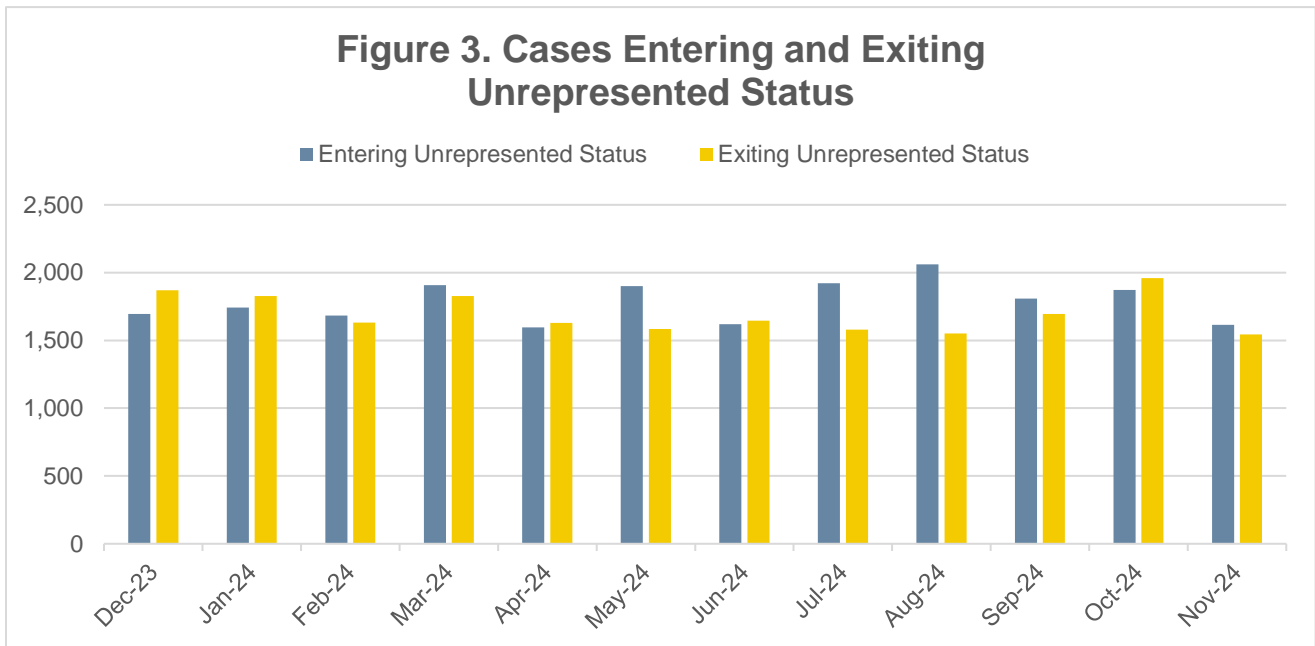
Source: OJD Odyssey Data (eCourt).

Figure 2 shows the number of unrepresented cases and unrepresented individuals. On December 1, 2024, the number of unrepresented persons in Oregon was 4,071, which also is a new record high.



Source: OJD Odyssey Data (eCourt).

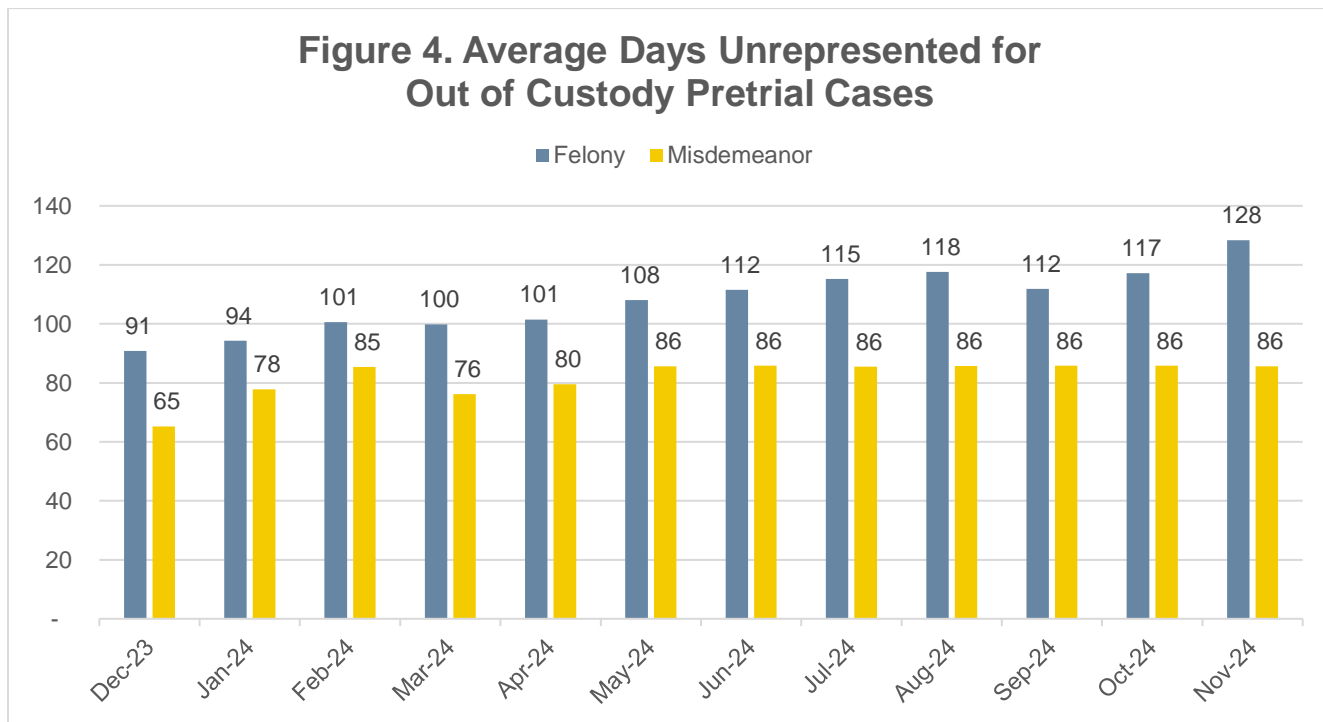
Figure 3 shows the number of cases entering and exiting the unrepresented list each month. The number of cases entering the unrepresented list in November 2024 decreased from the previous month, as did the number of cases exiting the list. The overall number of unrepresented cases increased because the number entering the list was larger than the number exiting the list.



Source: OJD Odyssey Data (eCourt).

Unrepresented – Out-of-Custody

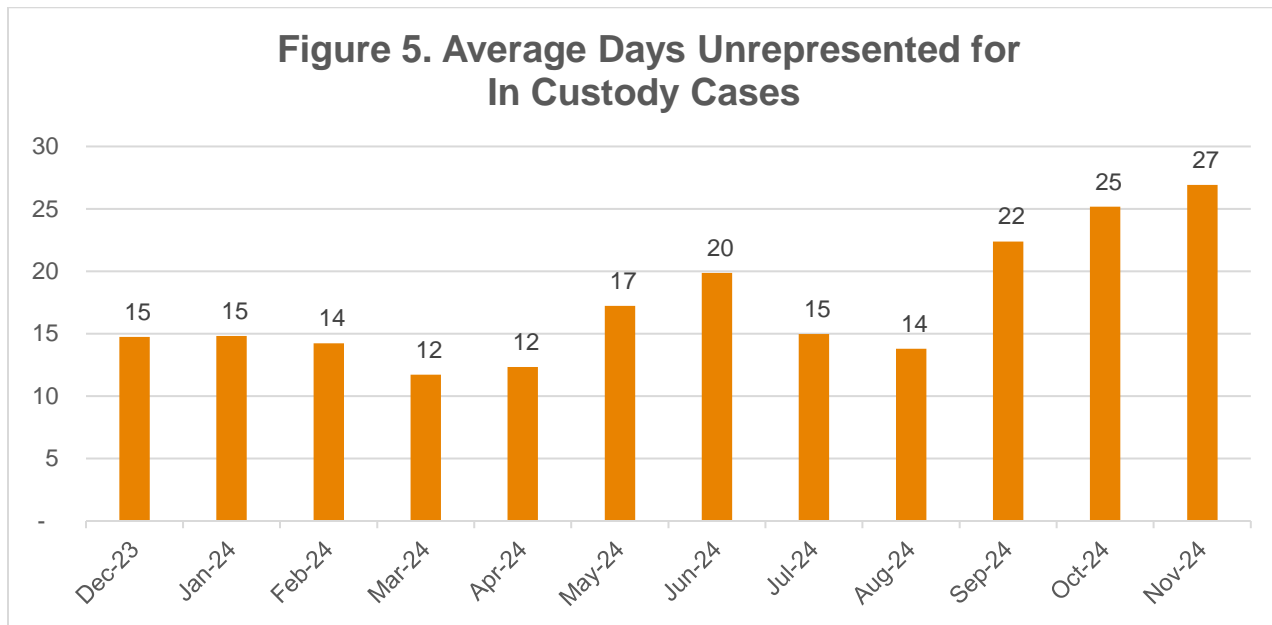
Figure 4 shows trends in the average days an out-of-custody felony or misdemeanor case is unrepresented by month. Since December 2023, the average number of days a felony case is unrepresented has increased from 91 days to 128 days. Misdemeanor cases on average have remained on the unrepresented list for 86 days each month since May 2024.



Source: OJD Odyssey Data (eCourt).

Unrepresented – In-Custody

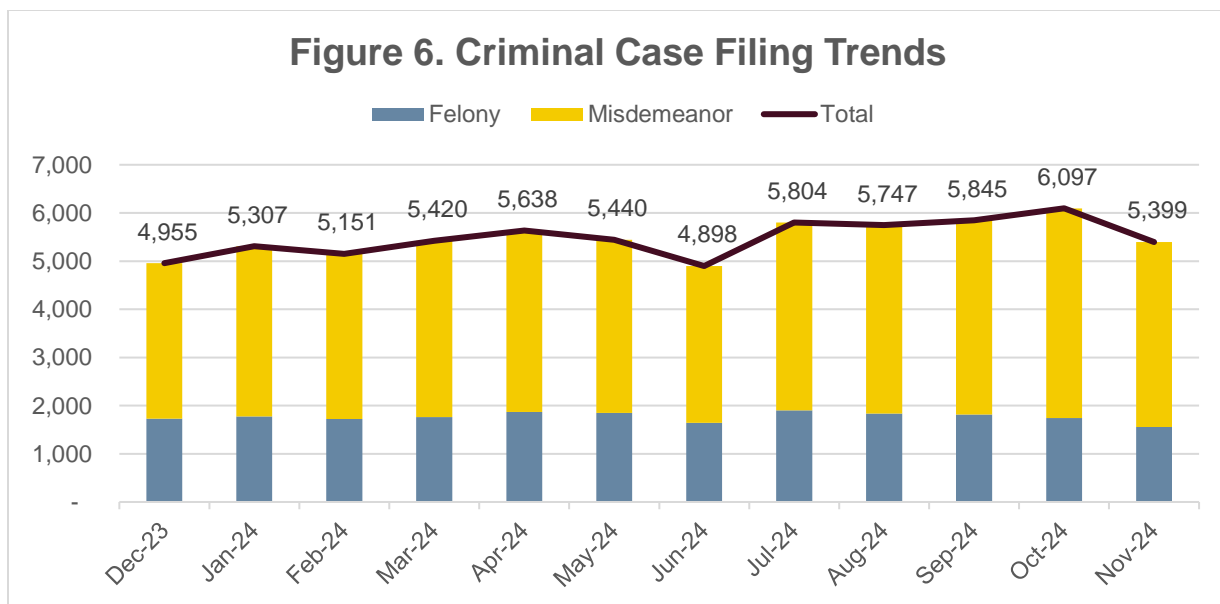
Figure 5 shows trends in the average number of days a person is both in custody and is unrepresented in any case. This chart primarily consists of people who are in custody and are unrepresented either on that in-custody case, another in-custody case, or an out-of-custody case. Because of the variety of circumstances in which being represented and unrepresented in different cases can occur while a person is in custody, this creates complexity in ensuring a person has appointed counsel on all their pending cases. If a person is being held in custody for reasons other than the unrepresented case, they may not be prioritized for appointment of counsel by OPDC because they will remain in custody for other reasons.



Source: OJD Odyssey Data (eCourt).

Criminal Case Filings

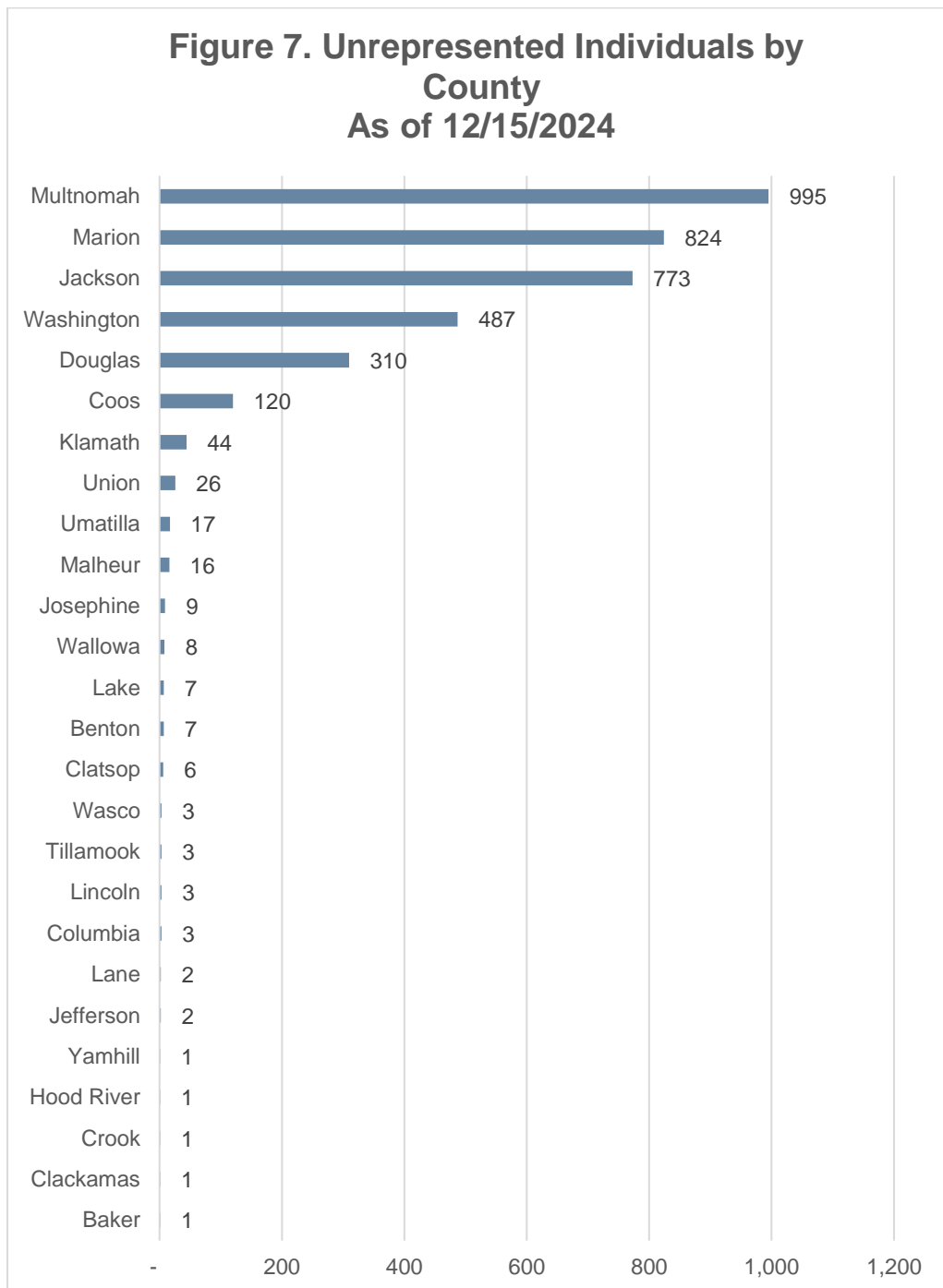
Figure 6 shows the criminal case filing trends since December 2023. Criminal case filings decreased in November 2024 to a total of 5,399 filings. Criminal case filings for 2024 are almost 9 percent higher than in 2023, but the same approximate level as 2020 filings. The number of case filings does not directly correlate to the number of unrepresented cases but filing trends do help predict the number of attorneys needed.



Source: OJD Odyssey Data (eCourt).

Unrepresented by County

Figure 7 shows the number of unrepresented persons by county as of December 15, 2024. Multnomah, Marion, Jackson, Washington, Douglas, and Coos counties continue to have the highest number of unrepresented persons in the state. Multnomah County’s unrepresented list increased by 105 individuals since November 15, 2024, to a total of 995 unrepresented individuals on December 15, 2024.



Source: OJD Odyssey Data (eCourt).



Date: January 15, 2025

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

Cc: Jessica Kampfe, Executive Director

From: Scott Martin, Chief Audit Executive

Re: Internal Audit Risk Assessment Policy (404.100.05)

Nature of Presentation: Action Item

Background: ORS 184.360(4) requires agencies of the executive branch, who meet the criteria for inclusion of an internal audit function, to produce a risk assessment of the entire agency. The risk assessment must conform to the standards of the United States Government Accountability Office or the Institute of Internal Auditors. Completed risk assessments are used as the basis for the selection and performance of at least one internal audit per calendar year. This policy provides a comprehensive reference of the statutes and rules to be applied when completing the agency’s risk assessment to include roles, responsibilities, inputs, and reporting requirements.

Agency Recommendation: As the agency matures and has greater expectations placed upon it, the need for timely identification, prioritization and control of risks becomes of paramount importance. This policy outlines the collection of relevant stakeholder inputs, frequency and reporting for the timely identification and evaluation of risks in support of the agency’s mission.

Fiscal Impact: None

Agency Proposed Motion: Agency recommends adoption of this Internal Audit Policy.

Policy Name: Risk Assessment Policy	Number: 404.100.05
Division: OPDC	Effective Date:
Responsible Section: Internal Audit	
Approved by:	

1. PURPOSE: This document defines the authority and applicability of OPDC’s annual agency-wide Risk Assessment (RA).

2. AUTHORITY: ORS 184.360(4), ORS 297.250(1), OAR 166-300-0025(9), OAR 125-700-0140(1) and (4), OAR 125-700-0150(2), the Internal Audit and Audit Committee Charters and applicable Institute of Internal Audit (IIA) Standards.

3. APPLICABILITY: This policy applies only to the Internal Audit function and is informative to outside parties.

4. DEFINITIONS FOR PURPOSES OF THIS POLICY: ORS 184.360, OAR 125-700-0015 and 2024 IIA Standards (Generally).

5. POLICY: An agency-wide RA is performed biannually (once every two years) by the Internal Audit function, with updates completed annually or more frequently as appropriate¹ to plan audit and engagement related work. Internal Audit RAs do not replace agency management’s responsibility for overall risk management².

When performing the RA, the CAE will seek to include broad and diverse stakeholder perspectives, consistent with state laws³ and IIA standards⁴ to identify risks for inclusion in the required Audit Plan⁵.

Upon completion the RA will be provided to the Office of the Secretary of State⁶.

¹ See IIA Standard 9.4

² The IIA defines Risk Management as “A process to identify, assess, manage, and control potential events or situations to provide reasonable assurance regarding the achievement of the organization’s objectives.”

³ See OAR 125-700-0150(2)

⁴ See IIA Standards 9.1, 9.4, and 11.3.

⁵ See OAR 125-700-0140(1)

⁶ Per ORS 297.250(1), and OAR 125-700-0140(4)



Date: January 15, 2025

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

Cc: Jessica Kampfe, Executive Director

From: Scott Martin, Chief Audit Executive

Re: Internal Audit Report Distribution Policy (404.100.04)

Nature of Presentation: Action Item

Background: ORS 192.345 (37) exempts from public disclosure audit documents and related information of a public body while in the custody of the auditor, and when following nationally recognized government auditing standards, until a final audit report is issued, or the audit is abandoned. Exceptions to this exemption are issued on a case-by-case basis by the applicable legal authority only after evaluating the requestor’s need for disclosure and impact to public interest.

This policy outlines the collaborative vetting and protections afforded Internal Audit report drafts and related content prior to final report issuance and distribution.

Agency Recommendation: As the agency’s internal auditing function engages with staff to complete planned audits, shared collaboration and trust is key to ensuring the condition under audit is correctly represented. In recognizing that collaboration is a byproduct of trust, affirming existing protections for the confidential sharing of information to form an objective assessment of a condition is of utmost importance.

This policy seeks to provide transparency in the audit reporting process and the stakeholders it informs to build trust and collaboration within the agency.

Fiscal Impact: None

Agency Proposed Motion: Agency recommends adoption of this Internal Audit Policy.



Policy Name: Internal Audit Report Distribution	Number: 404.100.04
Division: OPDC	Effective Date:
Responsible Section: Internal Audit	
Approved by:	Approval Date:

PURPOSE: This policy outlines the protection(s) afforded to Audit work (both internal and external) prior to completion as well as related communication engagements with OPDC Management and the Commission.

AUTHORITY: ORS 297.250(1), ORS 192.345(37), ORS 192.355(1), ORS 184.360(4), OAR 166-300-0025(9), OAR 125-700-0140(4), OAR 125-700-0135(7), the Internal Audit and Audit Committee Charters and applicable Institute of Internal Audit (IIA) standards.

APPLICABILITY: This policy applies to all OPDC audit reports originating from OPDC Internal Audit or under contract between OPDC and an External Auditor.

DEFINITIONS FOR PURPOSES OF THIS POLICY: See OAR 125-700-0015.

POLICY: This policy is in response to the need for added clarity regarding the protections afforded audit work prior to completion and related communication engagements with OPDC Management and the Commission.

Protection of Preliminary Audit Information: While completing an OPDC approved audit (internal or external), any audit specific information gathered by auditors is protected from public disclosure under ORS 192.345(37) and ORS 192.355(1).

Any audit-related discussions between auditors and involved staff are not to be discussed more broadly until the audit report is completed to avoid misunderstandings and false conclusions.

Management and Commission Engagement: Upon conclusion of an initial audit report draft, the auditor will provide the most senior-level manager of the function being audited with an electronic copy of the initial draft report to reaffirm the auditor’s evaluative methodology, scope completion, and interpretation of results.

After completing any needed edits or remaining work, the auditor will complete a final draft of the audit report and schedule an exit conference with applicable staff involved in the audit.

After the exit conference has concluded, the Auditor will provide the OPDC Director with the final draft of the audit report to which a formal response is required. Affirmed findings require a corrective action plan with timeline and ownership. Rejected findings require an explanation along with a statement of risk acceptance (as applicable).

Upon inclusion of the OPDC Director’s response to each audit finding (either in the body of the report or as a separate attachment) the final draft audit report becomes a completed audit report, and an electronic copy is sent to the following stakeholders:

- 1) OPDC Director
- 2) OPDC Deputy Director
- 3) OPDC Executive Team
- 4) The Audit Coordinator (Point of Contact).
- 5) Chair of the Commission
- 6) All Audit Committee members
- 7) Secretary of State Audits Division¹

Further, the CAE uploads a summary of each audit report directly to the Commission’s Sharepoint site² and notifies Commission members (via e-mail) of the update and availability of the full report upon request.

Audit Report Retention: Per OAR 166-300-0025(9) audit reports completed by internal auditors and submitted to the Office of the Secretary of State.

¹ Per ORS 297.250(1)

²

<https://oropdefense.sharepoint.com/sites/PDSC/Shared%20Documents/Forms/AllItems.aspx?viewid=66f91707%2D9503%2D4a02%2D9d36%2D6433093c7965>



Date: January 15, 2025

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

Cc: Jessica Kampfe, Executive Director

From: Shannon Flowers, Trial Support & Development Manager

Re: Interim Hourly Attorney Policy

Nature of Presentation: Action Item

Background:

Historically, attorneys billing at an hourly rate provided representation in a small percentage of public defense cases, primarily when contract attorneys had conflicts of interest. Over the previous three years, OPDC has seen an increase in the number of attorneys providing public defense representation at an hourly rate. That growth is due at least in part to the increased hourly rates available under the Temporary Hourly Increase Policy (THIP). However, hourly attorneys frequently accept appointments to clients and cases beyond those eligible for THIP rates and, thus, covered by the policy.

Under THIP, attorneys must have attorney qualifications approved by OPDC within the previous two years and have entered an agreement with OPDC to provide legal representation to eligible clients. The proposed Interim Hourly Attorney policy would extend these requirements to all public defense representation provided at an hourly rate, modifying the frequency at which attorney qualifications must be submitted to and approved by OPDC from two years to three years. This will help ensure that OPDC is able to identify all attorneys providing public defense representation and that all hourly attorneys satisfy minimal requirements to provide that representation. This is an important, interim step as OPDC moves toward an assigned counsel model in which OPDC staff manage case assignments, which will

enable OPDC to not only identify the attorneys providing public defense representation but also all cases in which that representation is provided.

Agency Recommendation:

Approve Interim Hourly Attorney policy.

Fiscal Impact:

None.

Agency Proposed Motion:

Agency recommends the commission approve the Interim Hourly Attorney policy.



Policy Name: Interim Hourly Attorney	Number: 404.
Division: Compliance, Audit & Performance	Effective Date:
Responsible Section: Trial Support & Development	
Approved by:	Approval Date:

PURPOSE: Establish criteria for appointed counsel to be compensated for their legal representation by OPDC at an hourly rate.

AUTHORITY: ORS 151.216 and 151.219

APPLICABILITY: This policy applies to all appointed counsel.

DEFINITIONS FOR PURPOSES OF THIS POLICY:

Appointed Counsel: An attorney who is appointed or assigned to represent a client at state expense and who may work under a public defense services contract or be compensated at an hourly rate.

POLICY: To be compensated by OPDC at an hourly rate, all appointed counsel must satisfy the following criteria:

1. Within the previous three years, OPDC has approved appointed counsel’s qualifications to provide representation to individuals who are financially-eligible for counsel at state expense; and
2. Appointed counsel, or a law firm that employs appointed counsel, enters an agreement, as provided by OPDC, for counsel to provide legal representation to eligible clients. If appointed counsel does not have an effective hourly agreement with OPDC, they must submit one before being compensated.

Appointed counsel will only be compensated for work on case types for which OPDC has certified their qualifications. If counsel is appointed to a case for which OPDC has not certified their qualifications, they must contact OPDC immediately to determine whether their qualifications can be certified or if they must move to withdraw from the representation.



**Oregon
Public
Defense
Commission**

Date: January 15, 2025

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

Cc: Jessica Kampfe, Executive Director

From: Shannon Flowers, Trial Support & Development Manager

Re: January 2025 Recommended Changes to the OPDC Contract
Funding for SPPE Provisional Licensees Policy

Nature of Presentation: Action Item

Background:

In May 2024, the Oregon State Bar (OSB) implemented the Supervised Portfolio Practice Examination (SPPE) program as an alternative to the traditional bar exam to obtain a license to practice law. At its June 2024 meeting, this commission approved the OPDC Contract Funding for SPPE Provisional Licensees policy. This policy allows contractors to fill a 1.0 FTE attorney vacancy under their contracts with a provisional licensee. The 1.0 FTE and vacancy-filling limitations were included to help ensure that OPDC funding for provisional licensees was provided only for public defense work.

As of January 6, 2025, OPDC has added eight SPPE provisional licensees to public defense services contracts and is in the process of adding two more. OPDC has received requests from contractors to add SPPE provisional licensees at less than 1.0 FTE and to add capacity in a jurisdiction rather than filling a vacancy. OPDC has also received feedback from contractors that these limitations significantly hinder their ability to utilize SPPE provisional licensees to address attorney capacity issues in their jurisdictions.

The new proposed policy removes these limitations and requires the supervising attorney to provide an attestation that the provisional licensee engaged in public

**Contract Funding for SPPE Provisional Licensees policy –
Commission Memorandum – January 15, 2025**

defense representation proportionate to the FTE for which OPDC has provided funding under the contract. The following sections of the policy have been changed:

- Header – Division and Responsible Section changed to reflect internal agency restructuring.
- Definitions and throughout – Corrected the name of the SPPE program.
- Policy Section – Deleted the restriction allowing SPPE attorneys to fill only 1.0 FTE vacancies and added language allowing SPPE attorneys to fill less than 1.0 vacancies and add additional attorney capacity subject to OPDC approval.
- Reporting Requirements – Added a requirement that the supervising attorney affirm that the SPPE provisional licensee provided representation in public defense cases proportionate to their contract FTE.

Agency Recommendation:

Approve Contract Funding for SPPE Provisional Licensees policy changes.

Fiscal Impact:

None.

Agency Proposed Motion:

Agency recommends the commission approve the changes listed above for the Contract Funding for SPPE Provisional Licensees policy effective February 1, 2025, which will supersede any prior memo or policy.



Policy Name: Contract Funding for SPPE Provisional Licensees	Number: 404.070.007
Division: [Administrative Services] Compliance, Audit & Performance	Effective Date: [7/1/2024]
Responsible Section: Trial [Division] Support & Development	
Approved by: Oregon Public Defense Commission	Approval Date: [6/13/2024]

PURPOSE: Establishes criteria for ~~[filling an attorney vacancy in a public defense services contract with]~~ **adding** a Provisional Licensee under the Oregon State Bar’s Supervised Practice Portfolio Examination program **to a contract**.

AUTHORITY: ORS 151.216 and 151.219

APPLICABILITY: This policy applies to Contracts for Public Defense Services.

DEFINITIONS FOR PURPOSES OF THIS POLICY:

Supervised [Provisional] Practice Portfolio Examination (SPPE): Alternative exam for Oregon State Bar admission allowing law school graduates to work in supervised apprenticeship settings and submit a portfolio of work to be examined by the Oregon Board of Bar Examiners instead of taking the traditional Oregon Bar Exam.

Provisional License: The limited license to practice law in Oregon conferred under the SPPE Program after the Oregon State Bar’s application process involving employer, supervising attorney, and applicant that includes graduation from an accredited law school and a review of the applicant’s character and fitness to practice law.

Provisional Licensee: An individual practicing law within the SPPE Program to gain admission to the Oregon State Bar.

SPPE Supervising Attorney: An active member of the Oregon State Bar who has committed to supervising a Provisional Licensee under SPPE Rules 2.4-2.5; or an active member of the Oregon State Bar to whom the Supervising Attorney has delegated responsibility under SPPE Rule 5.4.

Full Time Equivalent (FTE) Attorney: A FTE Attorney is an attorney under contract with the Oregon Public Defense Commission (OPDC) to provide representational services.

Attorney Vacancy: When an attorney discontinues providing representational services under a contract with the PDSC for Public Defense Services under OPDC Vacancy Funding Policy 404-070-003.

Interim Portfolio: Compilation of the Provisional Licensee's work submitted to the Oregon Board of Bar Examiners after completing 350 hours of SPPE Program work.

Final Portfolio: Final submission by the Provisional Licensee containing proof of completion of all SPPE Program requirements.

POLICY: Contractors may **fill a 1.0 FTE attorney vacancy with** **add** a Provisional Licensee under the Supervised **Provisional** Practice **Portfolio** Exam (SPPE) program **to their contract** for up to one year, subject to the following:

- Provisional Licensee must submit preliminary OPDC Certificate of Attorney Qualification and Supplemental Questions form (Attorney Qualification form), along with Provisional License number and proof of Certificate of Eligibility to OPDS.Atty.Qualifications@opdc.state.or.us and receive confirmation that OPDC has approved the Attorney Qualifications before the Provisional Licensee will be added to a contract.
- Provisional Licensees and SPPE Supervising Attorneys must adhere to all Oregon State Bar rules and requirements of the Oregon Supervised Practice Portfolio Examination.
- OPDC will provide contract funding for Provisional Licensees at the annual Provisional Licensee contract rate.
- **A Provisional Licensee may fill a vacancy or add attorney capacity to a contract as approved by OPDC.**
- **A Provisional Licensee may provide public defense representation under a contract at less than 1.0 FTE.**

Provisional Licensee Minimum Qualifications

Provisional Licensees funded under this policy must meet the following minimum qualifications:

- Granted a Certificate of Eligibility by the OSB Board of Examiners
- SPPE Supervising Attorney must be qualified by OPDC at the following minimum levels and have been practicing that area of law for at least 3 years immediately preceding, corresponding with Provisional Licensee's practice area:
 - Criminal: Major Felony
 - Delinquency: Juvenile Major Felony
 - Dependency: Termination of Parental Rights

Provisional Licensee Attorney Qualification Certification

So long as a Supervising Attorney who meets the above minimum qualifications is supervising Provisional Licensee, OPDC will generally certify a Provisional Licensee's attorney qualifications "with supervision."

A Provisional Licensee may not appear in court on behalf of a client without a SPPE Supervising Attorney present *regardless of client consent* until they are certified by OPDC for the case type through the Attorney Qualification process.

The Provisional Licensee should submit an updated Attorney Qualification once the Provisional Licensee is admitted to the Oregon State Bar and before accepting appointment for any case type for which OPDC has not previously confirmed their qualifications.

Limitations on Client Representation

Provisional Licensees may only appear on behalf of a client with the client's informed, written consent as well as approval by the SPPE Supervising Attorney and the Court. Client consent must be filed with the Court as a part of the case record.

Provisional Licensees may not appear on behalf of a client without a SPPE Supervising Attorney in the following circumstances:

- Civil commitment proceedings;
- Any case where the client may be subject to a felony conviction;
- Any delinquency matter in which a juvenile is alleged to have committed acts which, if committed by an adult, would constitute a felony; and
- Any case type for which OPDC has not confirmed their qualifications.

Timeline to Complete

Unless given extension by OPDC, a Provisional Licensee funded under this policy must:

- Submit proof to OPDC that they have received a "qualified" score on their Interim Portfolio within 6 months.
- Be admitted to the Oregon State Bar within 1 year.

It is the Provisional Licensee's responsibility to ensure timely Portfolio submissions to meet these deadlines. Documentation should be submitted to OPDC at OPDS.Atty.Qualifications@opdc.state.or.us.

Reporting Requirements

- Provisional Licensees and/or Supervising Attorney must report open and appointed cases for Provisional Licensees pursuant to OPDC policy.
- Both Provisional Licensee and Supervising Attorney shall complete and submit to OPDC a summary of hours, training and work under SPPE, and clients served at two points: (1) submission of "qualified" Interim Portfolio score, and (2) at the conclusion of the year or SPPE term (whichever is sooner). OPDC will develop format and content requirements for this submission.

- **At the time of submission of the Interim Portfolio and the Final Portfolio, the Supervising Attorney shall submit an affidavit or declaration to OPDC attesting that the Provisional Licensee provided representation in public defense cases for an amount of time proportionate to the Provisional Licensee's FTE under the contract.**

Approved by: Oregon Public Defense Commission

Prepared by: **Trial Support & Development** ~~Division~~

Reviewed by: Executive Team

Publish: Externally and Internally



**Oregon
Public
Defense
Commission**

Date: January 15, 2025

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

Cc: Jessica Kampfe, Executive Director

From: Shannon Flowers, Trial Support & Development Manager

Re: Draft Core Staff Role Definitions, Qualification Standards, and Performance Standards

Nature of Presentation: Briefing

Background:

Defining roles and adopting qualification and performance standards for core public defense staff aligns with OPDC’s vision to be a guardian of the legal rights and interests of public defense clients and champion for effective public defense services. It is also foundational to our goals of providing oversight and ending the public defense crisis by recruiting and retaining, diverse, and dedicated public defenders and non-attorney case support personnel to ensure that every client receives effective and compassionate legal representation.

In 2022, the American Bar Association and Moss Adams concluded that Oregon’s public defense caseloads were too high, preventing attorneys from consistently providing constitutionally competent and effective legal representation for all public defense clients. In 2023, OPDC partnered with Moss Adams 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* (Oct 2024). Critical to that plan is shifting a portion of the work needed in many public defense cases away from the attorneys providing legal representation to other core roles that are qualified to perform that work. This shift would help reduce excessive workloads for public defenders,

**Core Staff Role Definitions, Qualification Standards, and Performance Standards
– Commission Memorandum – January 15, 2025**

allowing attorneys to more effectively focus their time and work on those tasks that only attorneys can perform and provide representation in a greater number of cases than they would be able to without such support.

In spring 2024, OPDC convened workgroups comprised of public defense stakeholders to assist in defining these core, non-attorney roles and developing qualification and performance standards for serving in them. These workgroups focused on developing standards that would apply to these staff roles regardless of whether the role is funded under a contract, funded through OPDC's Pre-Authorized Expenses program, or is performed by an OPDC staff member. The qualification standards were developed with the intent of ensuring that all public defense providers have sufficient training, skill, and experience to perform the work of the role in which they serve, irrespective of how these roles, or different levels for a type of role, may be compensated. The performance standards, in turn, are intended to set minimum performance expectations for these roles and support OPDC's ongoing efforts to improve its oversight capacity. This stakeholder-engaged process yielded draft definitions, qualification standards, and performance standards for the following core staff roles:

- Office support staff,
- Legal assistants,
- Paralegals,
- Fact investigators,
- Mitigation specialists,
- Case managers,
- Interpreters,
- Information technology staff,
- Provisional licensees, and
- Certified law students.

The development of these draft standards is part of a larger body of work related to implementing OPDC's Six Year Plan and the legislative directives provided in Senate Bill 337 (2023). That work includes developing new qualification and performance standards for attorneys providing public defense representation, which is already underway, as well as standards for trainings needed to support attorneys and core staff in meeting these standards. Fully implementing these changes will take several years and require a thoughtful transition plan to ensure that existing public defense providers are given the time and resources to meet these new standards. Additional funding will also be needed to implement oversight and training programs to support compliance with these standards, including additional OPDC staff positions anticipated to be needed for these programs.

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Agency Recommendation: The agency recommends the commission accept the briefing, with the understanding that the agency will bring the Core Staff Role Definitions, Qualification Standards, and Performance Standards back before the commission for potential adoption at its February 2025 meeting.

Fiscal Impact: To be determined once a full implementation and transition plan has been developed. Full implementation of these standards will likely require investments in OPDC infrastructure and staff, reducing barriers to training for core staff, as well as tiered compensation for core staff. These investments are not part of the agency's request budget for 2025-27 and would need to be planned for in future legislative sessions.

Agency Proposed Motion:

None.



Core Staff
Role Definitions,
Qualification Standards
and
Performance Standards
(DRAFT)

January 2025

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Performance Standards for All Core Staff Roles

Standard 1.1: Unauthorized Practice of Law

No one in a Core Staff role may engage in, encourage, or contribute to the unauthorized practice of law.

Standard 1.2: Functions Exclusive to Attorneys, Provisional Licensees, and Certified Law Students

No person engaged in a Core Staff Role other than an appropriately supervised Provisional Licensee or Certified Law Student shall:

- Establish an attorney-client relationship, except that legal and administrative support staff may communicate to an appointing court as directed by their supervising attorney that the supervising attorney is accepting appointment to a case;
- Provide legal opinions or advice; or
- Represent a client before the court.

Standard 1.3: Client Relationships

Core Staff should support and strengthen the relationship between the attorney and the client and, when appropriate, help the attorney to build trust with the client and manage cultural competence issues and difficult clients. When authorized by the attorney and the client, Core Staff may also help maintain a client's relationships with family by providing updates on the case.

Standard 1.4: Client Confidences

Consistent with the ethical and legal responsibilities of the attorneys with whom they are working, all persons engaged in a Core Staff role must protect information relating to representation of a client and information relating to the prospective representation of an applicant for public defense services. Before disclosing any protected information, the Core Staff member shall communicate with the attorney to determine whether disclosure is authorized.

In particular, there may be tension between the obligations of an individual in a Core Staff role as an agent of an attorney and their obligations to report child or elder abuse under ORS 419B.010. Individuals with such mandatory reporting obligations must disclose those obligations to any attorney with whom they intend to work prior

to joining the defense team. Should an individual working in a Core Staff role determine that they have an obligation to make a report of child or elder abuse, they shall also promptly communicate the information to the attorney.

Standard 1.5: Conflicts of Interest

Each person engaged in a Core Staff role has a duty to disclose to the Attorney with whom they are working on a case the existence of a perceived or actual conflict of interest. A conflict of interest may exist when:

- a person in a Core Staff role participates in the legal representation of an individual whose interests are adverse to a current or former client; or
- when a person in a Core Staff role has personal interests or responsibilities to another client, former client, or third party that would materially limit the person's ability to provide services to a client.

Standard 1.6: Compensation

Individuals engaged in a Core Staff role must not accept additional compensation through money or gifts with a value in excess of \$50 aside from their regular compensation or fees they are paid by the Oregon Public Defense Commission for the services they render.

Legal and Administrative Support

Role Definitions

Office Support Staff

Office Support Staff are administrative personnel within a law office who do not meet the qualification standards for either Legal Assistant or Paralegal. Office Support Staff may cover several discrete roles within a firm supporting an attorney who provides public defense services. Some roles may be entry level and others may require specialized knowledge and experience that are not governed by these Standards. Tasks that may be performed by Office Support Staff include:

- Routine discovery communication, intake, logging, and filing
- Routine client communication, such as assisting with client intake and hearing reminders
- Calendar management for attorneys and other office staff
- Reception

This is not intended as an exhaustive list, however, tasks explicitly associated with the Legal Assistant and/or Paralegal roles under these standards should not be performed by Office Support Staff without those qualifications.

Legal Assistant

Legal Assistants carry a combined administrative and legal support role within a law office, and they frequently interface more directly with clients, system partners, and courts. Legal Assistants have obtained experience by working in the legal field and may leverage that experience to assist attorneys with the following tasks in addition to administrative tasks associated with Office Support Staff:

- Operate as a point of contact with clients, system partners, the court, and opposing counsel on routine matters not requiring legal research or discretion, or as directed by the attorney
- Draft routine legal documents requiring minimal legal analysis for attorney approval
- Format, edit, and file documents with the court, subject to attorney approval
- Prepare preauthorized expense (PAE) requests, subpoenas, and exhibits, as directed by an attorney
- Assemble trial notebooks

Paralegal

A Paralegal is a person qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, government agency, or other entity to perform delegated substantive legal work for which a lawyer is responsible.

Paralegals leverage their substantial experience and training to assist attorneys with a wider range of tasks that are likely to require them to exercise professional judgment and research. In addition to the tasks associated with Office Support Staff and Legal Assistants, Paralegals may:

- Conduct client interviews and maintain general contact with the client after the establishment of the attorney-client relationship, so long as the client is aware of the status and function of the Paralegal, and the client contact is under the supervision of the attorney
- Locate and interview witnesses, so long as the witnesses are aware of the status and function of the Paralegal
- Conduct statistical and documentary research for review by the attorney
- Educate clients on upcoming procedural requirements
- Redact discovery
- Under the supervision of an attorney, draft documents and correspondence requiring substantial legal research or discretion
- Author and sign letters, so long as the Paralegal's status is clearly indicated and the correspondence does not contain independent legal opinions or legal advice
- Review, summarize, and highlight significant events in discovery
- Research and identify expert witnesses
- Ensure expert witnesses have relevant materials as needed, as determined or approved by the Supervising Attorney
- Exercise professional judgment about how to pursue tasks delegated by an attorney
- Attend court or administrative hearings and trials with the attorney

Qualification Standards

Office Support Staff

Any individual serving as Office Support Staff funded by the Oregon Public Defense Commission (OPDC) must:

1. Be at least 18 years old;
2. Acknowledge an awareness of the types of cases handled by the law office and the types of information to which they may be exposed; and
3. Understand the obligation, as a member of the defense team, to protect privileged communications and confidential information related to the representation of a client or to a prospective client.

Legal Assistants

In addition to the requirements for the Office Support Staff role, any individual serving as a Legal Assistant must:

1. Have one of the following:
 - a. One year experience working in the legal field; or
 - b. Three months of in-house training;
2. Demonstrate an understanding of the basic procedural framework of the types of cases in which attorneys in the organization are appointed;
3. Be able to produce a portfolio of routinely drafted motions and other documents: and
4. Have observed at least five hours of court, at least one hour of which was of a substantive hearing.

Paralegals

In addition to the requirements for Office Support Staff, any individual serving as a Paralegal funded by OPDC must have:

1. Successfully completed a Paralegal certificate examination from a national association such as NALA, The Paralegal Association or the National Federation of Paralegal Associations;
2. Graduated from an American Bar Association-approved Paralegal program;
3. Graduated from an accredited Paralegal program requiring not less than 60 semester hours of study;
4. Graduated from a Paralegal program and six months of in-house training;

5. A bachelor's degree in any field and six months of in-house training in a law firm;
6. Three years of law-related experience, including six months of in-house Paralegal training; or
7. Two years of in-house Paralegal training.

Performance Standards

Standard 2.1: Familiarity with Rules of Professional Conduct

Paralegals and Legal Assistants must understand the Oregon Rules of Professional Conduct for attorneys to avoid any action which would involve the attorney in a violation of those rules or give the appearance of professional impropriety.

Standard 2.2: Clarity of Role

The Paralegal or Legal Assistant shares responsibility with their Supervising Attorney to ensure that a client is aware of the Paralegal or Legal Assistant's role and that the Paralegal or Legal Assistant is not an attorney and cannot give legal advice.

Paralegals and Legal Assistants should disclose their status at the outset of any professional relationship with a client, other attorneys, a court or administrative agency or personnel thereof, and members of the general public.

A Paralegal may author and sign letters, provided that the Paralegal's status is clearly indicated and the correspondence does not contain independent legal opinions or legal advice.

Standard 2.3: Delegated Legal Work to Paralegals

Paralegals should work with the attorneys supervising them to ensure that:

- The Paralegal understands their and the attorney's professional responsibility, local rules and practices, and the firm's policies;
- The Paralegal's work is substantively correct and performed in a timely manner;
- The Paralegal engages in continuing education in substantive matters related to public defense through courses, institutes, workshops, seminars, and in-house training; and
- The Paralegal is engaged and actively participates in professional development.

Fact Investigators

Role Definition

A Fact Investigator is a non-lawyer legal professional who guides and executes the defense investigation of the facts in a client's case. Defense Fact Investigators perform substantive work that requires broad knowledge of court proceedings, court rules, and Oregon law. A defense Fact Investigator's review of case evidence and discovery requires an understanding of government investigative procedures and regulations, a familiarity with forensic disciplines, the aptitude to stay current with advancements in technology, and an ability to ascertain factual discrepancies.

A defense Fact Investigator's preservation of evidence is critical to trial preparations because, unlike an attorney, they can testify to lay the foundation for that evidence, as well as explain case details and assist with impeachment of witnesses. The use of a defense Fact Investigator is not limited to criminal cases; they are also important advocates in juvenile dependency and delinquency cases and any other proceedings that affect a client's liberty or other constitutionally protected interests. National standards for defense attorneys require investigation in every case before advising a client to accept a plea or go to trial. National standards suggest a ratio of one investigator for every three attorneys.

Fact Investigators may:

- Interview witnesses identified by police investigations;
- Identify, locate, and interview witnesses identified by the defense;
- Gather evidence by:
 - Recording witness statements;
 - Conducting field investigation;
 - Writing reports;
 - Photographing the crime scene; and
 - Gathering records and online materials; and
- Build rapport with the client and bridge any communication gaps between the attorney and the client.

Qualification Standards

Fact Investigator 1

Any individual funded by OPDC to provide fact investigation services in criminal misdemeanor cases or juvenile misdemeanor-level cases must:

1. Be licensed by the Department of Public Safety Standards and Training (DPSST); and
2. Have completed an OPDC-approved entry-level fact investigation training program.

Fact Investigator 2

Any individual funded by OPDC to provide fact investigation services in criminal lesser felony cases; post-conviction relief (PCR) lesser felony cases; juvenile delinquency lesser felony-level cases; or juvenile post-adjudication relief (JPAR) lesser felony-level cases must:

1. Be licensed by DPSST; and
2. Have a minimum of 1,000 hours of experience performing fact investigation in public defense cases.

Fact Investigator 3

Any individual funded by OPDC to provide fact investigation services in criminal major felony cases; PCR major felony cases; juvenile delinquency major felony-level cases, excluding waiver cases (those cases in which the state moves or is likely to move to waive juvenile court jurisdiction); JPAR major felony-level cases, excluding waiver cases; juvenile dependency cases; habeas corpus cases; or civil commitment cases must:

1. Be licensed by DPSST; and
2. Have a minimum of 1,500 hours of experience performing fact investigation and/or mitigation investigation services in public defense cases. This minimum number of hours
 - a. is *in addition to* hours used to qualify for previous fact or mitigation investigation certification levels; and
 - b. must include a mix of hours performing fact investigation and basic mitigation investigation tasks.

Fact Investigator 4

Any individual funded by OPDC to provide fact investigation services in criminal murder, Jessica's Law (JLAW), and equivalent life sentence cases; PCR murder, JLAW, and equivalent life sentence cases; juvenile delinquency Murder-level and waiver cases (those cases in which the state moves or is likely to move to waive juvenile court jurisdiction); JPAR murder-level cases; and/or Termination of Parental Rights (TPR) Cases must:

1. Be licensed by DPSST;
2. Have a minimum of 2,000 hours of experience performing fact investigation on public defense cases. This minimum number of hours
 - a. is *in addition to* hours used to qualify for previous fact or mitigation certification levels; and
 - b. must not include hours spent performing mitigation specialist services; and
3. Provide three letters of recommendation from persons attesting to experience with the Fact Investigator's performance of fact investigation within the previous year.

Performance Standards

Standard 3.1: Professionalism

A Fact Investigator must:

- At all times demonstrate respect and sensitivity towards clients, witnesses, and other individuals involved in the case, regardless of their background or circumstances;
- Adhere to the Investigator Code of Ethics adopted by the Oregon Department of Public Safety, Standards, and Training (DPSST);
- Maintain confidentiality and discretion when handling sensitive information;
- Be aware of the Oregon Rules of Professional Conduct for Attorneys to avoid any action that would involve the attorney in a violation of those rules or give the appearance of professional impropriety; and
- Conduct themselves in a manner that reflects positively on the profession and promotes trust and credibility with clients, attorneys, and colleagues.

Standard 3.2: Opening of Case

A Fact Investigator should confirm receipt of a request for investigation from an attorney within 24 hours of receiving the request and communicate with the

attorney to address questions or concerns about the request, convey the investigator's schedule, and determine the priority of investigation requests. The Fact Investigator should have an initial meeting with the attorney to define roles, discuss the needs of the investigation, and determine preferences regarding communication, note-taking, investigation requests, witness interviews, preauthorized expense requests which may be needed, and any other issues that may arise. The Fact Investigator should then begin work on the following tasks:

- Have an initial meeting with the client;
- Contact client's close family members if necessary and approved;
- Begin review of discovery;
- Create a list of persons of interest; and
- Create a timeline of potentially relevant events.

Standard 3.3: Understanding the Themes and Theories of the Case

Investigators should work with the attorney to develop an understanding of the themes and theories of the case to effectively investigate and adjust investigative efforts as needed.

Standard 3.4: Immediate Investigative Needs

A Fact Investigator should begin the following tasks early in the case:

- Search for and obtain information on any open court cases or arrest warrants for the client;
- Contact the client's community ties (family, employers, programs, medical personnel etc.);
- Gather hardship information regarding the client's family;
- Begin preliminary fact investigation tasks including:
 - Contacting witnesses;
 - Visiting and evaluating the crime scene;
 - Verifying any alibis;
 - Securing surveillance video that is likely to be overwritten; and
 - Determining if any other information, discovery, or evidence has time-sensitive collection issues.
- Assist attorney in communicating with other government agencies connected to the case; and

- Assist the defense team in identifying referrals for programs and services, such as substance abuse, psychological evaluation and services, halfway houses, and other services the client may need.

Standard 3.5: Records

Fact Investigators shall perform the following tasks related to records:

- Review discovery materials to check for missing and incomplete documents, discrepancies, and inaccuracies;
- Collect items to preserve such as social media postings and surveillance video;
- Locate additional supporting written, audio, video, and document sources;
- Submit records requests as needed; and
- Run records searches for the client and persons of interest, including searches for court documents in databases such as Oregon eCourt Case Information (OECI) and Public Access to Court Electronic Records (PACER) and obtain plea and judgment documents from court proceedings as needed.

Standard 3.6: Working with Correctional Facilities

Fact Investigators should be familiar with the procedures to make calls and arrange for video and in-person visits at jails and correctional facilities they are likely to interact with. Fact Investigators should follow all procedures and directives at each facility they call or visit, and they should notify the attorney immediately with any concerns about the facility in which a client is housed.

Standard 3.7: Client Interviews

Fact Investigators should review discovery material with the client, as directed by the attorney; receive the client's input and ask specific follow-up questions pertinent to the ongoing investigation; and communicate investigative findings directly to the client after discussion with the attorney. Fact Investigators should also collect signed releases of information from the client and gather biographical information for sentencing and mitigation. They should assist the attorney or the attorney's evaluator in obtaining documentation of any competency or other mental health issues.

Standard 3.8: Testing the Government's Case

As directed by the attorney with whom they are working, Fact Investigators shall retrace the steps of the government's case to establish the reliability and veracity of evidence relating to:

- Crime scenes by

- Confirming the locations of physical structures, traffic controls, and lighting;
- Canvassing the area for known and unknown witnesses;
- Canvassing the area for cameras and still or video images of the event from both fixed devices and smartphones; and
- Measure, photograph, video record and/or create diagrams of an area;
- Witnesses by
 - Investigating the government's case by questioning anyone who was contacted during the government's investigation;
 - Locating and developing additional witnesses not contacted by government; and
 - Developing strategies for obtaining records that undermine the government's case, including using public records requests and subpoenas;
- Information obtained online or through other technology by
 - Confirming social media posts and identifying possible alternate interpretations to the government's claims, particularly with respect to assertions regarding gang and drug lingo;
 - Confirming the source and status of images asserted to be child pornography, if applicable, especially in cases where the subject is unknown or where the age of the subject will be in question;
 - Reviewing the metadata of digital files, documents, and images;
 - Locating experts to evaluate the government's case; and
 - Extracting data from certain case-related devices, using an expert as needed in limited situation.
- Audiovisual discovery by reviewing it to evaluate the government's interpretation of the contents.

Standard 3.9: Working with Witnesses

Fact Investigators shall locate witnesses identified by the attorney or through other investigation, conduct witness interviews, and memorialize those interviews subject to the direction of the attorney. Fact Investigators shall obtain background information on witnesses for impeachment purposes and, as appropriate, obtain signed declarations, affidavits, or other statements. Fact Investigators shall assist the attorney in establishing and maintaining rapport with defense witnesses, navigating cultural competence considerations, and managing difficult and/or reluctant witnesses.

Standard 3.10: Background Checks

Fact investigators shall identify and interview persons knowledgeable of any testifying witnesses to inform potential concerns for truthfulness. Additionally, Fact Investigators shall collect relevant background records on testifying witnesses, such as:

- Law Enforcement training records and materials; and
- Convictions, arrest reports, and other related records regarding confidential informants and co-defendants.

Standard 3.11: Proffers

Fact Investigators shall:

- Prepare for proffer by gathering additional information to help with client's direct knowledge;
- Take notes during the meeting; and
- Follow up with collection of additional information and maintain contact with law enforcement as needed.

Standard 3.12: Working with Expert Witnesses

Fact Investigators should be knowledgeable about the variety and availability of potential Expert Witnesses and assist the attorney in identifying Expert Witnesses relevant to the issues of the client's case. To assist an Expert Witness as a part of the defense team, a Fact Investigator should collect materials such as witness declarations, records, and photographs relevant to the Expert Witness' evaluation, report, and/or testimony.

A Fact Investigator shall assist the attorney in vetting each Expert Witness by locating:

- Transcripts of prior testimony given by the Expert Witness;
- Articles and other materials written by or about the Expert Witness;
- Previous challenges to testimony given by the Expert Witness;
- License violations or discipline by a licensing agency;
- Civil suits against the Expert Witness;
- Criminal convictions against the Expert Witness; and
- Any other information relevant to the qualifications or suitability of the Expert Witness to provide testimony.

Standard 3.13: Memorialization and Exhibit Preparation

Throughout the course of the investigation, the Fact Investigator should consult with the attorney and determine which of the following to develop in preparation for hearings or trial:

- Memoranda of witness interviews;
- Declarations, affidavits, or other signed sworn statements;
- Certified records;
- Audiovisual court presentation materials; and/or
- Testimony.

Standard 3.14: Trial and Hearing Assistance

During hearings or trials, a Fact Investigator should be prepared to:

- Serve subpoenas for witnesses identified by the attorney;
- Assist with voir dire as requested by the attorney;
- Respond to factual developments and investigate new facts and persons as they are revealed;
- Assist with scheduling and managing defense witnesses; and
- Testify as needed.

Standard 3.15: Sentencing

Fact Investigators should coordinate with all members of the defense team to prepare for sentencing and mitigation by:

- Interviewing family members, friends, and school and/or work associates of the client;
- Gathering relevant educational, employment, medical, mental health, and incarceration records;
- At the direction of the attorney, creating video recordings of close family members and other witnesses; and
- Creating and/or procuring other documents and exhibits for sentencing.

Mitigation Specialists

Role Definition

A Mitigation Specialist is a non-lawyer legal professional who is an expert at gathering and investigating historical data, clients' background and personal history, and circumstances that could potentially mitigate or lessen their culpability in a case. The background research done by a Mitigation Specialist includes investigation into a client's formative experiences, including, but not limited to, the following:

- Traumas;
- Cognitive functioning;
- Mental health;
- Physical health;
- Addiction;
- Religious background;
- Traumatic brain injuries;
- Exposure to substances and toxins in utero and during life;
- Genetics;
- Environmental factors; and
- Family health histories.

A Mitigation Specialist assists the attorney by documenting these factors through records and interviews to integrate this information into the client's defense. Like Fact Investigators, Mitigation Specialists preserve evidence and may testify to lay the foundation for the information that they gather—something that the attorney cannot do. The goal of a Mitigation Specialist is to present a comprehensive and *compelling* portrait of the client as a person.

Qualification Standards

Mitigation Specialist 1

Any individual funded by OPDC to provide mitigation investigation services in any type of case must be:

1. Licensed by DPSST; and
2. Certified to provide fact investigation services on lesser felony-level cases.

Mitigation Specialist 2

Any individual funded by OPDC to provide mitigation investigation services in criminal major felony cases, excluding waiver cases (those cases in which the state moves or is likely to move to waive juvenile court jurisdiction); PCR major felony cases; juvenile delinquency major felony-level cases, excluding waiver cases; JPAR major felony-level cases; juvenile dependency cases; habeas corpus cases; or civil commitment cases must:

1. Be licensed by DPSST;
2. Have completed an OPDC-approved mitigation investigation training program; and
3. Have a minimum of 1,500 hours of experience performing fact investigation and/or mitigation services on public defense cases. This minimum number of hours
 - a. is *in addition to* hours used to qualify for previous certification levels; and
 - b. must include a mix of hours performing fact investigation and basic mitigation investigation tasks.

Mitigation Specialist 3

Any individual funded by OPDC to provide mitigation investigation services in criminal murder, JLAWS, and equivalent life sentence cases; PCR murder, JLAWS, and equivalent life sentence cases; juvenile delinquency murder-level and waiver cases (those cases in which the state moves or is likely to move to waive juvenile court jurisdiction); JPAR murder-level cases; or TPR cases must:

1. Be licensed by DPSST;
2. Have a minimum of 2,000 hours of experience performing mitigation services on public defense cases. This minimum number of hours
 - a. is *in addition to* hours used to qualify for previous certification levels; and
 - b. Cannot include hours spent performing fact investigation; and
3. Provide three letters of recommendation from people attesting to experience with the Mitigation Specialist's performance within the previous year.

Performance Standards

Standard 4.1: Professionalism

A Mitigator must:

- At all times demonstrate respect and sensitivity towards clients, witnesses, and other individuals involved in the case, regardless of their background or circumstances;
- Adhere to the Oregon Department of Public Safety, Standards, and Training (DPSST)'s Investigator Code of Ethics;
- Maintain confidentiality and discretion when handling sensitive information;
- Be aware of the Oregon Rules of Professional Conduct for Attorneys to avoid any action which would involve the attorney in a violation of those rules or give the appearance of professional impropriety;
- Conduct themselves in a manner that reflects positively on the profession and promotes trust and credibility with clients, attorneys, and colleagues.

Standard 4.2: Thoroughness of Investigation

A Mitigation Specialist shall:

- Conduct in-depth interviews with the client and their family members, friends, employers, and other relevant individuals to gather comprehensive information regarding the client's formative experiences;
- Scrutinize legal documents, court records, police reports, medical records, and any other relevant materials with meticulous attention to detail.
- Employ a variety of investigative techniques, including background checks, record searches, and site visits, to uncover relevant information.

Standard 4.3: Timeliness

A Mitigation Specialist shall:

- Establish clear timelines and deadlines for completing investigative tasks and providing reports to the defense team;
- Prioritize tasks effectively to ensure that critical information is obtained and presented in a timely manner, particularly in preparation for court proceedings; and
- Communicate proactively with the defense team regarding any potential delays or obstacles that may impact the investigation timeline.

Standard 4.4: Accuracy of Information

A Mitigation Specialist shall:

- Verify the accuracy and reliability of all information obtained through multiple sources and cross-referencing techniques;
- Exercise caution when interpreting and presenting information, ensuring that it is factually correct and free from bias or inaccuracies; and
- Maintain meticulous records and documentation to support the validity of information presented to the court.

Standard 4.5: Effective Communication

A Mitigation Specialist shall:

- Communicate clearly and concisely with defense attorneys, clients, witnesses, and other experts, using appropriate language and tone;
- Listen actively and empathetically during interviews to ensure that all relevant information is captured and understood; and
- Provide regular updates and reports to the defense team, conveying information in a format that is easy to understand and utilize.

Standard 4.6: Collaboration

A Mitigation Specialist shall:

- Foster a collaborative working relationship with members of the defense team, contributing insights, ideas, and expertise to develop effective defense strategies;
- Communicate openly and transparently with colleagues, sharing information and coordinating efforts to achieve common goals; and
- Be receptive to feedback and constructive criticism, actively seeking opportunities for improvement and professional growth.

Standard 4.7: Creativity and Resourcefulness

A Mitigation Specialist shall:

- Think creatively and strategically when identifying potential mitigation factors and developing defense strategies tailored to the unique circumstances of each case;
- Utilize a variety of resources and techniques, including expert consultations, alternative sentencing options, and community-based programs, to advocate for favorable outcomes; and

- Anticipate challenges and obstacles and proactively seek innovative solutions to address them within the constraints of the legal system.

Standard 4.8: Attention to Detail

A Mitigation Specialist shall:

- Pay close attention to detail when reviewing documents, transcripts, and reports, identifying inconsistencies, discrepancies, and areas requiring further investigation;
- Document their findings and observations accurately and comprehensively, ensuring that all relevant information is captured and properly documented for use in legal proceedings; and
- Exercise diligence and precision in all aspects of the investigative process to minimize errors and oversights that could impact the defense strategy.

Standard 4.9: Courtroom Presentation

A Mitigation Specialist shall:

- Prepare thoroughly for court appearances, familiarizing themselves with relevant case law, statutes, and procedural rules;
- Present information and testimony in a clear, organized, and persuasive manner, adapting communication style and delivery to the audience and context; and
- Demonstrate confidence and professionalism when presenting evidence and arguments, responding effectively to questions and challenges from opposing counsel and the court.

Standard 4.10: Continuous Learning:

A Mitigation Specialist shall:

- Stay abreast of developments in the legal field, including changes in laws, regulations, and precedent related to mitigation strategies and techniques;
- Seek out opportunities for professional development and continuing education, such as attending seminars, workshops, and conferences relevant to the role of a mitigation specialist; and
- Engage in self-reflection and critical analysis of their own performance, identifying areas for improvement and actively pursuing growth opportunities to enhance skills and knowledge.

Standard 4.11: Client Advocacy

A Mitigation Specialist shall:

- Advocate zealously for the client's interests and rights throughout all stages of the legal process, serving as a dedicated and committed ally in their defense;
- Empower clients to actively participate in their defense, providing them with information, guidance, and support to make informed decisions about their case; and
- Uphold the principles of fairness, justice, and due process, ensuring that the client's voice is heard and their concerns are addressed effectively within the legal system.

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Case Managers

Role Definition

Case Managers play an integral role in interdisciplinary public defense representation. They can be assigned in both juvenile and criminal cases at the request of the appointed attorney. Case Managers serve as agents of the attorney and are members of the defense team. These roles offer a social work perspective to the interdisciplinary defense team and provide client-driven advocacy at the direction of the assigned attorney.

Essential functions of these roles:

- Practice client engagement strategies to build trust and rapport with clients.
- Provide direct service focused work in the client's community.
- Support clients in identifying strengths and barriers.
- Identify client needs and develop case plans driven by client goals and case strategy.
- Connect clients with services and community resources.
- Gather information to strengthen case advocacy and court preparation.
- Collaborate with system partners and community providers to support client goals.
- Licensed Social Workers or other mental health professionals may approach this work from a clinical perspective offering clinical assessment, consultation, or education when appropriate.

Qualification Standards

Minimum Standards

Any individual serving as a Case Manager must have one of the following:

1. A bachelor's or higher-level degree in social work, human services, or a closely related field;
2. A bachelor's degree in a field not closely related to social work or human services plus two years of human services-related experience (e.g., work providing advocacy assistance to individuals and groups experiencing issues around poverty, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, inadequate housing, etc.); or

3. A combination of equivalent experience and education in related fields:
 - a. Lived experience in the criminal and juvenile systems may qualify as equivalent experience;
 - b. Applicants applying based on lived experience in recovery must have a minimum of three years documented sobriety. Such an applicant is also required to be, or become within six months, a Certified Recovery Mentor (CRM) or Peer Wellness Specialist (PWS). Other certificates or programs that offer similar training around peer support may also meet this criteria.

Additional Preferred Criteria for Case Managers

1. Familiarity and/or lived experience in the criminal and juvenile justice systems
2. Familiarity with trauma-informed care and the impacts of vicarious trauma
3. Familiarity with mental illness and drug addiction and appropriate treatment plans
4. Experience working with diverse client populations and culturally responsive practice
5. Knowledge of local community services and resources
6. Bilingual language proficiency
7. Ability to access jails and other secure facilities, with exceptions possible for those with lived experience.

Performance Standards

Standard 5.1: Continuing education

Case Managers shall participate in at least 10 hours of continuing education annually and are responsible for documenting that continuing education and providing such records to OPDC as requested.

Continuing education includes trainings identified by the Oregon Public Defense Commission (OPDC), trainings conducted by the Oregon Criminal Defense Lawyers Association or the American Bar Association that are relevant to the Case Manager's practice area, and trainings approved by the Oregon Board of Licensed Social Workers, the subject matter of which is related to practice in criminal and/or juvenile public defense. Other trainings relevant to this work may be approved by OPDC.

Standard 5.2: Case Manager Orientation

All Case Managers shall participate in a program and practice introductory training with OPDC or its designee(s) within 30 days of beginning work with or through the Commission.

Standard 5.3: Case Manager Workload

A Case Manager should not accept a workload that, by reason of size or complexity, interferes with the ability of the Case Manager to meet their professional obligations to each client.

Standard 5.4: Conflict of Interest

Case Managers shall not accept cases or continue to provide services for a client with whom they have a conflict of interest. A conflict of interest exists if the Case Manager's work with a current or former client would adversely impact their work with a new client. A conflict also exists if the Case Manager has confidential information about a client or the case gained from prior employment or work with a different client. If a Case Manager believes they have a conflict or if one arises during their work with a client, they must consult with the attorney to determine whether the conflict exists or can be resolved.

Standard 5.5: Professional Liability Insurance

Case Managers must carry and maintain professional liability insurance if working outside of an office or firm that provides insurance for employees.

Standard 5.6: Communication with Persons Represented by Counsel

A Case Manager shall not communicate with a party who is represented by an attorney regarding the subject of the representation.

There may be limited circumstances where communication with a represented party is permitted. However, before communicating with a represented party, the Case Manager shall communicate with the supervising attorney to determine whether such communication is permitted by the Oregon Rules of Professional Conduct. The supervising attorney makes the final decision regarding communication with represented parties.

Standard 5.7: Record Keeping

Case Managers must maintain client records throughout their work with each client. At the close of the case or at the supervising attorney's request, the Case Manager should provide all records to the attorney. The Case Manager may not destroy their records until they have been received by the supervising attorney.

Interpreters

Role Definitions

Interpreters convert information from one spoken or signed language to another. Their primary role is to facilitate clear and accurate communication in real time between parties who speak different languages.

Qualification Standards

It is the lawyer's affirmative responsibility to ensure the client understands the lawyer's communications and that the lawyer understands the client's communications. This obligation is especially critical when using uncertified interpreters in client communication.

Minimum Standards

Any individual serving as an Interpreter funded by OPDC must:

1. Complete a language assessment for both native and target language, where available;
2. Complete an OPDC-approved language-neutral training and orientation; and
3. Have knowledge of interpretation ethics, including the Code of Professional Responsibility for Interpreters in the Oregon Courts.

Additional Preferred Criteria for Interpreters

1. Certified
 - a. Oregon Judicial Department certification: completed written, oral, and ethics examinations, orientation, a criminal history check, court observation, and application process;
 - b. Certified by other state court;
 - c. Certified in federal court; or
 - d. Professionally qualified in federal court.
2. Registered
 - a. Oregon Registered Court Interpreter Credential;
 - b. Classified as Language Skilled by federal court; or
 - c. Employed by OPDC-approved language service provider.

Performance Standards

Standard 6.1: Impartiality and Neutrality

Interpreters shall clearly express the original speaker's views or opinions on any issue, in any discussion, without allowing their own views to interfere. The content of the message belongs to the speaker, not to the interpreter. The interpreter is responsible for rendering the entire message with the greatest accuracy, regardless of their own position on the matter.

Standard 6.2: Conflicts of Interest

Interpreters must disclose any real or perceived conflicts of interest that might affect their professional objectivity. For example, interpreting for family members or friends may violate those individuals' right to confidentiality or otherwise compromise the interpreter's neutrality.

Standard 6.3: Competency

Interpreters shall not knowingly accept assignments that are beyond their skill level or understanding of the subject matter. To avoid violating this standard, interpreters must request information about the subject to be discussed and the type of setting where the work will be performed.

Standard 6.4: Accuracy

The interpreter conveys the content and spirit of the original message, taking into consideration its cultural context. They must:

1. Omit or add nothing.
2. Conserve the tone and spirit of the source message.

Standard 6.5: Professionalism

Interpreters are expected to be punctual and prepared for the occasion and to report any obstacles that might keep them from performing their interpreting duties successfully.

Standard 6.6: Continuing Education

Interpreters must regularly participate in relevant OPDC-approved workshops, trainings, and education.

Information Technology Staff

Role Definition

Information Technology Staff are administrative personnel utilized by a law office who function in one or more of the following roles:

IT Systems and Software

- Managing and predicting hardware and software needs
- Evaluating emerging technologies for use in the law office
- Assuring that needed information is accessible either physically or remotely.

Data Security

- Ensuring the security and accessibility of a law office's data, including:
 - Discovery
 - Client information
 - Practice aids
 - Research tools
 - Case management information
- Meeting the Oregon State Bar requirements for information storage.

User Support and Training

- Integrating state software as needed for:
 - Case management
 - Case reporting
 - Billing
- Utilizing available technologies to further advocacy
- Collaborating with defense experts.

Issue Resolution

- Responding to Attorney and Core Staff reports of operational issues relating to technology
- Triaging and managing technical issues.

New Technology Integration

- Training attorneys and their Core Staff to use the technology within the law office including:
 - IT safety
 - Video conferencing and remote appearance systems used by the firm, the court, and/or OPDC, such as Teams, Webex, Zoom, etc.
 - Software necessary for viewing discovery or investigation, including videos, and
 - Any other training that is necessary to meet the technology needs of the law office.

Qualification Standards

Minimum Standards

Any Individual serving in any IT Support Staff role funded by OPDC must:

1. Be at least 18 years of age;
2. Acknowledge an awareness of the types of cases handled by the law office and the types of information to which they may be exposed;
3. Understand the obligation, as a member of the defense team, to protect privileged communications and confidential information related to the representation of a client or to a prospective client;
4. Be familiar with the software needs of the law office within the broader legal community;
5. Be able to patiently work with employees at various levels of technology familiarity and, if the problem in question cannot be readily or rapidly solved, have the ability to document the issue and involve technical contractors; and
6. Have one year of experience in the field of information technology; or equivalent education; or equivalent experience.

Performance Standards

Standard 7.1: System Reliability and Uptime

IT Staff shall maintain the firm's IT systems to maximize uptime, or the time those systems are continuously working and available. IT Staff shall also ensure that critical legal software applications and network services are available and functioning optimally.

Standard 7.2: Confidentiality

Consistent with the ethical and legal responsibilities of their supervising attorneys, IT Staff must protect information relating to representation of a client and information relating to the prospective representation of an applicant for public defense services.

Standard 7.3: Response Time and Issue Resolution

IT Staff shall respond to all tech support requests within a reasonable amount of time as determined between the attorney and IT staff. They shall also attempt to resolve the majority of technical issues on first contact, ensuring minimal disruption to legal proceedings.

Standard 7.4: Data Security Compliance

IT Staff shall ensure that all client data and case files are stored and transmitted securely in compliance with legal regulations and ethical standards.

IT Staff shall conduct quarterly security checks to identify vulnerabilities and implement necessary safeguards.

Standard 7.5: User Satisfaction and Feedback

IT Staff shall solicit feedback from legal professionals and support staff to identify areas for improvement and implement proactive measures to enhance the user experience.

Standard 7.6: Training and Professional Development

IT Staff shall provide ongoing training and support to legal staff on the use of existing and new legal software tools and technology platforms relevant to criminal defense practice.

IT Staff shall complete professional development annually as needed to stay updated on industry best practices and emerging technologies.

Standard 7.7: Communication

IT Staff shall work with employees at various levels of technology familiarity.

IT Staff shall document technical issues effectively.

IT Staff shall interact with people involved with the criminal or juvenile legal system with respect.

Provisional Licensees

Role Definition

Provisional Licensee

A Provisional Licensee has graduated from an ABA-accredited law school, has not been admitted to the Oregon State Bar, but has been issued a provisional license through the Supervised Practice Portfolio Examination (SPPE) program. Provisional Licensees are subject to the same court appearance rules as Certified Law Students, but have met the curriculum, employment, good moral character and fitness, and professional liability insurance requirements of the SPPE program.

Provisional Licensees may only appear on behalf of a client with the client's informed, written consent as well as approval by the Supervising Attorney and the court. Client consent must be filed with the court as a part of the case record. Provisional Licensees may not appear without a Supervising Attorney in civil commitment proceedings, in any case where the client may be subject to a felony conviction, or in any case where a juvenile is facing adjudication for an act that, if committed by an adult, would constitute a felony.

SPPE Supervising Attorney

An SPPE Supervising Attorney is an active member of the Oregon State Bar who has committed to supervising a Provisional Licensee under SPPE Rules 2.4-2.5; or an active member of the Oregon State Bar to whom the supervising attorney has delegated responsibility under SPPE Rule 5.4.

Qualification Standards

Provisional Licensees

A Provisional Licensee funded by OPDC must:

1. Meet all requirements under SPPE Rule 2.1;
2. Have been accepted by the Oregon State Bar into the Supervised Practice Portfolio Examination program; and
3. Have secured employment with an organization, firm, or attorney who provides legal representation as appointed counsel funded by OPDC.

SPPE Supervising Attorneys

An SPPE Supervising Attorney providing supervision for a Provisional Licensee funded by OPDC must:

1. Meet the qualifications for Supervising Attorneys under SPPE 2.4;
2. Have submitted an application form for SPPE Supervising Attorneys to the Oregon State Bar; and
3. Have practiced criminal defense, juvenile delinquency, or juvenile dependency representation for at least three years, and whose qualifications are certified by OPDC as follows corresponding with the Provisional Licensee's practice area:
 - a. Criminal: major felony
 - b. Delinquency: juvenile major felony
 - c. Dependency: termination of parental rights

Performance Standards

Provisional Licensees are subject to OPDC's Performance Standards for Attorneys relevant to the cases to which they are appointed and the standards of the Oregon State Bar's Supervised Practice Portfolio Examination.

Certified Law Students

Role Definition

Certified Law Student

Certified Law Students are law students or recent law school graduates certified under Oregon Supreme Court rules for the Law Student Appearances Program (RFA 13.05-13.30) to represent clients on behalf of a public defender office or attorney in private practice. They have not been admitted to the bar, do not have a bar number, and are at all times subject to supervision by a Supervising Attorney.

Certified Law Students may only appear on behalf of a client with the client's informed, written consent as well as approval by the Supervising Attorney and the court. Client consent must be filed with the court as a part of the case record. Certified Law Students may not appear without a Supervising Attorney in civil commitment proceedings, or for any case where the client may be subject to a felony conviction, or in any case where a juvenile is facing adjudication for an act that, if committed by an adult, would constitute a felony.

CLS Supervising Attorney

Member of the Oregon State Bar personally assuming professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work (RFA 13.30)

Qualification Standards

Certified Law Students

A Certified Law Student funded by OPDC must be certified by the State Court Administrator under Oregon Supreme Court rules for the Law Student Appearances Program.

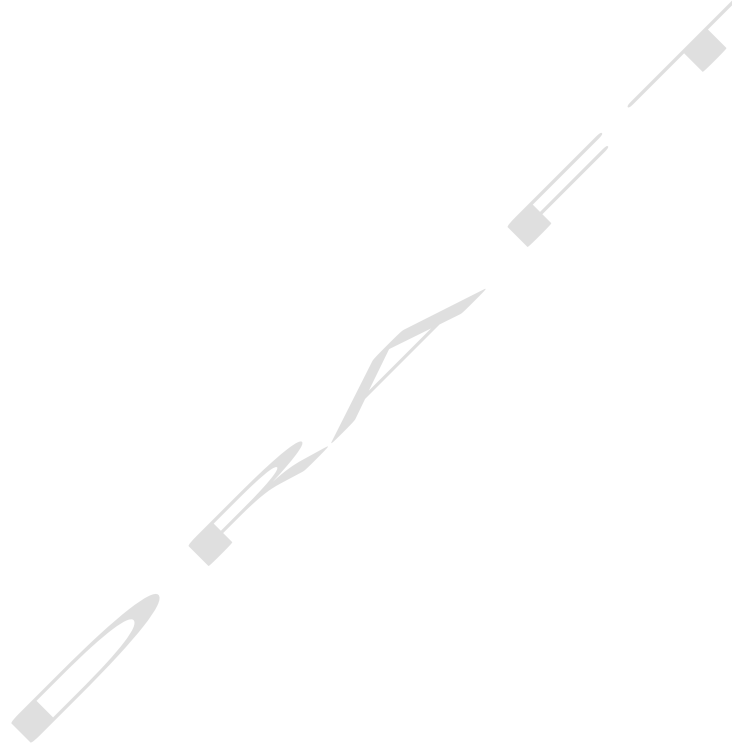
CLS Supervising Attorneys

A CLS Supervising Attorney providing supervision for a CLS must be a member of the Oregon State Bar in good standing who has been actively engaged in the practice of criminal defense, juvenile delinquency, or juvenile dependency representation for at least the immediately preceding three years, and whose qualifications are certified by OPDC as follows corresponding with the Certified Law Student's practice area:

1. Criminal: major felony
2. Delinquency: juvenile major felony
3. Dependency: termination of parental rights

Performance Standards

Certified Law Students are subject to OPDC's Performance Standards for Attorneys and the Law Student Appearances Program chapter of the Oregon State Bar's Rules for Admission.



Appendix A: Workgroup Participants

OPDC appreciates the time and expertise that public defense stakeholders contributed to define non-attorney roles within the public defense system and develop qualification standards for these roles.

Legal and Administrative Support

Kevin Hupy, OPDC
Aimi Vansyckle, OPDC
Megan Doak, OPDC
S. Amanda Marshall, Marshall Advocacy Center (MAC Law)
Bobi Jo Ousnamer, Kaitlin Kelly Law
Dawn Hartwell, Hart 2 Hart Investigations
Beth Knudson, Arneson Stewart & Styarfy
Janine Hollingsworth, Los Abogados
Kelly Davidson, Metropolitan Public Defender Services, Inc
Nathan Law, Cornerstone Law Group

Investigators and Mitigation Specialists

K.O. Berger, OPDC
Troy Hartwell, Investigator
Carla Curran, Member of the public
Carin Connell, Mitigation Specialist
Laura Rittall, Mitigation Specialist
Krystal Daniel, Investigator
Kristina Mann, OPDC
Alice Ellis Gaut, Mitigation Specialist
Cameron Taylor, Attorney
Spencer Todd, Attorney
James Comstock, Investigator and Mitigation Specialist
Steve Wilson, Investigator

Case Managers

Annie Borton, OPDC
Jordon Huppert, OPDC
Dana Brandon, Senior Parent Child Representation Program (PCRP) Case Manager Administrator
Shannon Getman, PCRP Case Manager Administrator
Tara Prince, Case manager

Patrick Fenner, Case manager
Melissa Riddell, PCRCP attorney
Lee Wachocki, Criminal attorney
Mikayla Avery, PCRCP case manager social worker
Rebecca Menda, Social worker

Interpreters

Christine Breton, OPDC
Adrian Arias, Spanish Interpreter
Cameron Coval, Executive Director, Pueblo Unido
Melanie Deleon, ASL Interpreter, Coordinator of Transcribing and Interpreting Services at Portland Community College
Helen Eby, Spanish Interpreter
Amine El Fajri, Arabic Interpreter
Barbara Hua Robinson, Mandarin Interpreter
John Schlosser, Criminal Attorney
Sonja Trigo, Spanish Interpreter
Puma Tzoc, Maya K'iche' Interpreter, Coordinator for Collective of Indigenous Interpreters of Oregon
Esmeralda Zavala, Legal Assistant

Information Technology Staff

Jordon Huppert, OPDC
Kevin Hupy, OPDC
Wes Baker, OPDC
Cody Wingard, OPDC
Steve Gorham, Marion County Association of Defenders
Griffin Thomas, Public Defense Services of Lane County
Russ Bretan, Court Discovery Management
Allyx Pershing, Oregon Justice Resource Center
Lindsay Carlson, Public Defender of Marion County

Law Students and Provisional Licensees

Christine Breton, OPDC
Kevin Hupy, OPDC
Jo Perini-Abbot, Professor of Practice and Director of the Center for Advocacy, Lewis & Clark Law School
Jana Baker, CLS/SPPE Applicant, Public Defender of Marion County
Spencer Todd, Attorney at Law
Connor McDermott, Columbia Gorge Defenders

Shannon Wilson, Executive Director, Public Defender of Marion County
Grant Cole, Chief Attorney and Manager of Training, Metropolitan Public Defender,
Inc
Kim Davis, Misdemeanor Attorney Manager, Multnomah Defenders, Inc.

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Appendix B: Sources Reviewed

All Workgroups

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DRAFT



Date: January 15, 2025

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

Cc: Jessica Kampfe, Executive Director

From: Anna Braun, Temporary Government Relations Manager

Re: Legislative Information

Nature of Presentation: Briefing

Background:

December Legislative Days

At the December legislative days, Director Kampfe and Vice Chair Mandiberg presented the Public Defense Comprehensive Plan to the House and Senate Judiciary Committee.

In addition, Director Kampfe and Vice Chair Mandiberg appeared in front of the Public Safety Subcommittee of the Emergency Board and the Emergency Board approved these actions:

- Acknowledged receipt of the fifth iteration of OPDC's remediation plan, which describes progress on, and completion of, goals in 25 areas we had identified as needing improvement.
- Approved a request to extend the Temporary Hourly Increase Program (THIP), which pays attorneys and investigators higher hourly rates for taking in-custody cases.
- Agreed to allocate \$2,450,744 from a special purpose appropriation to extend THIP from Jan.1 to June 30, 2025.
- Approved a request for a \$4.7 million budgetary rebalance to provide supplemental funding for the extension of THIP.

2025 Session

The session begins on January 21st, 2025. I have attached the session calendar and committee membership for the Judiciary Committees and the Public Safety Subcommittee of Joint Ways and Means and the full committee of Joint Ways and Means.

We have one placeholder bill, HB 2810. This bill is related to the public defense services commission and may be used for changes to SB 337, if needed.

The bill will most likely be referred to House Judiciary and not be scheduled until we have a plan to use it.

Agency Recommendation:

Information only

Fiscal Impact:

None

Agency Proposed Motion:

Information only

2025 Session Calendar

JANUARY						
S	M	T	W	T	F	S
			1 New Year's Day	2	3	4
5	6	7	8	9 New Member Academy	10 New Member Academy	11
12	13 Org Days; Swearing In	14 Trainings	15 Trainings	16 Trainings	17 LC Draft Request Deadline	18
19	20 MLK Day	21 Session Begins	22	23	24	25
26	27	28	29	30	31	

FEBRUARY						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17 President's Day	18	19	20	21 LC returns drafts	22
23	24	25 Measure Intro Deadline	26 Revenue Forecast	27	28	

MARCH						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10 Begin Daily Floor	11	12	13	14	15
16	17	18	19	20	21 Post Work Session	22
23/30	24/31	25	26	27	28	29

APRIL						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9 First chamber deadline	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MAY						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9 Post Work Session	10
11	12	13	14 Revenue Forecast	15	16	17
18	19	20	21	22	23 Second Chamber Deadline	24
25	26 Memorial Day	27	28	29	30	31

JUNE						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18 Target Sine Die	19 Juneteenth	20	21
22	23	24	25	26	27	28
29 Constitutional Sine Die	30					

Dates subject to the adoption of CR (2025 Regular Session)

Organizational Day	Member swearing in; organization; and first reading of pre-session filed bills.
Training Days	Member and staff training.
Leg. Counsel Deadlines	Deadlines for bills to be requested, returned by LC, and introduced (after these deadlines, subsequent drafts and intros count against per legislator limits. See SR 13.15(2); HR 12.35.
State Holiday	Holiday.
Important Session Dates	Deadlines for bills to be posted for work sessions, then voted out of policy committees in the first and second chambers. Joint policy committees adhere to the second chamber deadline only. Does not apply to Conduct, Rules, Revenue, or JWM.
Floor Sessions	Senate and House floor sessions will be announced by the Senate President or House Speaker. Daily floor sessions begin on Monday, March 10, 2025.
Revenue Forecast	Revenue forecast.

2025 Committee Membership

House Judiciary --

Meets M/T/W/TH- 3pm-4:30pm – room TBD

Chair Rep Kropf

Vice- Chair Rep Chotzen (New)

Vice- Chair Rep Wallan

Rep Anderson

Rep Chaichi

Rep Mannix (New)

Rep Lewis

Rep Tran

Senate Judiciary

Meets M/T/W/TH- 3pm-4:30pm – room TBD

Chair Prozanski

Vice-Chair Thatcher

Sen Gelser Blouin

Sen Girod (New)

Sen Manning

Sen Broadman (New)

Sen McLane (New)

Public Safety Subcommittee of Joint Ways and Means

Meets M/T/W/TH 8am-9:30am Room TBD

Co-Chair Evans

Co-Chair Sen Broadman (New)

Sen Campos (New)

Sen Brock Smith

Rep Grayber

Rep Lewis

Rep Chotzen (New)

Rep Helfrich (Member in 2023)

Joint Ways and Means-

meets Friday 9:30-11:30 room TBD

Co-Chair Sen Lieber

Co-Chair Rep Sanchez

Co-Vice Chair Sen Girod

Co-Vice Chair Rep Gomberg

Co-Vice Chair Rep Smtih

Sen Sollman

Sen Broadman

Sen Brock Smith

Sen Frederick

Sen McLane

Sen Campos

Sen Bonham

Sen Woods

Sen Anderson

Rep Bowman

Rep Breese-Iverson

Rep Cate

Rep Drazan

Rep Evans

Rep E Levy

Rep Owens

Rep Ruiz

Rep Valderrama

Oregon Public Defense Commission

FCMS Project

January 2025

Jessica Kampfe, Executive Director
Jessica.Kampfe@opds.state.or.us

David Martin, CIO, FCMS
Presenting



OPDC FCMS Stage Gate 3

OPDC – Financial Case Management System Project Status

Accomplishments

- 1. Addendum #3:** Completed and Posted to Oregon Buys December 5. This extended Proposals Due Date to January 10th.
- 2. Addendum #4:** Follow-up Vendor Question Responses posted to Oregon Buys December 24th.
- 3. Moss Adams Discovery Report Findings:** Distributed to the ESC December 13th.

OUR VISION

Next Steps

- RFP Proposals Due January 10th
- Evaluation Round 1 Procurement starts mid January – February 19th
- Moss Adams Change Management Discovery Report Findings Presentation January 13
- Use Case work, Benefits Management Plan, and numerous artifacts for Stage 3 ongoing through March 2025



Risk Governance

- 1. Executive Branch Transition: Procurement Impacts** – OPDC may have impacts to timeline and authority of the procurement schedule for FCMS due to the Executive Branch transition.
- 2. Change Management**– OPDC has yet to secure a communications lead for Change Management which has several downstream impacts in our Change Management effort with Moss Adams due to limited resources available.

Schedule – Critical Path

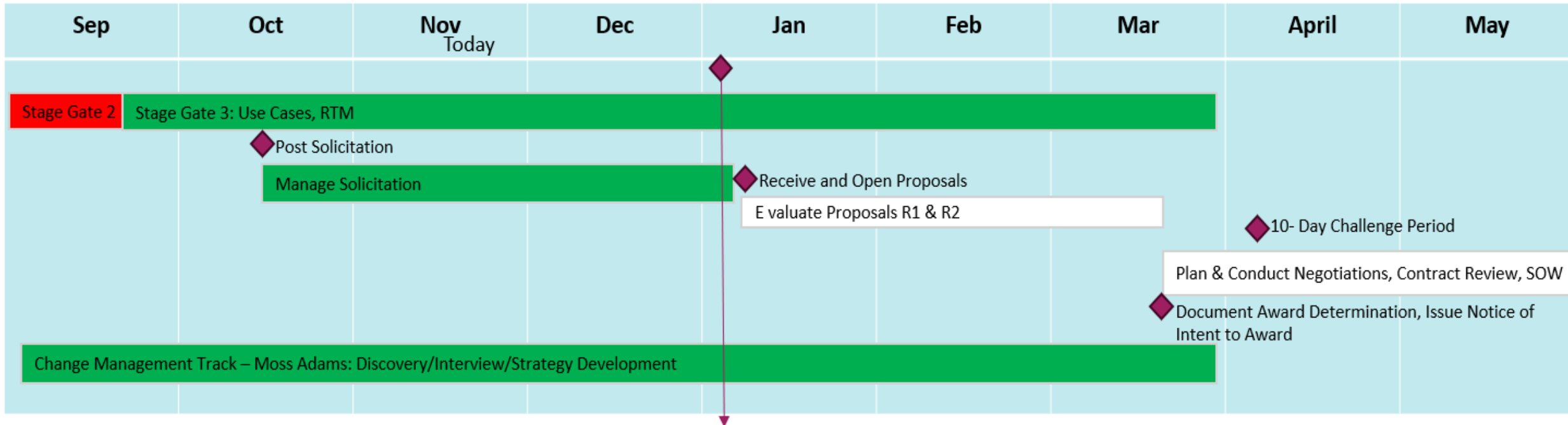
- Proposals due deadline, January 10th, 2025
- Round 1 Evaluation complete, February 10th, 2025
- Round 2 Evaluation complete, March 13th, 2025
- Notice of Intent to Award published March 24th, 2025
- Protest period ends March 31st, 2025

*Schedule as of January 3rd, 2025.

Procurement Timeline

Current Dependencies

- Large sets of requirements take more time to score
- Timeline may shorten if a 3rd round is not needed
- Executive Branch Procurement Authority and Timeline impacts may occur.



Status

FCMS Monthly Project Status Report - November	
Project Status – Medium Risk *Critical Path items for Procurement Timeline allow little lag in schedule presenting timeline constraints. Executive Branch Transition impacts for Procurement Timeline concerns noted in Risk Log.	Yellow
Budget Status – Medium Risk *Until Bond Funding is officially approved, and POP 101 approval completes; status unchanged.	Yellow
Schedule Status - Medium Risk *Multiple resources assigned to multiple tracks scheduled at the same time: Moss Adams Change Management deliverables, Procurement Milestones, Use Case, Process Map work, & overall Stage 3 Work. Executive Branch Procurement Timeline Impacts may occur.	Yellow
Resources Status - Medium Risk *Change Management needs a dedicated Communications Lead which is not currently filled for FCMS. Resourcing on multiple tracks of work for BA capacity continues to be a risk. Many resources at or over capacity during critical path timeline. Continuing to monitor closely.	Yellow
Scope Status - Low Risk *Stage Gate 2 Passed.	Green

Thank you

