

Members:

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

**Nonvoting Member:**

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

Executive Director:

Jessica Kampfe

Oregon Public Defense Commission

Meeting will occur virtually.
 Wednesday, October 16, 2024
 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	Chair Nash
9:05-9:20	Public Comment	
9:20-9:35	Update: Budget	Ralph Amador
9:35-9:50	Briefing: CAP	Emese Perfecto
9:50-10:00	Action Item: Approve Modernization and Remediation Plan	Lisa Taylor
10:00-10:40	Action Item: Approve December E-Board Requests	Lisa Taylor Ralph Amador
10:40-10:50	Action Item: 2025 Commission Meeting Calendar	Chair Nash
10:50-11:30	Update: OPDC Six-Year Plan – Final Report Action Item: Six-Year Plan Approval	Scott Simpson, Moss Adams
11:30-11:40	****Break****	
11:40-11:55	Briefing: Assigned Counsel Program	Jessica Kampfe

11:55-12:15	Briefing: Local Court Spotlight: Coos/Curry Counties	Presiding Judge Martin Stone
12:15-12:35	Update: Unrepresented Persons in Oregon Courts	Jessica Kampfe Harry Noone Madeline Ferrando
12:35-12:45	Update: FCMS	David Martin
12:45-12:55	Update: Director's Update	Jessica Kampfe
1:00 (Approximately)	***Adjourn***	

**To join the Zoom meeting, click this link <https://zoom.us/j/95801774624>. 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 October 14, 2024 using our [online form](#). Please include your full name, organization/entity name, email, and phone number with your request. You will be provided a meeting link to join the meeting as a panelist for the public comment portion of the meeting.

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.

Next meeting: November 13, 2024, 9am – 1pm

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



Oregon Public Defense Commission

COMPLIANCE, AUDIT, AND PERFORMANCE (CAP) PROGRAM FRAMEWORK

DRAFT 10.7.2024

I. EXECUTIVE SUMMARY

A. Purpose

The objective of the Compliance, Audit, and Performance (CAP) program is to provide centralized monitoring over contracts, complaints, and performance and maintain policies, procedures for public defense programs.

The Ten Principles of a Public Defense Delivery System, formally adopted by the American Bar Association (ABA), lay out the benchmarks of effective public defense. The principles are guideposts to inform programmatic work based on standards established through professional consensus and field experience. Nationally accepted standards that promote excellence in defense services are crucial to meeting the challenges facing public defense and to “limiting arbitrary disparities in the quality of representation based solely on the location in which a prosecution is brought.”

A. Key Terms

- **Section:** The different groups involved in the CAP program. These are Compliance, Performance, Data, Research and Policy, and Internal Audit.
- **Unit:** Each section will be comprised of units. Units are smaller teams of individuals who manage specific areas of work within each section. For example, the Data, Research, and Policy section includes three units, one each for data, research, and policy.

B. Department Overview

While all departments across the Agency contribute to the culture of excellence, the CAP program centralizes monitoring and oversight over public defense programs. The CAP program is comprised of three sections that are designed help strengthen the Agency’s audit and oversight capacity.

- **Compliance:** This section is also responsible managing the complaints and investigation process from intake to resolution based on prescribed policies and procedures.
- **Performance:** This section is responsible for regular provider performance monitoring of contractors to support the high-quality service delivery. They are charged with ensuring that clients receive high quality and competent public defense services. This section is responsible for overseeing compliance with established contracts.
- **Data, Research, and Policy:** This section is responsible for regular reporting on key performance measures, managing data for reporting, and conducting research. This section is also responsible for maintaining policies and procedures for the Agency as a whole.

- Internal Audit:** Internal auditing is an independent, objective assurance activity. It brings a systematic, disciplined approach to evaluate and improve the effectiveness of departments and programs across the Agency including CAP.¹ This section reports directly to the Commission and is responsible for the independent, objective evaluation of the Agency.

II. CAP PROGRAM

A. Oversight Structure

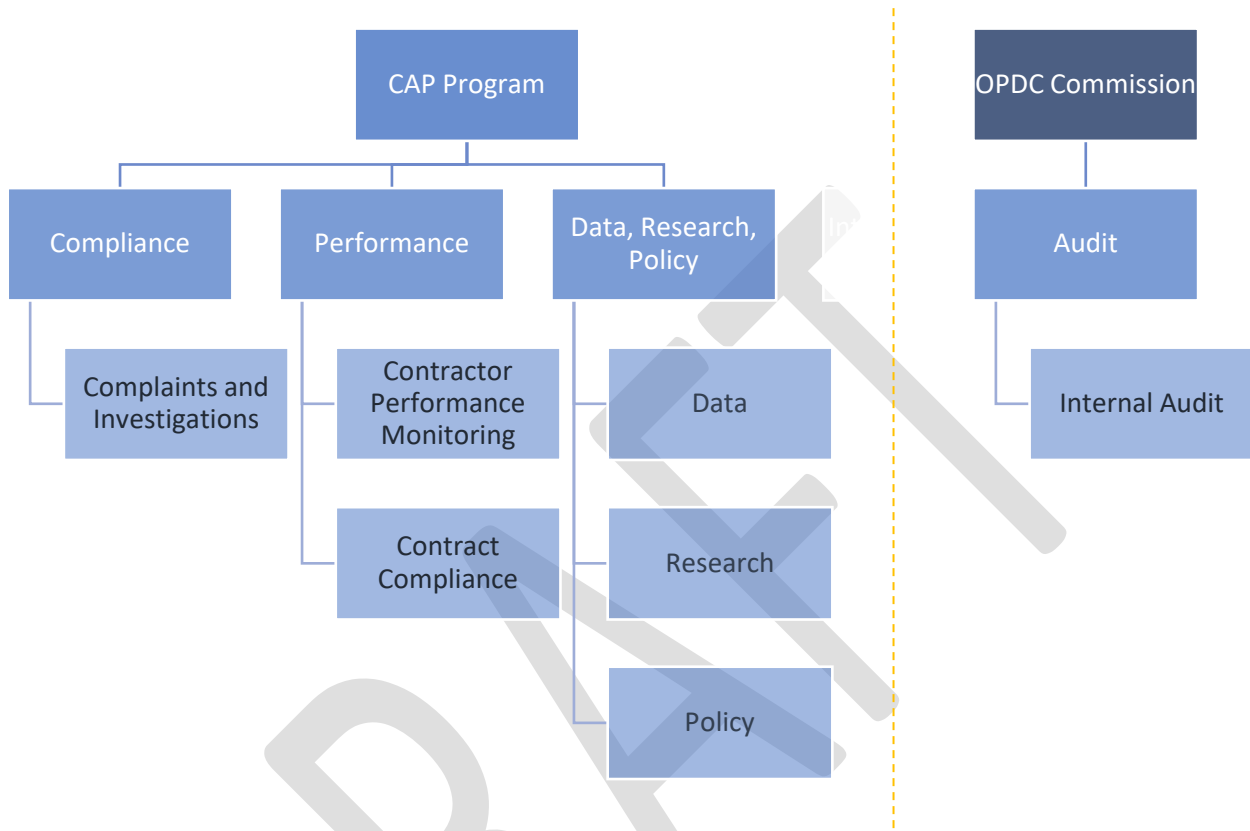
The sections of the CAP program are structured to enable appropriate controls and segregation of duties with independent monitoring and review, contributing to a strong control environment illustrated in the following image.



The Internal Auditor is governed by the International Professional Practices Framework established by the Institute for Internal Auditors. The Commission is governed by the bylaws established in collaboration with the Agency.

¹ Institute of Internal Auditors. "About Internal Audit." <https://www.theiia.org/en/about-us/about-internal-audit/>

B. Section Structure



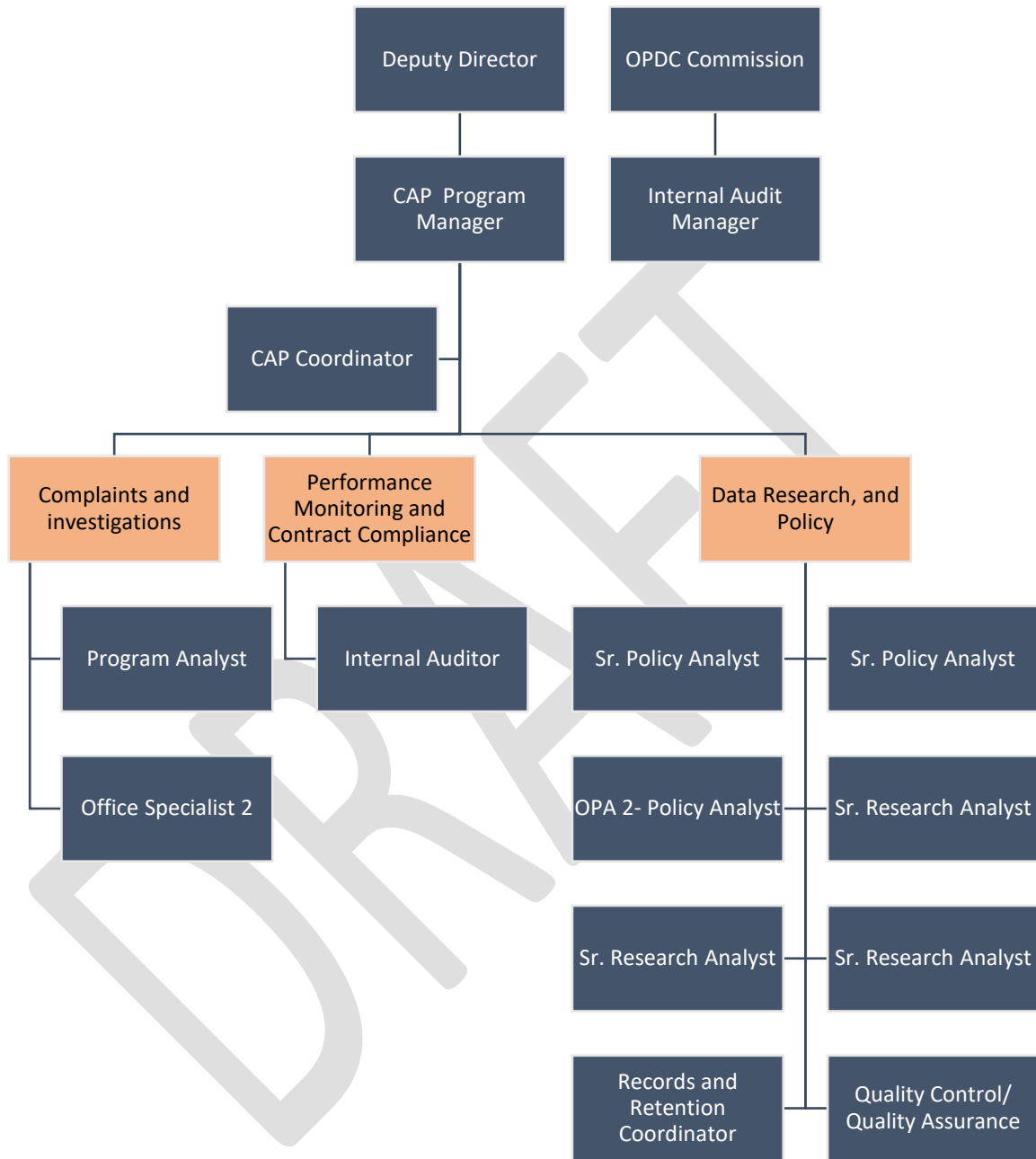
It is critical to note that the chart above is provided to illustrate what will be managed by each section. The dotted line is intended to reinforce the independence of internal audit. Consistent with the role of an internal auditor, it's understood that this section will provide a strategic review of the departments and programs across the Agency including CAP.

C. Staffing Structure

The following staffing structure is provided to illustrate the personnel available to carry out this work. It is critical to note that the effective delivery of services, and the success of the program, will rely on significant cross-functional collaboration and communication.

Based on the set up and launch of the Appointed Counsel Program, this staffing structure will change. Additional personnel may be required to ensure that the CAP program can remain effective.

The orange boxes are functional areas, and do not depict a position. The dark blue boxes are staff roles.



D. Performance

The purpose of the Performance section is to ensure that public defense services are delivered in a manner that is aligned with the Agency’s standards for service delivery.

Performance Monitoring

This section will be responsible for conducting regular performance reviews of individuals providing public defense services. This includes contracted attorneys and non-attorney personnel, as well as attorneys directly within the Agency.

Performance monitoring will be based on OSB, and future standards and practice requirements developed by CAP. In the past the Agency has operated a provider review program. This program will form the basis of future performance monitoring activities. Performance monitoring will provide valuable insights into provider performance helping to identify emerging issues and informing the development of proactive solutions to support providers across the state.

The performance section will work closely with the data, research, and policy section to ensure that performance monitoring, and contract compliance programs are consistent with best practices. The information gathered by the performance monitoring team will be used to inform key performance measurement (KPM) reporting, and updates to training programs and standards. The performance section will collaborate closely with the compliance section to follow up on complaints and resolutions.

Contract Compliance

Contract compliance involves ensuring that all contractual obligations between the Agency and providers are met throughout the contract period.

Contract compliance is distinct from procurement. Procurement officers are typically responsible for developing the request for proposals (RFPs), reviewing bids, developing contracts, and ensuring that legal requirements during the procurement process are met.

The contract compliance unit will regularly monitor contracts to ensure fulfillment of a vendor's (provider, investigator, or other) contractual obligations are met. This includes but is not limited to:

- Workload standards
- Caseload standards
- Qualification and continuing education requirements
- Fees for services
- Expenses
- Insurance
- Other contract requirements as defined

E. Compliance

The purpose of the Compliance section is to manage the complaints and investigations process across the Agency according to established professional standards, and contract requirements.

Complaints and Investigations

If a complaint is filed, this section is responsible for managing the process of receiving, investigating, retaining a third-party investigator as required, and resolving complaints. This includes complaints from employees, providers, partners, or clients.

When a complaint is received, the Compliance section first assesses the nature of the complaint to evaluate the severity, complexity, and parties involved. The information is logged in secure and confidential system to be used throughout the resolution process. The complaint assessment will be based on an established, and published, set of criteria to determine which resolution process to initiate. If the complaint requires an investigation, this section will be responsible for following the established process to conduct the investigation internally or coordinate with an independent third party.

The Compliance section ensures that all investigations are conducted in a fair, thorough, and timely manner, and confidentiality is maintained throughout the investigation process to protect the rights of all parties involved. Based on the result of the investigation, the compliance section will coordinate appropriate corrective action. This could involve updates to policies or procedures, additional training, or in some cases, taking disciplinary action.

The full complaints and investigations process, policies, and procedures will be further developed into a robust document to promote transparency, and consistency in how the process is conducted. The process, policies, and procedures will outline a clear path of escalation, how information will be shared, with whom, and under what conditions to maintain the integrity and confidentiality of the process.

F. Data, Research, and Policy

The Data and Research section includes services such as data management, research, policy management, and KPM reporting.

Data

This unit involves the collection, storage, organization, and use of data and information to support decision-making across the Agency. This unit is responsible for ensuring records and information related to contracts, policies, and providers are accurate, reliable, and accessible to those who need it.

Research

This unit conducts research to support the Agency as a whole. This could include researching best practices, industry trends. Research responsibilities also include gathering data, and engaging partner agencies. The research unit will be responsible for aggregating and reporting results to relevant individuals across the Agency.

On an ongoing basis, the Research and Data unit will also collaborate with the Performance section to develop research methodologies to support the ongoing monitoring of the overall functioning of the public defense system and the impact of programs OPDC may implement in the future.

Policy

This unit involves total management of the Agency's policies and procedures. Policy analysts work collaboratively with subject matter experts across the Agency including attorneys, HR, finance, and IT to develop, research, implement, and review policies. They ensure that these policies align with the goals and comply with relevant laws and regulations.

KPM Reporting

The data, research, and policy section will be responsible for managing the development of key performance measures (KPMs), managing data for reporting, and producing reports for presentation to the Agency's executive team, Commission, and Legislature.

The performance measurement framework will provide a holistic view of performance. It will enable the assessment of not just what was done (outputs), but also what changes or benefits resulted from these activities (outcomes). This framework will be instrumental for strategic planning, decision-making, and continuous improvement, as it will offer valuable insights into both the process and the impact of the Agency's work.

Output metrics will capture the volume or scale of operations, indicating the amount of work done or services provided. Outputs are a snapshot of the work performed and are often used to assess the efficiency or productivity of the Agency's processes or activities.

The framework will also assess outcomes, focusing on the quality or the impact of these activities. It will evaluate the extent to which a program, has achieved its intended results. Outcomes often involve changes in behavior, knowledge, skills, status, or level of functioning of the target audience, they are crucial for understanding the true impact of the Agency's work.

G. Internal Audit

Internal audit's purpose is to provide independent, objective assurance and advisory services designed to add value and improve the Agency's operations. Internal audit's mission is to

enhance and protect the Agency by providing risk-based and objective assurance, advice, and insight.

The internal audit section will govern itself by adherence to the mandatory elements of The Institutes of Internal Auditor's (IIA) International Professional Practices Framework (IPPF) including its Standards, Core Principles for the Professional Practice of Internal Auditing, Definition of Internal Auditing, and Code of Ethics.

The duties and responsibilities of the Internal Audit Manager, or outsourced provider include but are not limited to:

- Submitting biennially a risk-based internal audit plan to the Commission.
- Communicating with senior management and the governing body the impact of resource limitations on the plan.
- Ensuring the internal audit activity has access to appropriate resources with regard to competency and skill.
- Managing the activity appropriately for it to fulfill its mandate.
- Ensuring conformance with IIA Standards.
- Communicating the results of its work to the Commission and following up on agreed-to corrective actions.
- Coordinating with other assurance providers.

The Commission will establish, maintain, and ensure that internal audit has sufficient authority to fulfill its duties. Activities undertaken by the Commission in its role could include but are not limited to:

- Approving the internal audit charter.
- Approving a timely, risk-based, and agile internal audit plan.
- Approving the internal audit budget and resource plan.
- Receiving timely communications from the Internal Audit Manager, or outsourced provider on performance relative to the internal audit plan.
- Actively participating in discussions about and ultimately approving decisions regarding the appointment and removal of the Internal Audit Manager or outsourced provider.
- Actively participating in discussions about and ultimately approving the remuneration of the Internal Audit Manager, or outsourced contract.
- Making appropriate inquiries of management and the Internal Audit Manager to determine if there are any inappropriate scope or resource limitations.
- Developing and approving an authorization that the Internal Audit Manager or outsourced provider will have unrestricted access to all functions, records, property, and

personnel pertinent to carrying out any engagement, subject to accountability for confidentiality and safeguarding of records and information.

The Commission has an established audit subcommittee that meets quarterly. The charter of the committee will be reviewed and approved by the Commission's governance subcommittee to reflect the establishment of the CAP program. The internal auditor, and/or the Agency will provide updates during these quarterly meetings on the status of the audit program, complaints, or investigations. The audit subcommittee will make reports or ask the Agency or its Internal Auditor to report to the Commission no less than on an annual basis.

The Internal Audit Manager will ensure internal audit activities remain free of conditions that threaten its ability to carry out its work in an unbiased manner. The Internal Audit Manager will have no direct operational responsibility or authority over any activities audited. If roles and responsibilities of the internal auditor fall outside of internal auditing, safeguards will be established to limit impairments to independence and objectivity. Biennially, the Internal Audit Manager will confirm independence to the Commission.

III. REPORTING FRAMEWORK

Bi- Monthly

- The Compliance section reports to the Commission on the status of complaints and investigations. This could include the number of complaints filed, non-confidential complaint trends, number of closed investigations.
- The Performance section reports to the Commission on the status of performance and contract monitoring.

Quarterly

- The Executive Director reports to the Commission on CAP performance measures.
- The Internal Audit Manager updates to the audit committee on the audit plan progress, and status of findings and completed corrective actions.

Annually

- Agency report to the Commission and the Legislature.
- Audit Committee report to the Commission.
- Annual audit plan presented to the audit committee for approval.

IV. COMMITTEE FRAMEWORK

A. Audit Committee

As part of developing the CAP program, there are opportunities to review and update the structure of the existing Audit Committee. As described by the Institute for Internal Auditors:

“The audit committee, in concert with executive management, can play a critical role in empowering and elevating the image of the internal audit activity, ensuring that it is not misunderstood. By routinely communicating its value throughout the organization, those at the top can and should promote the importance of the internal audit activity. They can position the section as fully empowered to provide a critical check for management, to be a knowledgeable provider of assurance and a revered consultant, and to add value to the organization’s governance, risk management, and internal control processes.

Among the many important roles the audit committee plays, its primary function is to provide internal audit oversight. Best practice indicates that the audit committee should define in its charter the scope of its relationship with the internal auditors and should work to enhance its oversight ability — subsequently strengthening the internal audit activity.”²

As part of the process, the Agency will work with the Commission, and the Internal Audit Manager, to review and update the Audit Committee charter to reflect any newly established practices outlined in this framework.

V. POLICIES AND PROCEDURES

There are several important policies and procedures that govern the activities of the CAP program. The Agency is in the middle of two important initiatives that will impact, and overlap, with the development of the CAP program’s guiding policies and procedures 1) The transition to the Executive Branch, and 2) the establishment of an appointed council program. While the Agency is transitioning to the Executive Branch, it is working on a total review of its current policies and procedures to ensure they align with those set forth by the Department of Administrative Services. In addition, the Agency is in the process of developing an appointed counsel program which will be completed by July 1, 2025. Policies and procedures that address

² Institute of Internal Auditors. “The Audit Committee: Internal Audit Oversight.” <https://www.theiia.org/globalassets/documents/about-us/about-internal-audit/the-audit-committee-internal-audit-oversight.pdf>

Professional standards, compliance monitoring, financial reporting, data management, complaints and investigations will all be developed through that process.

VI. PERFORMANCE MEASUREMENT

Performance measurement is a critical element of how the Agency can track the effectiveness and cost-benefit of its CAP programs and services. A performance measurement framework should incorporate metrics that focus on outcomes and effectiveness.

Expectations around performance measurement and monitoring will be incorporated into the contracts that are created between the Agency and the various service providers. Vendors entering into a contract with the Agency should expect ongoing monitoring activities including financial and performance monitoring every six months, a review of expenditures and case assignments, and an evaluation of key contract requirements and grievances.

Access to strong performance information will not independently result in fewer complaints or compliance violations. However, this information is important to understanding the reach and efficacy of the Agency's monitoring activities to facilitate discussion around evolving needs, continuous improvement, and resource distribution.

Potential Performance Measures

The following is a representation of potential performance measures. This is provided for illustrative purposes only. The metrics included in a final performance measurement framework will be developed in consideration of the Agency's technology and data management capabilities to ensure reliable and consistent reporting.

Compliance Metrics:

- Number of non-compliance issues identified.
- Percentage of compliance issues resolved within a specified timeframe.
- Percentage of operations audited for compliance.

Audit Metrics:

- Number of audits completed within a given period.
- Average time taken to complete an audit.
- Percentage of audits that result in significant findings.
- Percentage of audit recommendations implemented.

Performance Metrics:

- Training metrics such as frequency, attendance, and satisfaction rating for the training.

- Engagement score.
- Client satisfaction.

DRAFT



Date: October 16, 2024

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

Cc: Agency Director

From: Lisa Taylor, Government Relations Director

Re: Remediation Report V

Nature of Presentation: Action Item

Background:

The Oregon Public Defense Commission (OPDC) is directed to report to the Legislature on a quarterly basis on the Commission's restructuring and modernization efforts, including updated caseloads, financial forecasts, and procurement activities including contract amendments and the alignment of contracting with the biennial budget process.

The Remediation Report V is an update to the remediation report submitted by OPDC in August 2024. This report updates the top 25 issues OPDC identified as needing improvement. Addressing these issues focuses OPDC on working towards a unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing administration to enable OPDC to fulfill its mission of ensuring constitutionally competent and effective legal representation for persons eligible for a public defender.

Agency Recommendation:

Agency recommends the Commission approve the report for submission to the Legislative Fiscal Office for the December Emergency Board meeting.

Fiscal Impact:

None

Agency Proposed Motion:

I move the Commission approve the submission of the Remediation Report V to the Legislative Fiscal Office for the December Emergency Board meeting.

Oregon Public Defense Commission

REMEDICATION PLAN

Version V
OCTOBER 15, 2024

NATURE OF THE REPORT

The budget report for SB 5532 (2023) includes Budget Note #1: Comprehensive Remediation Plan:

The Public Defense Services Commission (PDSC) is directed to report to the Interim Joint Committee on Ways & Means throughout the fall of 2023, the Joint Committee on Ways and Means during the Legislative Session in 2024, and quarterly thereafter to the Legislative Emergency Board, on the Commission's restructuring and modernization efforts, including updated caseloads, financial forecasts, and procurement activities including contract amendments and the alignment of contracting with the biennial budget process.

In addition, reporting by the Commission is to include, and be based upon, a comprehensive remediation plan adopted by the Commission that includes the following elements: (1) Issue – identify each specific issue with a concise problem statement (2) Priority – assign each issue a priority; (3) Evidence of Concern – identify evidence supporting the existence of the issue; (4) Objective – identify what objective the agency is trying to achieve through the resolution of the issue; (5) Best Practice(s) – identify what best practices exist related to the resolution of the issue, which can be used to benchmark the options available as well as the recommended option; (6) Options to resolve the issue – identify what specific options exist to resolve the issue; (7) Recommended Option – identify which is the agency's recommended option to resolve the issue, and on what basis was the option selected; (8) Timeframe – identify the timeframe for implementing the recommended option; (9) Fiscal Impact – identify the cost of implementing the recommended option; and (10) Expected Outcome – identify what outcome is expected from the recommended option and how will it be measured.

The following report is an update to the remediation report submitted by the Oregon Public Defense Commission (OPDC) in August 2024. This report updates the top 25 issues OPDC identified as needing improvement. Addressing these issues focuses OPDC on working towards a unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing administration to enable OPDC to fulfill its mission of ensuring constitutionally competent and effective legal representation for persons eligible for a public defender.

This report was approved at the OPDC meeting on October 16, 2024.

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EXECUTIVE SUMMARY

The Oregon Public Defense Commission (OPDC) has made significant strides in achieving its oversight, leadership, and agency remediation goals, marking substantial progress since the 2023 [Remediation Plan](#). A unified relationship between the Commission and the agency has been successfully cultivated, leading to more productive and organized meetings. OPDC has made considerable headway in implementing SB 337 reforms, including establishing trial-level public defender offices, and has introduced new caseload standards to stabilize the public defense workforce.

Agency remediation efforts include completing a gap analysis, which has informed requests for additional resources, and improving communication through updated governing policies. OPDC has also made strides in aligning its financial and human resource practices with state standards, while enhancing its procurement and internal culture through new hires and staff training.

Key management positions have been filled with leaders who possess extensive executive branch experience and knowledge in their fields. These positions include the Deputy Director, Chief Information Officer, Human Resources Manager, Government Relations Manager, Facilities Manager, and CAP manager. These new leaders have built experienced teams to move forward with critical work. For example, OPDC's CIO has built out the information technology team and the financial case management system project team. The financial case management system project team has turned around a struggling project, which is now back on track and set to deliver critical infrastructure to the agency.

Efficiency and effectiveness have improved significantly, exemplified by cross-divisional collaboration in the Temporary Hourly Increase Program (THIP) which has identified counsel for thousands of unrepresented defendants, leading to a quadrupled output of case assignments. OPDC is making steady progress toward implementing a Financial and Case Management System (FCMS) and has successfully integrated data into decision-making, helping inform budget and resource allocation decisions. In 2024, OPDC added 44 employees to Oregon's first-ever state trial-level public defender offices, thereby implementing an important component of Oregon's public defense reform legislation.

Additionally, the OPDC has been working diligently to improve accountability, transparency, and performance standards. The Executive Director and Commission Chair regularly meet with Legislative, state agency, and public defense stakeholders. OPDC's commitment to improving its internal controls, compliance measures, and overall effectiveness demonstrates a forward-looking approach to delivering high-quality public defense across Oregon.

In October 2023, the Public Defense Services Commission (PDSC), the predecessor to the Oregon Public Defense Commission (OPDC), first identified the top 25 issues the Commission needed to work on for their [Remediation Plan](#). It's been a year, and with this report, OPDC wishes to review those 25 issues and identify which ones have been remediated and which are still being worked on, and to reflect on the agency's overall progress this past year.

In analyzing the 25 issues identified one year ago for this report, OPDC has used the following coding, an issue is successfully remediated if the initial goals in the [Remediation Report II](#) have been met. This means OPDC is operating in standard practice in this area. Even though an issue has been remediated, OPDC will still continue working to improve in that area. These issues are essential to OPDC's success and will continue to be worked on and improved as the agency grows and matures.

Continued improvement in these areas is essential to OPDC's unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing agency administration. Ensuring constitutionally competent and effective legal representation for persons eligible for a public defender.

Oversight and Leadership

- **Unified Commission and Agency:** Successfully remediated. OPDC has cultivated a unified relationship between the Commission and the agency with clearly defined roles and authority by completing all of the original goals of the Remediation Plan. Communication between the Commission and agency has improved, Commission meetings are more productive and organized, and the Commission and agency act as one.
- **Commission Oversight:** Nearly complete. The OPDC sought to improve Commission oversight by increasing participation by the Chair in legislative meetings, establishing specialized subcommittees (such as the subcommittee on governance), updating bylaws, and establishing regular reports at the Commission meetings on subjects like the unrepresented crisis, the Financial and Case Management System (FCMS), and budget updates. The Commission is planning to schedule in-person commission meetings around the state in 2025, including Jackson, Deschutes, and Multnomah counties, and an eastern or coastal county.
- **Decisive Leadership:** Substantial progress. OPDC is leading by implementing SB 337 reforms and addressing the unrepresented persons crisis. OPDC has implemented SB 337 reforms by building the state's first trial-level public defender offices. These offices are stabilizing the public defense workforce in areas most impacted by the unrepresented persons crisis and providing representation to hundreds of people on OJD's unrepresented list. The commission has also implemented the reform legislation by conducting an economic survey to establish a new hourly rate and adopting national and regional caseload standards and a workload model to implement those standards. OPDC is leading in addressing the unrepresented persons crisis by establishing a new successful program, the Temporary Hourly Increase Program (THIP), which has identified counsel for thousands of unrepresented persons. Following the federal court's decision in Betschart, OPDC again led in prioritizing identifying counsel for individuals whose charges present the highest public safety risk and collaborating with the courts and district attorneys to create processes to effectively appoint counsel to the top priority defendants. OPDC's data team has built dashboards to measure factors impacting the public defender shortage across the state and is working with the Oregon Judicial Department to identify ways that public defense and the courts can work together to address this crisis.

Agency Remediation

- **Gap Analysis:** Successfully remediated. Recognizing its lack of staff and resources, the OPDC conducted a gap analysis to identify needs and opportunities for improvement. This analysis informed requests for additional resources, such as procurement specialists, to bring to the Legislature. OPDC will continue to use this gap analysis process to develop requests in the future.
- **Updated Governing Statutes and Policy:** Significant progress. The OPDC commissioners adopted bylaws and established subcommittees. OPDC now regularly brings policies relating to governance and oversight before the Commission. For example, several payment policies impacting court mandated expenses and pre-authorized expenses come before the Commission quarterly for review and updates. The agency is also improving the way it communicates about updated policies through newsletters, office hours, and OPDC's website. However, OPDC identifies a need to create or update additional policies and administrative rules as it moves to the Executive Branch.
- **Standard Financial Practices:** In Progress. The OPDC has been working to adhere to standard budgeting, financial management, and accounting practices. It follows the Oregon Accounting Manual as a guide, follows instructions from the State's Chief Financial Officer, and seeks advice from the Legislative Fiscal

Office (LFO) and Chief Financial Office (CFO). OPDC also continues to receive the Gold Star Award from the Department of Administrative Services. To fully resolve this issue, OPDC will work on providing ongoing training for budget and financial staff, as well as financial literacy training for non-budget staff and Commissioners to ensure a shared understanding of the agency's budget process.

- **Standard Human Resource Practices:** In Progress. The OPDC took steps to align its HR practices with state government standards. This included reviewing and updating HR policies, clarifying job descriptions, and implementing fair and open recruitment processes. OPDC continues to work on an organization chart that aligns the agency's budget structures with operations, and it is currently having ongoing meetings with the Department of Administrative Services-Chief Human Resources Officer (DAS-CHRO) and the Legislative Fiscal Office (LFO).
- **Standard Procurement Practices:** In Progress. The OPDC acknowledges the need for improvement in its procurement practices, particularly regarding provider contracts. It has been working with the Department of Justice to ensure that new contracts meet Executive Branch laws and rules. In September, the Legislative Emergency Board approved positions that will allow OPDC to hire Procurement Analysts; those positions are currently in the hiring process. With these staff, OPDC will be able to complete this remediation issue.
- **Improved Agency Culture:** Significant Progress. OPDC has implemented several initiatives, including leadership and management training, an internal communications plan, and an employee survey slated to go out next month. Completing a strategic plan, including staff feedback and participation, and finalizing the employee training plan will complete this issue.

Efficiency and Effectiveness

- **Efficient and Effective Programming:** Substantial improvement. The OPDC recognized a need for improved communication and coordination among agency divisions. The agency clarified decision-making responsibility, defined roles and processes, and improved internal communication to address this. This has resulted in greater cross-divisional work, breaking down silos within the agency and improving efficiency and effectiveness in programs. An example is the Temporary Hourly Increase Program (THIP), where data, budget, resource counsel, and the assignment coordinators have worked together to improve the process and track data, resulting in a 4x increased output of case assignments.
- **Implement FCMS:** Underway. The OPDC has been working with DAS EIS to complete the Stage-Gate process so the agency can procure and implement a financial case management system (FCMS), which is critical infrastructure for the agency and part of the SB 337 reforms, which requires the agency to collect data on public defense. This effort involves mapping the agency's existing infrastructure, identifying requirements for a new system, procuring a commercial off-the-shelf financial and case management system, training staff, providers, and attorneys, and establishing a feedback mechanism. OPDC has completed Stage Gate 2 of this project, and a Request for Procurement has been released.
- **Data-Informed Decision Making:** Successfully remediated. OPDC has wholly changed how it uses data in decision-making. OPDC has integrated data into its planning and decision-making processes, including budget decisions, resource allocations, and programmatic work. OPDC has also implemented robust data governance policies, which are essential for maintaining the integrity, security, and compliance of agency data. While becoming a data-driven agency will continue to be an ongoing process, OPDC has implemented its remediation plan for this issue and is using data
- **Accurate and Timely Vendor Payments:** Within standards and monitoring. OPDC is currently processing accounts payable invoices 27 days after an invoice is received. The state-recommended timeline is 45 days per the Oregon Accounting Manual, though OPDC's goal is within 30 days. OPDC recently started a workgroup on payment issues as the agency was outside of the 30-day window; this workgroup of internal and external stakeholders identified ways the agency could improve the process. While OPDC has technically followed all of the remediation plans for this issue, it remains in progress until the agency is confident payment times will remain accurate and timely.
- **Strategic Plan:** On track. Recognizing the need for a clear direction, the OPDC hired a consultant to assist in developing a new strategic plan. This plan will guide decision-making, prioritize DEI (Diversity, Equity, and Inclusion), establish strategic goals and objectives, and include input from Commission members, staff,

and stakeholders. The contractor is currently facilitating the creation of a strategic plan, which should be completed by November 2024.

- **Internal Quality Control and Audits:** In Progress. The OPDC has taken steps to improve its internal quality control and auditing processes. This included conducting internal audits, training a new internal auditor, and developing a two-year internal audit plan. OPDC's governance subcommittee is revamping the Audit Committee charter and plans to review policies related to the audit committees' scope of work.
- **Develop Internal Data Analytics:** Successfully remediated, awaiting FCMS implementation. OPDC's Data and Research team has developed multiple dashboards for better data collection, visualization, and reporting; they have developed data governance and user-friendly interfaces for various divisions throughout the agency. OPDC has signed a data share agreement with OJD, and the data teams meet together weekly to discuss data sharing and improvements. The final step in internal data analytics will be the establishment of FCMS for more meaningful data collection.
- **Data Security and Independence:** In Progress. High-level discussions and planning are underway with Enterprise Information Services (EIS), Data Center Services (DCS), and Microsoft. Bi-weekly status meetings include key stakeholders such as executive and IT leadership from OPDC, OJD, EIS, Legislative, and the Governor's Office. These meetings aim to communicate plans, progress, and risks.
- **IT Structure:** Fully remediated, awaiting final transition to executive branch. OPDC has undertaken all of the recommended options to remediate this issue, including a full assessment of current infrastructure, security protocols, and service delivery to identify areas for improvement. This issue will remain in progress until OPDC ends its contract with OJD-IT and fully joins DAS-EIS in July 2025.

Compliance, Audit, and Performance

- **Develop CAP Program:** Making progress. The objective of the Compliance, Audit, and Performance (CAP) Division was to hire a team of attorneys to develop standards and best practices, training, and other resources for public defense attorneys across Oregon and to provide subject matter expertise to agency program management staff. OPDC is working with the Legislative Fiscal Office (LFO) on an updated CAP Plan that will allow CAP to monitor, measure, and report on the quality of public defense being provided by OPDC, while redirecting non-CAP work to other sections of the agency. The procurement positions from the September Emergency Board represent an important step toward this plan.
- **Performance Standards:** In Progress. OPDC is working with national experts and experienced project managers to establish qualification and performance standards for core staff and attorneys. Once the commission adopts those standards, OPDC will be able to monitor performance using CAP staff and data collected through the financial and case management system. Resource Counsel has conducted workgroups with public defense stakeholders to conduct fieldwork in aid of producing qualification and performance standards for all non-attorney core staff roles in Oregon's public defense system for which OPDC provides funding. Those standards will be presented to the Commission for potential adoption in winter 2024. Next, Resource Counsel will work with stakeholders to develop qualification and performance standards for all attorneys providing services through OPDC.
- **Audits and Quality Control:** In Development. To implement quality control and expenditure audits, OPDC must first establish performance metrics. The CAP division is not at this stage yet. Still, OPDC fully recognizes the importance of vendor compliance through quality control and expenditure audits of vendor contracts and agency expenses and is performing quality control work within the agency by reviewing data accuracy within the databases, including attorney qualifications, caseload reports received, and data entry errors.
- **Compliance Measures:** In Progress. To fully implement compliance measures, OPDC must have performance standards and quality control in place. Currently, OPDC has improved its oversight by tracking which lawyers are working under which contracts, identifying each lawyer's case type qualifications, and monitoring their appointed caseload.

Accountability and Transparency

- **Accountability to Legislature:** Significant progress. The OPDC has been working to rebuild trust with the legislature by adhering to legislative direction and budget authority. This included submitting required reports on time, following the adopted budget, adding two legislators to the commission, meeting with legislative partners, and improving transparency in expenditures.
- **Build & Repair Relationships:** Work in progress. The OPDC has made efforts to build and repair relationships with public safety partners, stakeholders, and other state agencies. This included hiring a communications specialist, engaging in regular meetings with key partners, creating workgroups, and reaching out to other agencies for support and advice.
- **Accountable Complaint Process:** Process developing. Establishing a standardized, transparent, and accountable complaint process has been a key area of focus for OPDC. While the agency has existing policies for handling certain types of complaints, such as those related to attorney performance or fee disputes, there are several shortcomings that need to be addressed. OPDC is working to establish a centralized system where complaints can be organized, tracked, and addressed.

The following remediation report provides updates to the remediation plan submitted by OPDC in August 2024 and heard by the Joint Committee on Ways and Means during the September 2024 legislative days. Rather than republishing each issue's 10-point problem identification plans, the January [report](#) is provided here. OPDC has restated the issue and objective and provides status, next steps, and timeline updates.

CASELOADS

Caseload appointment data as of August 20, 2024, for the contract cycle beginning July 1, 2023.

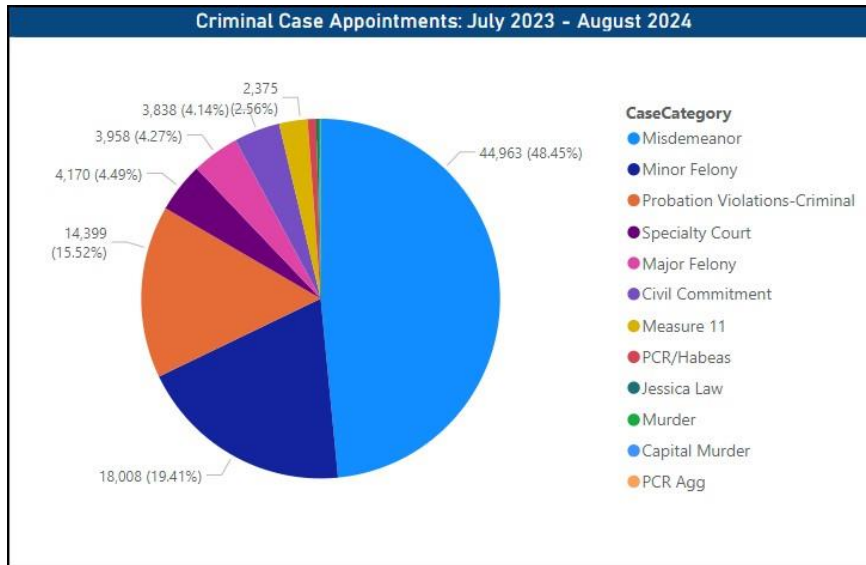
Criminal cases taken by contract providers:	92,804
Juvenile cases taken by non-PCRCP contract providers:	9,186
Juvenile cases taken by PCRCP contract providers:	3,014

Caseload appointment data as of September 30, 2024, for non-contract attorneys beginning July 1, 2023.

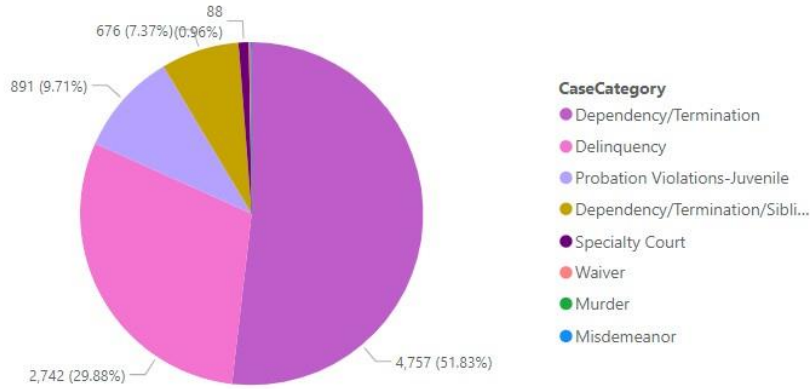
Hourly attorneys at standard rate:	1,953
All cases taken through the Temporary Hourly Increased Program (THIP):	3,455
OPDC trial attorneys (state employees):	597

Total appointments made since July 1, 2023: 111,009

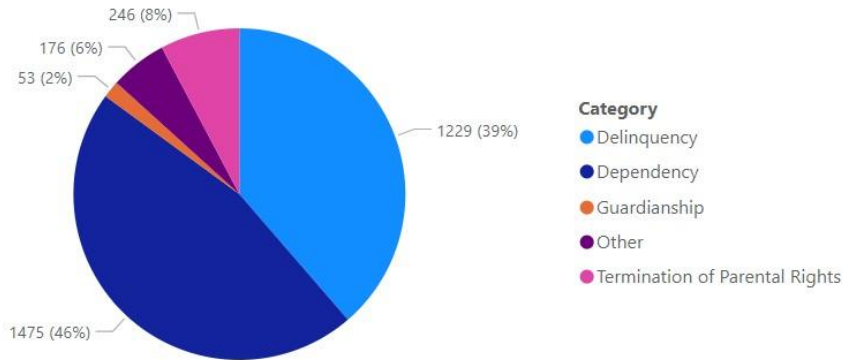
The charts below show cases by case type taken by the different provider types (as of August 20 for contractors and September 30 for all others):



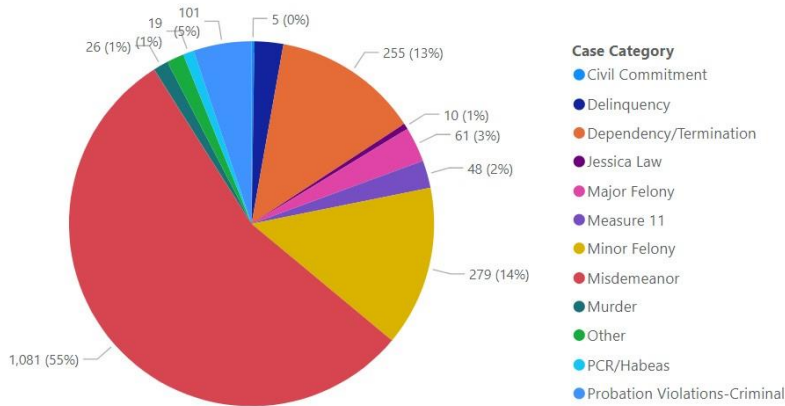
Juvenile Case Appointments: July 2023 - August 2024



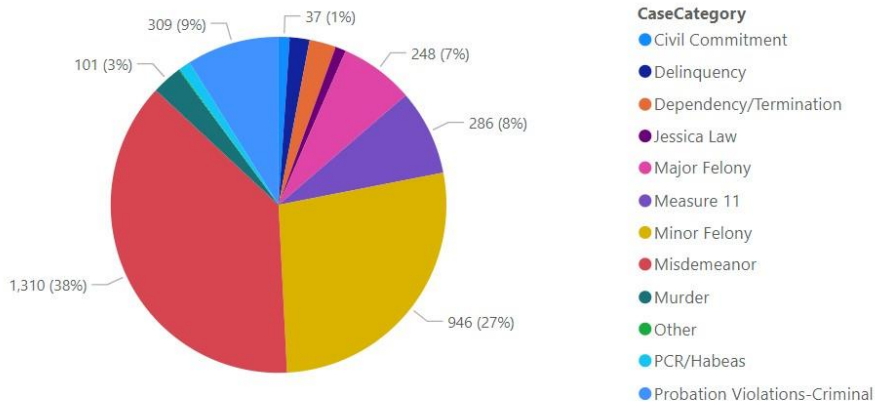
PCRPs Cases Opened July 2023 through August 2024



Standard Rate Hourly Cases Billed July 2023 thru Sept. 2024

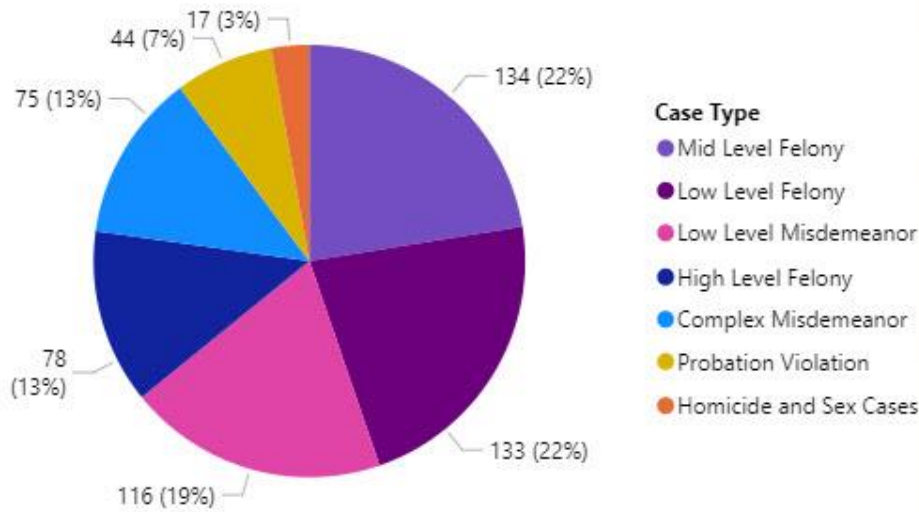


THIP Caseload: July 2023 thru Sept. 2024



OPDC State Trial Cases Through September 2024

Includes cases attorneys brought with them when hired



MAXIMUM ATTORNEY CASELOAD (MAC)

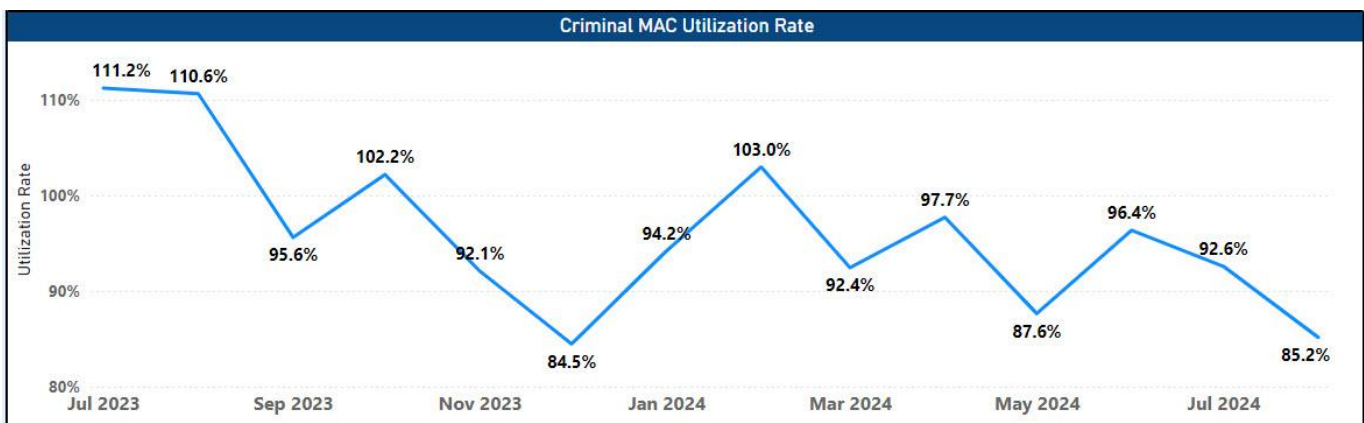
OPDC can now monitor provider entity's maximum attorney caseload (MAC). A full-time contracted public defense attorney is considered a 1.0 MAC, meaning they could take a maximum of 300 weighted misdemeanors per year. However, until recently, saying an attorney was a 1.0 MAC was misleading, as it did not factor in when that attorney started their contract. For example, an attorney could join a provider in January as a full-time 1.0 MAC, but they would be expected to take only part of the 300 weighted misdemeanors in the remaining six months of the contracted fiscal year. Even if they reached their maximum caseload by the end of the fiscal year (150 misdemeanors), it would appear they had only fulfilled 50% of their contracted MAC.

Criminal Case Type	Annual Maximum per 1.0 FTE	Individual Case Weight (out of 300)
Murder	6	50
Jessica Law	6	50
Ballot Measure 11	45	6.7
Major (A/B) Felony	138	2.2
Minor (C) Felony	165	1.8
Misdemeanors	300	1
Probation Violation	825	0.36
Civil Commitments	230	1.3

To correct this, OPDC has begun to report prorated MAC; this is the actual MAC an individual attorney can take on, dependent on the start date of their contract. Prorated MAC provides a more accurate data point to compare against reported MAC or the number of cases providers have reported taking. Using the prorated MAC and the reported MAC, OPDC can determine the MAC utilization rate.

Criminal MAC Utilization			
OPDC Contract Data July 2023 - August 2024			
ENTITY	Reported MAC	Prorated MAC	Utilization
Consortium	185.8	194.4	95.6%
Firm	48.9	49.5	98.9%
PD	153.0	179.4	85.3%
Sole Proprietorship	5.4	5.8	92.7%
Total	393.2	429.0	91.7%

OPDC program analysts reviewed criminal MAC utilization in April and identified any providers under 85%. They then met with those contract administrators from late April to early June to discuss caseloads and reported MAC utilization. Of the 29 providers below 85%, six were for ethical reasons, mainly due to taking on complex murder cases; six are currently in discussion about how to increase caseloads; five had reporting errors that were artificially reducing their utilization rates, and corrections are being made; four have specialty contracts that are meeting expectations, three have recent staffing issues including medical leave which should resolve soon; three are still pending review; and two are having contract amendments made to reduce MAC so it can be reallocated to providers who can take more cases.



It is essential to note that while the introduction of MAC was a fiscally conservative solution and an important first step to ending the pay-per-case model, it has many shortcomings. The MAC standard only regulates the annual number of cases a lawyer may accept. It does not account for the number of hours needed for each case. Further, the standard itself is based on caseload models of the 1970s and, therefore, does not reflect the current complexities of public defense work. In short, it does not accurately utilize the attorneys available, does not ensure quality representation, and impedes new attorney recruitment.

Criminal Utilization July 2023 - August 2024	
Contract County	Utilization Rate
Baker	57.2%
Baker, Union	55.8%
Benton	88.2%
Clackamas	107.3%
Clatsop	107.1%
Clatsop, Columbia	78.5%
Columbia	83.0%
Coos	125.6%
Crook, Jefferson	90.2%
Curry	99.1%
Deschutes	100.2%
Douglas	89.5%
Gilliam, Hood River, Sherman, Wasco, Wheeler	107.2%
Grant, Harney	82.1%
Jackson	94.0%
Josephine	75.2%
Klamath	120.4%
Klamath, Lake	134.8%
Lake	97.9%
Lane	81.6%
Lincoln	102.1%
Linn	98.9%
Malheur	68.4%
Marion	74.8%
Morrow, Umatilla	86.9%
Multnomah	88.0%
Polk	73.8%
Tillamook	95.5%
Umatilla	96.9%
Union, Wallowa	98.0%
Washington	100.8%
Yamhill	98.4%
Total Average	91.70%

FINANCIAL FORECASTS

<i>Month Ending August 31, 2024</i>	LAB	Forecast	Variance
Administrative Services Division	26,884,921	21,802,749	(5,082,172)
Adult Trial Division	290,008,379	272,996,877	(17,011,502)
Appellate Division	26,424,696	25,831,286	(593,410)
Compliance, Audit, and Performance Division	7,069,293	6,527,660	(541,633)
Court Mandated Expenses	80,282,573	83,646,328	(3,363,755)
Executive Division	4,647,432	4,150,006	(497,426)
Juvenile Trial Division	51,227,439	52,104,934	887,495
Preauthorized Expenses	58,617,686	55,964,616	(2,653,069)
Parent-Child Representation Program	56,634,287	56,021,693	(623,287)
Special Programs, Contracts, and Distributions	12,438,908	13,824,248	(1,385,340)
TOTAL FUNDS	614,235,614	592,870,396	(21,365,218)

PROCUREMENT – PROVIDER CONTRACTS

OPDC’s contracting is aligned with the biennial budget. Provider contracts are two years, currently from July 1, 2023, to June 30, 2025. Costs and maximum attorney caseloads (MAC) are prorated when attorneys change their MAC, join, or start a contract mid-cycle. MAC totals can fluctuate throughout a contract cycle as attorneys enter and exit contracts. MAC for a contract can be increased when a contractor identifies an attorney qualified to handle public defense cases and requests that OPDC authorize and fund that attorney to provide public defense services. MAC increases are only permitted when funded MAC is available.

When an attorney leaves a contracted entity (a consortium or a nonprofit), the contractor retains the funding for that attorney for a short period to find a replacement. If replacement is not located, the MAC and associated funding are reallocated to contractors who can fill that capacity. It should also be noted that when an attorney leaves a contract, OPDC works with that attorney to manage the disposition of the remainder of their open caseload and will fund those cases for which the attorney continues to provide representation at an hourly rate.

The following pages provide the MAC totals used to determine the rebalance approved by the Legislature during the 2024 session. These are the contracted totals as of 12/31/23. This provides a starting place for comparison purposes. It then shows the MAC/FTE changes under the quarterly amendments made in September 2024 and the shift from the original MAC/FTE numbers as numbers and percentages.

Adult Trial

Type	Level	MAC/FTE (as of 12.31.2023)	2024 Session Adopted	Amendments as of 9/30/24	Leg Adopted and Contracted Variance	Percent Variance
Adult Trial Division						
Misdemeanor	Attorney 1 (Misdemeanor)	88.23	13.4	70.7	-30.93	-30.43%
Minor Felony	Attorney 2 (Minor Felony, Civil Commitment)	97.42	0	90.89	-6.53	-6.70%
Major Felony	Attorney 3 (Major Felony)	153.33	10	160.4	-2.93	-1.79%
Murder	Attorney 4 (Capital Murder, Murder)	115.87	0	120.35	7.13	6.15%
Total		454.85	23.4	442.34	-35.91	-7.51%
Adult Trial Division - Statewide Contracts						
Post Conviction Relief/Habeas Corpus	Attorney 4	16.15	0	16.15	0	0.00%
Post Conviction Relief appeals	Attorney 4	4.65	0	4.65	0	0.00%
Civil commitment appeals	Attorney 4	2.5	0	2.5	0	0.00%
Civil commitment appeals- PSRB	Attorney 3	2.49	0	3.19	0.7	28.11%
PSRB requiring supervision	Attorney 2	1.6	0	0.9	-0.7	-43.75%
Murder	Attorney 4	14.79	0	13	-1.79	-12.10%
Total		42.18	0	40.39	-1.79	-4.24%
Adult Trial Division - Supervision FTE						
	Supervisor-2	0.64	0	0.57	-0.07	-10.94%
	Supervisor-3	1.85	0	1.71	-0.14	-7.57%
	Supervisor-4	17.04	0	18.11	1.07	6.28%
Total		19.53	0	20.39	0.86	4.40%
Adult Trial Division - Investigation FTE						
	Investigator	57.18	0	51.59	-5.59	-9.78%
Total		57.18	0	51.59	-5.59	-9.78%
Adult Trial Total (Contracts, Statewide, & FTE)		573.74	23.4	554.71	-42.43	-7.11%

Juvenile Trial

Type	Level	MAC/FTE (as of 12.31.2023)	Amendments as of 7/1/24	Leg Adopted and Contracted Variance	Percent Variance
Juvenile Trial Division					
Misdemeanor		0	0.1	0.1	0.00%
Minor Felony	Attorney 2 (Delinquency)	5.57	1.27	-4.3	-77.20%
Major Felony	Attorney 3 (Dependency, Dependency & Delinquency)	78.3	81.23	2.9	3.74%
Murder	Attorney 4 (Murder)	11.29	10.96	-0.3	-2.92%
	Total	95.16	93.56	-1.6	-1.68%
Juvenile Trial Division - Statewide Contracts					
Juvenile appeals	Attorney 4	2.8	2.8	0.0	0.00%
Murder	Attorney 4	0.6	0.66	0.1	10.00%
	Total	3.4	3.46	0.1	1.76%
Juvenile Trial Division -Supervision FTE					
	Supervisor-1	0			
	Supervisor-2	0			
	Supervisor-3	0.43	0.43	0.0	0.00%
	Supervisor-4	0.77	0.77	0.0	0.00%
	Total	1.2	1.2	0.0	0.00%
Juvenile Trial Division - Investigation FTE					
	Investigator	2.42	2.42	0.0	0.00%
	Total	2.42	2.42	0	0.00%
Juvenile Trial Total (Contracts, Statewide, & FTE)		102.18	100.64	-1.5	-1.51%

Parent-Child Representation

Type	Level	MAC/FTE (as of 12.31.2023)	Amendments as of 7/1/24	Leg Adopted and Contracted Variance	Percent Variance
Parent-Child Representation Program					
Juvenile Delinquency	PCRCP attorney	0.85	0.15	-0.7	-82.35%
Dependency	PCRCP attorney	11.15	12	0.85	7.62%
Termination of Parental Rights	PCRCP attorney	72.03	71.6	-0.43	-0.60%
Supervisor		2.77	2.45	-0.32	-11.55%
Investigator		3.75	3.54	-0.21	-5.60%
	Total	90.55	89.74	-0.81	-0.89%
PCRCP Hourly Providers					
In-House Case Manager		6.8	6.47	-0.33	-4.85%
Independent Case Manager		17.8	25.77	7.97	44.78%
Case Manager Administrator	Level 1 Administrator	1	1	0	0.00%
Senior Case Manager Administrator	Level 2 Administrator	1	1	0	0.00%
*1 FTE = 1920 hours/year	Total	26.6	34.24	7.64	28.72%
PCRCP Total					
(Contracts & Hourly FTE)		117.15	123.98	6.83	5.83%

REMEDIATION PLAN

UNIFIED COMMISSION AND AGENCY

Issue: Cultivate a unified relationship between the Commission and the agency with clearly defined roles and authority.

Objective: Ensure the agency and commission are acting as one.

Status Update: OPDC has completed its remediation work on this issue.

- **Director/Commissioner Meetings:** The Executive Director meets regularly with Commission members and weekly with the Commission Chair and Vice Chair.
- **Commission Administrator:** OPDC has hired a Commission Administrator to help facilitate ongoing communication between Commissioners and commission staff.
- **Subcommittee on Governance:** In January 2024, the Commission created a subcommittee on governance to ensure that the Commission's governance structures are continually refined and aligned with the agency's mission and goals. The subcommittee meets quarterly or more often as needed. The Commission has approved the bylaws recommended by the governance subcommittee. The governance subcommittee is updating the audit committee charter and reviewing policies about their scope of work.
- **Commissioner Onboarding:** New Commissioners participated in onboarding training in December 2023 to ensure that new commissioners are well-prepared and equipped with the knowledge needed to fulfill their roles effectively.
- **Communicating Commission Actions to Agency Staff:** Commission actions are summarized in a post-commission meeting newsletter and communicated to the management team to ensure that staff are aligned with the Commission's decisions.
- **Providing Commission Materials in Advance:** Commission materials are normally provided at least a week before Commission meetings.
- **Establishing and Communicating Timelines:** In January, a commission meeting schedule was established, including standing reports on budget, unrepresented persons, legislative updates, as well as action items including the approval of legislative reports, budget requests, and policies. When possible, the material is brought to the Commission for review and discussion a month before the Commission votes.

Next Steps: Continue OPDC's commitment to a unified agency and Commission. Monitor this process for problems and make corrections as needed. Continuously improve the Commission/agency relationship.

COMMISSION OVERSIGHT

Issue: Commission oversight in addressing issues within the public defense system.

Objective: Have the Commission exercise oversight on the issues and overall functioning of the public defense system.

Status Update:

- Strengthen relationships: Commissioners, notably the Chair, are working to build relationships outside of OPDC to demonstrate their leadership and involvement. They have attended Legislative Days, participated in Legislative and other stakeholder meetings, and joined the Executive Director at various events and meetings.
- Establish Specialized Subcommittees: The Commission established a Governance subcommittee in January and also has a Legislative subcommittee. These subcommittees can conduct in-depth reviews, gather expert input, and present findings to the full Commission for informed decision-making.
- Implement Regular Reporting Mechanisms: Agency leadership regularly submits reports on key topics, challenges faced, and innovations implemented. Standing reports at the Commission included unrepresented persons, budget, legislative, FCMS, and a general Director's Report. Commissioners can use these reports to identify systemic issues, track progress, and make data-informed decisions.
- Update Bylaws: The Commission has adopted bylaws and will review and, if necessary, amend the bylaws annually. The bylaws' key focus is establishing the Commission's precise role in agency oversight. The approved bylaws provide additional guidance on the Commission members' roles. The Commission has relied upon the mandates of ORS Chapter 151 in assigning roles. It has also relied on the best practices of other boards and commissions to provide additional guidance.

Next Steps:

- Engage in Regular Site Visits: OPDC is scheduling regular site visits to public defense offices and local courts. It will engage with defense providers, attorneys, courts, and support staff to gain firsthand insights into the public defense system's challenges and successes. These visits will provide commissioners with a practical understanding of how policies and decisions impact the daily operations of public defense services. The Commission is planning to schedule in-person commission meetings around the state in 2025, including Jackson, Deschutes, and Multnomah counties, and an eastern or coastal county.
- Service Delivery Model: While not a remediation plan issue, the Commission will be engaged with and provide oversight for building the service delivery model as directed by SB 337.

Timeline: Fall 2024: Begin site visits;
Fall 2024: Begin buildout of service delivery model.
2025: Continue site visits.

DECISIVE LEADERSHIP

Issue: Demonstrate decisive leadership and decision-making.

Objective: Establish OPDC as the trusted subject matter expert on issues within public defense.

Status Update:

- **Be Proactive:** OPDC continues to be proactive by monitoring policies impacting the number of unrepresented persons and alerting partners of potential increases or acting, like extending the Temporary Hourly Increase Program (THIP) to continue addressing the unrepresented numbers.
- **Process:** OPDC established a transparent process regarding the Betschart ruling, preventing the release of any top-priority cases under Betschart.

Next Steps:

- **Create a Strategic Plan:** The agency is working with a contractor to develop a strategic plan as a roadmap for its future, ensuring decisions align with long-term goals and contribute to fulfilling the organization's mission. This work is expected to be completed in November.

The Commission will continue to rebuild trust as the public defense subject matter experts and take a more proactive role in the unrepresented persons crisis.

Timeline: Ongoing: Implement the unrepresented crisis plan and continuously monitor and update it.
Continue to monitor the unrepresented numbers and allocate existing resources as necessary.
Continue to improve the assignment coordination process.
Fall- Winter 2024: Finalize the strategic plan with the contractor.

GAP ANALYSIS

Issue: Perform a gap analysis to assess where goals are being met and identify needs (i.e., positions/expertise, IT deficiencies, agency coordination).

Objective: Identify agency needs and opportunities for improvement.

Status Update: OPDC has completed its remediation work on this issue.

- Perform a Gap Analysis: OPDC conducted a gap analysis to identify needs and opportunities for improvement. This analysis informed requests for additional resources, such as procurement specialists, to bring to the Legislature. OPDC will continue to use this gap analysis process to develop requests in the future.

Next Steps: OPDC has used this gap analysis to inform its organizational alignment request to the September Emergency Board and package 60 changes. OPDC will also submit a policy option package (POP) to the 2025 Legislature requesting position authority for various administrative roles identified through this gap analysis.

Timeline: October-November 2024: Continue to work with DAS-CHRO and LFO on the organizational chart.

January 2024: Bring administrative positions POP to the Legislature.

Ongoing: Continue to perform Gap Analysis to identify gaps within OPDC.

UPDATED GOVERNING STATUTES AND POLICY

Issue: Review and update as necessary statutes, policies, and procedures that govern the commission and agency.

Objective: Establish a routine review process so the Commission can ensure modern and appropriate governing statutes and policies.

Status Update: OPDC has made significant progress in the policy area. Several payment policies come before the Commission quarterly for review and updates, and communication about new or updated policies has improved substantially through newsletters, office hours, and OPDC's website. However, OPDC still needs to create or update additional policies and administrative rules, especially with the move to the Executive Branch.

- **Transparent Communication:** OPDC solicits input from internal and external stakeholders during the review process of new or updated policies. OPDC has done this for its payment policy changes, including PAE, Routine Expenses, Schedule of Guidelines, and created workgroups for the account payable process and the non-attorney qualifications. OPDC has also held office hours to discuss the Public Service Loan Forgiveness policy, the unrepresented persons intake form, KPMs, and the budget build process. OPDC document any changes made during the review process and communicates changes through newsletters/emails and by posting to the website.

Next Steps: Now that the Commission has adopted bylaws and established Governance and Legislative subcommittees, OPDC needs to formalize its process for reviewing all statutes, policies, and procedures, similar to what it has done for the payment policies.

- **Quarterly Reviews:** OPDC is setting up a review process for the policies to be reviewed. Once administrative rules are created, OPDC will decide how rules are reviewed and at what frequency. When appropriate, these recommendations should be brought to the executive team or the Commission's governance subcommittee.

Timeline: September-January 2025: Work with the Legislature on potential ORS Ch. 151 changes.

October-January 2025: Review the website to increase transparency and useability.

October-May 2025: Formalize quarterly reviews with processes and procedures.

STANDARD FINANCIAL PRACTICES

Issue: Adhere to standard budgeting, financial management, and accounting practices.

Objective: Ensure OPDC adheres to agency standardization on budgeting, financial, and accounting matters.

Status Update: The OPDC adheres to standard budgeting, financial management, and accounting practices. It follows the Oregon Accounting Manual as a guide, follows instructions from the State's Chief Financial Officer, and seeks advice from the Legislative Fiscal Office and Chief Financial Office.

- Review of policies and procedures: OPDC's payment policies are reviewed and updated quarterly. A workgroup of internal and external stakeholders is currently meeting to make recommendations on improving accounts payable procedures.
- Gold Star Award: OPDC continues to receive the Department of Administrative Services' Gold Star Award.

Next Steps:

- Annual financial audit by Secretary of State: The SOS audits OPDC annually as part of the Oregon Annual Comprehensive Financial Report (ACFR) statewide audit. That audit for the work ending June 30, 2024, is underway. The ACFR is released in December. OPDC will thoroughly review audit findings and promptly implement corrective actions to strengthen the agency's financial integrity and enhance accountability.
- Regular Financial Training: Professional Development: OPDC HR is developing an employee development and training plan to enhance staff skills and engagement. Regular financial training for budgeting and financial management staff is essential for maintaining a skilled and knowledgeable workforce. Ensuring that staff are familiar with standard practices and updated regulations enhances their ability to contribute effectively to financial processes. This option supports ongoing professional development and fosters a culture of financial competency within the agency.
- Financial Literacy Training for Staff/Commissioners: Implementing financial literacy training for non-budget staff and commissioners is crucial to ensure a shared understanding of the agency's budget process. This training will equip participants with the foundational knowledge to understand the agency's budget process and engage meaningfully in budget-related discussions. By fostering a baseline understanding across all stakeholders, the agency promotes transparency, enhances collaboration, and empowers staff and commissioners to contribute effectively to informed decision-making within the financial context.

Timeline: December 2024: Review ACFR and implement any correct actions.

January 2025: Additional accounting staff requested through agency staffing POP.

2025: Work with DAS on potential executive branch training.

STANDARD HUMAN RESOURCE PRACTICES

Issue: Adhere to hiring and human resource (HR) management professional standards, including competitive recruitments, up-to-date job descriptions, and performance reviews.

Objective: Ensure OPDC is adhering to agency standardization within human resource management.

Status Update:

- **Review Current Policy:** OPDC HR has been updating current policies to better align with Department of Administrative Services- Chief Human Resources Officer (DAS –CHRO) policies and will continue implementing quarterly feedback check-ins in line with the Governor’s expectations. OPDC HR is reviewing and updating the Affirmative Action and DEI Plan and continuing to review and implement strategies to meet all the Governor’s expectations. HR has identified the need for an agency-wide class/comp study and pay analysis.
- **Open Recruitment:** OPDC uses fair and open recruitment processes, ensuring that all vacant positions are publicly advertised and promoting equal opportunities. Exceptions are documented with compelling reasons, maintaining transparency, and mitigating potential biases in the hiring process. OPDC HR has developed and implemented a consistent candidate scoring methodology and is meeting the target goal of a 50-day average time to fill positions.

Next Steps:

- **Organizational Chart:** While HR maintains an organizational chart showing hierarchical structures in Workday, it has also assisted in developing an organizational structure that reflects the agency's budgetary structure. This allowed OPDC to disentangle the procurement work from the policy analyst work. OPDC continues to work on this reorganization.
- **Job Descriptions:** HR is reviewing job descriptions by section, has completed several updates, and is updating others. It is also engaging a third-party contractor to complete an agency-wide class/comp study to ensure pay structures align with the work.
- **Performance Review:** OPDC HR has developed updated performance feedback standards and is sharing those standards with relevant stakeholders. Once adopted, these standards will be instituted in a robust performance review system that includes regular employee assessments. HR will provide training and resources for managers to conduct effective performance reviews, ensuring constructive feedback, goal-setting, and professional development discussions. These practices foster a culture of continuous improvement and accountability.

Timeline: Now-December 2024: Review and update policies to align with the Executive Branch.

December 2023- March 2024: Review position descriptions to ensure they correctly align with class/comp standards.

Now-December 2024: Finalize Org Chart.

Jun 2024- December 2024: Develop employee onboarding process.

June 2024- December 2024: Develop/implement performance accountability feedback.

July 2024-October 2024: Employee satisfaction/ Employee Engagement plan.

July 2024-October 2024: Develop agency succession plan.

STANDARD PROCUREMENT PRACTICES

Issue: Adhere to state government procurement practices, including competitive contracting processes.

Objective: Ensure conformity with state government procurement standards.

Status Update:

- **Procurement Staffing:** The September Emergency Board allocated positions to OPDC to allow the agency to hire procurement analysts. These positions are in recruitment, some of which have had offers made. These will be procurement specialists focused on contracting using standard procurement practices.
- **Adhere to State Regulations:** OPDC works with DAS and DOJ to ensure that new contracts meet Executive Branch laws and rules.

Next Steps:

- **Implement Clear Procurement Policies:** OPDC will adopt state procurement policies within the agency. These policies should outline the procedures for competitive contracting, specify thresholds for different procurement methods, and ensure that all procurement staff are familiar with and adhere to them.
- **Provide Regular Training:** OPDC recognizes the need to develop a procurement team with DAS-required training before transitioning to the Executive branch. With procurement staff slated to be hired by the end of October, training will need to happen quickly. Ongoing training will be essential to the procurement team in the future.
- **Regularly Review and Update Procurement Practices:** OPDC will Conduct periodic reviews of procurement practices to ensure they align with evolving state government standards. It will also regularly update procedures and practices based on lessons learned, feedback, and changes in regulatory requirements to enhance the effectiveness and efficiency of the procurement process.

Timeline: April 2024-July 2025: Work with DOJ to develop 25-27 provider contracts.

April 2023-December 2024: Update and write policies to align with the Executive Branch and state procurement law.

June 2024: Coordinate with the State Procurement Office to align OPDC procurement standards with DAS standards, recommendations, and state procurement law.

October-December 2024: Hire and onboard the new procurement positions requested at the September 2024 Emergency Board and provide appropriate training to align with state procurement law.

January-May 2025: Continue to provide training and implement standard procurement procedures per state procurement law and Executive Branch expectations. Begin to provide agency training on agency minimal expectations.

IMPROVED AGENCY CULTURE

Issue: Improve agency culture and morale to become an employer of choice.

Objective: Improve employee morale and become an employer of choice.

Status Update:

- **Internal Communications:** OPDC has started an internal monthly newsletter for staff and a newsletter summarizing Commission meetings. It also has bi-monthly manager meetings to ensure that communications are shared throughout the agency.
- **Manager Training:** OPDC's management team is participating in Ascent Leadership training, which focuses on communication, conflict resolution, and change management.

Next Steps:

- **Employee Surveys:** OPDC will send an employee satisfaction/engagement survey to establish a baseline of employee satisfaction.
- **Create a Strategic Plan:** The agency is working with a contractor to develop a strategic plan as a roadmap for the agency's future, ensuring decisions align with long-term goals and contribute to fulfilling the organization's mission. This work is expected to be completed in November.
- **Professional Development:** OPDC HR is developing an employee development and training plan to enhance staff skills and engagement.

Timeline: July 2024-December 2024: Employee satisfaction/ Employee Engagement plan.

October 2024: Employee survey released.

November 2024- December 2024 – Analyze survey results.

EFFICIENT AND EFFECTIVE PROGRAMMING

Issue: Ensure programs and activities are coordinated and operate efficiently and effectively.

Objective: Improve communication and coordination among agency divisions and staff to ensure efficient and effective programs and activities.

Status Update:

- **Enhance Communications:** OPDC uses SharePoint as a centralized communication platform to enhance collaboration and information sharing among agency divisions. OPDC hired a communications specialist to increase agency communication both internally and externally.
- **Cross-Divisional Training:** OPDC has broken down silos within the agency by promoting cross-divisional work and training. The Trial Support Team, Data, and Government Relations have coordinated on the unrepresented in-custody list, specifically for cases potentially subject to the *Betschart* ruling, and multiple divisions worked on the Unrepresented Crisis Plan that was submitted to the Governor with the initiatives within the plan working together to maximize effectiveness in resolving the crisis.
- **Project Management Tools:** OPDC has implemented project management tools, including using a project management spreadsheet for tracking progress for the executive move, daily scrum meetings for Betschart cases, Asana, and process mapping for accounts payable and the assignment of counsel process.

Next Steps:

- **Create a Strategic Plan:** The agency is working with a contractor to develop a strategic plan as a roadmap for the agency's future, ensuring decisions align with long-term goals and contribute to fulfilling the organization's mission. This work is expected to be completed in November.
- **Job Descriptions:** HR is reviewing job descriptions by section, has completed several updates, and is updating others. They are also engaging a third-party contractor to complete an agency-wide class/comp study to ensure pay structures align with the work being done.
- **Administrative Controls:** OPDC has established administrative control systems by standardizing processes and procedures in financial management, human resources, and data management. Other agency areas continue to develop standard processes and procedures and are working to formalize their administrative controls.

Timeline: Fall-Winter 2024: Finalize the strategic plan with the contractor.

December 2023-March 2024: Review position descriptions to ensure they correctly align with class/comp standards.

Ongoing: Establish administrative controls throughout the agency.

IMPLEMENT FCMS

Issue: Procure and implement a financial case management system (FCMS) that will allow for more efficient financial processing and the collection of statewide data relating to caseloads and case-related activities.

Objective: Create an integrated FCMS that improves data collection and analysis and allows for compelling case and financial management.

Status Update: OPDC proposes an integrated financial and case management system (FCMS) to enhance efficiency and accountability in Oregon's public defense services, specifically in timekeeping, case management, and financial processes. Overall Project status is Yellow for September, with multiple tracks of work running on the critical path in the Microsoft Project Schedule (WBS).

- Procure System: OPDC is nearing the end of Stage Gate 2, with all artifacts completed and awaiting final approval for Stage Gate review. OPDC aims to have Stage Gate Approval by 10/15, allowing the RFP to be posted on 10/16.
 - **Budget Update:** OPDC has applied for FCMS Financing Suggestion (Article XI-Q Bonding) that included having DAS create cost of issuance and debt service estimates for bond funds for \$13,769,781 for 2025-27 project costs. OPDC is having DAS review the bond fund application and is awaiting approval as of 9/10. OPDC has also solidified the FCMS budget that has gone through Stage Gate 2 review with EIS for \$14,139,781. Policy Option Package (POP-101) also aligns with the budget for FCMS.
 - **Scope Update:** OPDC is aligned on Scope with 18 artifacts submitted for Stage Gate 2 review and approval as of August 1st, 2024. OPDC has also been closely aligned with iQMS reviews for governance, oversight, and risk management with another dozen artifacts, including iQMS deliverables, risk reports, Stage Gate Artifact reviews, and regular input on the significant project status health of FCMS. The RFP also passed a legal sufficiency review and will be ready to post after Stage Gate 2 approval. OPDC are working closely with EIS for Stage Gate oversight. Risk management and governance are also aligned and risks that impact scope are tracked and mitigated closely.
 - **Schedule Update:** OPDC has made significant strides in the FCMS project and is on track to deliver on several key milestones below. OPDC also uses Microsoft Project Schedule to track project deliverables, critical path items, and weekly reports on scheduled activities. OPDC has started its Change Management track of work with Moss Adams and is waiting for Stage Gate 2 approval.

Next Steps:

- Training: After a system is procured, OPDC will ensure staff and provider users are trained on the new financial and case management system to maximize its benefits. Implementing a new system is only effective if the users are proficient. Develop a comprehensive training program covering all aspects of the FCMS, tailoring content to different roles within the agency and outside users. Continuous training and support mechanisms will empower staff to maximize the new system's benefits, improving overall efficiency.
- Feedback: After a system is procured, OPDC will establish a user feedback mechanism to improve and address any system-related issues continuously. Creating a feedback loop is essential for ongoing system optimization. Implement a user-friendly mechanism for users to provide feedback on their experiences with the FCMS. Regularly analyze this feedback to identify areas for improvement or promptly address any system-related issues, ensuring that the FCMS evolves to meet OPDC's dynamic needs.

Timeline:

Critical Path Scheduled Tasks

- Stage Gate 2 Artifacts Approved – October 7, 2024
- Stage Gate 2 Approval Memorandum – October 14, 2024

- Publish RFP October 16, 2024
- Deadline for Questions, November 15, 2024
- RFP Addendum answering questions published November 26, 2024
- The RFP Protest period ends December 3, 2024
- Proposals due deadline, December 20, 2024
- Round 1 Evaluation complete, January 22, 2025
- Round 2 Evaluations complete, February 24, 2025
- Notice of Intent to Award published March 5, 2025
- Protest period ends March 12, 2025

DATA-INFORMED DECISION-MAKING

Issue: Use data related to forecasting, procurement, budgeting, quality control, and performance management in a manner that allows quantitative decision-making.

Objective: Engage in a rigorous quantitative decision-making process for activities related to forecasting, procurement, budgeting, quality control, and performance management.

Status Update: OPDC has completed its remediation work on this issue.

- Data Integration: OPDC incorporates data insights to inform strategic decisions, ensuring that quantitative analysis becomes foundational in shaping the agency's direction. OPDC is implementing data-informed decision-making in various ways:
 - Data was used to predict the impacts the various interventions would have on the unrepresented list in the Unrepresented Crisis Plan submitted to the Governor;
 - Data is used in the assignment of counsel to in-custody and *Betschart* cases; staff can see where cases are growing;
 - Data was used to determine the allocation of attorneys under HB 4002 (2024);
 - Data was used in developing OPDC POPs and Emergency Board requests, specifically for projecting Temporary Hourly Increase Program (THIP) cases to determine how long it will take them to close and when OPDC can expect billing to come in.
 - Data was used to select the vendors who participated in the Accounts Payable workgroup.
- Staff Training: OPDC has invested in its data team by providing staff with training to enhance their skills. The data team has completed PowerBi and SQL server training to utilize the data to create and improve agency dashboards. The data team continues to work with PowerBi consultant as needed to ensure data integrity along with enhanced performance with the data elements.
- Data Governance: Robust data governance policies are essential for maintaining agency data's integrity, security, and compliance. OPDC's is also improving data collection, integrity, and utilization so OPDC will be better situated to make data-informed decisions now and in the future:
 - All OPDC data related to forecasting, procurement, budgeting, quality control, and performance management is obtained by formal request to the data team;
 - The Data and Research Team has created internal dashboards to assist with the continued need for data requests and to address areas of concern in data collection;
- Ongoing cross-sectional work with the Trial Support and Development Team, Program Analysts, and Data and Research team to address areas of attention in caseload reporting data and continued training on utilization of internal dashboards, along with the implementation of quality control review of caseload reports to contract and attorney databases. OPDC will also be utilizing OJD data with OPDC caseload reports.
 - Continue with a contract for consultation with data elements using Power BI;
 - OPDC executed an expanded data share/data warehouse agreement with OJD;
 - OPDC and OSCA data teams meet weekly to work on the data warehouse, further understanding the data to be shared between both agencies.
 - The Data and Research team is working with Accounts Payable and the Pre-Authorized Expense team to create internal dashboards to monitor agency expenditures, track processing times, address inconsistencies in invoices received, and address the most common errors.
 - The Data and Research team is working with the Trial Division with workload reporting with Clio, creating internal dashboards for case assignments, and ensuring data integrity.
- Data-Driven Culture: OPDC has wholly changed how it uses data in decision-making. OPDC has integrated data into its planning and decision-making processes, including budget decisions, resource allocations, and programmatic work. While becoming a data-driven agency will continue to be an ongoing process, OPDC believes it has implemented a data-driven culture.

Next Steps: Continue to foster a data-driven culture and improve data collection and usage going forward.

Timeline: Ongoing.

ACCURATE AND TIMELY VENDOR PAYMENTS

Issue: Vendor payments must be accurate and timely to meet state standards.

Objective: Ensure conformity with the state government's timely payment policy.

Status Update:

- **Regularly Review and Update Payment Procedures:** Payment policies are reviewed quarterly. OPDC has also conducted process mapping to identify bottlenecks or inefficiencies in the payment procedures.
- **Improved Payment times:** Payment, audit, and review practices were changed to meet the Commission's instructions to get the payment times under the 30-day goal. The agency has achieved this expectation
- **Enhance Communication with Providers:** OPDC publishes a weekly email with accounts payable processing times to enhance communication with providers. A workgroup of internal and external stakeholders is currently meeting to make recommendations on improving accounts payable procedures.

Next Steps:

- **Staff Training:** OPDC HR is developing an employee development and training plan to enhance staff skills and engagement. Professional development for accounts payable staff needs to include training on the latest payment regulations, standards, technologies, and well-being. Staff regularly review sensitive subject matter related to preauthorized expense requests. OPDC will need to focus attention on the physical and psychological safety of staff. Invest in awareness training and understand the effects of secondhand trauma.

Timeline: Ongoing: Continue to work on decreasing the time to payment for Accounts Payable.

STRATEGIC PLAN

Issue: Develop and adopt a mission-driven strategic plan centering on improved oversight and management of public defense in Oregon. The plan will focus on persons eligible for public defense services.

Objective: Establish a strategic plan for the Commission to base decision-making and planning.

Status Update:

- **Consultant:** OPDC hired a consultant to support the agency and commission in developing a strategic plan.
- **Clarify Mission, Vision, and Values:** The consultant has collaborated with the commission, staff, and stakeholders to clarify the agency's mission, vision, and values. Ensure these foundational elements align with the commitment to constitutionally competent and effective legal representation. Articulate a clear and inspiring vision for the future.
- **Engage Stakeholders:** Foster collaboration and engagement with a diverse range of stakeholders, including public defenders, legal professionals, community organizations, and individuals who have received public defense services. Collect input on the strengths, weaknesses, opportunities, and threats related to public defense.
- **Establish Strategic Goals and Objectives:** Based on the identified priorities and challenges, establish strategic goals and objectives that align with the mission. These goals should be specific, measurable, achievable, relevant, and time-bound (SMART) to provide a clear roadmap for the agency.
- **Prioritize Diversity, Equity, and Inclusion (DEI):** Integrate principles of diversity, equity, and inclusion into the strategic plan. Ensure the agency's commitment to DEI reflects the mission statement and strategic goals. This involves considering the unique needs and experiences of individuals eligible for public defense services.
- **Align with Legal and Regulatory Frameworks:** Ensure alignment with existing legal and regulatory frameworks. Review relevant statutes, policies, and procedures to ensure the strategic plan complies with legal requirements while advancing the agency's mission.

Next Steps:

- **Develop Action Plans and Key Performance Indicators (KPIs):** Translate strategic goals into actionable plans with defined steps and responsibilities. Establish key performance indicators to measure progress and success. Regularly assess and adjust action plans based on evolving needs and external factors.
- **Establish Implementation Timelines:** A draft implementation and reporting plan will be developed alongside the strategic plan to keep critical partners informed. Develop a timeline for implementing the strategic plan. Clearly outline milestones, deadlines, and responsible parties to ensure accountability and progress tracking.
- **Communicate and Educate:** Implement a comprehensive communication plan to inform all stakeholders about the strategic plan. Educate staff, commissioners, and the public on the agency's mission, goals, and the anticipated impact of the strategic plan.

Timeline: September-October 2024: Document strategic plan.

November 2024: Launch strategic plan.

INTERNAL QUALITY CONTROL AND AUDITS

Issue: Develop processes for internal quality control reviews and auditing capabilities.

Objective: Conduct rigorous internal quality control assessments based on meaningful performance measures.

Status Update:

- **Establish a Quality Control Framework:** The Audit Committee met on April 1, 2024, and approved the three-year audit plan and the strategic goals and objectives for the internal audit.
- **Regular Internal Audits:** The completed audits have been provided to the audit committee and the agency's executive leadership, and executive summaries have been distributed to OPDC's commissioners. The internal auditor recently attended an agency-wide manager meeting to brief the management team on the audit plan, and the internal auditor has standing meetings with the executive director to brief her on audit functions. The following two internal audits identified in the audit plan will examine preauthorized expenses and data migration.
- **Documented Processes:** The goals and objectives are defined across four operational perspectives, similar to a balanced scorecard approach, to ensure a broad organizational reach. Apart from the goals and objectives, the three-year audit plan remains relevant through completing regular risk assessments, monthly meetings with management (and applicable stakeholders), trade group training, peer agency discussion forums, regional and national news publications, and insights gained from ongoing audit activity. When new risks are identified, Internal Audit will collaborate with OPDC management and the Audit Committee to ensure oversight of the identified internal risks and potentially reprioritize future audits to support agency needs.
- **Staff Training:** OPDC's outgoing auditor trained a new internal auditor through a SPOTs Card audit.
- **Clear Reporting Structure:** OPDC's commissioners are working with OPDC's Audit Committee and chief internal auditor to adopt a new charter that includes best practices for internal audit and makes clear roles and responsibilities and reporting structure for the audit committee and internal auditor. OPDC has undertaken this work in its governance subcommittee, which holds public meetings to work on governance issues such as bylaws, audits, and procedures for performance reviews for the executive director. The subcommittee will present the proposed Audit Committee charter to the full commission in Fall 2024.

Next Steps:

- **Feedback Mechanism:** Establish a feedback mechanism that encourages staff to provide insights and suggestions for improving internal processes. This can be through surveys, regular meetings, or suggestion boxes.
- **Continuous Improvement:** Foster a culture of continuous improvement, where findings from internal audits are used to make informed decisions, implement corrective actions, and enhance overall efficiency.

Timeline: December 2024: quarterly audit committee meeting.

DEVELOP INTERNAL DATA ANALYTICS

Issue: Implement internal data analytics capability beyond reporting to include research and complex data analysis.

Objective: Create a data collection program that includes reporting, research, and complex data analysis.

Status Update:

- Collaborative Partnerships: OPDC has signed a data share agreement with OJD and has weekly meetings with OJD's data team to bring in specialized knowledge and resources. New Tools available to OPDC based on OJD Data Sharing:
 - *OPDS Unrepresented*: OJD's Unrepresented dashboard (and underlying data tables), made available to OPDC internally, allows for edits to the dashboard in ways that best support daily business processes and needs. This also enables OPDC analysts to analyze Unrepresented data and trends in new and potentially valuable ways.
 - *Active CAA Caseloads*: OJD's Court Appointed Attorney Caseloads dashboard (and underlying data tables), made available to OPDC internally, allows new opportunities for future research with Court Appointed Odyssey data.
 - *SB 337 Statewide*: OJD's SB 337 dashboard (and underlying data tables), made available to OPDC internally, allows new research opportunities relevant to counties identified in SB 337 Crisis Team planning.
- Continuous Training Programs: OPDC has invested in its data team by providing staff with training to enhance their skills. The data team has completed PowerBi and SQL server training to utilize the data to create and improve agency dashboards.
- Data Quality Assurance Measures: OPDC has instituted data governance policies for maintaining agency data's integrity, security, and compliance. All OPDC data related to forecasting, procurement, budgeting, quality control, and performance management is obtained by formal request to the data team
- User-Friendly Interfaces: The OPDC Data and Research team has developed multiple dashboards for better data collection, visualization, and reporting. These include:
- *OPDC Hourly Agreements*: Used to summarize hourly attorney caseloads, summarize and project THIP spending, and aid attorney assignment process on Unrepresented Cases.
 - *OPDC Trial Division*: This section summarizes real-time caseload data on OPDC Trial Division attorneys working directly for the state to measure attorney capacity and aid the attorney assignment process.
 - *Caseload Reporting*: Monitors the contractor's reported caseload and assesses capacity. It is often shared with providers to inform their practices.
 - *Contracts*: Monitors contracted values, including FTE for attorneys, supervisors, and investigators, and contracted qualification levels. Quality control work has begun on this dataset, increasing data integrity and collaboration access teams.
 - *PAE and AP (Accounts Payable)*: This is the central location for research, which can help understand agency finances and billing processes and identify opportunities.
 - *Attorneys*: This dashboard provides a roster of active public defense attorneys, including which counties they are willing to work in and their qualification levels.
- Data Governance Framework: Robust data governance policies are essential for maintaining agency data's integrity, security, and compliance. OPDC is also improving data collection, integrity, and utilization, so OPDC will be better situated to make data-informed decisions now and in the future.
- Scalable Infrastructure: OPDC's data team has built scalable infrastructure in preparation for a growing volume of data. They continuously improve OPDC's data collection and usage, including creating additional internal dashboards with the DAS forecasting information and the OJD and OPDC data. The data team is working with accounts payable and pre-authorized expense teams to create internal dashboards to track expenditures, monitor invoice processing times, track invoice types with errors, and monitor the

time from PAE approval to submission of invoices for payment. As the data team continues to work with each of the sections to refine the data to ensure the information is captured and displayed in a way that is user-friendly and reflects the needs of each section

Next Steps:

- FCMS: The final action item for this issue is the implementation of FCMS. Please see ‘Implement FCMS’ for more information.

Timeline: Ongoing: Continuous improvement of OPDC’s data analytics.

DATA SECURITY AND INDEPENDENCE

Issue: Evaluate current data security and independence.

Objective: Ensure public defense data is secure and appropriately firewalled.

Status Update:

- **Collaboration with State IT Partners:** High-level discussions and planning are underway with Enterprise Information Services (EIS), Data Center Services (DCS), and Microsoft. Weekly status meetings include key stakeholders such as executive and IT leadership from OPDC, OJD, EIS, Legislative, and the Governor's Office. These meetings aim to communicate plans, progress, and risks. State Data Center tickets have been opened to engage Data Center Services (DCS) in all key areas of technology service transition, including LAN/WAN, Windows Server, and Microsoft 365.

Next Steps:

- **Data Governance Framework:** The September Emergency Board approved a Chief Data Officer position. This position will help OPDC establish a comprehensive data governance framework that standardizes data management practices and protocols. This framework should cover data classification, access controls, encryption standards, and regular reviews to ensure ongoing compliance and security.

Timeline: May 2024-Oct 2024: First round IT transition work (M365, web services, desktop and mobile support, Nintex, and triage).

June 2024-October 2024: State Data Center LAN/WAN Network Build-out.

October 2024-December 2024: M365 and Server Virtualization Environment Transitioned.

December 2024-January 2025: Second round IT transition work (based on 2nd gap analysis).

October 2024-January 2025: Testing/finalizing/transferring work between OJD and Executive.

January 2025-June 2025: Final testing/finalizing/transferring.

July 2025: IT contract with OJD ends; IT services provided by OPDC and DAS.

IT STRUCTURE

Issue: Evaluate the current IT structure and identify needs.

Objective: Ensure OPDC's Information Technology Section can fully support the agency.

Status Update:

- **Gap Analysis:** OPDC conducted a gap analysis to identify needs and opportunities for improvement. This analysis informed requests for additional resources, such as procurement specialists, to bring to the Legislature. OPDC will continue to use this gap analysis process to develop requests in the future.
- **Collaboration with Other State Agencies:** High-level discussions and planning are underway with Enterprise Information Services (EIS), Data Center Services (DCS), and Microsoft. Bi-weekly status meetings include key stakeholders such as executive and IT leadership from OPDC, OJD, EIS, Legislative, and the Governor's Office. These meetings aim to communicate plans, progress, and risks.
- **Staff Training and Development:** Existing IT staff were trained to ensure they were well-equipped to handle the agency's evolving IT needs.

Next Steps:

- Perform a quarterly gap analysis.
- Continue to collaborate with other state agencies.
- Provide additional training and development to IT staff.

Timeline: May 2024-Oct 2024: First round IT transition work (M365, web services, desktop and mobile support, Nintex, and triage).

June 2024-October 2024: State Data Center LAN/WAN Network Build-out.

October 2024-December 2024: M365 and Server Virtualization Environment Transitioned.

December 2024-January 2025: Second round IT transition work (based on 2nd gap analysis).

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January 2025-June 2025: Final testing/finalizing/transferring.

July 2025: IT contract with OJD ends; IT services provided by OPDC and DAS.

CAP: DEVELOP CAP PROGRAM

Issue: Develop a Compliance, Audit, and Performance program plan that can independently monitor, measure, and report on the compliance and performance based on recognized standards and best practices for public defense

Objective: Create a CAP division that provides oversight for the Commission and the executive director setting standards of practice with which to analyses and assessments of the public defense system and agency operations.

Status Update:

- Develop CAP Plan: OPDC is working on an updated CAP Plan that will allow CAP to monitor, measure, and report on the quality of public defense provided by OPDC while redirecting non-CAP work to other sections of the agency. This plan includes details about staff roles and responsibilities, division structures, policies and procedures, reporting requirements, along with a transition plan to implement the new structure. The procurement positions from the September Emergency Board represent an essential step toward this plan.

Next Steps: Finalize CAP Plan.

Timeline: Now-December 2024: Finalize CAP Plan.

CAP: PERFORMANCE STANDARDS

Issue: Develop standards for public defense providers based on national best practices and that consider meaningful representation quality and performance measurement.

Objective: Clear standards for public defense providers in Oregon.

Status Update:

- **Research and Benchmarking:** OPDC has researched best practices for public defense and is using national standards when developing performance standards.
- **Engage Stakeholders:** Resource Counsel has worked with public defense stakeholders to develop qualification and performance standards for all non-attorney core staff roles in Oregon’s public defense system for which OPDC provides funding. These performance standards will be presented to the Commission for adoption in the fall of 2024.
- **Define Clear Performance Metrics:** Proposed performance standards are clearly defined.
- **Flexibility for Varied Contexts:** Proposed performance standards allow flexibility for varied contexts and support roles.
- **Legal and Ethical Considerations:** The proposed performance standards align with the legal and ethical requirements of the individual professions represented in the standards.

Next Steps:

- Repeat this process for attorney qualification standards.
- **Continuous Improvement Mechanism:** Establish a mechanism for continuous improvement, allowing providers to adapt and enhance their practices. Encourage ongoing training, peer reviews, and feedback loops to foster a culture of learning and development.

Timeline: Sept 2024-Apr 2025: Revise existing qualification standards and develop performance standards for attorneys working in public defense.

Sept 2024-Apr 2025: Metrics for evaluating the performance of individuals in these core roles and overall system functioning statewide and in each jurisdiction.

January-June 2025: Develop training standards and programs to support public defense providers in meeting qualification and performance standards applicable to their particular area(s) of practice.

Ongoing: Regularly review all qualification and performance standards, metrics systems, and structures to identify areas for improvement and update.

CAP: AUDITS AND QUALITY CONTROL

Issue: Develop processes for external quality control reviews and auditing capabilities.

Objective: Conduct rigorous external quality control assessments based on meaningful performance measures.

Status Update: To implement quality control and expenditure audits, OPDC must first establish performance metrics. With metrics, CAP will know what to control or audit. The CAP division is not at this stage yet. Still, OPDC fully recognizes the importance of vendor compliance through quality control and expenditure audits of vendor contracts and agency expenses.

Current quality control work within the agency includes reviewing data accuracy within the databases, including attorney qualifications, caseload reports received, and data entry errors. Data and Research continues the monthly review of the attorney and contracts database for errors. These errors are shared with the program analysts and corrected in a timely manner. The error reports are also reviewed at the joint meetings between the data and the program analysts. Establish performance metrics within CAP. Establish audits and quality control measures for vendors.

Next Steps:

- **Monitoring and Evaluation:** Implement a robust monitoring and evaluation system to assess providers' adherence to standards regularly. This may involve periodic audits, case reviews, and performance assessments to ensure ongoing compliance.
- **Establish a Framework:** Develop a comprehensive framework outlining the processes and criteria for external quality control reviews. Clearly define the scope, objectives, and key performance indicators (KPIs) that will be assessed during the audits. Define a standard audit procedure that includes a systematic and consistent approach to reviewing public defense providers. This procedure should cover various aspects, including case management, legal expertise, ethical standards, and compliance with established protocols.
- **Collaboration with Stakeholders:** Collaborate with legal professionals, relevant stakeholders, and professional organizations to gather input on audit processes. Ensure the external quality control reviews align with industry best practices and legal standards.
- **Training for Auditors:** Provide comprehensive training for auditors to ensure they have the necessary expertise and understanding of public defense practices. This may involve legal training, familiarity with national standards, and continuous education on emerging legal trends.
- **Continuous Improvement Mechanism:** Establish a mechanism for continuous improvement based on audit findings. Encourage providers to implement corrective actions and monitor their progress. Use feedback from audits to refine and enhance the quality control processes.
- **Transparent Reporting:** Ensure transparency in reporting audit outcomes. Publish summary reports (without compromising confidentiality) to inform the public, stakeholders, and providers about the quality of public defense services and the steps taken for improvement.

Timeline: January-June 2025

CAP: COMPLIANCE MEASURES

Issue: Employ processes to enforce quality control measures and provide remediation to those below standards, including training and policy review.

Objective: Once performance standards are in place, CAP function is to provide oversight on compliance and identify opportunities for improvement when the standards are not met.

Status Update:

To implement compliance measures, OPDC must-have performance standards and quality control in place. However, OPDC is still working on providing compliance data regarding quantity control. OPDC is now monitoring provider MAC utilization, and program analysts can discuss with providers why they may not be reaching full MAC and if there are areas where OPDC can help to improve their efficiency.

The data and research team, working in partnership with the Program Analysts, have created internal dashboards to review the performance of each of the contractors/providers. The Program Analysts meet with each contractor/provider two to three times per year to review performance, share the data, and ensure the contractor/providers accurately report their caseload correctly through the monthly caseload reports. With continuous feedback on additional data that can be shared with contractors/providers, the Program Analysts work with the data and research team to enhance internal dashboards as the data team works to create additional internal dashboards to assist the agency with performance and compliance measures – new internal dashboards: Pro-rated MAC, MAC utilization by contractor/provider, public-facing dashboard with results by county.

Next Steps:

- **Objective Feedback Mechanism:** Establish an objective and constructive feedback mechanism to communicate assessment results to public defense providers. Provide detailed feedback on areas of improvement, emphasizing both strengths and weaknesses.
- **Remediation Plans:** Collaborate with providers and Trial Support & Development staff to develop tailored remediation plans for those falling below established standards. These plans should include specific action items, timelines, and resources required for improvement. Implement targeted training programs to address identified deficiencies. Offer continuous professional development opportunities, workshops, and resources to enhance the skills and knowledge of legal professionals within the public defense system.

Timeline: Now – June 2025

ACCOUNTABILITY TO LEGISLATURE

Issue: Demonstrate accountability for taxpayer money by adhering to a legislatively approved budget and following legislative direction.

Objective: Rebuild legislative trust in the agency by adhering to legislative direction and budget authority.

Status Update:

- **Legislative Direction:** The Legislature passed SB 337 (2023), directing significant reforms to both the public defense delivery system and the administration and structure of the commission. OPDC is in the process of implementing these reforms, which are in various stages of planning and execution. In addition to this major reform bill, the Legislature has directed OPDC to submit several reports through budget notes. As of December 2024, all reports have been submitted on time.
- **Legislative Budget:** OPDC's actions and activities align with the legislatively adopted budget. The commission makes policy changes to respond to emergent situations that may need a budgetary course correction or response. If a need to deviate from the budget arises, it is presented to the Legislative Fiscal Office (LFO) and the Chief Financial Officer (CFO) for advice before requesting action from the legislature.
- **Accountability:** OPDC is willing and able to share its records at any time to demonstrate accountability for taxpayer money. There is room for improvement to enhance accountability and opportunities for staff training to improve accountability. The agency also creates more detailed and applicable policies and procedures to clarify and continuously improve accountability.

Next Steps:

- **Legislative Direction:** Continue to provide requested Legislative reports and continue the implementation of SB 337.
- **Legislative Budget:** OPDC continues to meet weekly with LFO.
- **Accountability:** OPDC is working to improve its accountability to the Legislature; this includes improving communications and ensuring timely and accurate responses.

Timeline: Ongoing.

BUILD & REPAIR RELATIONSHIPS

Issue: Build and repair relationships and break down silos with public safety partners, stakeholders, and other state agencies.

Objective: Become a trusted partner on public defense matters.

- **Build & Repair Relationships: In Progress.** The OPDC has made efforts to build and repair relationships with public safety partners, stakeholders, and other state agencies. This included hiring a communications specialist, engaging in regular meetings with key partners, hiring staff members with previous agency experience, and reaching out to other agencies for support and advice.

The Executive Director and Commission Chair have engaged many stakeholders and partners in regular and/or ongoing meetings, including with attorneys, expert and investigator providers, OPDC staff, OCDLA, legislators, LFO, the Governor's office, DAS, the Chief Justice, and presiding judges. OPDC has invited Judges to Commission meetings since April 2024, and is currently planning a site visit to Jackson County.

Status Update:

- **Building Trust:** OPDC is working on building trust with the Legislature, providers, and public safety partners. Regular newsletters have improved communication, and the executive director and Commission members will be doing site visits beginning in October.
- **Breaking Silos:** OPDC is working to break down silos between the agency and other public safety partners. This includes regular meetings between the Executive Director and OJD, building cross-agency relationships, including regular staff meetings between OJD and OPDC divisions, and requesting assistance and advice from other agencies when needed.

Next Steps: Continue and expand efforts to build trust and break silos. OPDC needs to establish a culture of openness.

Timeline: Ongoing

ACCOUNTABLE COMPLAINT PROCESS

Issue: Create a standard, transparent, and accountable complaint process.

Objective: Ensure all complaints are treated in a standard and transparent way.

Establishing a standardized, transparent, and accountable complaint process has been a key area of focus for OPDC. While the agency has existing policies for handling certain types of complaints, such as those related to attorney performance or fee disputes, several shortcomings need to be addressed. OPDC is working to establish a centralized system where complaints can be organized, tracked, and addressed.

Status Update:

- **Standardized Policy and Process:** As part of its emphasis on improving governance, OPDC has been developing a process for complaints about the agency, distinct from its service providers. The Subcommittee on Governance has been developing an expanded complaints process in developing Commission bylaws. Section 6 of the Commission’s Adopted Bylaws creates procedures regarding grievances, and it assigns various tasks to either Commission members or agency staff.

Next Steps:

- **Standardized Policy and Process:** Create a centralized intake portal where complaints can be organized, tracked, and addressed in conjunction with the CAP division. Implement a policy to acknowledge receipt of complaints promptly, informing complainants of the expected timeline for resolution. Set realistic timelines for investigating and resolving complaints to demonstrate commitment to a swift resolution.
- **Transparency and Accountability:** Develop a system for regular reporting on the number and types of complaints received. Analyze complaint data to identify trends, areas for improvement, and systemic issues that need addressing.

Timeline: Now-Spring 2025: Update attorney complaint policy and procedures.

PREVIOUS REPORTS

Remediation Plan Outline:

Submitted August 21, 2023

Heard September 28, 2023

[276904 \(oregonlegislature.gov\)](https://legislature.oregon.gov/bills/2023/276904)

Remediation Plan I:

Submitted October 13, 2024

Heard November 7, 2024

[277546 \(oregonlegislature.gov\)](https://legislature.oregon.gov/bills/2024/277546)

Remediation Plan II:

Submitted January 16, 2024

Heard February 8, 2024

[280579 \(oregonlegislature.gov\)](https://legislature.oregon.gov/bills/2024/280579)

Remediation Plan III:

Submitted April 23, 2024

Heard March 29, 2024

[283972 \(oregonlegislature.gov\)](https://legislature.oregon.gov/bills/2024/283972)

Remediation Plan IV:

Submitted August 26, 2024

Heard September 24, 2024

[285408 \(oregonlegislature.gov\)](https://legislature.oregon.gov/bills/2024/285408)



Date: October 16, 2024

To: Jennifer Nash, Chair of OPDC
OPDC Commissioners

Cc: Jessica Kampfe, Executive Director

From: Lisa Taylor, Government Relations Manager
Ralph Amador, Chief Financial Officer

Re: Notice of Intent for December Emergency Board

Nature of Presentation: Action Item

Background:

OPDC has three requests for the Emergency Board during December Legislative Days, December 10-12, 2024. The requests include:

- An agency wide rebalance;
- An extension of THIP paid for through the rebalance and access to a Special Purpose Appropriation (SPA);
- The opening of a state trial office in Coos County.

The first step in sending a request to the emergency board for funding is to provide notice of intent. That notice is due by October 28th. The second step is to provide a detailed letter requesting emergency board funding, which is due November 4th.

1. OPDC Rebalance
Cost Estimate: Net Neutral

OPDC projects substantial overages in Court Mandated Expenses (\$7,222,042) and Preauthorized Expenses (\$8,618,997), largely due to increased spending on psychological services, travel, and other defense-related expenses. The agency has already taken steps to shift these costs but requires additional budget rebalancing to cover the deficits.

To mitigate these projected overages, the agency is requesting the following through a rebalancing action:

- Apply the entire Various Public Defense SPA of \$6,170,768.
- Move \$850,000 General Fund from Administrative Services.
- Move \$4,500,000 General Fund from Adult Trial Division.
- Move \$3,000,000 General Fund from Adult Trial Division.
- Move \$275,000 General Fund from Appellate Division.
- Move \$275,000 General Fund from Compliance, Audit, and Performance Division.
- Move \$300,000 General Fund from Executive Division.

These actions will produce \$15,870,768 to solve the \$15,841,039 projected overage.

2. Fund the legislatively approved extension of the Temporary Hourly Increase Program (THIP) from June-December 2024 and extend THIP through June 2025. Cost estimate: \$8,811,016

The May Emergency Board approved a continuation of THIP from June to December 2024. Rather than fund it at that time, OPDC was directed to make a funding request to the September Emergency Board, as we would have better cost estimates then. The request would backfill THIP expenditures since June 2024 and anticipated expenses until the end of December 2024, when THIP is set to expire. Additionally, it requests to extend THIP through the end of the biennium (June 2025).

OPDC will be able to fund the current extension and the proposed extension through the rebalance of current agency funds (see item 1) and accessing the SPA for public defense.

3. Establish a state trial office serving Coos County. Cost estimate: \$354,889

OPDC will request funding to open a state trial office for 2 attorneys and 1 support staff in Coos County. OPDC has identified Coos County as a growing unrepresented hotspot, as well as an underserved community that would benefit from a state trial office to stabilize the shrinking public defense workforce. Coos County has an unrepresented population disproportionate to its size. This is primarily due to a lack of staffing, the difficulties of recruiting to rural areas, and increased case filings in Coos. OPDC anticipates that these staffing challenges will increase in the coming months, and setting up a Coos County office would allow us to prepare for that influx in cases.

Agency Recommendation:

The Agency recommends that the Commission approve the three items above for submission to the Legislative Fiscal Office for the December Emergency Board.

Fiscal Impact:

\$9,165,905 in requests to the Emergency Board all of which are self-funded or funded through a SPA.

Agency Proposed Motion:

I move that the Commission submit the following requests to the Legislative Fiscal Office for the September Emergency Board for the following items:

1. OPDC Rebalance;
2. Fund the legislatively approved extension of the Temporary Hourly Increase Program (THIP) from June-December 2024 and extend THIP through the end of the biennium;
3. Establish a state trial office serving Coos County.

Oregon Public Defense Commission

DECEMBER 2024 REBALANCE REPORT & PLAN

Ralph H. Amador

OCTOBER 16, 2024

NATURE OF THE REPORT

The Oregon Public Defense Commission (OPDC) is submitting a request to rebalance the 2023-2025 Legislatively Approved Budget to the December 2024 Emergency Board. This report reflects an anticipated need to rebalance between appropriations and the application of the special purpose appropriation (SPA) that was established by the 82nd Legislative Assembly in the 2023 Legislative Session for various needs. With the approved application of the SPA, there will be a need for a net increase in appropriation, in addition to the rebalancing of existing authority.

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EXECUTIVE SUMMARY

The Oregon Public Defense Commission (OPDC) submits this rebalance report to the December 2024 Emergency Board, addressing the critical financial adjustments required for the 2023-2025 Legislatively Approved Budget. The rebalance plan responds to fiscal challenges exacerbated by the state's unrepresented defendant crisis and the evolving demands placed on the public defense system.

The report will detail the commission's current budget, projects that need to be added and changes that need to be made. It also includes a plan for applying Special Purpose Appropriation funding and moving funding between appropriations in effort to remain within the agency's budgetary authority for the remainder of the 2023-2025 biennium.

Key drivers of this rebalance request include:

1. **Unrepresented Defendant Crisis:** The OPDC continues to grapple with a severe shortage of public defenders, leading to systemic delays, increased caseloads, and budgetary strain. Efforts to address this crisis have necessitated significant investments in staffing and services, particularly within the Adult Trial Division and the Preauthorized and Court Mandated Expense budgets.
2. **SB 337 (2023):** This legislative action laid out a framework for public defense reform, compelling OPDC to adopt new rules, policies, and procedures. Implementation of these mandates has intensified budget volatility as the agency seeks to adapt its operations and workforce to meet growing demand.
3. **Budget Overages:** The OPDC projects substantial overages in Court Mandated Expenses and Preauthorized Expenses, largely due to increased spending on psychological services, travel, and other defense-related expenses. The agency has already taken steps to shift these costs but requires additional budget rebalancing to cover the deficits.
4. **Rebalancing Actions:** The report outlines a detailed plan to mitigate projected overages by reallocating \$15.87 million from various divisions, including savings from administrative and appellate operations. Key elements of this plan include:
 - Application of the \$6.17 million Public Defense Special Purpose Appropriation.
 - Transfers of savings from divisions with budget surpluses, such as the Administrative Services and Adult Trial Divisions.

The OPDC remains committed to resolving the public defense crisis by improving data collection, aligning expenditures with real-time service needs, and adhering to national caseload standards. However, continued financial and legislative support will be essential to ensure that the agency can meet its constitutional mandate and maintain the integrity of Oregon's public defense system.

THE PUBLIC DEFENDER CRISIS IN OREGON: AN EXAMINATION

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

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

To date, OPDC has enacted the following initiatives to address the unrepresented persons crisis:

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

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

BUDGET IMPACTS

Historical Funding: The commission’s budget is constructed in accordance with established state budgeting rules and is therefore historically based. What this means is the biennial budget at its core is the funding required to continue providing services at the current level of service with inflation added on to specific line items for the upcoming budget cycle. This current service level of funding is based on historical expenditures from the previous period. There is consideration of additional funding for increasing caseloads as they are recognized by the official forecast, however this only applies to specific programs and only for the anticipated new case appointments in the upcoming period. If all things are equal this methodology works, and during each budget cycle there is a period where the agency can request additional funding to address new programs, agency needs, and to address the effects of legislative and policy changes.

The problem this creates for the Commission and its budget is that the Unrepresented Persons Crisis has not historically been recognized and therefore was not a normally recognized expenditure when the current budget was created. Although there have been several funding additions to attempt to fund the crisis, the evolution of the crisis has grown far beyond what could have been anticipated. This dynamic has caused areas of the budget to grow faster than anticipated and changed the established methods for how services are compensated.

SB 337 Implementation: The 82nd Legislative Assembly made significant changes to the commission through Senate Bill 337 (2023). SB 337 provided a framework for developing public defense in Oregon. OPDC is now charged with creating and adopting rules, policies, and procedures to implement the goals mandated by SB 337. There are three sets of data outlined to inform the plan for providing public defense in Oregon:

1. The public defense forecast evaluated by the Department of Administrative Services’ Office of Economic Analysis.
2. Caseload and workload standards, such as those in the American Bar Association’s *The Oregon Project* and RAND’s *National Public Defense Workload Standards*; and
3. Economic studies by third parties.

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

Commission Actions: Over the past two years, the commission has taken several actions to address this crisis. One of the main stumbling blocks is the lack of reliable data. Neither OPDC nor its partners had ever tracked the issue of unrepresented persons. As a result, OPDC needed to dedicate resources to creating data sets to first understand the crisis and then monitor the data to make data-driven decisions. While the data are still not perfect, OPDC has been able to track the problem and address it to the best of its ability with the staff and funding available.

The commission first needed to address the issues of compensation, recruitment, and retention not only for public defenders but also among the various providers who perform the necessary services to provide adequate representation. This included changing policies and processes to make case appointments, approve requested services, and pay invoices in a timely manner. With those changes come additional expenditures that have not previously been recognized by the commission’s budget. This creates a need to move resources to where they are needed in lieu of where they have been historically budgeted.

The commission forecasts a deficit in Court Mandated Expenses and Preauthorized Expenses because of the changing nature of providing public defense. As the commission continues to evolve and implement the mandates outlined in SB 337 (2023), there will be volatility. The agency may have to continue to ask for rebalance actions until the program areas settle, the unrepresented crisis is under control, and the shortage of public defenders is solved. The commission's budget is built on historical numbers, which sometimes conflict with reality. The commission is now paying providers in a timelier manner, which tightens the elasticity of the budget.

FINANCIAL FORECASTS

The chart below demonstrates the current financial situation through August 31, 2024. This chart does reflect a reclassification of expenditures relating to psychological services to include travel from Preauthorized Expenses, where they are recognized, to Court Mandated Expenses, where the budget sits. This action is necessary to ensure that the Preauthorized Expenses division remains solvent until rebalance actions are taken. This chart does not show the increased projections that will be noted in the sections below, nor does it demonstrate the proposed rebalance moves. It does demonstrate where current agency savings reside.

<i>Month Ending August 31, 2024</i>	LAB	Forecast	Variance
Administrative Services Division	26,884,921	21,802,749	(5,082,172)
Adult Trial Division	290,008,379	272,996,877	(17,011,502)
Appellate Division	26,424,696	25,831,286	(593,410)
Compliance, Audit, and Performance Division	7,069,293	6,527,660	(541,633)
Court Mandated Expenses	80,282,573	83,646,328	(3,363,755)
Executive Division	4,647,432	4,150,006	(497,426)
Juvenile Trial Division	51,227,439	52,104,934	887,495
Preauthorized Expenses	58,617,686	55,964,616	(2,653,069)
Parent-Child Representation Program	56,634,287	56,021,693	(623,287)
Special Programs, Contracts, and Distributions	12,438,908	13,824,248	(1,385,340)
TOTAL FUNDS	614,235,614	592,870,396	(21,365,218)

DIVISION SUMMARIES

EXECUTIVE DIVISION

Executive Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	3,975,649	1,913,344	1,710,918	0	3,624,263	(351,386)
Services and Supplies	671,783	161,649	364,095	0	525,744	(146,039)
Total Funds	4,647,432	2,074,993	2,075,013	0	4,150,006	(497,426)

Status Update:

- The Executive Division is projected to end the biennium within its budgeted authority.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second cost-of-living adjustment (COLA) in early 2025.
- The division anticipates increased costs associated with the attorney general's office, especially when the commission matriculates to the executive branch.
- The division will continue to monitor expenses associated with ethics counsel as they represent OPDC staff attorneys on cases of representation.
- The agency shows a modest projected savings and will offer funding to rebalance.

Next Steps:

- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.
- This division will offer \$300,000 of General Fund to mitigate other agency projected overages.

COMPLIANCE, AUDIT, AND PERFORMANCE

Compliance, Audit, and Performance Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	6,839,209	2,932,590	3,481,214	0	6,413,804	(425,405)
Services and Supplies	230,084	113,856	0	0	113,856	(116,228)
Total Funds	7,069,293	3,046,446	3,481,214	0	6,527,660	(541,633)

Status Update:

- The Compliance, Audit, and Performance (CAP) Division is projected to end the biennium within its budgeted authority.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second COLA in early 2025.
- The division anticipates increased unbudgeted costs associated with the Attorney General's office as that office works with the commission to create a new master contract(s) for providers. There may also be other additional costs with increased representation as the commission matriculates to the Executive Branch.
- CAP received two unbudgeted, limited-duration positions in the September E-Board. These positions will act as case assignment coordinators for the unrepresented defendant/persons crisis. Recruitment is in process. The positions are included in remaining projections.
- The division shows a modest projected savings and will offer funding to rebalance.

Next Steps:

- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.
- This division will offer \$275,000 of General Fund to mitigate other agency projected overages.

APPELLATE DIVISION

Appellate Division	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
General Fund						
Personal Services	26,150,482	14,298,620	11,323,459	0	25,622,079	(528,403)
Services and Supplies	274,214	209,206	0	0	209,206	(65,008)
Total Funds	26,424,696	14,507,826	11,323,459	0	25,831,286	(593,410)

Status Update:

- The Appellate Division, which includes both Criminal and Juvenile, is projected to end the biennium within its budgeted authority.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second COLA in early 2025.
- The division will continue to monitor expenses associated with outside counsel as they represent OPDC appellate attorneys on cases of representation.
- The division has incorporated the necessary training dollars to meet the Continuing Legal Education requirements of staff.
- The division shows a modest projected savings and will offer funding to rebalance.

Next Steps:

- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.
- This division will offer \$275,000 of General Fund to mitigate other agency projected overages.

ADULT TRIAL DIVISION

Adult Trial Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	8,777,562	2,010,319	2,776,538	0	4,786,857	(3,990,705)
Services and Supplies	281,230,817	154,922,139	113,287,881	0	268,210,020	(13,020,797)
Total Funds	290,008,379	156,932,458	116,064,419	0	272,996,877	(17,011,502)

Status Update:

- The above chart is a wholistic view of the Adult Trial Division. This includes provider contracts and funding for the pilot project which is described in the next section. Removing the money for the pilot project will lower the overall savings show above. Savings absent the pilot project are around \$12.5 million.
- OPDC’s contracting is aligned with the biennial budget. Provider contracts are two years, from July 1, 2023, to June 30, 2025. Costs and maximum attorney caseloads (MAC) are prorated when attorneys change their MAC or join or start a contract mid-cycle. MAC totals can fluctuate throughout a contract cycle as providers enter and exit contracts. MAC for a contract can be increased when a contractor identifies an attorney qualified to handle public defense cases and requests that OPDC authorize and fund that attorney to provide public defense services. MAC increases are only permitted when funded MAC is available.
- There have been several additional financial investments in this program area that have not been capitalized on. Continued vacancies in the system are adding to or allowing the positive budget variance to remain consistently high, which undermines the programs efforts to increase capacity.
- The above table includes the funding for the pilot program, which is discussed below.
- **Chart 1** reveals a consistent drop in the amount of contracted FTE in this program area. Since the high of 518.59 in December 2023, the level has not recovered.

Chart 1



- There has been a consistent increase in the number of hourly cases available.
- There has been a consistent number of firms/attorneys shutting off or temporarily stop accepting cases in a specific period for various reasons, which adds to the unrepresented numbers as the cases cannot be assigned as planned.

- **Table 1** displays attorney retention since July 2023. A total of 109 public defenders have left the contracted ranks. The data accounts for 36 of these individuals as they are still in the system in some capacity but there is no accounting for 73, which is problematic in an environment where there is a documented shortage of public defenders.

Table 1

Contract Attorney Retention Since July 1, 2023								
HomeCounty	New Attys	Departed Attys	Net Attys	New Atty FTE	Departed Atty FTE	Departed Attys Now Hourly	Departed Attys Now State Trial	Atty Loss to Public Defense
▣ Benton	2	1	1	1.95	0.95	1		0
▣ Clackamas	6	4	2	5.67	1.55	2		2
▣ Clatsop	1	1	0	0.99	0.98			1
▣ Clatsop, Columbia	1		1	1.00				
▣ Clatsop, Tillamook		1	-1		0.00			1
▣ Columbia	1	1	0		0.10			1
▣ Coos		4	-4		3.25	3		1
▣ Coos, Curry, Douglas, Jackson, Josephine, Klamath		1	-1		0.00	1		0
▣ Crook, Jefferson	1	1	0	1.00				1
▣ Deschutes	8	12	-4	5.94	11.56			12
▣ Douglas	3	3	0	2.20	2.95	3		0
▣ Gilliam, Hood River, Sherman, Wasco, Wheeler	1	1	0	0.97	0.97			1
▣ Grant, Harney	2	2	0	0.75	1.55			2
▣ Jackson	7	8	-1	5.70	7.84		2	6
▣ Josephine	1	2	-1	0.70	2.00	1		1
▣ Klamath	3	2	1	2.55	1.00	1		1
▣ Lake	1	2	-1	1.00	0.70			2
▣ Lane	6	3	3	5.75	1.75	1		2
▣ Lincoln	2	1	1	1.45	1.00			1
▣ Linn	4	2	2	3.15	2.85	1		1
▣ Malheur	4	1	3	3.80	1.00	1		0
▣ Marion	13	16	-3	10.48	14.65	4	3	9
▣ Morrow, Umatilla	1	1	0	0.40	0.40			1
▣ Multnomah	21	18	3	19.00	17.60	3		15
▣ Polk	4		4	2.45				
▣ Statewide	3	1	2	2.30	0.00			1
▣ Umatilla	2	2	0	2.00	1.50			2
▣ Washington	18	20	-2	14.33	15.71	7	2	11
▣ Yamhill	1		1	1.00				
Total	116	109	7	96.53	91.86	29	7	73

Next Steps:

- This program area has significant savings that can be shifted to where the caseload and cost are growing.
 - Moving \$4.5 million of program savings to rebalance problems in the hourly programs.
 - Moving \$3.0 million of previously allocated SPA money for caseload to address the rebalance issue in the hourly programs.
- Continue to work with contactors to monitor and maintain contracts, relationships, and caseloads.
- Continue to keep the budget dashboard real time and in sync with the contract database.
- Continue to meet with program staff and the data team.

ADULT TRIAL DIVISION – PILOT PROJECT

Pilot Project						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	8,632,121	2,370,836	4,876,948	0	7,247,784	(1,384,337)
Services and Supplies	2,093,017	390,729	1,149,909	0	1,540,638	(552,379)
Total Funds	10,725,138	2,761,565	6,026,857	0	8,788,422	(1,936,716)

Status Update:

- The above numbers are included in the overall Adult Trial Division as the pilot project is a subset of this appropriation. The information in this section is intended to stand alone.
- During the month of September, work was done to create a more refined view of this program. This was done for the purpose of updating the personal services projections to a more realistic level that was reflective of the programs hiring plan and, in an effort, to identify savings that could be used to support potential changes to this program.
- OPDC has made significant progress in the policy area. In less than a year, the agency has opened three trial division offices and hired approximately 50 staff members. State attorneys have been assigned over 500 cases, mostly from the unrepresented list.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second COLA in early 2025.
- There is a growing need for immediate coverage in southwest corner of the state. We submitted a request to the Emergency Board in September, but it was deferred. We will present a scaled-down version at the Emergency Board in December.
- The agency will need additional space in Medford and Portland to accommodate the increased number of staff who will be added in 2025-2027 to keep pace with the requirements of SB 337 (2023).

Next Steps:

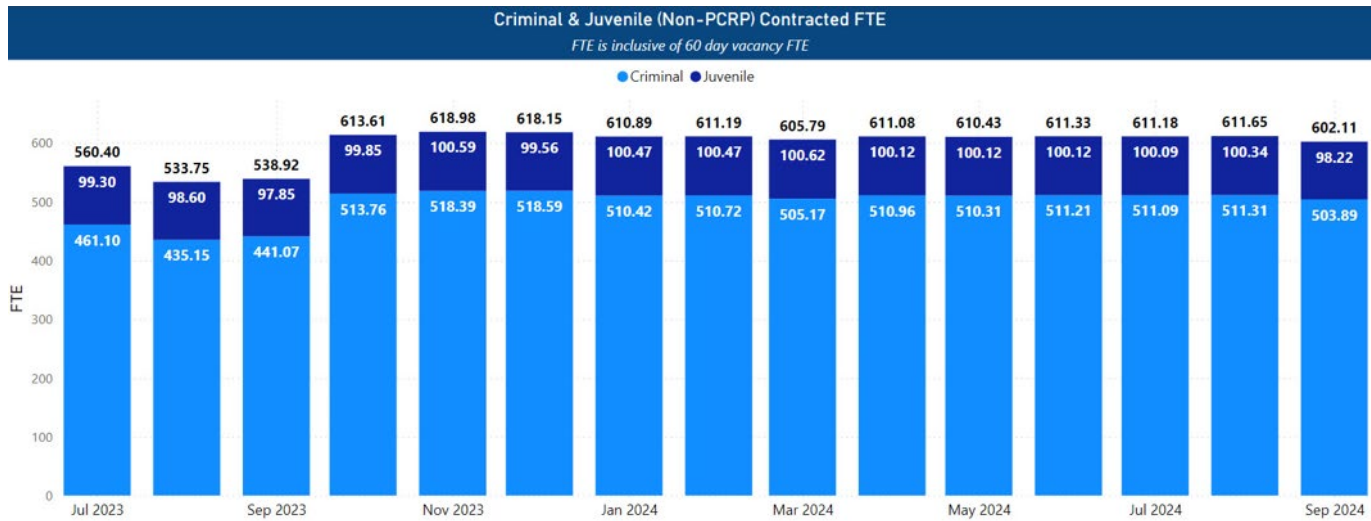
- This program will not be contributing any funds to the rebalance problem.
- The funding available will be earmarked for three initiatives:
- Establishing a Southwest Public Defender Office
- Expanding our presence in Medford
- Moving our Portland office from Interstate Avenue to the Portland State Office Building
- Provide 25-27 roll-up costs for the above requests as the proposed current service level budget will not support these additions.
- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.

JUVENILE TRIAL DIVISION

Juvenile Trial Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	46,875,439	29,846,432	22,258,502	(4,352,000)	47,752,934	877,495
Other Funds						
Services and Supplies	4,352,000	0	0	4,352,000	4,352,000	0
Total Funds	51,227,439	29,846,432	22,258,502	0	52,104,934	877,495

Status Update:

- The Juvenile Division shows a slight overage. This should even out as projections become actuals.
- The charts below demonstrate the consistency of FTE and vacancies in this program area.



Juvenile (Non-PCRP) Contracted Vacancy FTE

Contract County	July 2023	Sept 2023	Jan 2024	July 2024	Sept 2024
Clackamas					0.60
Deschutes	0.15				
Jackson					0.20
Josephine		0.30			
Lane				0.80	
Malheur				0.70	
Washington			0.40		0.90
Total	0.15	0.30	0.40	1.50	1.70

Next Steps:

- Continue to work with contactors to monitor and maintain contracts, relationships, and caseloads.
- Continue to keep the budget dashboard in real time and in sync with the contract database.
- Continue to meet with program staff and the data team.
- Reclassify expenditure to recognize Title IV-E funding when received from the Oregon Department of Human Services – Child Welfare Division.

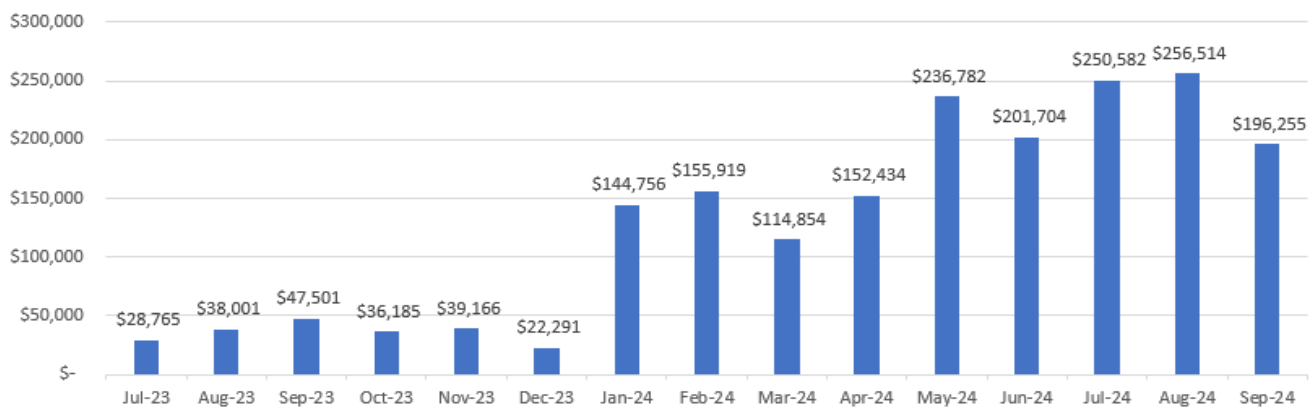
PREAUTHORIZED EXPENSES

Preauthorized Expenses						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	58,617,685	47,727,792	24,405,256	(16,168,432)	55,964,616	(2,653,069)
Other Funds						
Services and Supplies	1	0	0	0	0	(1)
Total Funds	58,617,686	47,727,792	24,405,256	(16,168,432)	55,964,616	(2,653,070)

Status Update:

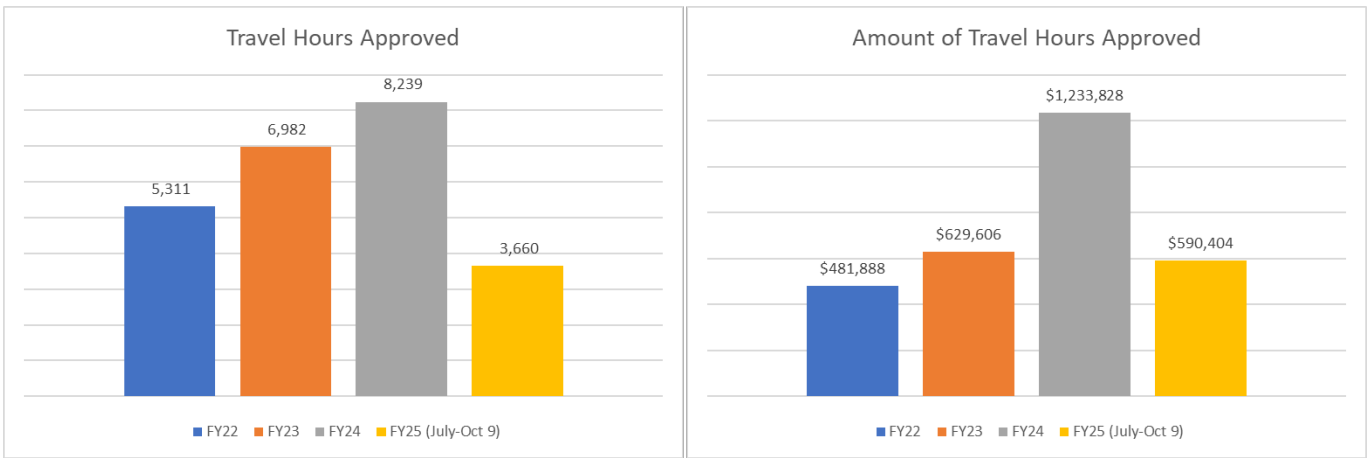
- General fund budget authority for psychiatric services was moved out of Preauthorized Expenses (PAE) (non-routine expenses at the time) and into Court Mandated Expenses (CME) due to a shift in how these services were being requested in the 2021-2023 biennium. At current service level, the authority was returned to PAE.
- Over \$16.1 million of expenditures for psychological services and related travel are going to be moved from this budget to the CME budget. This action is necessary to ensure that PAE remains within budgeted authority until rebalance actions occur.
- Since the onset of the unrepresented defendant and persons crisis, the request for services has increased significantly. To keep up, the unit hired three people since the new year. One of those positions became permanent on July 1, 2024; and at the Emergency Board in September, the agency was given two unbudgeted, limited-duration positions for the remainder of the biennium.
- Effective January 1, 2024, the commission made several policy changes:
 - 8.8% increase in provider rates. This matched the inflation increase given to the agency for providers.
 - Approved full hourly rate of pay for travel for all vendors, except flat-rate vendors who were later approved for up to \$75 per hour. These changes were not included in the agency budget.
- The chart below shows the increase in travel cost because of these changes.
- The average amount from July–December 2023 was \$35,318 while the average amount from January–August 2024 was \$189,193, which is an increase of 436%.

Travel Time Expenditures by Month/Year (PAE)



- The other unexpected increase in this area is psychological services and accompanying travel.
 - FY 2022 to FY 2023 shows an increase in hours approved for services of 5.28% and an increase of 8.99% in the amount of dollars approved for services.

- FY 2023 to FY 2024 shows an increase in hours approved for services of 9.46% and an increase of 16.68% in the amount of dollars approved for services.
- The travel changes have had another unplanned expenditure, which is demonstrated on the charts below. The amount paid for each service is being increased. Previously, travel was assumed in the rate paid, but now it is an additional expenditure on top of the increasing number of services being approved. Isolating to just psychological services travel:
 - FY 2022 to FY 2023 shows an increase in hours approved for travel of 31.46% and an increase of 30.65% in the amount of dollars approved for travel.
 - FY 2023 to FY 2024 shows an increase in hours approved for travel of 18.00% and an increase of 95.97% in the amount of dollars approved for travel.
- At this point, we have approved more psychological and related travel than we have budget.



Next Steps:

- Monitor all PAE expenditures monthly to each agency object.
- Reproject the expenditures for psychological and related services.
- Rebalance psychological and related services budget from CME budget, leaving \$125,000 in CME to account for those requests that are truly court-ordered through the State Hospital.
- Reverse the \$16 million expenditure move, bringing the expenditures back into PAE from CME along with the budget.

COURT MANDATED EXPENSES

Court Mandated Expenses						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	75,832,906	31,925,098	34,426,660	16,168,432	82,520,190	6,687,284
Other Funds						
Services and Supplies	858,122	429,202	0	0	429,202	(428,920)
Special Payments	3,591,545	696,936	0	0	696,936	(2,894,609)
Total Funds	80,282,573	33,051,236	34,426,660	16,168,432	83,646,328	3,363,755

Status Update:

- Psychological services budget dollars were moved out of Preauthorized Expenses (PAE) (non-routine expenses at the time) and into Court Mandated Expenses (CME) due to a shift in how these services were being requested in the 2021-2023 biennium. In 2023-2025, expenditures continue to be realized in PAE, therefore there is a need to move the budgeted funds back through this rebalance request.
- The 2025-2027 budget has a technical adjustment to ensure that the budget and expenditures are in PAE going forward.
- \$16,168,432 of expenditures for psychological services and related travel are going to be moved from the PAE budget to this budget. This action is necessary to ensure that PAE remains within budgeted authority until rebalance actions occur.
- The reports below are included to demonstrate that the number of hourly assignments is steadily increasing. Having limited resources, the agency started with one assignment coordinator and added another, but we have not been able to keep pace even though the caseload for unrepresented has been limited to those in custody.
- The CAP division received two unbudgeted, limited-duration positions in the September E-Board. These positions will act as case assignment coordinators for the unrepresented defendant/persons crisis.
- **Chart 1** below demonstrates the increase in the rolling 7-day average due to the addition of the second assignment coordinator and the introduction and implementation of a new process that automates the case assignment process.
- The additional case assignment coordinators are expected to help the agency find more attorneys, assign more cases, and lower the in-custody caseload.
- The Adult Trial Division has seen a marked decrease in the number of attorneys on contract. Since July 2023, there has been a loss of 109 Public Defenders from contracts. Twenty-nine have moved to taking unrepresented and THIP cases, seven have joined OPDC and 73 are unknown. **Chart 2** shows the increase of THIP attorneys who are taking cases.
- More cases at the enhanced rates means more expenditures that are not covered by the budget. **Table 1** shows the consistency of this caseload and the dynamic problem the agency continues to chase.

Chart 1

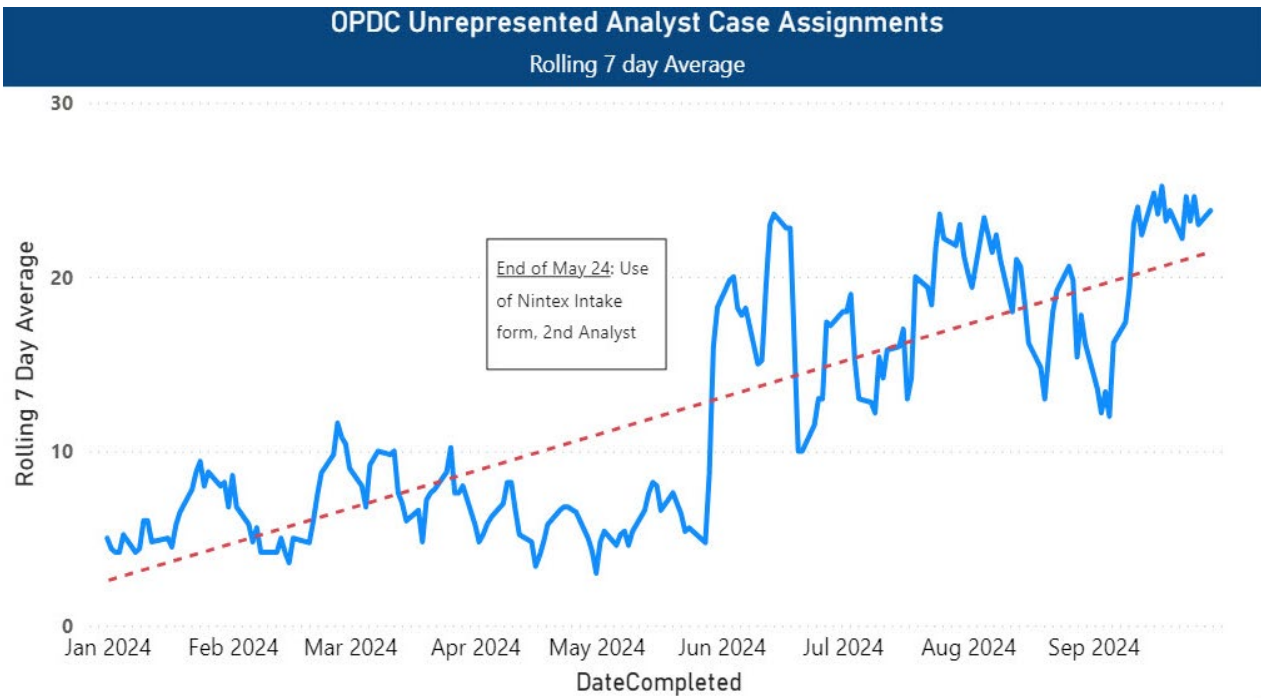


Chart 2

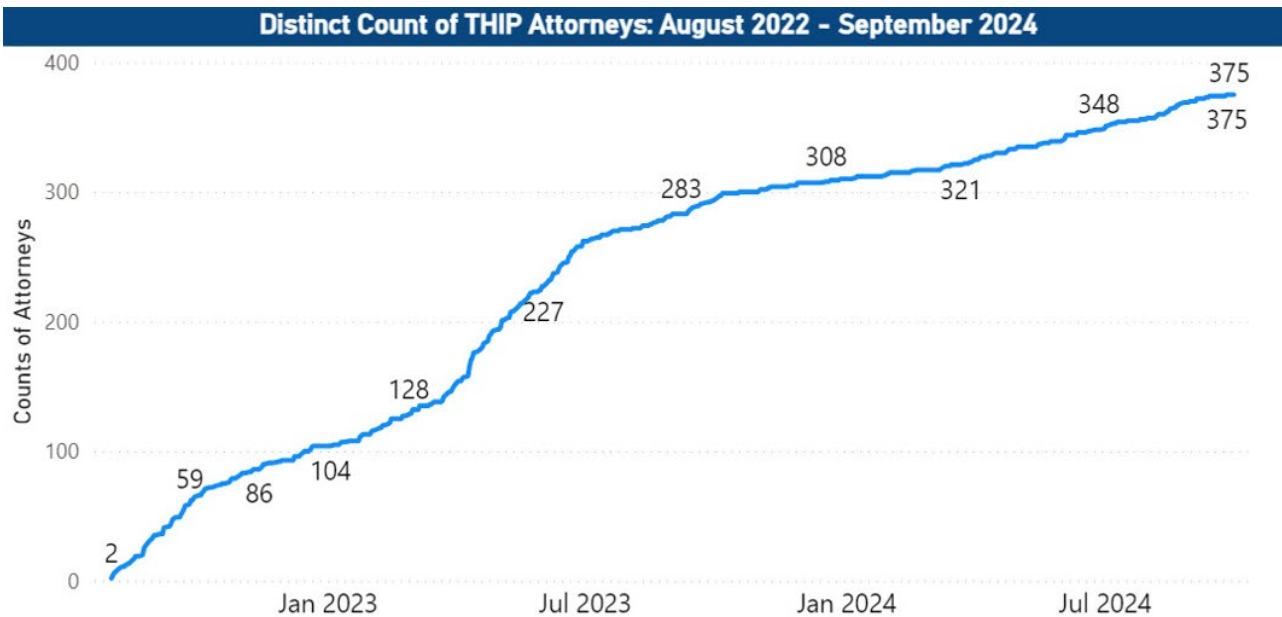


Table 1

THIP Caseload by Time			
Minimum Effective Date	Attorney Count	Client Count	Case Count
☒ July 2023	82	317	402
☒ August 2023	97	330	418
☒ September 2023	104	439	554
☒ October 2023	50	90	143
☒ November 2023	46	83	111
☒ December 2023	50	101	150
☒ January 2024	55	96	131
☒ February 2024	40	68	120
☒ March 2024	64	107	177
☒ April 2024	65	92	134
☒ May 2024	62	119	190
☒ June 2024	74	145	211
☒ July 2024	96	205	268
☒ August 2024	91	170	250
☒ September 2024	85	157	220
Total	302	2,377	3,479

Next Steps:

- Monitor all CME expenditures monthly and compare to each agency object code.
- Monitor the active caseloads, on both the contracted and the hourly.
- Continue to try to find a way to track the hourly cases.
- Continue to push for hourly contracts for all hourly attorneys to get an accurate head count.
- Reproject the expenditures for enhanced attorney and related enhanced services.
- Rebalance psychological and related services budget from CME budget, leaving \$125,000 in CME to account for those requests that are truly court-ordered through the State Hospital.
- Reverse the \$16 million expenditure move. Send the expenditures back into PAE from CME along with the budget.

PARENT CHILD REPRESENTATION PROGRAM

Parent Child Representation Program						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	443,905	250,902	203,696	0	454,598	10,693
Services and Supplies	44,222,382	32,382,175	23,184,920	(11,968,000)	43,599,095	(623,287)
Other Funds						
Services and Supplies	11,968,000	0	0	11,968,000	11,968,000	0
Total Funds	56,634,287	32,633,077	23,388,616	0	56,021,693	(612,594)

Status Update:

- Parent Child Representation Program (PCRP) shows a positive variance in the program area.
- There is a slight overage in personal services, which is solved by the overall positive variance.
- This program is the model of consistency due to the nature of the program, the limited number of counties, higher compensation and staffing assistance, and the limited caseload.

Next Steps:

- Continue to work with contactors to monitor and maintain contracts, relationships, and caseloads.
- Continue to keep the budget dashboard in real time and in sync with the contract database.
- Continue to meet with program staff and the data team.
- Reclassify expenditure to recognize Title IV-E funding when received from the Oregon Department of Human Services – Child Welfare Division.
- This program looks to transfer \$500,000 of General Fund to help address the Rebalance issues.

ADMINISTRATIVE SERVICES DIVISION

Administrative Services Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	13,500,299	7,083,268	5,737,544	0	12,820,812	(679,487)
Services and Supplies	13,384,622	3,937,347	5,044,590	0	8,981,937	(4,402,685)
Total Funds	26,884,921	11,020,615	10,782,134	0	21,802,749	(5,082,172)

Status Update:

- The Administrative Services Division (ASD) is projected to end the biennium within its budgeted authority.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second COLA in early 2025.
- The division anticipates increased unbudgeted costs associated with the Attorney General’s office, especially when the commission matriculates to the Executive Branch.
- Established three permanent full-time positions (0.99 FTE) and approved the downward reclassification of four permanent positions for procurement and contract administration. We are currently hiring one Procurement Specialist 2 and will start recruitments for the two Procurement Specialist 1 positions and a Procurement Manager. One Program Analyst 4 is currently being recruited as there are incumbents for the three newly established positions.
- Established one limited-duration position (0.38 FTE) for a Chief Data Officer; two limited-duration positions (1.00 FTE) for preauthorization of contractor expenses; and three limited-duration positions (1.38 FTE) for accounts payable activities. All positions are currently in recruitment.
- The agency shows a modest projected savings and will offer funding to rebalance.

Next Steps:

- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.
- This division will offer \$850,000 General Fund to mitigate other agency projected overages.

Administrative Services Division, Finance and Case Management System						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	1,502,706	511,626	1,081,346	0	1,592,972	90,266
Services and Supplies	7,154,030	368,402	3,325,590	0	3,693,992	(3,460,038)
Total Funds	8,656,736	880,028	4,406,936	0	5,286,964	(3,369,772)

Status Update for FCMS:

- Important to note that these numbers are contained in the overall table for Administrative Services Division. This section is purely informational.
- Stage Gate 2 – Artifacts for Portfolio Management Review (P3) – Completed. Stage Gate 2 Artifacts – 100% Complete for Final Stage Gate 2 Review.
- Change Management - Moss Adams Discovery Kick-Off, Communications, Stakeholder Interviews - Started.
- RFP Oregon Buys Pre-Post Planning - Pre-Planning for Oregon Buys RFP Posting– Started.
- Policy Package 101 - F/CMS Financing Suggestion (Article XI-Q Bonding) - Bond Funding Application – Submitted.
- Program health remains amber due to budget, resource, and schedule health concerns stated below:
- Budget health remains amber until solution vendor is signed, bond funding is approved, and implementation costs are known.
 - Resource health remains amber until open positions are filled.

- Scope health updates to green due to RFP approval. Scope is stable and is being properly managed through the change control process.
 - Schedule health remain amber due to the work breakdown structure critical path activities through procurement.

Next Steps:

- Stage Gate 2 Approval – We anticipate Stage 2 artifacts to be approved by P3 the week of 10/7. P3 is in final stages of cursory review for our Stage Gate 2 work.
- Policy Package 101 - F/CMS Financing Suggestion (Article XI-Q Bonding) - FCMS is in the process of seeking bond funding for the project. Approval Target: 10/16.
- Moss Adams Change Management Consulting Track - Moss Adams Change Management team will be engaging FCMS project stakeholders in stakeholder 1:1 interviews, group interviews, as well as external provider survey. Target 10/30.
- RFP Post & Procurement - Depending on Stage 2 approvals from Dept. Administrative Services, we will be aiming to send the RFP out for bids and start the Procurement process. Target 10/7 Stage 2 Approval. RFP Post 10/16.

SPECIAL PROGRAMS, CONTRACTS, AND DISTRIBUTIONS

Special Programs, Contracts, and Distributions						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	10,855,627	6,635,967	5,610,000	0	12,245,967	1,390,340
Other Funds						
Services and Supplies	1,583,281	1,578,281	0	0	1,578,281	(5,000)
Total Funds	12,438,908	8,214,248	5,610,000	0	13,824,248	1,385,340

Status Update:

- An overage is projected due to the unknown amounts of discovery invoices that may be submitted. There is no pattern for how or when discovery invoices will be submitted to the commission for payment or for how much. The only constant is that we are required to pay the invoices when submitted.
- As there is no forecast or methodology, the agency has no mechanism to request additional funds to cover any overage. This is one area where we can only pay out what we have.
- Contract payments that were place in this budget are progressing on schedule.
- Contract payments for guardianship are going out as scheduled.
- We have requested and received all funding for the Byrne Grant.
- This area has no funding to add to the rebalance plan.

Next Steps:

- Continue to monitor this budget.
- Report to the Executive Team when the budget gets below \$2 million so that we can communicate to vendors that our discovery funding is running out.

REBALANCE

REBALANCE PLAN

- The first action that is being requested is to move the budget for psychological services and related services from Court Mandated Expenses to Preauthorized Expenses, leaving \$125,000 in Court Mandated Expenses to account for those requests that are truly court-ordered through the State Hospital. This action will align budget with expenditures. A part of this overall action will be administrative in nature as the agency will need to reverse the \$16.1 million expenditure move that was done in September.
- The second action that will inform the need for this rebalance is the reprojection of expenses in both Court Mandated Expenses and Preauthorized Expenses. These reprojections are the six-month rolling average of recent expenditures in these program areas. This six-month average is important and applicable due to the recent changes the commission has made to various policies and procedures, which has changed the behavior of the expenditures.
- These actions have produced the following issues:
 - Court Mandated Expenses is now projecting a General Fund overage of \$7,222,042.
 - Preauthorized Expenses is now projecting a General Fund overage of \$8,618,997.

Court Mandated Expenses						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	52,332,906	31,925,098	27,629,850	0	59,554,948	7,222,042
Other Funds						
Services and Supplies	858,122	429,202	0	0	429,202	(428,920)
Special Payments	3,591,545	696,936	0	0	696,936	(2,894,609)
Total Funds	56,782,573	33,051,236	27,629,850	0	60,681,086	3,898,513

Preauthorized Expenses						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	82,117,685	47,727,792	43,008,890	0	90,736,682	8,618,997
Other Funds						
Services and Supplies	1	0	0	0	0	(1)
Total Funds	82,117,686	47,727,792	43,008,890	0	90,736,682	8,618,996

- To mitigate these projected overages, the agency is requesting the following through a rebalancing action:
 - Apply the entire Various Public Defense SPA of \$6,170,768.
 - Move \$850,000 General Fund from Administrative Services.
 - Move \$4,500,000 General Fund from Adult Trial Division.
 - Move \$3,000,000 General Fund from Adult Trial Division.
 - Move \$275,000 General Fund from Appellate Division.
 - Move \$275,000 General Fund from Compliance, Audit, and Performance Division.
 - Move \$300,000 General Fund from Executive Division.
- These actions will produce \$15,870,768 to solve the \$15,841,039 projected overage. (see schedule below).

REBALANCE SCHEDULE

December 2024 E- Board Request				
General Fund	Increase	Reduction	Total	Legal Citation
Court Mandate Expenses		(23,500,000)	(23,500,000)	Oregon Laws 2023, Chapter 481, section 1(7)
Preauthorized Expense	23,500,000		23,500,000	Oregon Laws 2023, Chapter 481, section 1(6)
			-	
Administrative Services Division		(850,000)	(850,000)	Oregon Laws 2023, Chapter 481, section 1(9)
Adult Trial Division		(4,500,000)	(4,500,000)	Oregon Laws 2023, Chapter 481, section 1(4)
Adult Trial Division		(3,000,000)	(3,000,000)	Oregon Laws 2023, Chapter 481, section 1(4)
Compliance, Audit, and Performance Division		(275,000)	(275,000)	Oregon Laws 2023, Chapter 481, section 1(2)
Executive Division		(300,000)	(300,000)	Oregon Laws 2023, Chapter 481, section 1(1)
Appellate Division		(275,000)	(275,000)	Oregon Laws 2023, Chapter 481, section 1(3)
Parent Child Representation Program		(500,000)	(500,000)	Oregon Laws 2023, Chapter 481, section 1(8)
Expenses for Public Defense SPA		(6,170,768)	(6,170,768)	Oregon Laws 2023, Chapter 605, section 9(1)
Court Mandated Expense	7,236,909		7,236,909	Oregon Laws 2023, Chapter 481, section 1(7)
Preauthorized Expense	8,633,859		8,633,859	Oregon Laws 2023, Chapter 481, section 1(6)
Totals	39,370,768	(39,370,768)	-	



Oregon

Oregon Public Defense Commission

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October 11, 2024

Senate President Rob Wagner, Co-Chair
House Speaker Julie Fahey, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

The Oregon Public Defense Commission (OPDC) requests that the Emergency Board approve a request to extend the Temporary Hourly Increase Program (THIP) from January 1, 2025, through June 30, 2025. OPDC will self-fund this amount through agency savings identified in the Rebalance Request submitted to this Emergency Board.

On May 23, 2024 Governor Kotek requested that the Oregon Public Defense Commission (OPDC) submit a plan by August 1, 2024 to “eliminate Oregon’s unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.” OPDC submitted that plan to the Governor. The plan included interventions OPDC was taking or planned to take within existing resources, as well as interventions that would require Legislative approval, funding through the Emergency Board, or both. This request is in line with that crisis plan.

Agency Action

Temporary Hourly Increase Program

When it comes to assigning counsel to a person eligible for public defense, OPDC contractors are first in line. Under normal circumstances, the court will assign an available attorney upon arraignment. However, when no attorney is available due to lack of capacity or conflicts of interest, the court will assign OPDC as a placeholder. This puts the defendant on the unrepresented list and notifies OPDC of the need to locate counsel. OPDC’s most effective tool for locating counsel is the Temporary Hourly Increase Program (THIP). Beginning in August 2022, THIP pays attorneys an enhanced hourly rate for taking on unrepresented cases. THIP has successfully brought in new attorneys who would otherwise not take OPDC cases and has been an essential part of the unrepresented response.

THIP was always intended to be a temporary program. Initially, it was intended as an emergency program, then later extended as a bridge until state employees started taking cases. In that time, it has been an incredibly successful program. Through THIP, OPDC is assigning an average of 200 cases per month directly off of the in-custody unrepresented list. Since its inception, 6,994 cases representing 4,829 clients have been taken through THIP. Since narrowing to only in-custody unrepresented cases, THIP has taken 1,442 cases representing 947 clients directly off of the in-custody unrepresented list.

THIP has also brought in new lawyers into the system. Before 2022, when the hourly rate was \$75 and \$105/hour, about 1% of OPDC-assigned cases were taken hourly. Today, hourly cases account for nearly 10% of all OPDC-assigned cases. Of the 214 currently active THIP attorneys, 140 are not contracted providers with OPDC. Additionally, attorneys under contract have to have reached their monthly MAC before they are able to take on a THIP case, ensuring that OPDC is utilizing contracted capacity before paying hourly.

Types of unrepresented cases taken through THIP since August 2022, both by number of clients and by number of cases.

Case Category	THIP Distinct Client Count	THIP Distinct Case Count
Misdemeanor	2,030	2,709
Minor Felony	1,545	1,952
Measure 11	557	578
Probation Violations-Criminal	414	509
Major Felony	448	490
Dependency/Termination	210	249
Murder	174	172
Delinquency	117	156
PCR/Habeas	85	86
Civil Commitment	78	81
Total	4,829	6,994

Budget and Requests

These numbers are predicated on the approval of OPDC rebalance request, which is also before the December Emergency Board. With the rebalance, OPDC can fund the entire extension through existing resources.

The table below shows the budget, actuals, and projections for THIP if extended through June 2025. THIP has a legislatively approved budget of \$13,213,374, from July 2023-August 31, 2024 THIP actuals are \$24,256,423. This means OPDC is \$11,043,049 over budget. In addition to that, OPDC projects THIP expenses through June 2025 to be \$21,348,853. This would create a total THIP variance of \$32,391,902.

However, OPDC is looking at existing resources within CME and PAE overall. THIP is a sub-type of hourly attorney and, as such, is paid through a sub-type of the CME budget, THIP-CME. THIP cases also use the normal PAE process, besides getting an enhanced rate for investigators. It should also be noted that OPDC would pay the standard hourly rate and all PAE expenses in the normal course of business if it weren't for the unrepresented crisis, so many of these costs were already factored into the PAE and CME budgets. THIP has significantly increased the number of hourly cases taken while decreasing the cases taken at the standard hourly rate. This has led to savings within non-THIP CME, which allowed OPDC to fund the initial portion of the THIP extension in 2022.

When non-THIP resources are factored in, OPDC would be able to cover all projected expenses from the July-June 2025 THIP extension through savings in the non-THIP CME budget before the rebalance action. However, that would leave an unanswered deficit in the non-THIP PAE budget. Assuming the rebalance is approved, which includes the release of the Special Purpose Appropriation (SPA) for public

defense, OPDC is able to fully cover the extension of THIP through the end of the biennium, while also balancing both the non-THIP CME and PAE expenses.

THIP Budget, Actuals, and Projections for the 2023-2025 Biennium:

	CME	PAE	Total
Budgeted Resources			
Non THIP Budget	\$ 65,897,147	\$ 55,340,161	\$ 121,237,308
THIP Budget	\$ 9,935,850	\$ 3,277,524	\$ 13,213,374
Total 23-25 Legislatively Approved Budget	\$ 75,832,997	\$ 58,617,685	\$ 134,450,682
Rebalance Action			
Rebalance	\$ 7,222,042	\$ 8,618,997	\$ 15,841,039
Technical Psych Adjustment	\$ (23,500,000)	\$ 23,500,000	\$ -
Total 23-25 after Rebalance (Includes SPA)	\$ 59,555,039	\$ 90,736,682	\$ 15,841,039
Actuals from July 2023-August 2024			
Non-THIP Actuals FY23	\$ 12,315,719	\$ 43,080,676	\$ 55,396,395
THIP Actuals FY23	\$ 19,609,307	\$ 4,647,116	\$ 24,256,423
Total Actuals FY23	\$ 31,925,026	\$ 47,727,792	\$ 79,652,818
Projected Expenses from September 2024-June 2025			
Non-THIP Projected 23-25 Expenses	\$ 10,487,112	\$ 38,872,662	\$ 49,359,774
Total THIP Projected 23-25 Expenses	\$ 17,050,800	\$ 4,298,053	\$ 21,348,853
Total Projected 23-25 Expenses	\$ 27,537,912	\$ 43,170,715	\$ 70,708,627
Variance Between Budgeted and (Actuals + Projections)			
Non THIP Projected Variance	\$ 43,094,316	\$ (26,613,177)	\$ 16,481,139
THIP Projected Variance	\$ (26,724,257)	\$ (5,667,645)	\$ (32,391,902)
Total Projected Variance before Rebalance	\$ 16,370,059	\$ (32,280,822)	\$ (15,910,763)
Total Projected Variance After Rebalance	\$ 92,101	\$ (161,825)	\$ (69,724)

2025-2027 Biennium

As LFO acknowledged in their recommendation in May, THIP represents a continuing financial obligation to the state until a case assigned under the program is resolved. Expenditures continue into the second year

of the biennium and into the 2025-27 biennium for unadjudicated cases. In addition, THIP costs include payment for not just hourly attorneys (Court Mandated Expenses or CME) but related costs such as expert witness and investigation expenses (Preauthorized Expenses or PAE), which can be material. THIP attorneys and investigators may also be reimbursed for travel and other allowable expenses. These cases also come with roll-up costs into future biennium. OPDC has calculated those costs to provide full transparency to the Emergency Board. These roll-up costs will be included in OPDC’s Policy Option Package 107 THIP Funding Continuation in the 2025 session. That POP is not a request to continue THIP but rather a request to fund the bills that will come in from cases previously assigned under THIP.

Projected costs of billing for THIP cases taken July 2024-June 2025 during the 2025 fiscal year (July 2024-June 2025):

July 2024 thru June 2025 Caseload: THIP Expected Costs during FY 25				
Case Category	Expected Attorney Cost	Expected Investigator Cost	Expected PAE Cost	Expected Total Cost (during FY 25)
Civil Commitment	\$18,251	\$0	\$690	\$18,941
Delinquency	\$131,836	\$17,504	\$37,808	\$187,148
Dependency/Termination	\$349,103	\$9,391	\$32,890	\$391,385
Jessica Law	\$256,842	\$75,173	\$95,178	\$427,193
Major Felony	\$1,113,417	\$186,216	\$196,148	\$1,495,781
Measure 11	\$1,103,157	\$328,321	\$404,141	\$1,835,619
Minor Felony	\$1,067,292	\$148,549	\$196,651	\$1,412,492
Misdemeanor	\$745,185	\$45,438	\$60,584	\$851,208
Murder	\$2,296,350	\$753,490	\$1,772,463	\$4,822,302
PCR/Habeas	\$69,124	\$13,488	\$110,660	\$193,272
Probation Violations-Criminal	\$82,402	\$4,711	\$5,401	\$92,514
Total	\$7,077,756	\$1,658,092	\$2,992,008	\$11,727,856

Action Requested

The Oregon Public Defense Commission (OPDC) requests that the Emergency Board approve a request to extend the Temporary Hourly Increase Program (THIP) from January 1, 2025, through June 30, 2025. OPDC will self-fund this amount through agency savings identified in the Rebalance Request submitted to this Emergency Board.

Legislation Affected

None

Sincerely,



Jessica Kampfe
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer
John Borden, Principal Legislative Analyst, LFO
Kate Nass, Chief Financial Officer
Allison Daniel, Policy and Budget Analyst, CFO



Oregon

Oregon Public Defense Commission

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www.oregon.gov/opdc

October 08, 2024

Senate President Rob Wagner, Co-Chair

House Speaker Julie Fahey, Co-Chair

Joint Emergency Board

900 Court Street NE

H-178 State Capitol

Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

OPDC requests position authority to open a state trial office of two attorneys and one support staff (3 positions and 0.75 FTE) in Coos County. The breakdown of these positions includes two Senior Deputy Defenders (0.50 FTE) and one Legal Secretary (0.25 FTE). The estimated cost of this request is \$354,889, which OPDC can fund through savings in the Adult Trial Division- Pilot Program section. The estimated roll up costs for the 2025-25 biennium is \$1.4 million.

On May 23, 2024 Governor Kotek requested that the Oregon Public Defense Commission (OPDC) submit a plan by August 1, 2024 to “eliminate Oregon’s unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.” OPDC submitted that plan to the Governor. The plan included interventions OPDC was taking or planned to take within existing resources, as well as interventions that would require Legislative approval, funding through the Emergency Board, or both. This request is in line with that crisis plan.

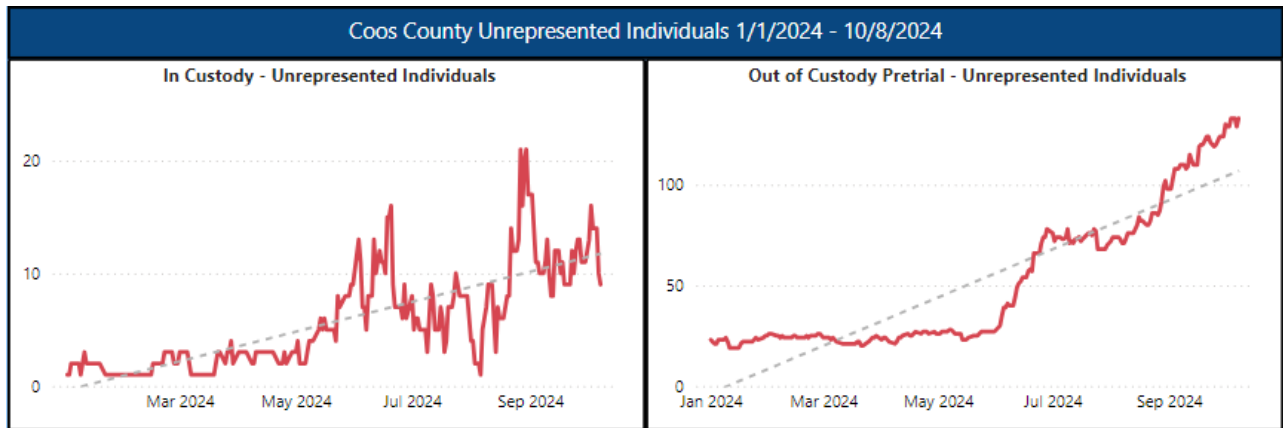
Agency Action

OPDC has identified Coos County as a growing unrepresented hotspot, as well as an underserved community that would benefit from a state trial office to stabilize the shrinking public defense workforce. Coos County has an unrepresented population disproportionate to its size. This is primarily due to a lack of staffing, the difficulties of recruiting to rural areas, and increased case filings in Coos. OPDC anticipates that these staffing challenges will increase in the coming months, and setting up a Coos County office would allow us to prepare for that influx in cases.

Unrepresented numbers in Coos County

Coos County has seen an increase in the number of people unrepresented in 2024, especially since June 2024. As of October 8, 2024, there are 133 out-of-custody pretrial unrepresented individuals in Coos County and 9 in-custody individuals. In-custody numbers peaked at 21 on August 27th and 30th, 2024, and the out-of-custody pretrial population has continued to grow since June 2024. Coos County has seen a 360% increase in unrepresented persons in all categories since January 2024.

Coos County has the 6th highest unrepresented persons count of any county in Oregon. This is true even though it is not a populous county: it has slightly higher unrepresented numbers than Deschutes County, despite being about 1/3 the size.



Data from OJD Unrepresented dashboard, 10/8/24

Unrepresented Individuals (of any category)			
Court	Unrepresented 1/1/24	Unrepresented 10/8/24	% Change
Coos	35	161	360%
Contempt	1	10	900%
Delinquency	1		-100%
Felony Class A	2	3	50%
Felony Class B	4	5	25%
Felony Class C	9	30	233%
Misdemeanor	19	116	511%
Total	35	161	360%

This sudden and sharp increase in unrepresented cases can be linked to staffing problems within Coos County contract. Since the end of June 2024 Coos County has lost four contract attorneys who were contracted for a total of 3.25 attorney MAC, or 36% of their contracted FTE. At least 50% of the attorneys who left the Coos County contractor indicated through the OPDC Attorney Vacancy form that their reason for leaving was high workloads.

Current Contracted Vacancy FTE	
Contract County	Vacancy FTE
Coos	3.25
Attorney 2	1.75
Attorney 3	1.00
Attorney 4	0.50
Total	3.25

The contractor is contracted for 3.25 vacancy FTE as of the September 2024 amendments. However, extended vacancy funding is set to expire after October. This could mean a cut of over \$480,000 for the remainder of the contract cycle to the Coos County contractor. OPDC allows for 60 days of vacancy funding while contractors work to hire replacements. Since no replacements have been identified, OPDC will be ending this funding in line with policy. These savings are reflected in OPDC’s rebalance request, and the savings will be going towards THIP, which has picked up many of the cases since July.

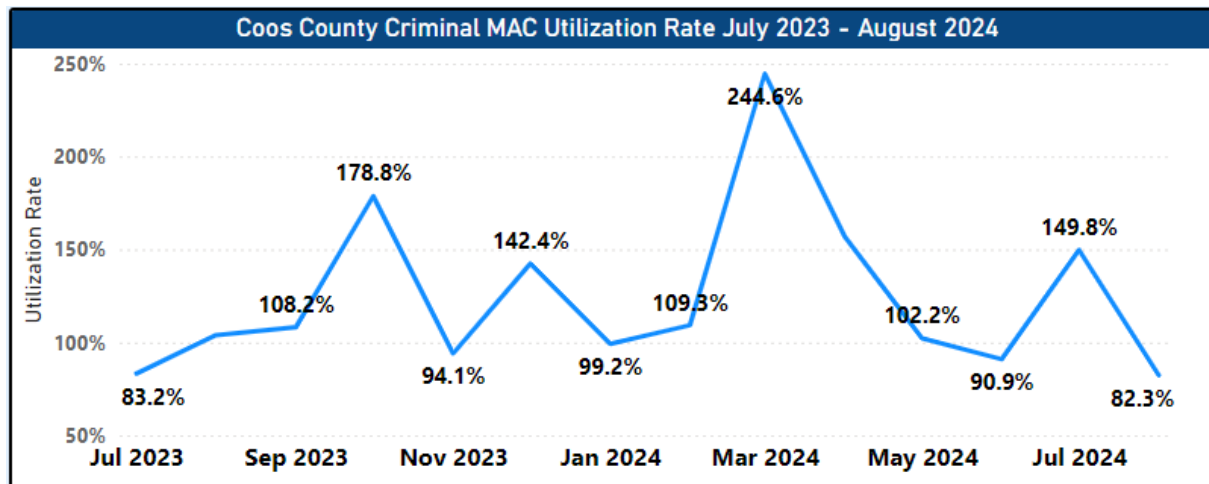
OPDC and the Coos County provider have concerns about the impact this cut will have to the providers operations. With such a small operation, this cut could prove destabilizing to the organization. However, attrition has been a long-standing problem in Coos County, and since July 2023 we have seen 5 public

defenders leave Coos County contracts. State trial positions offer an opportunity to recruit nationally to and stabilize the workforce in this underserved community.

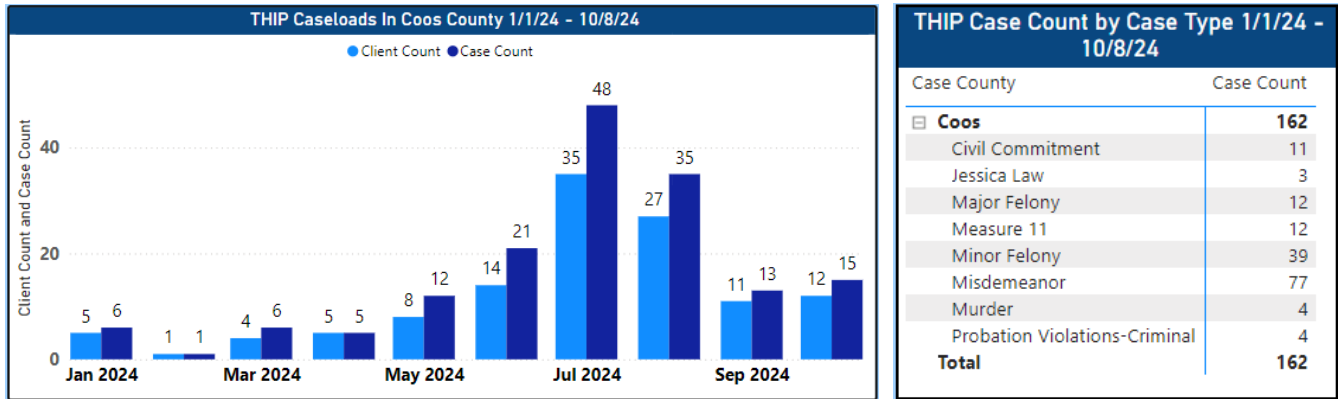
Currently, OPDC’s Marion County trial office is accepting appointment on a growing number of Coos County cases. Therefore, additional savings will come from no longer having to fund travel and overnight expenses for attorneys traveling from Salem to Coos to take on cases. In September 2024, the Central Valley Regional Trial Division office took three Coos County cases. The attorneys have already logged 32 hours in travel time for these three cases, which is 17% of all time logged for these cases. Comparatively speaking, travel time accounts for 8% of all time tracked to date for the State Trial Offices. Central Valley attorneys taking cases in Coos County require an increase in travel time, which ultimately reduces the amount of time the attorney has to devote to other cases. The chart below shows the distribution of cases take by the Southern and Central Valley Trial Office in Coos and Douglas Counties by count of cases and count of clients by the client’s highest charge.

Southwest & Central Valley Trial Division Cases			
Office Location	Closed	Open	Total
Southwest Regional Trial Division	151	126	277
Jackson	129	108	237
Douglas	8	8	16
Grant	7	3	10
Klamath	3	7	10
Harney	2		2
Marion	2		2
Central Valley Regional Trial Division	21	118	139
Marion	17	86	103
Douglas	2	15	17
Coos		6	6
Lane		4	4
Multnomah	1	2	3
Deschutes	1	1	2
Washington		2	2
Yamhill		2	2
Total	172	244	416

Three of the attorneys who left the Coos County contractor separated from the contract in July 2024. Combined these attorneys reported 22 new appointments and 21 open cases in June 2024. These cases had to be covered by other attorneys within the provider contract, limiting their capacity to pick up new cases. Prior to these vacancies, the contract provider in Coos County was at 103% MAC utilization rate through June 2024. However, between having to reassign departing attorney’s caseloads and continued vacancies, the Coos County provider is now at 125.9% MAC utilization for the attorneys actively under contract.



The Temporary Hourly Increase Program (THIP) has seen an increase in case assignments in Coos county over the past 6 months. Since January 2024, 162 cases have been assigned to attorneys through the THIP in Coos County. Over 50% of these assignments occurred in July and August 2024.



Case County	Case Count
Coos	162
Civil Commitment	11
Jessica Law	3
Major Felony	12
Measure 11	12
Minor Felony	39
Misdemeanor	77
Murder	4
Probation Violations-Criminal	4
Total	162

Outcomes

A permanent office in the Coos County will:

- Stabilize the defense bar in a high-risk area and eliminate the region's chronic staffing issues;
- Allow for Coos County cases to be handled by attorneys located in Coos County;
- Greatly reduce drive time between the Central Valley and Southern offices and Coos Bay, increasing attorney capacity.

The unrepresented lists in Coos County continues to grow as staffing impacts worsen. A Coos County office would likely have to pick up cases handled by departing contract attorneys and take on increasing in-custody numbers. With such a volatile situation, it is hard to predict how quickly a Southwest trial office of 2 attorneys could be assigned to all of the region's in-custody list, but based on growth predictions, it would likely take 3 to 6 months. Attorneys would be able to start before the physical office space was opened, so work on reducing the unrepresented numbers could begin with the hiring and onboarding of attorneys. It can take 6 months to set up a physical office.

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

** This data was compiled by the OPDC Data and Research team. Third parties, whether they be providers, state agencies, or other stakeholders, should not extrapolate this data for other purposes.*

Action Requested

OPDC requests position authority to open a state trial office of two attorneys and one support staff (3 positions and 0.75 FTE) in Coos County. The breakdown of these positions includes two Senior Deputy Defenders (0.50 FTE) and one Legal Secretary (0.25 FTE). The estimated cost of this request is \$354,889, which OPDC can fund through savings in the Adult Trial Division- Pilot Program section. The estimated roll up costs for the 2025-25 biennium is \$1.4 million.

Legislation Affected

None

Sincerely,

A handwritten signature in black ink, appearing to read "JK", is positioned below the word "Sincerely,".

Jessica Kampfe
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer
John Borden, Principal Legislative Analyst, LFO
Kate Nass, Chief Financial Officer
Allison Daniel, Policy and Budget Analyst, CFO



Date: October 16, 2024

To: OPDC Commissioners

Cc: Jessica Kampfe, Executive Director

From: Jennifer Nash, Chair of OPDC

Re: 2025 Commission Meeting Calendar

Nature of Presentation: Action Item

Background:

OPDC staff have prepared a draft Commission calendar with 2025 Commission meeting dates for Commission review and approval. The dates will follow the current cadence of the third Wednesday of each month, with alternate meeting dates in June and December to coincide with the OCDLA conference. Commissioners were consulted via an online poll for the meeting time they would be able to regularly attend, with a majority vote resulting in the selection of the 9:00am to 1:00pm recurring time. Once this calendar is approved, dates will be reserved on Commissioner calendars and shared on the OPDC meeting website. Dates are subject to change as needed for Commission business.

Agency Recommendation:

OPDC staff and Chair Jennifer Nash are recommending the Commission approve and implement this calendar for 2025.

Fiscal Impact:

None.

Agency Proposed Motion:

I move the Commission to approve the 2025 Commission meeting calendar.

2025 OPDC Meeting Schedule *DRAFT* for Approval- All meetings 9:00am to 1:00pm unless otherwise noted

<p>Wednesday, January 15, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Wednesday, February 19, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Wednesday, March 19, 2025 (Offsite - Jackson County)</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Wednesday, April 16, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>
<p>Wednesday, May 21, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Thursday, June 12, 2025 (Offsite - Deschutes County) <i>Coincides with OCDLA Conference</i></p> <p>Action: Update: PAE, Routine, and Schedule of Guidelines Review (tentative) Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Wednesday, July 16, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Wednesday, August 20, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>
<p>Wednesday, September 17, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Wednesday, October 15, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Wednesday, November 19, 2025</p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>	<p>Friday, December 5, 2025 (Offsite - Multnomah County) <i>Coincides with OCDLA Conference</i></p> <p>Action: Update: Briefing:</p> <p>Standing Topic: Public Comment Standing Topic: Unrepresented Persons Update Standing Topic: Budget Update Standing Topic: FCMS Standing Topic: Executive Director Update</p>



REPORT

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

October 11, 2024

This report has been produced by Moss Adams LLP and the JFA Institute. The findings, views, and opinions expressed in this report are those of the authors.

Data gathering and analysis services performed by Moss Adams LLP (Moss Adams) are conducted in accordance with the Standards for Consulting Services established by the American Institute of Certified Public Accountants. Moss Adams' deliverables and other work products are based on underlying assumptions and other information determined by Moss Adams' Client, the Law Offices of the Public Defender of the State of Oregon. No legal opinion from Moss Adams is intended or implied in this report. Moss Adams' services, deliverables, and other work products are intended solely for the use of Moss Adams' Client.

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

A FOLLOW-UP TO THE FINDINGS IN:

“The Oregon Project – An Analysis of the Oregon Public Defense System
and Attorney Workload Standards,” published January 2022

ACKNOWLEDGMENTS

This report would not be possible without the expertise and collaboration of several individuals whose expertise and assistance greatly enriched this work. Their support, guidance, and commitment were invaluable throughout the process.

First and foremost, Moss Adams LLP (Moss Adams) would like to sincerely thank the Oregon Public Defense Commission (OPDC) for their engagement throughout this project. Eric Deitrick, K.O. Berger, Gabriel Dougherty, Jessica Kampfe, and many others at OPDC contributed their time and expertise. Their leadership and engagement were critical in making this report possible.

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

James Austin, Ph.D. is the President of the JFA Institute. He is the former director of the Institute on Crime, Justice and Corrections at George Washington University in Washington, D.C., and former Executive Vice President for the National Council on Crime and Delinquency. He has served as director for several large U.S. Department of Justice-funded research and evaluation programs and has served as the project director of the Bureau of Justice Assistance projects. James provides technical assistance to state and local jails, probation, parole, and prison systems.

Malia Brink serves as Senior Policy Attorney at the Deason Criminal Justice Reform Center at SMU Dedman School of Law. Malia has spent more than 20 years working in criminal justice research and reform advocacy. Prior to joining the Deason Center, she served as the Counsel for Indigent Defense to the American Bar Association (ABA) Standing Committee on Legal Aid and Indigent Defense (SCLAID). While at the ABA, Malia served as Deputy Director for the ABA SCLAID's Public Defender Workload Study Projects and the Misdemeanor Court Observation Projects. She is the co-author of the National Public Defense Workload Study published by the RAND Corporation in 2023.

Stephen F. Hanlon is a nationally recognized indigent defense expert who served as the Project Director for seven ABA workload studies from 2012 to 2022, including *the Oregon Project*. In 2014, while serving as General Counsel for the National Association for Public Defense (NAPD), he initiated groundbreaking reforms in public defense workload standards that led to the publication of the National Public Defense Workload Study (NPDWS) in 2023. The NPDWS replaced the half-century-old 1973 National Advisory Commission (NAC) Standards. Stephen served as the Pro Bono Partner at Holland & Knight for 23 years, from 1989 to 2012.

Additional contributions were provided by the Oregon Office of Economic Analysis (OEA) and the Oregon Criminal Justice Commission.

This work is possible because of the foundational *The Oregon Project* report.

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I. EXECUTIVE SUMMARY

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

— Oregon Justice Resource Center

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

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

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

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

A. ADULT CRIMINAL ATTORNEY DEFICIENCY CALCULATION

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

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

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

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

Using the projected annual caseloads as a starting point, currently OPDC needs 922 attorney FTEs to address its Adult Criminal caseload. In 2023, OPDC contracts or employs 506 attorney FTEs – therefore, OPDC needs an additional 416 attorney FTEs to properly address its current Adult Criminal caseloads. In other words, at present, OPDC has only 45% of the FTE attorneys needed to provide reasonably effective assistance of counsel pursuant to prevailing professional norms in Oregon to its Adult Criminal clients. Based on historical trends, the six-year plan assumes an increase of 1.0% in Adult Criminal caseloads annually. This incrementally increases the total need today from 922 FTEs to 980 FTEs over six years, resulting in an increase in the calculated attorney deficiency from 416 to 474 attorney FTEs by 2031.² The total attorney FTE need in 2031 is rounded down to the nearest whole FTE.

B. STAFFING AND BUDGET STRATEGY

Adult Criminal Attorney Staffing Strategy

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

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

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

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

TABLE 1: SIX-YEAR ADULT CRIMINAL ADDITIONAL STAFFING STRATEGY

	YEAR 0	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6
ADULT CRIMINAL STAFFING IMPACTS							
Additional Funded Attorney FTE	0	79	79	79	79	79	79
Running Total Additional Attorney FTE	0	79	158	237	316	395	474
ADULT CRIMINAL STAFFING NEEDS							
Adult Criminal Attorney FTE Need ³	922	931	941	950	960	970	980
Current Adult Criminal FTEs ⁴	506	585	664	743	822	901	980
Adult Criminal Attorney FTE Deficiency at End of Year	416	346	277	207	138	69	0
Percent Adult Criminal Attorney Deficiency at End of Year	45%	37%	29%	22%	14%	7%	0%

Budget Impacts

The second step in our analysis was to calculate the cost to fund the needed attorneys over the next six years. To build the six-year budget impact, first, a baseline increase was applied to future biennial budget years (labeled OPDC Total Operating Trend, Table 2). This was calculated by applying the historical average increase in biennial budgets between FY2017–FY2025 (23%) to future biennial budget years. This results in an estimated baseline operating budget for FY2029–2031 of \$1.08 billion.

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

To address the public defender deficit by exclusively hiring attorneys to manage Adult Criminal cases, OPDC’s operating budget would need to increase from its baseline forecast of \$1.08 billion to \$1.30 billion in FY2029–2031 (Table 2).

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

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

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

TABLE 2: BUDGET IMPACTS OF THE SIX-YEAR PLAN

	FY2023–2025	FY2025–2027	FY2027–2029	FY2029–2031
OPDC Total Operating Budget Trend	\$576,276,124	\$709,626,419	\$873,833,972	\$1,076,039,153
Cost to Fund Additional Attorney FTE		\$76,224,888	\$152,449,776	\$228,674,664
Total Funding Need by Year		\$785,851,307	\$1,026,283,748	\$1,304,713,817
Percent Additional Budget Needed		11%	17%	21%

C. INTERVENTIONS IMPACTING THE ATTORNEY DEFICIT REDUCTION STRATEGY

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

Legislative Actions

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

Decriminalization

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

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

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

- Hit and Run Where the State Is the Victim
- Theft 3 When the Item Stolen Is Food or Basic Needs
- Failure to Register If the Person Complies with Registration upon Arrest

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

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

OFFENSE	NUMBER OF FILINGS	% OF TOTAL 2022 FILINGS
Decriminalization Impact on Attorney FTE		
Total 2022 Charges Filed:	293,205	
Subtotal Recommended Decriminalization + Reduced "Other Crimes"	23,157	7.9%
Estimated Total Reduced by 20% <i>The reduction accounts for variability in overall decriminalization estimates</i>	18,526	6.3%
Reduced Defense FTE (18,526 x 13.8 hrs. per case/1,578 hrs. per FTE)		162 FTE

Sentencing Reform

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

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

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

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

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

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

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

DESCRIPTION	AMOUNT
Total Current Criminal Justice System Costs	\$8,280,000,000
Estimated Savings Due to Sentencing Reform	-\$240,000,000
Estimated Increased Costs for Probation	\$25,000,000
<i>Net Reduction</i>	<i>-\$215,000,000</i>

2024 Oregon Legislative Session Outcomes

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

During the 2023 session, the Oregon Legislature also passed:

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

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

Support Staff

A staffing strategy that focuses exclusively on recruiting and hiring attorneys has the highest cost and requires the longest timeframe to achieve the deficiency reduction goal. Other factors can reduce the staffing deficiency with less hiring of Adult Criminal attorneys, and with greater cost efficiency. This includes recruitment of case support personnel such as paralegals, investigators, social workers, case managers, interpreters, and administrative personnel, who can address some of the work currently conducted by attorneys. Incorporating support staff into OPDC’s deficiency reduction

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

strategy will have significant, and long-lasting impacts not only helping to eliminate the public defender deficiency more quickly but building much needed resilience to the public defender career pipeline and improving service delivery.

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

Aggregate Impact of Interventions

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

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

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

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

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

II. INTRODUCTION

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

— Ben Haile, Special Counsel, Oregon Justice Resource Center

A. BACKGROUND

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

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

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

The Oregon Project analysis showed that based on the average annual caseload, the state needed an additional 1,296 full-time attorneys—more than two times its current level—to meet the standard of

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

reasonably effective assistance of counsel guaranteed by the Sixth Amendment to the U.S. Constitution.

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

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

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

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

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

B. OVERVIEW OF THE OREGON PUBLIC DEFENSE SYSTEM

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

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

¹⁰ OPDC is responsible for representation of both children and parents in Juvenile Dependency proceedings. This arrangement is somewhat unusual and prone to creating administrative challenges, as attorneys from the same organization or law firm generally are prohibited by the Rules of Professional Responsibility from representing two parties in the same case. As a result, a dependency case in which there is one child and two parents may require lawyers from three different contracting entities. For more on models of representation in dependency proceedings and suggestions for best practices, see Mimi Laver and Cathy Krebs, "The Case for a Centralized Office of Legal Representation in Child Welfare Cases" (American Bar Association, *Child Law Practice Today*, December 2020). https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2020/the-case-for-a-centralized-office-for-legal-representation-in-ch/.

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

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

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

III. ADULT CRIMINAL DEFICIENCY ANALYSIS UPDATE

A. ADULT CRIMINAL CASELOAD DATA UPDATES

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

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

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

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

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

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

B. CURRENT ADULT CRIMINAL ATTORNEY DEFICIENCY CALCULATION

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



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



At 2023 caseloads, OPDC is deficient 416 attorney FTEs for its Adult Criminal caseloads. In other words, OPDC currently has only 45% of the FTE attorneys needed to provide reasonably effective assistance of counsel pursuant to prevailing professional norms in Oregon to its Adult Criminal clients.



Thinking of the deficiency through the lens of caseloads, where one caseload for a full-time attorney is 1,578 case hours annually, having only 45% of the needed Adult Criminal attorneys means that each attorney would have to work 1.82 caseloads annually to meet current demands (2,874 hours). Over six years, as more attorneys are recruited, this ratio will go down until (Table 7) one attorney is able to work one caseload to meet demand.

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

TABLE 7: ANNUAL CASELOAD PER ATTORNEY FTE

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

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

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

Impact of the Attorney Deficiency on Current FTE:

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

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

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

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

The attorney FTE deficiency has a profound impact on the existing attorneys working in public defense in Oregon. Having only 45% of the needed Adult Criminal attorneys means that each current attorney would have to work 1.82 caseloads annually to meet current demands (2,874 hours). This is impossible. To try to cope under such caseloads requires attorney to turn down some cases – leading to some people going unrepresented. It also leads to triage – having to prioritize the most urgent work over other work that should be done. Engaging in such triage has significant downstream impacts, including increased backlogs, appeals, and post-conviction claims. Further, asking attorneys to maintain such high caseloads often causes increased stress and morale problems, contributing to decreased retention. Attorney departures in turn costs the agency not only in terms of loss of institutional knowledge and experience, but also increased recruitment and training costs.

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

IV. BASELINE STAFFING AND BUDGET STRATEGY

A. ATTORNEY FTE STAFFING STRATEGY

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

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

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

TABLE 8: SIX-YEAR ATTORNEY-ONLY STAFFING STRATEGY

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

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

B. HISTORICAL OPERATING BUDGET TRENDS

OPDC operations are funded via two primary methods: an appropriation from the Oregon State Legislature known as General Funds (96% of the total operating budget), and additional Other Funds awards (4% of the total operating budget). Over the past 8 years, the Oregon legislature has increased funding for OPDC’s General Fund by an average of 23% per biennium. The total OPDC General Fund request for FY2023–2025 is approximately \$576 million. The OPDC Operating Budget Trend chart (Table 9) builds off the 8-year average increase of 23% to establish a baseline budget forecast for the next six years.

TABLE 9: OPDC OPERATING BUDGET TREND

BIENNIUM	GENERAL FUND	PERCENT CHANGE
2017–2019	\$309,985,014	
2019–2021	\$353,399,570	14%
2021–2023	\$445,411,261	26%
2023–2025	\$576,276,124	29%
2025–2027	\$709,626,419	23%
2027–2029	\$873,833,972	23%
2029–2031	\$1,076,039,153	23%

C. COST FOR ADDITIONAL BUDGETED ROLES BY TYPE

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

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

TABLE 10: AVERAGE ATTORNEY AND INVESTIGATOR COSTS

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

D. OPERATING BUDGET IMPACT

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

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

TABLE 11: BUDGET IMPACTS OF THE ATTORNEY STAFFING STRATEGY

	FY2023–2025	FY2025–2027	FY2027–2029	FY2029–2031
OPDC Total Operating Budget Trend	\$576,276,124	\$709,626,419	\$873,833,972	\$1,076,039,153
Cost to Fund Additional Attorney FTE:		\$76,224,888	\$152,449,776	\$228,674,664
Total Funding Needs by Year:		\$785,851,307	\$1,026,283,748	\$1,304,713,817
Percent Additional Budget Need:		11%	17%	21%

E. ATTORNEY RECRUITMENT, RETENTION, AND DEVELOPMENT CONSIDERATIONS

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

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

To improve OPDC’s ability to effectively recruit new and experienced lawyers, OPDC must improve working conditions and pay so that attorneys are recruited into the public defense profession. Enhanced recruitment, such as creating law school-to-public-defense pipelines, loan forgiveness

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

opportunities, and programs to attract lawyers to underserved parts of the state, would benefit Oregon's public defense system in the long term. However, investments in these areas have a long maturation period. OPDC may not see the results of its investment until after the six-year plan period.

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

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

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

V. INTERVENTIONS IMPACTING THE PUBLIC DEFENDER DEFICIT

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

— National Association for Public Defense

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

A. DECRIMINALIZATION

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

COVID-19 and Measure 110²¹ reduced the number of arrests and criminal case filings for Low-Level, Non-Violent Misdemeanor crimes. Despite these significant changes, there remain large numbers of people arrested and charged with relatively minor crimes in Oregon that could be removed from the criminal courts. Low-level, Non-Violent Misdemeanor crimes are proven to disproportionately impact individuals who are minorities or experiencing homelessness or poverty. Table 12 shows those crimes that could no longer be treated as criminal and the estimated impact on criminal case filings each year, based on the number of charges filed in 2022.

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

OFFENSE	NUMBER OF FILINGS	% OF TOTAL 2022 FILINGS
Recommended Decriminalization of Low-Level Non-Violent Misdemeanors		
Driving with a Suspended License	3,711	1.3%
Failure to Appear (FTA)	2,021	0.7%
Criminal Trespass	6,550	2.2%
Failure to Carry and Present License	194	0.1%

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

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

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

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

B. SENTENCING REFORM

Minimum and maximum sentences are often linked to the classification of various crimes. Long sentences are a clear driver of the hours required for public defenders. Changes to offense

classifications are outside OPDC’s direct control. However, changes to crime classification and sentencing lengths impact the public defender deficiency on an ongoing basis. Were Oregon to pursue sentencing reform, OPDC could reach its targeted elimination of excessive workloads earlier than 2031.

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

TABLE 13: MEASURE 11 REDUCTION ANALYSIS

MEASURE 11 CASES RECOMMENDED FOR REDUCTION	AVERAGE CASES	CASES WITHOUT FIREARMS	% OF TOTAL CASES
Assault in the Second Degree	3,642	3,589	29%
Kidnapping in the Second Degree	370	369	3%
Robbery in the First Degree	1,819	1,497	12%
Robbery in the Second Degree	1,097	1,094	9%
Sexual Abuse in the First Degree	1,213	1,213	10%
Total percent of Measure 11 Cases that Could be Reduced to Mid-Level-Felonies			62%
IMPACT ANALYSIS OF RECLASSIFICATION RECOMMENDATION			
NPDWS– Avg. Hours per High-Level Felony (Other) Case:			99
NPDWS – Avg. Hours per Mid-Level Felony Case:			57
Difference (Hours Savings) per Case:			42
Avg. Number of High-Level Felony Cases			985
Measure 11 Cases as a Percent of Total High-Level Felony Cases (80%):			789
Number of Measure 11 Cases Recommended for Reduction (62%):			491

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

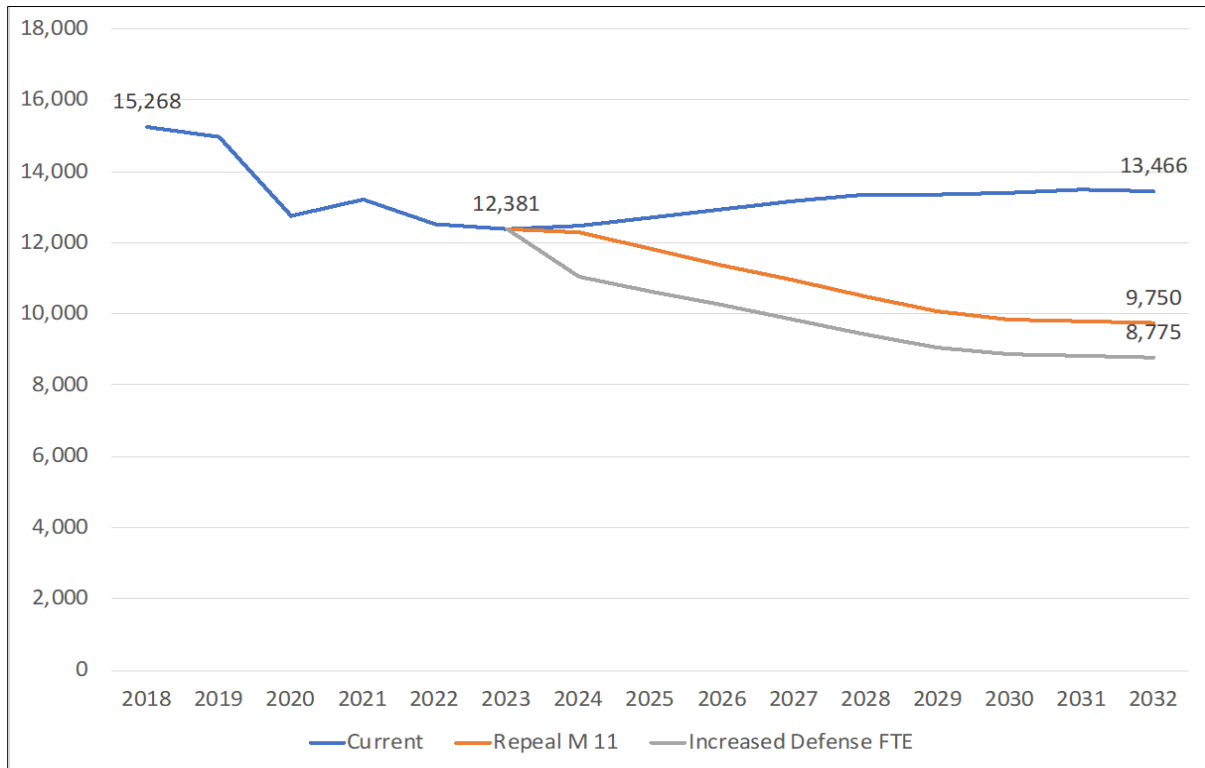
²³ These are charges which, based on charge alone, would likely fall into the Mid-Level Felony category, but fall into the High-Level Felony category because of the additional sentencing at stake under Measure 11. These are the charges, for example, where an attorney is most likely to seek relief from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

IMPACT ANALYSIS OF RECLASSIFICATION RECOMMENDATION	
Total Hours Savings for Average Annual Caseload:	20,622
Annual FTE Savings:	13
Annual Cost Savings ²⁴ :	\$3,135,834

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

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

FIGURE 1: CURRENT AND ALTERNATIVE PRISON POPULATION FORECASTS



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

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

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

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

DESCRIPTION	AMOUNT
Total Current Criminal Justice System Costs	\$8,280,000,000
Estimated Savings Due to Sentencing Reforms	-(\$240,000,000)
Estimated Increased Costs for Probation	\$25,000,000
<i>Net Reduction</i>	<i>-(\$215,000,000)</i>

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

C. ADDITIONAL RESOURCES TO SUPPORT WORKLOAD

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

— National Association for Public Defense

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

²⁶ Ibid.

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

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

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

resource to illustrate the task, and impacted category used in workload standards and calculations by case type...³⁰

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

Reallocation of Attorney Time to Case Support Staff

Within each Case Type, there are common Case Tasks that align with the phases of a criminal case, including:

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

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

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

To understand what attorney time could potentially be shifted to case-support staff, attorneys with public defense experience in Oregon examined each Case Task by Case Type *the Oregon Project*.

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

For each Case Task in each Case Type, they identified a reasonable portion of the allocated time that could reasonably be conducted by non-attorney case support personnel, effectively reducing attorney workloads. For some Case Tasks, such as Court Time, no time can be shifted to case-support personnel. However, for other Case Tasks, such as Client Support Services, the attorneys found that a significant percentage of time could reasonably be shifted to non-attorney case-support staff.

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

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

TABLE 15: COST ANALYSIS OF CASE SUPPORT PERSONNEL

STAFF TYPE	NUMBER OF FTE	FTE COST	TOTAL
Attorney	(181)	\$241,218	(\$43,660,458)
Case Support FTE	181	\$78,750. ³¹	\$14,253,750
Budget Impact	-	-	(\$29,406,708)

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

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

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

It's important to note that the skills, abilities, and competencies of each individual will determine their suitability to successfully support the case team. It is possible that individuals could provide additional

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

support beyond the items listed in the chart. Additionally, an individual such as a paralegal may provide support across several areas including file documentation, technology, motion filing, etc.

Case Support Staffing Ratios

The National Association for Public Defense (NAPD) issued a policy statement in 2020³² providing useful guidance on minimum staffing of case support staff to attorneys (Table 16). To support the transition of case hours to non-attorney FTE, any non-attorney FTE recruitment strategy should consider alignment with NAPD’s ratios.

TABLE 16: CASE STAFFING RATIOS

STAFF TYPE	RATIO (CASE SUPPORT: ATTORNEY)
Investigator	1:3
Mental Health Professional (often a Social Worker)	1:3
Supervisor	1:10
Paralegal	1:4
Admin Assistant	1:4

Operating Staff Ratios

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

TABLE 17: OPERATIONAL STAFFING RATIOS

STAFF TYPE	RATIO (OPERATION STAFF: TOTAL EMPLOYEE COUNT)
HR ³³	2:125
IT ³⁴ (for organizations less than 500)	1:18
Finance³⁵ This metric is often associated with either revenue or operating budget alongside employee count. \$100M–500M (251–500 employees) \$500M–\$1B (501–1,000 employees)	Number of Finance team FTE 11.9–14.7 14.8–19.2

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

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

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

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

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

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

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

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

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

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

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

This calculation does not account for other potential cost savings including savings on appeals, post-conviction cases, wrongful litigation, and litigation over failure to properly fund and staff indigent defense. Additionally, while this Table 18 describes the impacts on OPDC's operating budget, it should not be forgotten that the policy changes above could lead to significant downstream cost savings (\$215 million, Table 4) across Oregon's criminal justice system.

E. IMPACT ON THE CRIMINAL JUSTICE SYSTEM

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

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

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

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

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

- **Reducing the size of the pretrial jail population.** It has been well recognized that the jail population that consists primarily of people in pretrial status is being driven by the frequent use of continuances often requested by defense counsel due to excessive caseloads. The National Center of State Courts found in its research that continuances were the greatest obstacle to

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

“timely justice.”³⁷ Such requests are often needed for defense counsel to adequately investigate the charges against their clients, prepare for court appearances, and negotiate reasonable plea agreements with prosecutors. Given that most continuances are 30 days in length, eliminating just one unnecessary continuance would reduce the defendant’s length of stay by 30 days. For people charged with serious felony cases who make up the bulk of the pretrial population, this would reduce the pretrial population by about 10%. A recent test of such reforms in Brooklyn found significant reductions in the time to disposition without negatively impacting the defendant’s final court outcomes.³⁸

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

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

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

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

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

APPENDICES

APPENDIX A: ADDITIONAL RESOURCES FOR CASE SUPPORT ANALYSIS

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

TABLE 19: CASE SUPPORT ROLES AND RESPONSIBILITIES ANALYSIS

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

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

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

SUPPORT RESOURCE	SUPPORT TYPE	IMPACTED TASK CATEGORY	CASE TYPE
	<ul style="list-style-type: none"> • Billing • Timekeeping, if needed • Case reporting • Preparing CSS requests as needed • Point of contact with OPDC 	Miscellaneous Administrative work	All Case Types

APPENDIX B: WORKLOAD REDUCTION ANALYSIS

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

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

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

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

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

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea / Otherwise Resolve	Low-Level Misdemeanors	Attorney Investigation / Interviews	1.20	40%	0.48	75%	5,883
Plea / Otherwise Resolve	Low-Level Misdemeanors	Experts	1.80	24%	0.43	25%	1,757
Plea / Otherwise Resolve	Low-Level Misdemeanors	Legal Research, Motions Practice	2.10	40%	0.84	10%	1,373
Plea / Otherwise Resolve	Low-Level Misdemeanors	Negotiations	0.75	100%	0.75	0%	-
Plea / Otherwise Resolve	Low-Level Misdemeanors	Court Prep	1.00	100%	1.00	10%	1,634
Plea / Otherwise Resolve	Low-Level Misdemeanors	Court Time	1.50	100%	1.50	0%	-
Plea / Otherwise Resolve	Low-Level Misdemeanors	Sentencing / Mitigation	0.75	100%	0.75	60%	7,354
Plea / Otherwise Resolve	Low-Level Misdemeanors	Post Judgment	0.50	100%	0.50	15%	1,226
Go to Trial	Complex Misdemeanors	Client Communication	6.00	100%	6.00	25%	6,021
Go to Trial	Complex Misdemeanors	Client Support Services	2.00	75%	1.50	50%	3,010
Go to Trial	Complex Misdemeanors	Discovery / Case Prep	8.00	100%	8.00	15%	4,816
Go to Trial	Complex Misdemeanors	Attorney Investigation / Interviews	3.00	90%	2.70	55%	5,960
Go to Trial	Complex Misdemeanors	Experts	3.50	75%	2.63	25%	2,639

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Go to Trial	Complex Misdemeanors	Legal Research, Motions Practice	6.00	100%	6.00	10%	2,408
Go to Trial	Complex Misdemeanors	Negotiations	1.25	100%	1.25	0%	-
Go to Trial	Complex Misdemeanors	Court Prep	12.00	100%	12.00	25%	12,041
Go to Trial	Complex Misdemeanors	Court Time	18.00	100%	18.00	0%	-
Go to Trial	Complex Misdemeanors	Sentencing / Mitigation	2.00	100%	2.00	60%	4,816
Go to Trial	Complex Misdemeanors	Post Judgment	1.00	100%	1.00	15%	602
Plea / Otherwise Resolve	Complex Misdemeanors	Client Communication	3.00	100%	3.00	30%	4,415
Plea / Otherwise Resolve	Complex Misdemeanors	Client Support Services	1.30	75%	0.98	75%	3,606
Plea / Otherwise Resolve	Complex Misdemeanors	Discovery / Case Prep	3.00	100%	3.00	10%	1,472
Plea / Otherwise Resolve	Complex Misdemeanors	Attorney Investigation / Interviews	1.75	50%	0.88	65%	2,806
Plea / Otherwise Resolve	Complex Misdemeanors	Experts	2.50	50%	1.25	25%	1,533
Plea / Otherwise Resolve	Complex Misdemeanors	Legal Research, Motions Practice	2.00	75%	1.50	10%	736
Plea / Otherwise Resolve	Complex Misdemeanors	Negotiations	1.00	90%	0.90	0%	-

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea / Otherwise Resolve	Complex Misdemeanors	Court Prep	1.50	100%	1.50	10%	736
Plea / Otherwise Resolve	Complex Misdemeanors	Court Time	1.50	100%	1.50	0%	-
Plea / Otherwise Resolve	Complex Misdemeanors	Sentencing / Mitigation	2.00	100%	2.00	60%	5,887
Plea / Otherwise Resolve	Complex Misdemeanors	Post Judgment	0.75	100%	0.75	15%	552
Go to Trial	Low-Level Felony	Client Communication	7.00	100%	7.00	25%	9,670
Go to Trial	Low-Level Felony	Client Support Services	2.50	80%	2.00	50%	5,526
Go to Trial	Low-Level Felony	Discovery / Case Prep	10.00	100%	10.00	10%	5,526
Go to Trial	Low-Level Felony	Attorney Investigation / Interviews	3.50	90%	3.15	55%	9,573
Go to Trial	Low-Level Felony	Experts	3.50	55%	1.93	25%	2,666
Go to Trial	Low-Level Felony	Legal Research, Motions Practice	8.00	100%	8.00	10%	4,420
Go to Trial	Low-Level Felony	Negotiations	1.50	100%	1.50	0%	-
Go to Trial	Low-Level Felony	Court Prep	15.00	100%	15.00	20%	16,577
Go to Trial	Low-Level Felony	Court Time	24.00	100%	24.00	0%	-
Go to Trial	Low-Level Felony	Sentencing / Mitigation	2.50	100%	2.50	60%	8,288
Go to Trial	Low-Level Felony	Post Judgment	1.25	100%	1.25	10%	691

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea / Otherwise Resolve	Low-Level Felony	Client Communication	4.00	100%	4.00	25%	12,893
Plea / Otherwise Resolve	Low-Level Felony	Client Support Services	1.75	75%	1.31	60%	10,134
Plea / Otherwise Resolve	Low-Level Felony	Discovery / Case Prep	4.50	100%	4.50	10%	5,802
Plea / Otherwise Resolve	Low-Level Felony	Attorney Investigation / Interviews	2.00	80%	1.60	60%	12,377
Plea / Otherwise Resolve	Low-Level Felony	Experts	2.50	45%	1.13	25%	3,642
Plea / Otherwise Resolve	Low-Level Felony	Legal Research, Motions Practice	4.50	85%	3.83	10%	4,938
Plea / Otherwise Resolve	Low-Level Felony	Negotiations	1.50	100%	1.50	0%	-
Plea / Otherwise Resolve	Low-Level Felony	Court Prep	1.50	100%	1.50	10%	1,934
Plea / Otherwise Resolve	Low-Level Felony	Court Time	1.50	100%	1.50	0%	-
Plea / Otherwise Resolve	Low-Level Felony	Sentencing / Mitigation	2.50	100%	2.50	60%	19,340
Plea / Otherwise Resolve	Low-Level Felony	Post Judgment	0.75	100%	0.75	15%	1,450
Go to Trial	Mid-Level Felony	Client Communication	9.00	100%	9.00	25%	940
Go to Trial	Mid-Level Felony	Client Support Services	3.00	80%	2.40	50%	501

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Go to Trial	Mid-Level Felony	Discovery / Case Prep	12.00	100%	12.00	10%	501
Go to Trial	Mid-Level Felony	Attorney Investigation / Interviews	4.50	100%	4.50	30%	564
Go to Trial	Mid-Level Felony	Experts	5.00	70%	3.50	25%	365
Go to Trial	Mid-Level Felony	Legal Research, Motions Practice	13.00	100%	13.00	10%	543
Go to Trial	Mid-Level Felony	Negotiations	3.00	100%	3.00	0%	-
Go to Trial	Mid-Level Felony	Court Prep	20.00	100%	20.00	15%	1,253
Go to Trial	Mid-Level Felony	Court Time	24.00	100%	24.00	0%	-
Go to Trial	Mid-Level Felony	Sentencing / Mitigation	2.50	100%	2.50	30%	313
Go to Trial	Mid-Level Felony	Post Judgment	1.25	100%	1.25	10%	52
Plea / Otherwise Resolve	Mid-Level Felony	Client Communication	5.00	100%	5.00	25%	2,088
Plea / Otherwise Resolve	Mid-Level Felony	Client Support Services	2.50	75%	1.88	60%	1,884
Plea / Otherwise Resolve	Mid-Level Felony	Discovery / Case Prep	8.00	100%	8.00	10%	1,336
Plea / Otherwise Resolve	Mid-Level Felony	Attorney Investigation / Interviews	3.00	90%	2.70	30%	1,353
Plea / Otherwise Resolve	Mid-Level Felony	Experts	3.00	60%	1.80	25%	752

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea / Otherwise Resolve	Mid-Level Felony	Legal Research, Motions Practice	5.00	100%	5.00	10%	835
Plea / Otherwise Resolve	Mid-Level Felony	Negotiations	2.50	100%	2.50	0%	-
Plea / Otherwise Resolve	Mid-Level Felony	Court Prep	2.50	100%	2.50	10%	418
Plea / Otherwise Resolve	Mid-Level Felony	Court Time	3.00	100%	3.00	0%	-
Plea / Otherwise Resolve	Mid-Level Felony	Sentencing / Mitigation	2.50	100%	2.50	30%	1,253
Plea / Otherwise Resolve	Mid-Level Felony	Post Judgment	1.00	100%	1.00	15%	251
Go to Trial	High-Level Felony	Client Communication	30.00	100%	30.00	25%	3,806
Go to Trial	High-Level Felony	Client Support Services	7.00	100%	7.00	50%	1,776
Go to Trial	High-Level Felony	Discovery / Case Prep	60.00	100%	60.00	10%	3,045
Go to Trial	High-Level Felony	Attorney Investigation / Interviews	16.00	100%	16.00	30%	2,436
Go to Trial	High-Level Felony	Experts	15.00	95%	14.25	25%	1,808
Go to Trial	High-Level Felony	Legal Research, Motions Practice	35.00	100%	35.00	10%	1,776
Go to Trial	High-Level Felony	Negotiations	6.00	100%	6.00	0%	-
Go to Trial	High-Level Felony	Court Prep	50.00	100%	50.00	15%	3,806

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

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

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea / Otherwise Resolve	Homicide and Sex Cases	Attorney Investigation / Interviews	27.00	100%	27.00	30%	871
Plea / Otherwise Resolve	Homicide and Sex Cases	Experts	30.00	100%	30.00	25%	807
Plea / Otherwise Resolve	Homicide and Sex Cases	Legal Research, Motions Practice	80.00	100%	80.00	10%	861
Plea / Otherwise Resolve	Homicide and Sex Cases	Negotiations	12.00	100%	12.00	0%	-
Plea / Otherwise Resolve	Homicide and Sex Cases	Court Prep	25.00	100%	25.00	10%	269
Plea / Otherwise Resolve	Homicide and Sex Cases	Court Time	23.00	100%	23.00	0%	-
Plea / Otherwise Resolve	Homicide and Sex Cases	Sentencing / Mitigation	25.00	100%	25.00	30%	807
Plea / Otherwise Resolve	Homicide and Sex Cases	Post Judgment	5.00	100%	5.00	10%	54
Go to Trial	Probation Violations	Client Communication	1.90	100%	1.90	25%	2,497
Go to Trial	Probation Violations	Client Support Services	1.00	90%	0.90	50%	2,366
Go to Trial	Probation Violations	Discovery / Case Prep	1.50	100%	1.50	10%	789
Go to Trial	Probation Violations	Attorney Investigation / Interviews	1.10	75%	0.83	30%	1,309
Go to Trial	Probation Violations	Experts	1.00	25%	0.25	25%	329

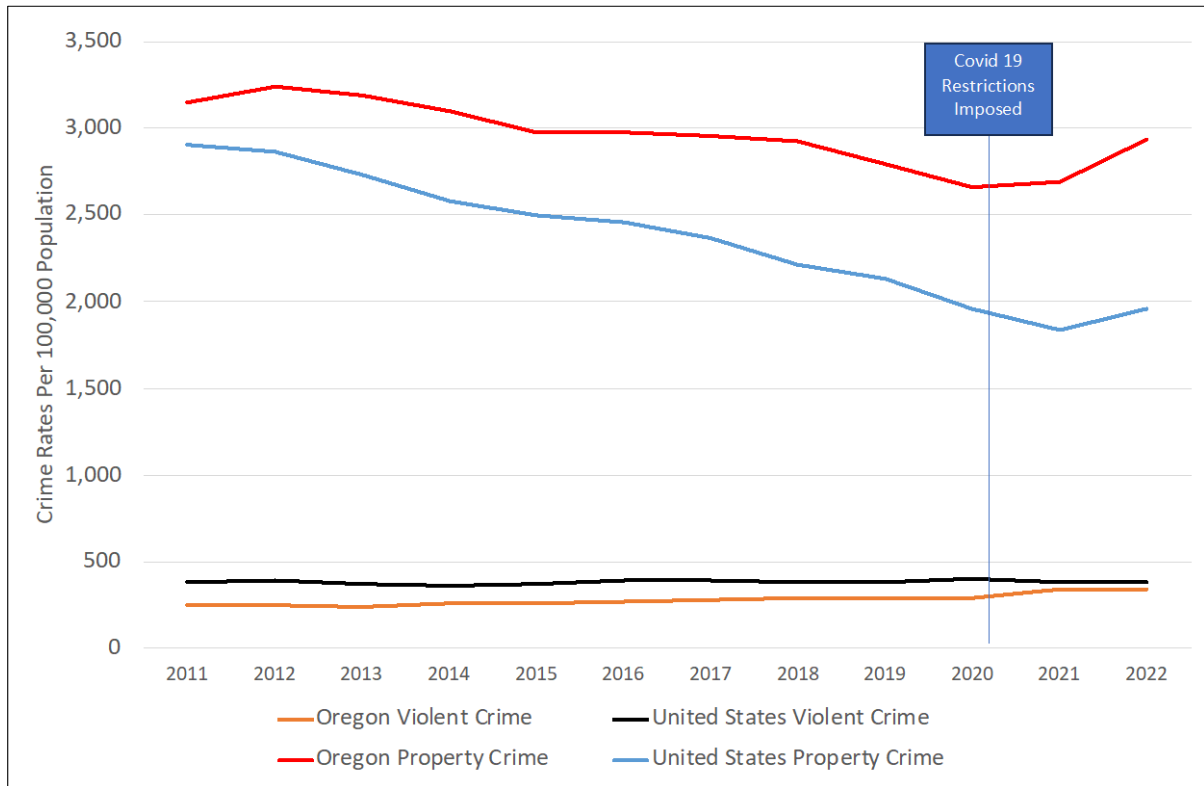
Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Go to Trial	Probation Violations	Legal Research, Motions Practice	1.00	85%	0.85	10%	447
Go to Trial	Probation Violations	Negotiations	0.75	100%	0.75	0%	-
Go to Trial	Probation Violations	Court Prep	1.50	100%	1.50	15%	1,183
Go to Trial	Probation Violations	Court Time	1.75	100%	1.75	0%	-
Go to Trial	Probation Violations	Sentencing / Mitigation	0.75	100%	0.75	30%	1,183
Go to Trial	Probation Violations	Post Judgment	50%	100%	0.50	10%	263
Plea / Otherwise Resolve	Probation Violations	Client Communication	1.40	100%	1.40	25%	4,293
Plea / Otherwise Resolve	Probation Violations	Client Support Services	0.80	75%	0.60	50%	3,680
Plea / Otherwise Resolve	Probation Violations	Discovery / Case Prep	1.00	100%	1.00	10%	1,227
Plea / Otherwise Resolve	Probation Violations	Attorney Investigation / Interviews	0.75	55%	0.41	50%	2,515
Plea / Otherwise Resolve	Probation Violations	Experts	1.00	13%	0.13	25%	399
Plea / Otherwise Resolve	Probation Violations	Legal Research, Motions Practice	0.75	25%	0.19	10%	233
Plea / Otherwise Resolve	Probation Violations	Negotiations	0.50	100%	0.50	0%	-

Outcomes	Case Type	Case Task	Time	Frequency	Total	Reduction %	Reduced Hours by Outcome
Plea / Otherwise Resolve	Probation Violations	Court Prep	0.75	100%	0.75	10%	920
Plea / Otherwise Resolve	Probation Violations	Court Time	0.75	100%	0.75	0%	-
Plea / Otherwise Resolve	Probation Violations	Sentencing / Mitigation	0.75	100%	0.75	30%	2,760
Plea / Otherwise Resolve	Probation Violations	Post Judgment	0.50	100%	0.50	10%	613
Total Annual Hours Reduction							410,969
Reduction as a Percent of Total Annual Caseload Hours							18.5%

APPENDIX C: OREGON CRIME TRENDS

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

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



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

TABLE 22: CRIMES REPORTED TO OREGON POLICE AGENCIES³⁹

First Nine Months in 2022 versus 2023⁴⁰

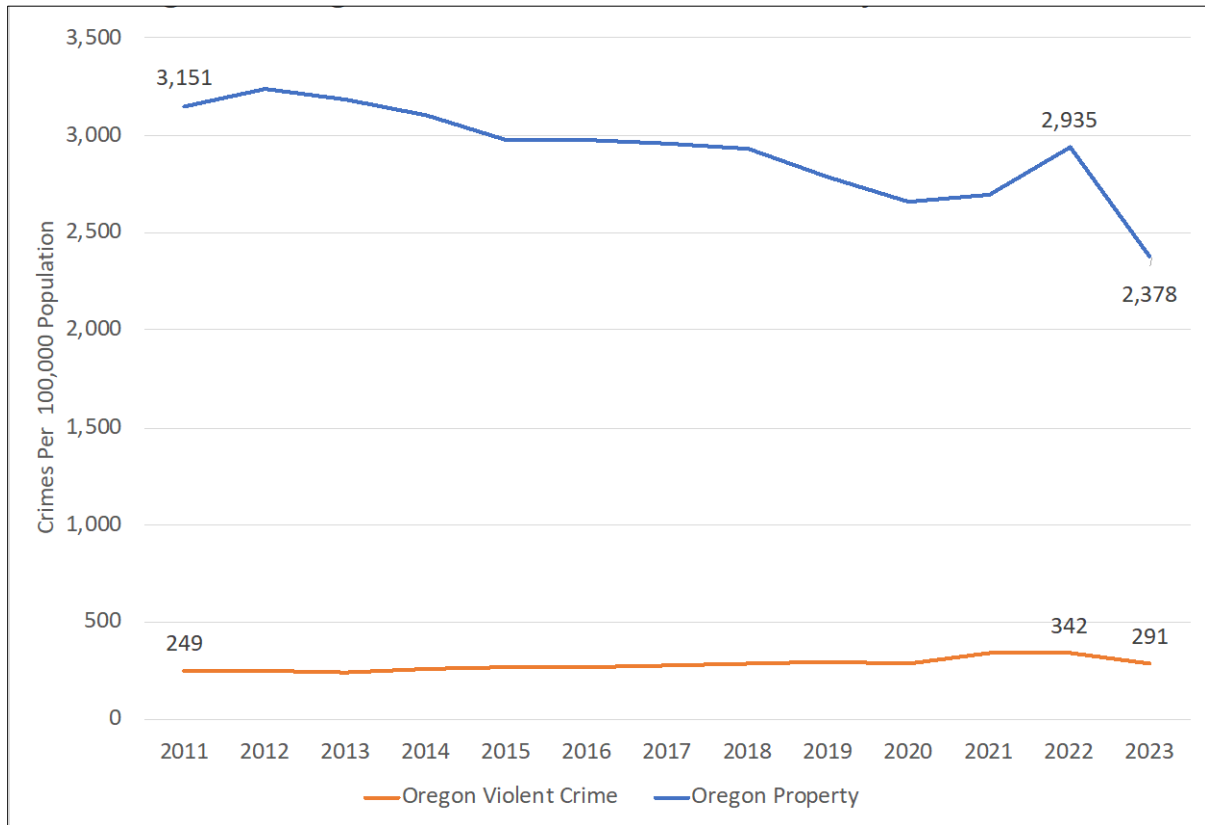
YEAR	2022	2023	DIFFERENCE
Violent	5,748	5,041	-707
Murder	95	72	-23
Rape	532	411	-121
Robbery	1,431	1,249	-182
Agg. Assault	3,690	3,309	-381
Property	46,027	40,056	-5,971

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

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

YEAR	2022	2023	DIFFERENCE
Burglary	5,514	5,229	-285
Larceny-theft	29,629	26,212	-3,417
Motor Vehicle Theft	10,884	8,615	-2,269
Arson	455	473	18
Total Crime	51,775	45,097	-6,678

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



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

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

Oregon Arrests

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

FIGURE 4: OREGON ARRESTS (2018 – 2021)

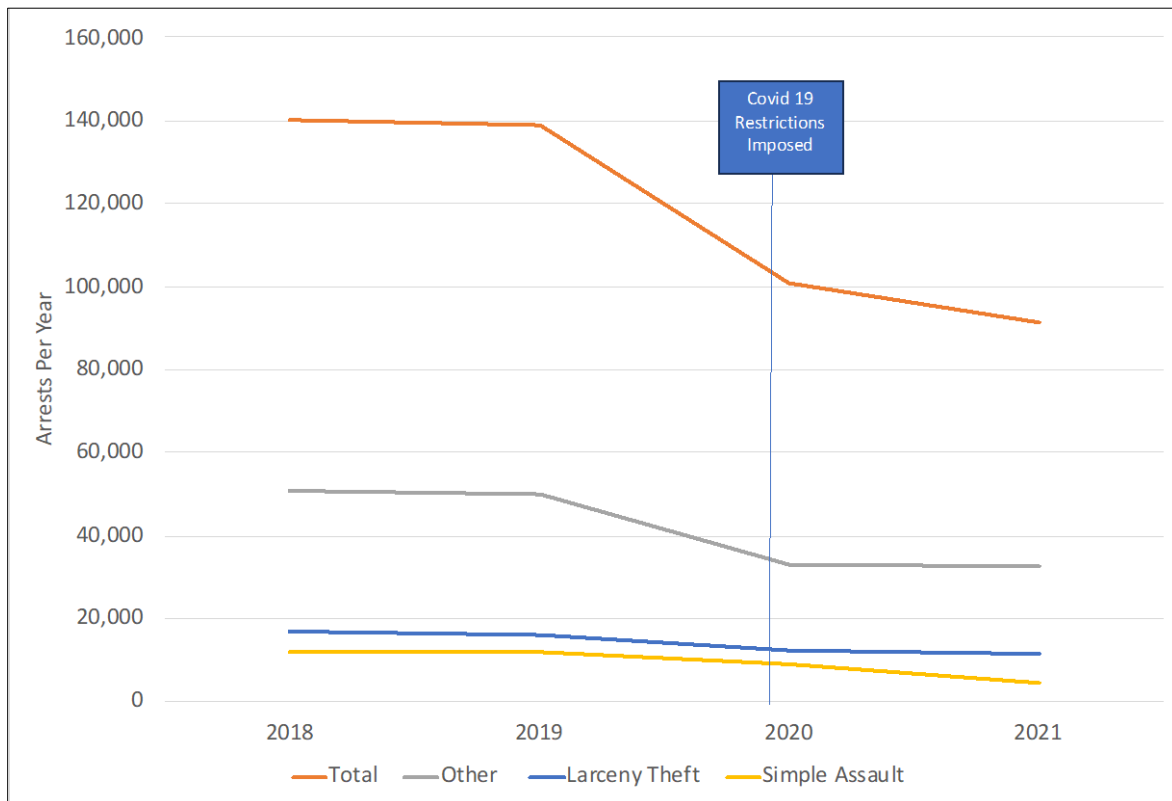
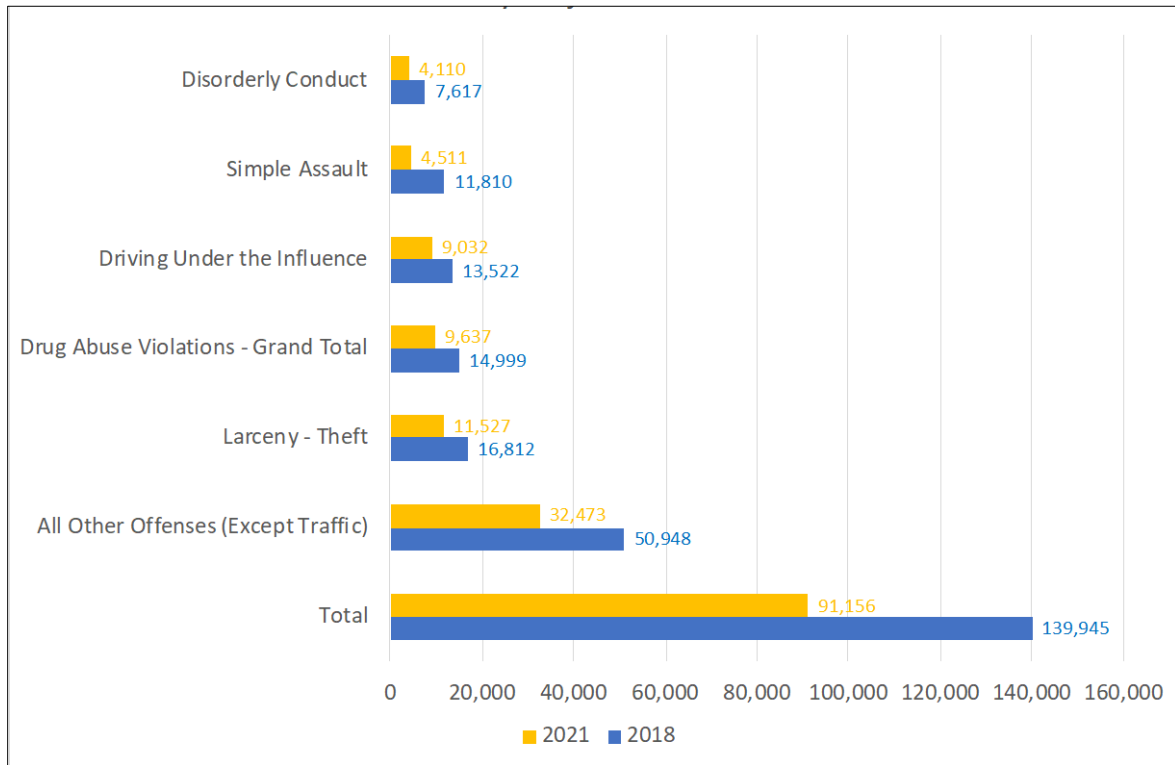


FIGURE 5: OREGON ARRESTS (2018 – 2021) BY MAJOR CRIMES



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

Criminal Court Trends

Consistent with the decline in arrests, there has been a significant decline in criminal court filings (Table 23). The largest numeric drops were for violations of court orders (from 222,231 to 132,636), parking violations (234,761 to 125,805), and misdemeanor crimes (from 48,418 to 36,678). In total, there were 219,931 fewer criminal court filings between 2017 and 2022.

TABLE 23: CRIMINAL AND OTHER COURT FILINGS 2017 – 2022

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

Correctional Population Trends

The large declines in reported crimes, arrests, and criminal court filings have been associated with declines in the probation, prison, and jail populations. The post-prison supervision population has declined, but at a much slower pace (Table 24).⁴²

TABLE 24: OREGON CORRECTIONAL POPULATIONS 2016–2023

YEAR	PROBATION	POST-PRISON SUPERVISION	PRISON	JAILS	TOTAL
2016	35,938	24,077	15,166	NA	NA
2017	36,658	24,992	15,218	NA	NA
2018	35,732	24,183	15,268	6,766	81,949
2019	35,732	23,832	14,961	6,406	80,931
2020	35,732	24,183	12,753	3,677	76,345
2021	29,818	22,528	13,198	4,261	69,805
2022			12,518	4,655	
2023			12,143	4,714	

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

Another way to look at these populations is the rate per 100,000 population and compare the Oregon rates with the U.S. rates, as well as the crime rates. As shown in Table 25, the prison rate is slightly below the U.S. rate while the probation rate is well below the U.S. rate. The post-prison supervision population rate is almost three times the U.S. rate while the jail rate is well below the U.S. rate.

What these data suggest is that probation is being under-utilized at the expense of higher prison and post-prison supervision rates. The higher prison and post-prison supervision rates are due in large part to the passage of Ballot Measure 11, which created mandatory minimums and longer prison sentences. Table 25 also shows the 2022 crime rates for Oregon as compared to the U.S. Significantly, the overall crime rate for Oregon is virtually the same as the U.S. with a higher property and lower violent crime rate.

Passage of Measure 11 had a predictable increase in the prison and post-prison supervision populations and was supposed to have a major impact on violent crime rates. While there has been a decrease in crime rates, that decline is similar to national crime reductions including in states that did not implement measures like Measure 11 (Figure 4). A comprehensive study by RAND was unable to conclude that Measure 11 had any impact on violent crime rates because there needs to be a “control” state that is comparable to Oregon in terms of socio-economic factors that did not implement legislation like Measure 11.⁴³ For example, California has reduced its prison population by 80,000 (from 178,000 to 94,000) and crime rates have declined. Similarly, New York has reduced its prison population from 73,000 to 32,000 even as crime rates have declined. In fact, since 2013, Oregon’s violent crime rate has been increasing while the U.S. rate has been stable (Figure 4).

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

This finding also applies to Oregon where prison recidivism rates have not changed since Measure 11 was passed (Figure 5). The only accomplishment of Measure 11 since its passage has been a dramatic increase of over 4,000 inmates in the Oregon prison system (Figure 6). Today about 5,600 prisoners, or nearly half, have been sentenced under Measure 11.

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

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

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

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

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

TABLE 25: OREGON VS. U.S. CORRECTIONAL POPULATION AND CRIME RATES PER 100,000 POPULATION

DESCRIPTION	OREGON	US
Prison	300	315
Probation	878	1,138
Post-prison supervision	663	270
Jails	112	199
Total	1,953	1,922
Crime Rates		
Violent	342	381
Property	2,935	1,954
Total	3,277	2,335

FIGURE 6: OREGON AND U.S. VIOLENT CRIME RATES (1995 – 2022)

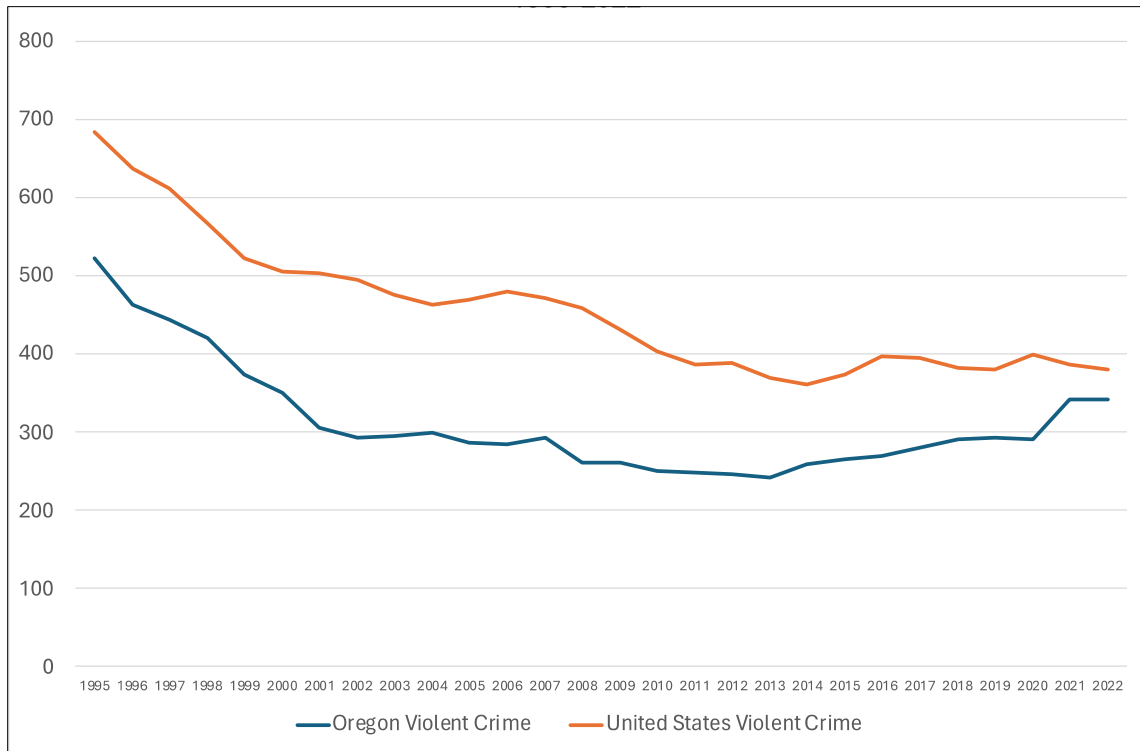


FIGURE 7: OREGON THREE-YEAR RECIDIVISM RATES FOR RELEASED PRISONERS (1998 – 2020)

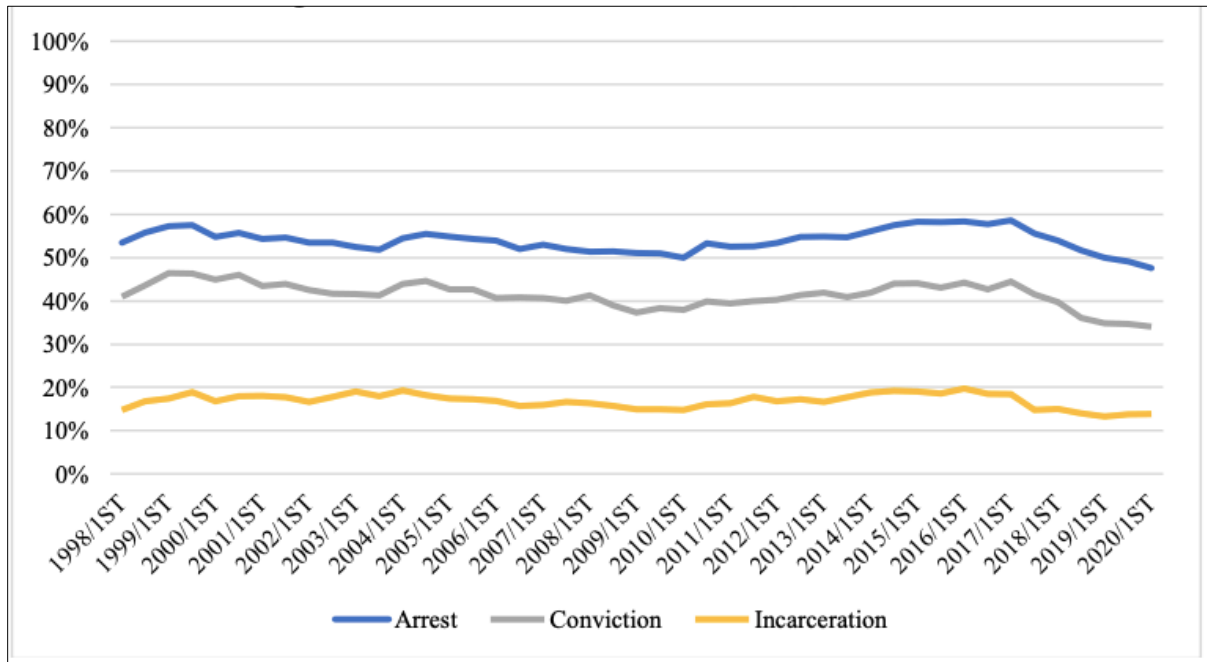
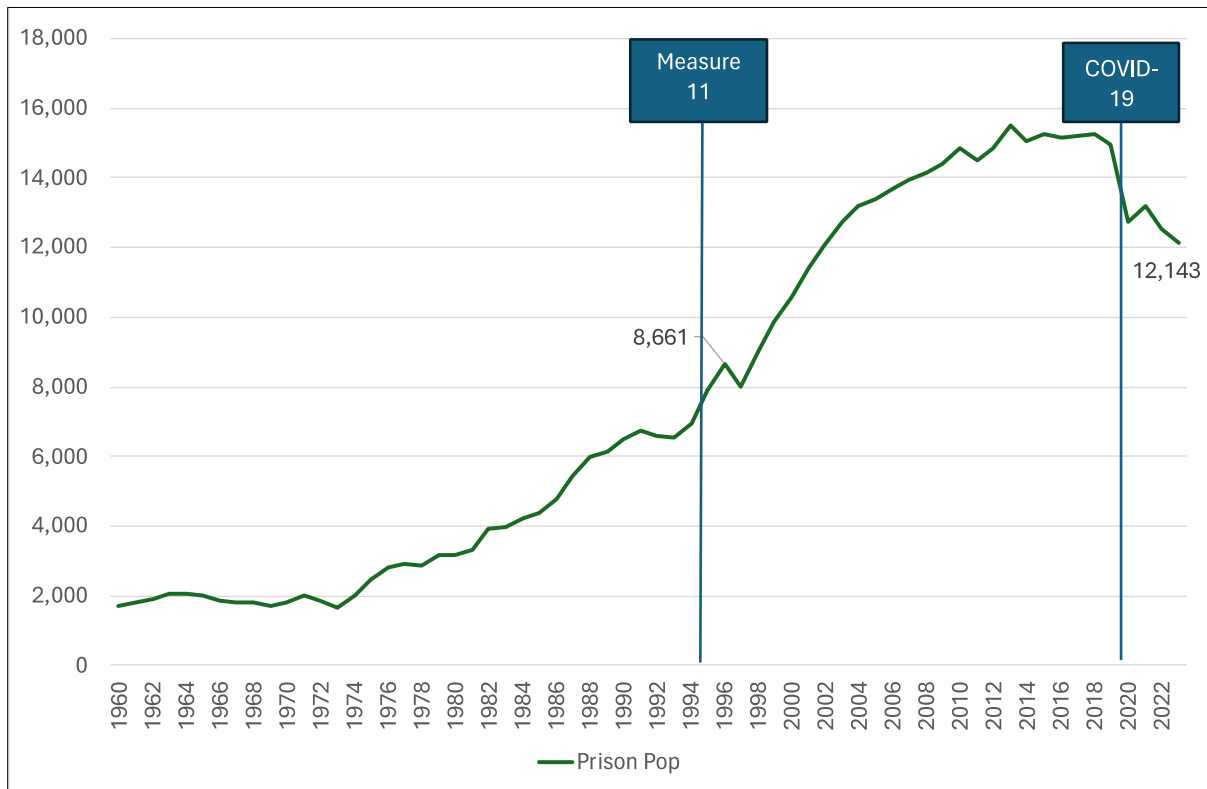


FIGURE 8: OREGON PRISON POPULATION (1960 – 2023)







Date: October 16, 2024

To: OPDC Commissioners

From: Jessica Kampfe, Executive Director

Re: Assigned Counsel Program

Nature of Presentation: Briefing

Background:

Oregon law requires OPDC to establish a panel of hourly public defense attorneys. OPDC is implementing that legislation by building an assigned counsel program. We are working in collaboration with national experts to identify the core elements of a successful assigned counsel program and with project management experts to set a schedule and timeline. Attached to this memorandum is a Gantt Chart depicting the tasks to be completed and timeline. This Gantt Chart is a preview with a more extensive conversation coming to the Commission in November as part of our Comprehensive Public Defense Report that is due to the Oregon legislature's Judiciary Committee as part of December legislative days.

Agency Recommendation:

Discussion in aid of upcoming Comprehensive Public Defense Report for November OPDC commission meeting and December legislative days.

Fiscal Impact:

None.

Agency Proposed Motion:

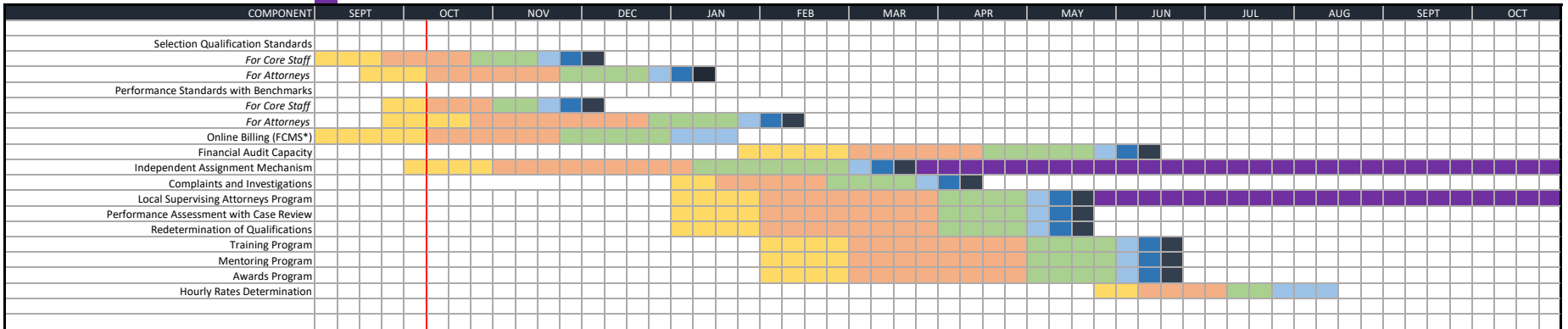
None.

Start up
 Fieldwork
 Review
 Finalization
 Submit documents for Commission Packet
 Commission Presentation
 Launch

Includes exec team review

No all components will need to be approved by the commission so submission to the commission packet and presentation may not apply.

! We are here



Definitions

- Start up 1) Define the define criteria that must be included in the final product 2) Gather existing documents
- Fieldwork 1) Conduct research into standards and best practices 2) conduct outreach to individuals as needed, 3) develop draft documents
- Review 1) Provide draft materials for review to the work group 2) provide draft materials for review to others as needed 3) update as appropriate
- Finalization 1) QA/QC final draft, 2) Submit to commission packet as relevant 3) Present for approval at commission meeting
- Launch 1) As relevant execute the activity (ex. Engaging the provider group, recruiting attorneys for the program etc.)

* This schedule reflects the development of the Stakeholder analysis guide, current state business process impact, and findings report. The full system implementation will take significantly longer, but the policies and procedures outlining units of time, tasks, etc. c



Oregon Judicial Department

Unrepresented Crisis – October 2024 Update

Key Insights

[Unrepresented Trends](#)

The total number of unrepresented individuals continues to increase from the record-high level in September 2024 ([Figure 1](#), [Figure 2](#)). The number of cases entering the unrepresented list continues to be higher than the number of cases exiting the list. ([Figure 3](#)) Daily updates are available in the [Unrepresented Dashboard](#) on the OJD website.

[Unrepresented by County](#)

The largest number of unrepresented persons continue to be in Marion, Jackson, Multnomah, Washington, and Douglas counties. Several courts saw a small decrease in the number of unrepresented persons, while both Washington and Coos counties saw an increase in the number of unrepresented persons. ([Figure 4](#)).

[Unrepresented by County – Eastern Oregon](#)

Eastern Oregon courts with unrepresented persons face unique issues because the large geographical region is utilizing several of the same attorneys for conflict cases. Union/Wallowa and Baker counties have recently seen an increase in the number of unrepresented persons. ([Figure 5](#), [Figure 6](#), [Figure 7](#), [Figure 8](#)).

[Local Court Spotlight: Coos and Curry Counties](#)

Coos and Curry counties make up the 15th Judicial District. Coos County lost public defenders earlier this year and has seen a significant increase in the number of unrepresented persons. The court has also struggled with an increasing number of civil commitments and having OPDC find attorneys for those cases. ([Figure 9](#) and [Figure 10](#)).

Unrepresented Trends

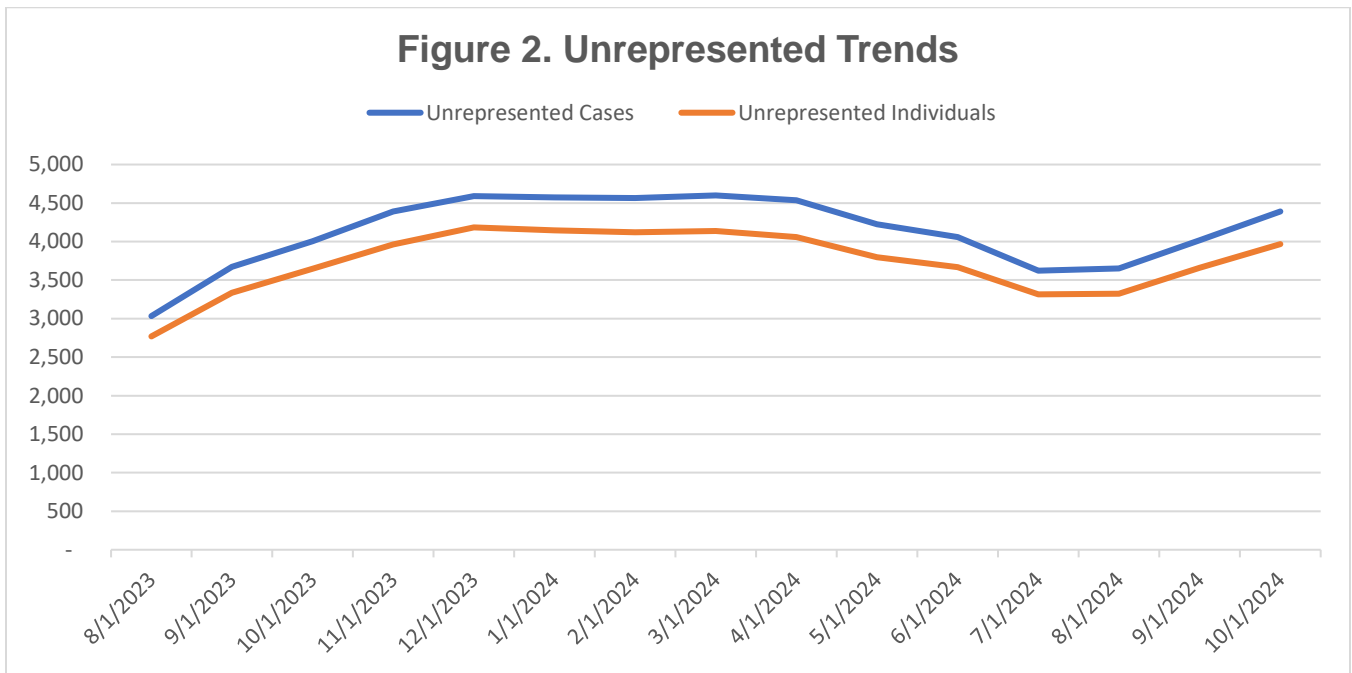
Figure 1 and Figure 2 show the number of unrepresented individuals and number of unrepresented cases. The number of unrepresented individuals and unrepresented cases continues to increase. Since July 2024, the number of unrepresented cases has increased more each month than the number of unrepresented individuals.

To accurately gauge the number of defense attorneys needed, it is important to look at the number of unrepresented cases as well as the number of unrepresented individuals.

An individual person may have multiple cases filed against them. OPDC's contracting model, MAC, is a maximum attorney capacity based on the number of weighted cases, not clients. One attorney's caseload could consist of fewer clients, but each client has multiple pending cases while another attorney, handling a similar caseload, could have more clients but each client only has one pending case. Similarly, a defendant may be unrepresented on one case, but represented on another case. Sometimes defendants will have multiple cases in different counties, and defendants can also have multiple cases in one county and be represented on some cases but not others.

Figure 1. Number of Unrepresented Persons and Cases on First of Each Month							
	4/1/2024	5/1/2024	6/1/2024	7/1/2024	8/1/2024	9/1/2024	10/1/2024
Total Unrepresented persons	4,058	3,798	3,669	3,313	3,322	3,660	3,967
Total Unrepresented cases	4,538	4,224	4,058	3,621	3,653	4,016	4,392
Misdemeanors	2,312	2,175	2,137	1,988	2,074	2,335	2,503
Felonies	1,943	1,819	1,725	1,477	1,444	1,557	1,768
Other	283	230	196	156	135	124	121

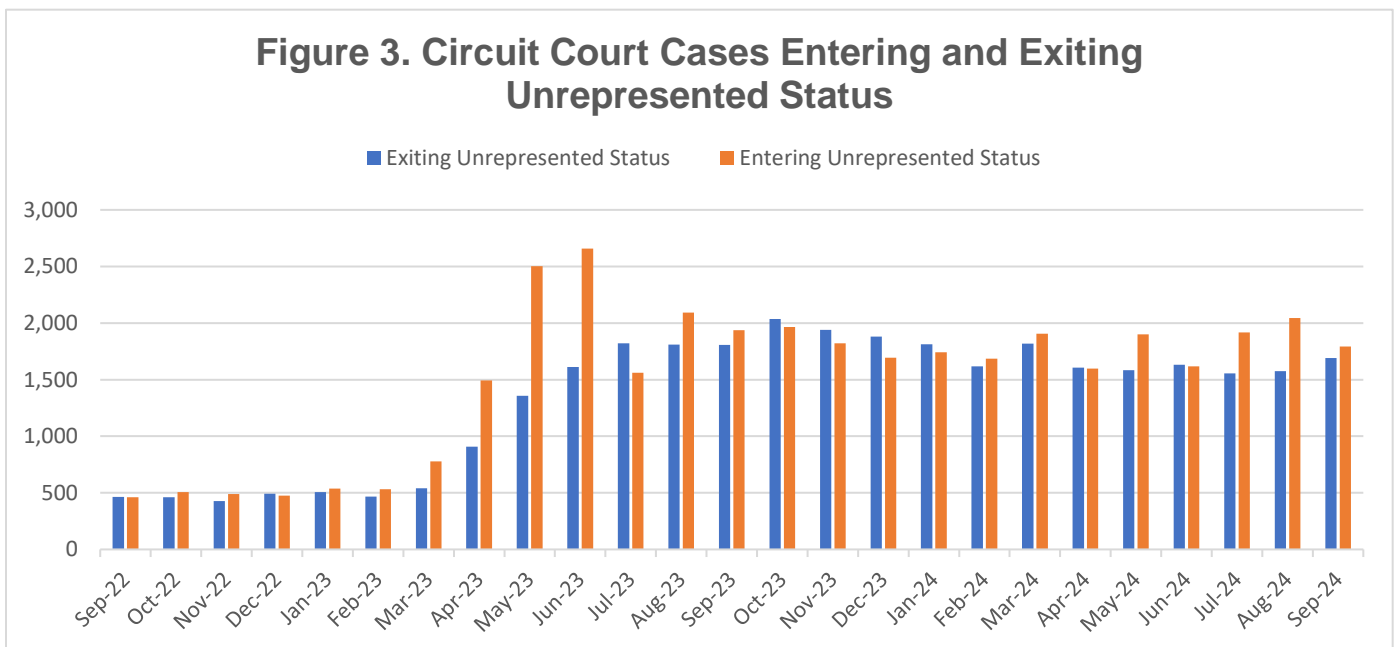
Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).

Figure 3 shows the number of unrepresented cases entering and exiting unrepresented status by month and year. That number provides an indicator of whether there is sufficient attorney capacity to handle all the new appointments that are needed.

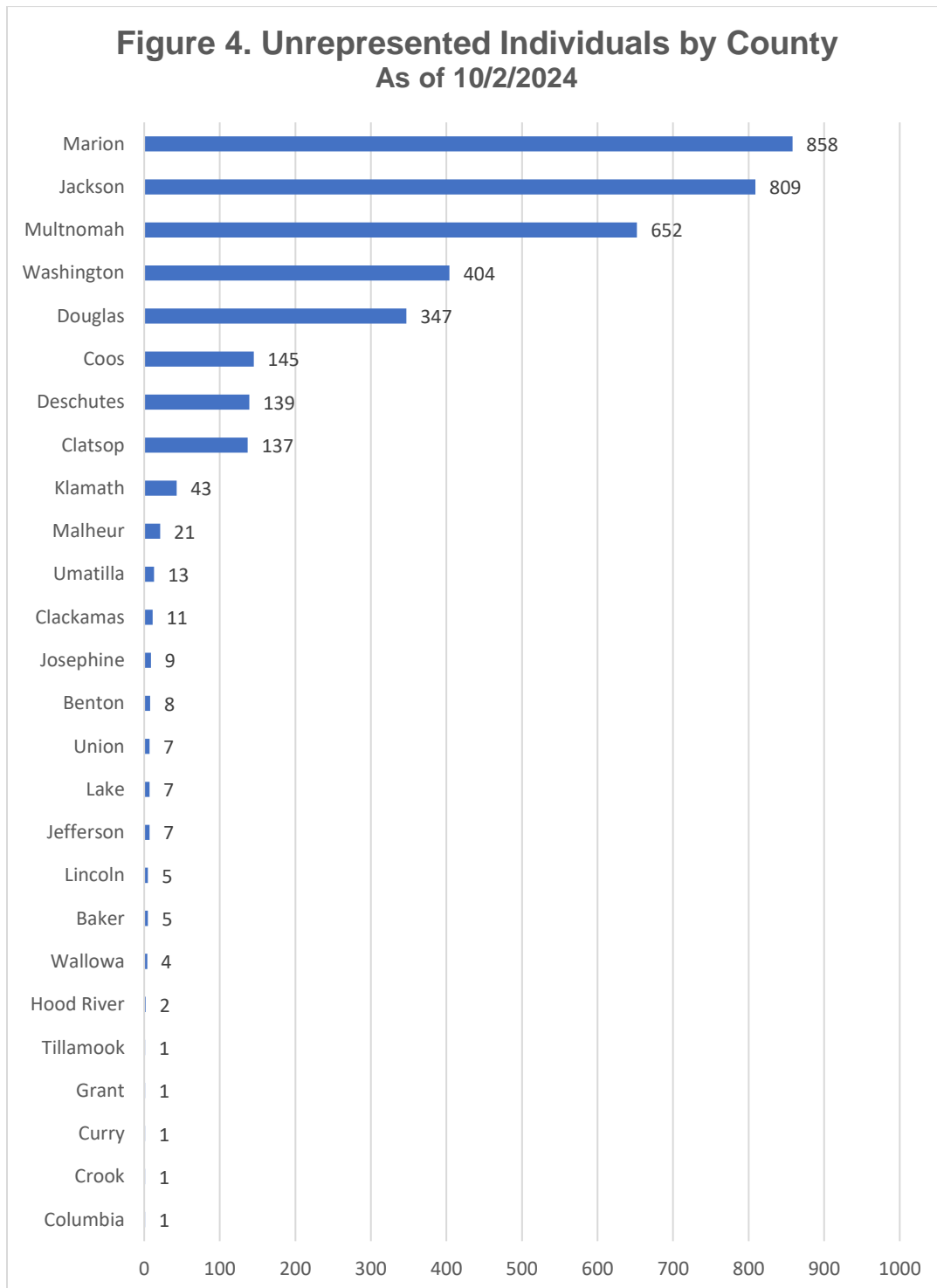
While the number of cases being added to the unrepresented list decreased in September 2024, the number of cases exiting the unrepresented list increased, resulting in a slight net increase. The highest number of cases exiting the unrepresented list occurred in October 2023 with 2,036 cases exiting. Between April 2024 and September 2024, on average of 1,607 cases exited each month.



Source: OJD Odyssey Data (eCourt).

Unrepresented by County

Figure 4 shows the number of unrepresented individuals by county. Since September, several courts have seen a small decreases in the number of unrepresented persons; however, Washington and Coos counties both saw an increase in the number of unrepresented persons.

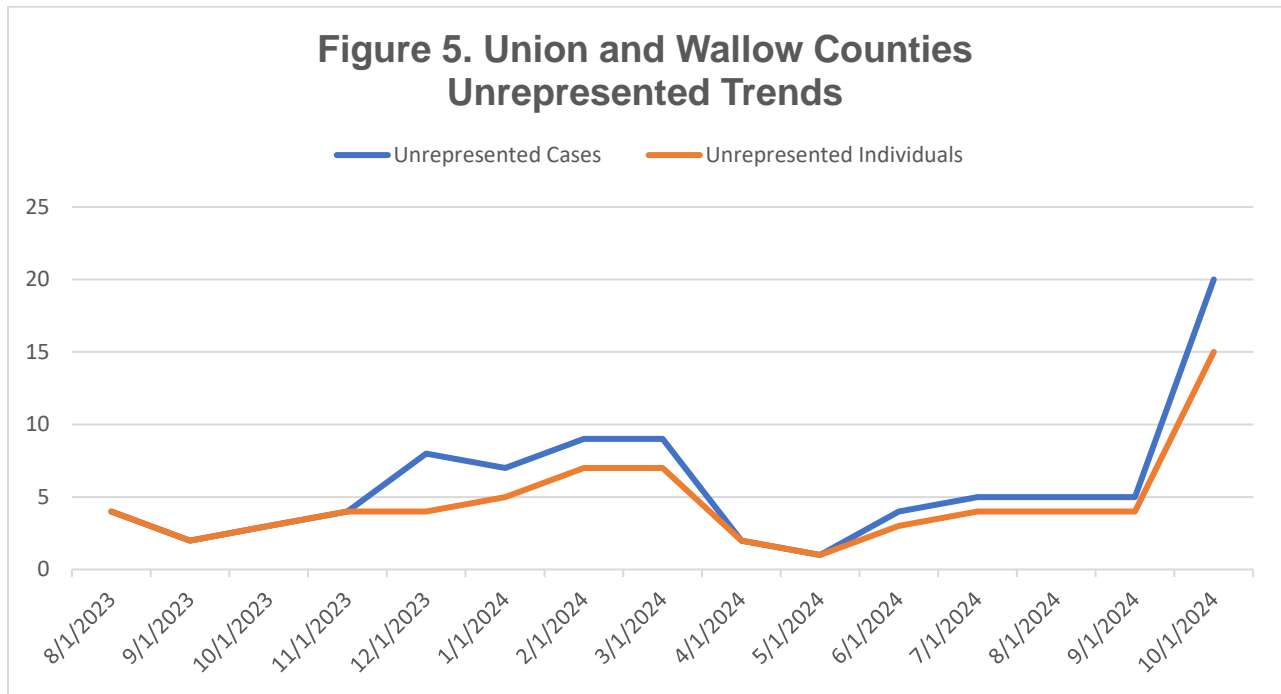


Source: OJD Odyssey Data (eCourt).

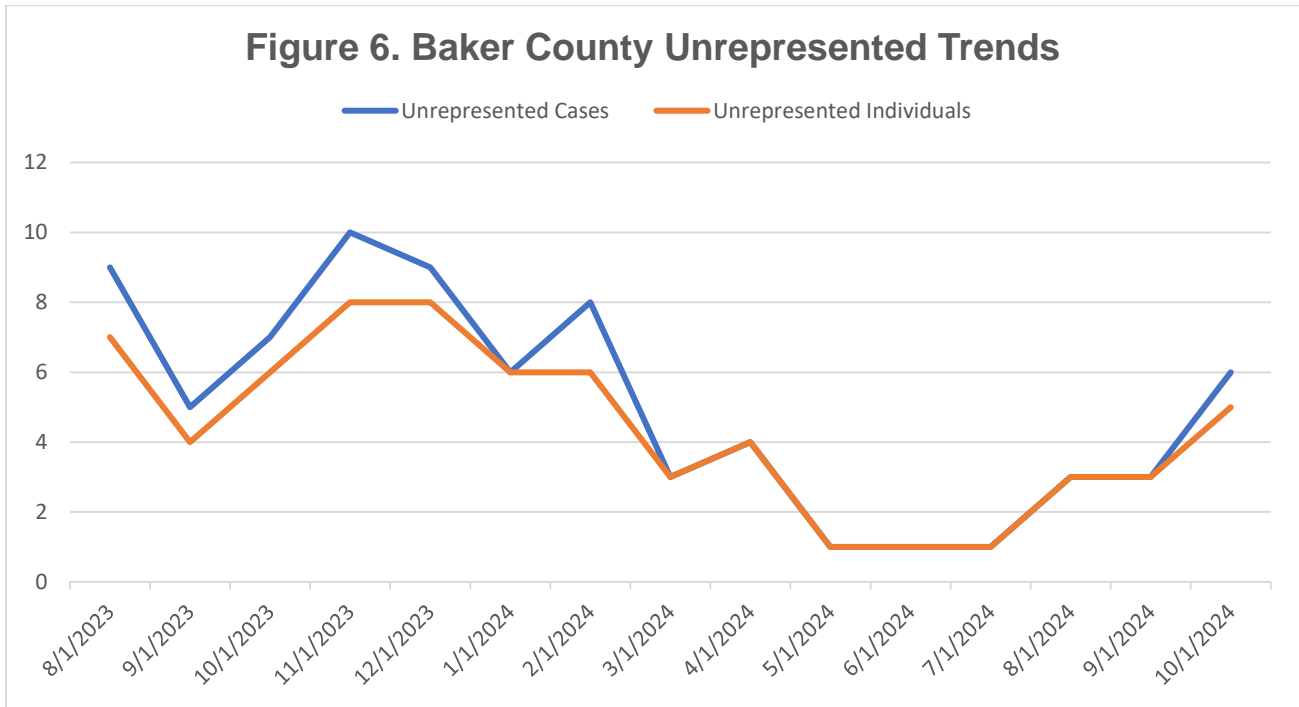
Unrepresented by County – Eastern Oregon

Figures 5-10 show unrepresented trends in Union and Wallowa, Baker, Malheur, and Grant and Harney counties. Union and Wallowa, and Grant and Harney counties both comprise a single judicial district.

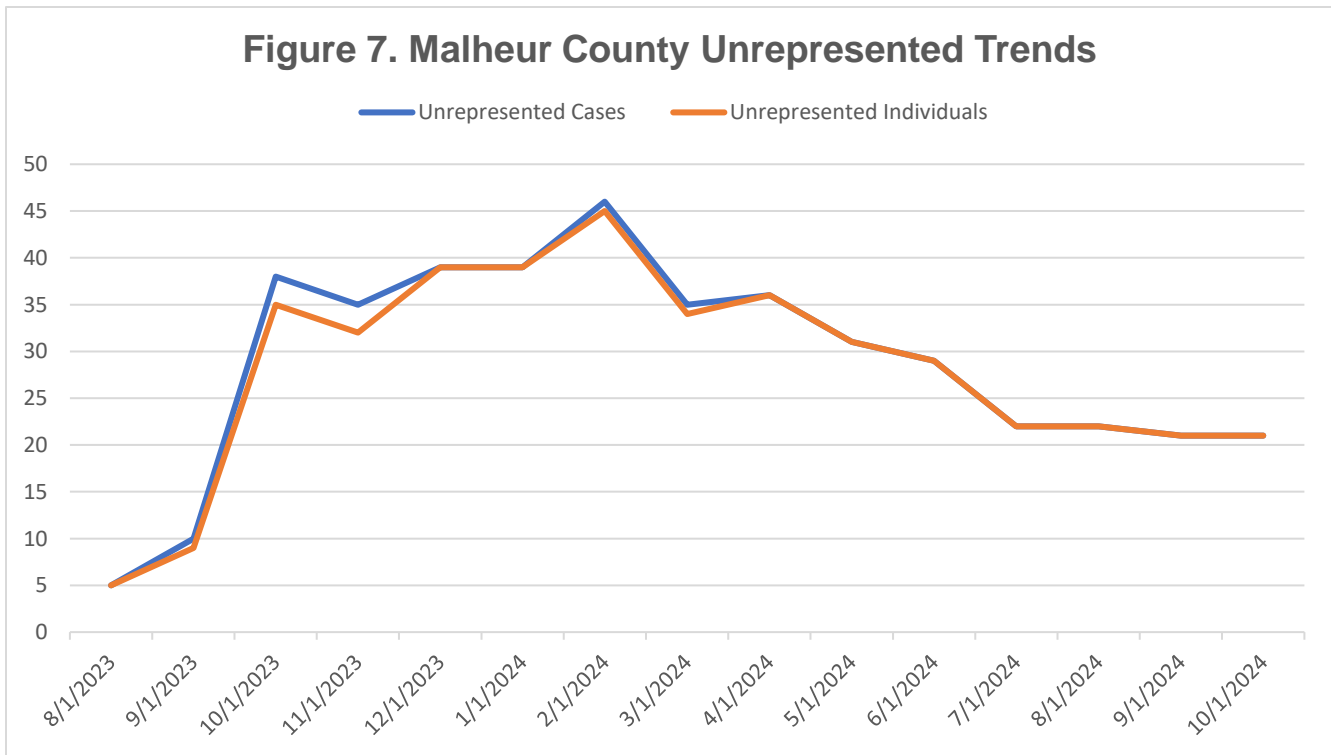
The Eastern Oregon counties are unique because, while covering a large geographic area of the state, the many of the defense providers take cases in each county. Attorneys may be based in one county but take conflict cases in another county in the region. If one county sees a higher number of case filings or conflict cases, attorneys accepting cases in that county will have less capacity to take cases in one of the other counties. Both Baker and Malheur counties have state prisons, so those two courts see a higher number of post-conviction relief cases (PCR) than counties without a prison. PCR cases are a specialized area of law and there is a smaller pool of attorneys state-wide who handle these cases.



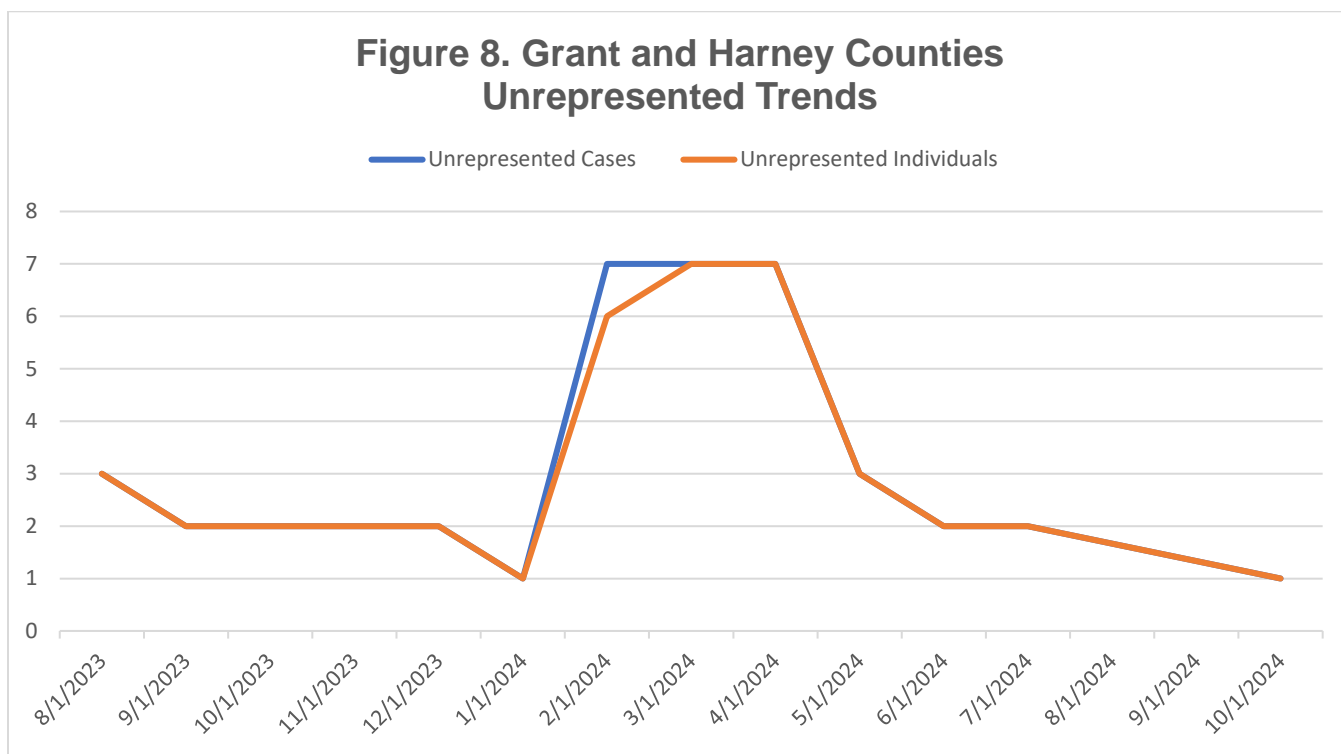
Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).



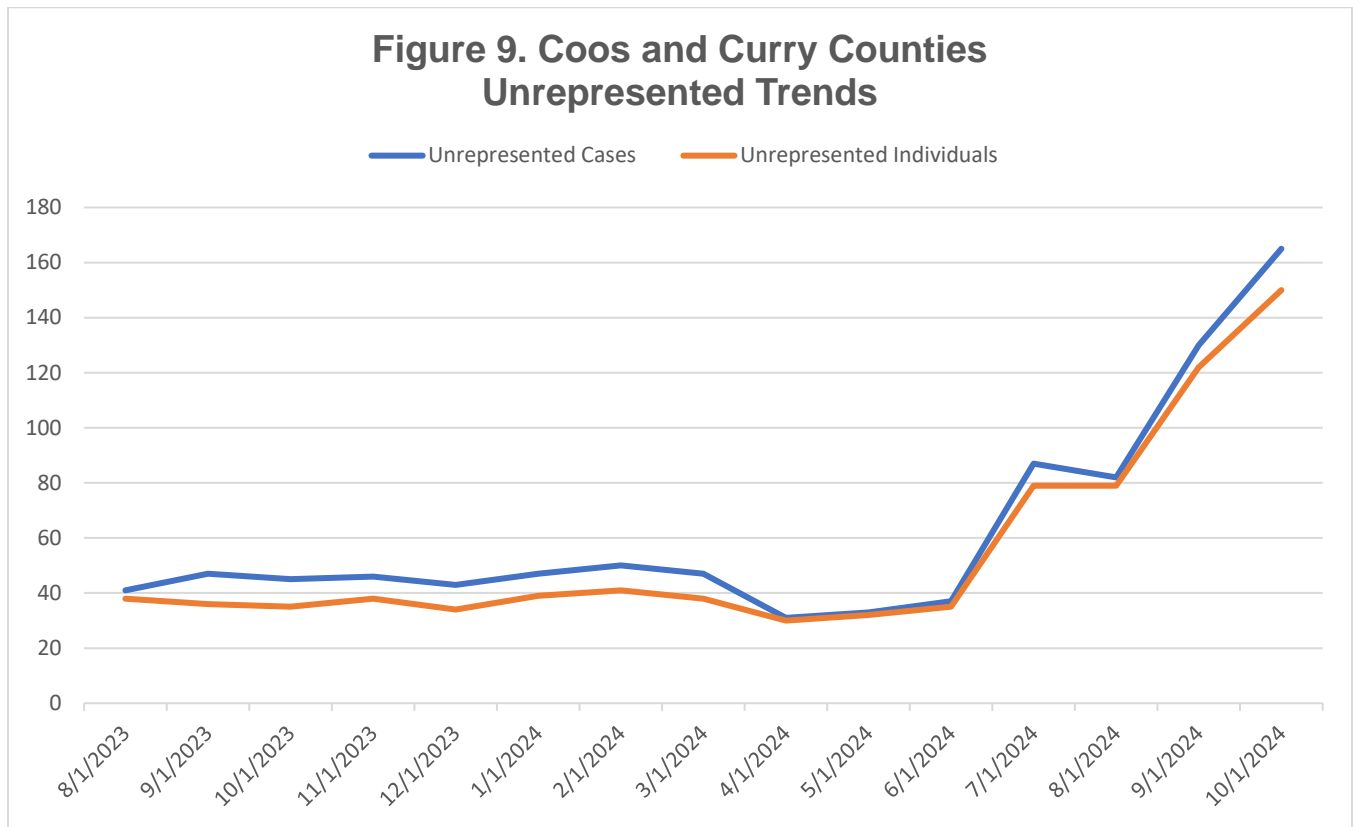
Source: OJD Odyssey Data (eCourt).



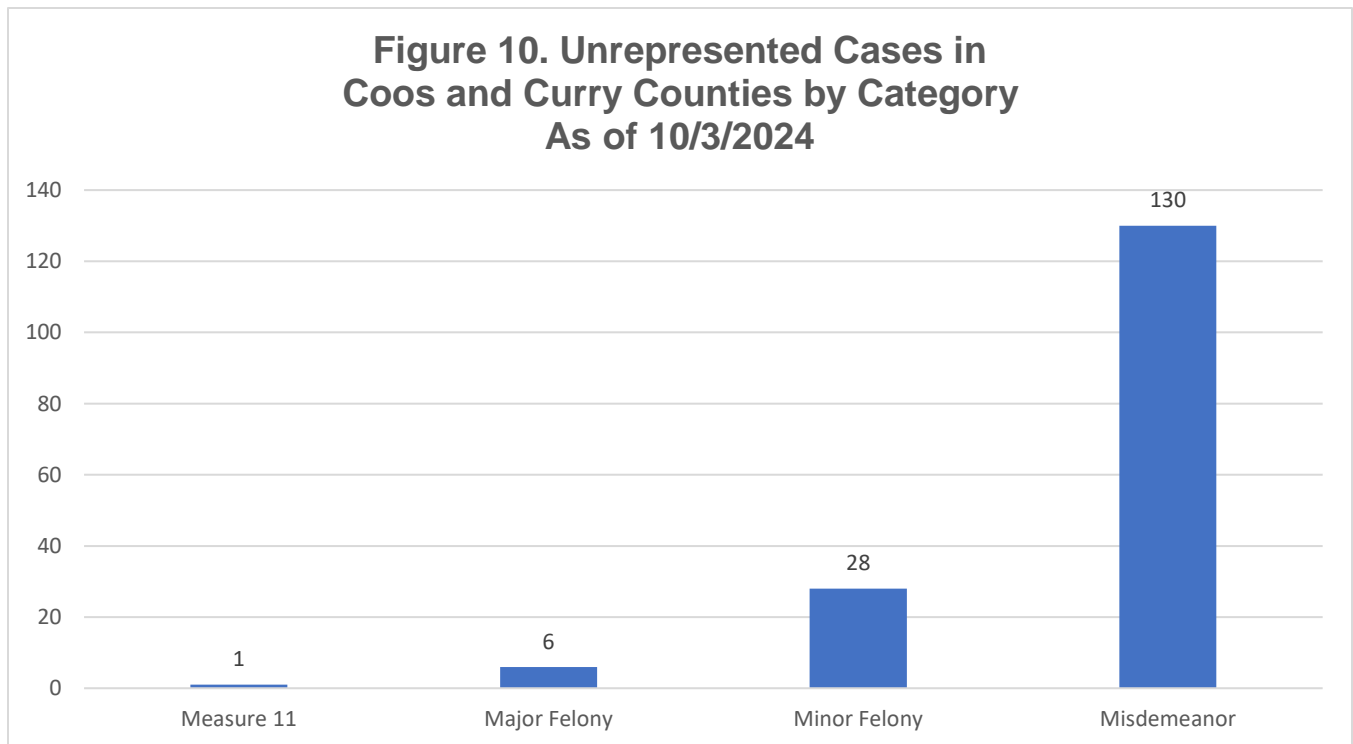
Source: OJD Odyssey Data (eCourt).

Local Court Spotlight: Coos and Curry Counties

Figures 9 and 10 show the unrepresented trends in Coos and Curry counties (the 15th Judicial District) and the unrepresented cases by case category. Prior to May 2024, the primary reason Coos and Curry had unrepresented persons was due to cases where all the local public defense providers had a conflict of interest with a case. By May, Coos County’s local public defense office lost four attorneys and has been unable to fill those vacant positions. Since then, the number of unrepresented persons has increased significantly. Coos County now has the sixth-most unrepresented persons, surpassing Clatsop and Deschutes counties. The number of civil commitment filings has nearly doubled since 2023, and there are times when OPDC has not been able to find attorneys within the five-day statutory timeframe for held persons.



Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).



OPDC Data Report: October 2024

Scope: This report focuses on the following counties: Coos, Clatsop, Douglas, Deschutes, Jackson, Marion, Multnomah, & Washington.

It displays data in these counties on:

1. Criminal Contract Providers:
 - a. Contracted FTE; b. Attorney Retention; & c. Funded Vacancies
2. Criminal MAC Utilization
3. Unrepresented Trends
4. Temporary Hourly Increase Program (THIP) Caseloads
5. State Trial Division Caseloads

Summary: These counties have experienced challenges in attorney recruitment and retention with peak contracted FTE amounts in December 2023 declining by about 6% to the latest values in September 2024.

Criminal contracts in these counties have hired 71 new attorneys and lost 80, a net loss of 9 attorneys. Of the 80 attorneys who have left criminal contracts, 27 have joined as Hourly Agreement attorneys or State Trial Division attorneys, leaving 53 who are no longer under an active arrangement with OPDC.

These counties see a wide range of MAC Utilization (the division of the MAC value of caseload appointments by the value of the contracted MAC values). Some show high rates (Clatsop, Coos, Deschutes, and Washington are all at or over 100%), while others show relatively low rates (with Douglas, Marion, and Multnomah below 90%).

Attorneys from the newly formed Trial Division have taken a total of 559 cases in these counties as of 9/30/2024. The Trial Division routinely ensures the availability of attorneys to take new cases to assist the Temporary Hourly Increase Program (THIP) with cases subject to Betschart they are unable to find an attorney for.

Despite the caseloads added to existing capacity by these attorneys and the rising caseloads added by THIP attorneys, *the number of unrepresented people in the counties identified continues to remain high and is growing* (particularly with the Out of Custody population). Some counties (such as Deschutes and Coos counties) are experiencing an Unrepresented Persons crisis where there had not been one at the beginning of the contract cycle due to severe retention issues.

Timeline: July 2023 – June 2025 Contract Cycle

- Contractor FTE & MAC Utilization: As of 8/31/2024, which is the latest reporting period available for caseload reports submitted to OPDC by public defense contractors.

- Unrepresented numbers, THIP, & State Trial Division caseloads as of 9/30/2024

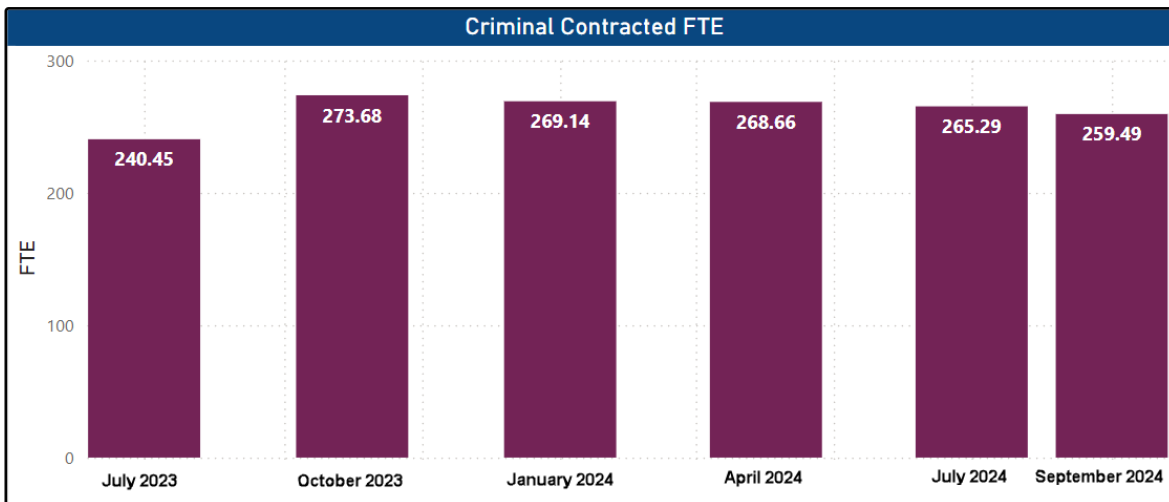
Definitions:

- *FTE*: The Full Time Equivalent unit of labor contracted with OPDC (inclusive of attorney MAC, supervision, Specialty Court, & vacancy funding).
- *MAC*: Maximum Attorney Capacity, or the portion of a contract attorney's FTE devoted specifically to client representation on eligible cases.
- *THIP*: The Temporary Hourly Increase Program, which gives an enhanced hourly rate to In Custody Unrepresented appointments.

1. Criminal Contract Providers

(a) Contracted FTE Amounts

These counties saw a 2.1% decrease in the criminal contracted FTE from August to September 2024, (inclusive of all FTE and 60-day vacancies) with September 2024 seeing the lowest contract totals in a full calendar year.



Contract County	July 2023	October 2023	January 2024	April 2024	July 2024	September 2024
Clatsop	6.23	6.00	6.00	6.99	6.99	6.14
Coos	6.40	6.59	7.59	7.59	7.59	7.59
Deschutes	21.51	23.61	24.61	25.06	23.53	24.50
Douglas	5.85	11.26	12.26	12.26	12.06	10.99
Jackson	23.53	26.03	24.50	24.80	24.97	25.12
Marion	46.00	50.60	43.91	41.24	43.17	43.17
Multnomah	81.65	93.89	95.92	95.92	93.50	91.90
Washington	49.28	55.70	54.35	54.80	53.48	50.08
Total	240.45	273.68	269.14	268.66	265.29	259.49

(b) Criminal Contract Attorney Retention

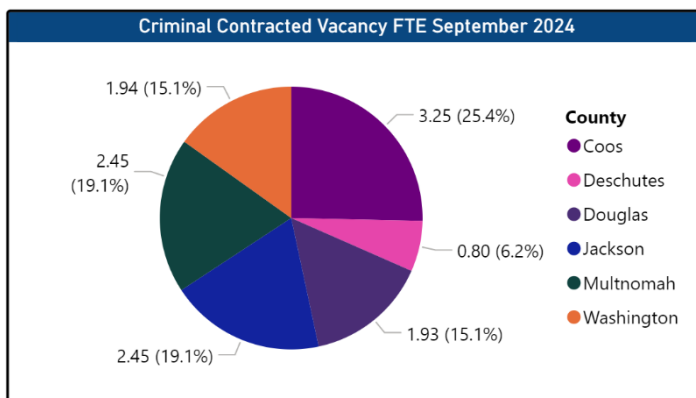
Criminal Contract Attorney Retention Since July 1, 2023								
Contract County	New Attys	Departed Attys	Net Attys	New Attys FTE	Departed Attys FTE	Departed Attys Now Hourly	Departed Attys Now State Trial	Atty Loss to Public Defense
Clatsop	2	2	0	1.99	0.98			2
Coos		5	-5		3.25	4		1
Deschutes	8	12	-4	5.94	11.36			12
Douglas	3	3	0	2.20	2.95	3		0
Jackson	6	6	0	4.74	5.68		2	4
Marion	13	16	-3	10.48	14.65	4	3	9
Multnomah	21	18	3	19.00	17.60	3		15
Washington	18	18	0	13.93	12.18	7	1	10
Total	71	80	-9	58.28	68.65	21	6	53

Since July 2023, there have been a total of 100 attorneys statewide that have left criminal contract providers (meaning they did not join another contract provider). 80 of these contract departures occurred in the counties highlighted in this report. Of these 80 departed attorneys, 27 are still involved in public defense either through an hourly agreement or are a state trial division attorney, leaving 53 unaccounted for in a current contract arrangement with OPDC.

Even when a county like Multnomah adds 3 contract attorneys, this churning through contract attorneys has a negative impact short run capacity. When an attorney leaves a contract, it takes time for their caseload to become redistributed to other attorneys. Other providers in the jurisdiction may have to take on all that attorney's cases which in turn limits their capacity to pick up new appointments. Newly hired attorneys take time to adjust to public defense work: when attorneys join a contract, it may take time for them to reach full capacity.

(c) Criminal Contract Funded Vacancies

Statewide, as of the September 2024 amendments, there are 14.32 FTE in 60 day funded vacancies. 90% of those vacancies are in the counties highlighted in this report (with the rest being held in Josephine county).



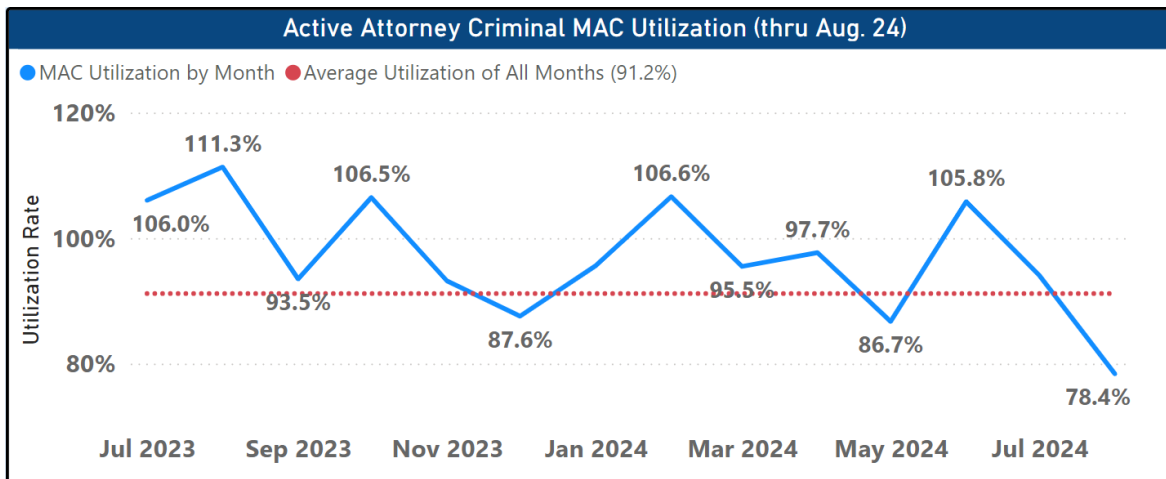
Criminal Contracted Vacancy FTE					
Contract County	July 2023	Sept 2023	Jan 2024	July 2024	Sept 2024
Clatsop		0.98		0.75	
Coos				3.25	3.25
Deschutes		1.92		2.77	0.80
Douglas	2.00			2.00	1.93
Jackson			2.00	1.05	2.45
Marion	3.25	6.25	4.15	3.50	
Multnomah	2.00	5.00	1.94	1.94	2.45
Washington	2.00	1.00	2.05	2.97	1.94
Total	9.25	15.15	10.14	18.23	12.82

2. Attorney MAC Utilization

Public defense attorneys that are still active on criminal contracts have utilized about 91% of their contracted MAC totals through August 2024. Monthly utilization rates for these counties have been above 85% for every month so far except for August 2024 which at 78% was the lowest utilization rate recorded.

As part of the current contract, providers can indicate they are not able to take any more cases otherwise known as a shutoff. Contract providers can submit a partial or full shut off at either the attorney or contract level. When an attorney or entire contract provider shuts off, they are not taking any more appointments during that time. Utilization rates do not take shutoffs into account. If a provider shuts off for a period, their utilization rate will look low. There were three criminal contract providers who submitted a complete contract shut off notice in August in these counties. One of these providers was shut off from taking new appointments for the entire month of August 2024.

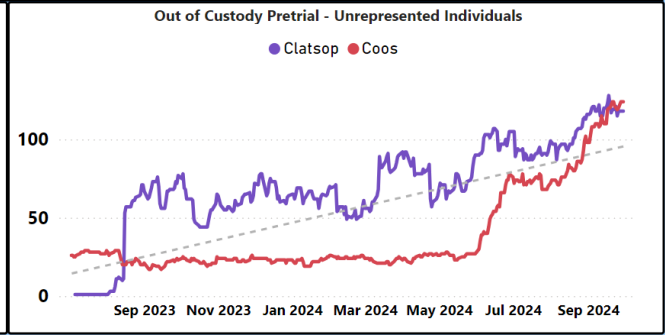
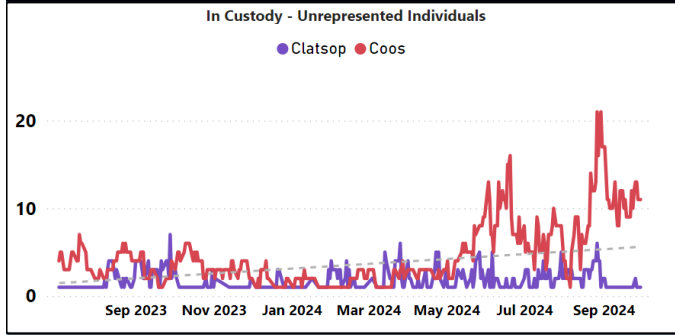
Active Attorney Criminal MAC Utilization (thru Aug. 24)	
Home County	MAC Utilization
Clatsop	106.7%
Coos	124.9%
Deschutes	100.2%
Douglas	88.7%
Jackson	94.0%
Marion	74.8%
Multnomah	88.2%
Washington	100.8%
Total	91.2%



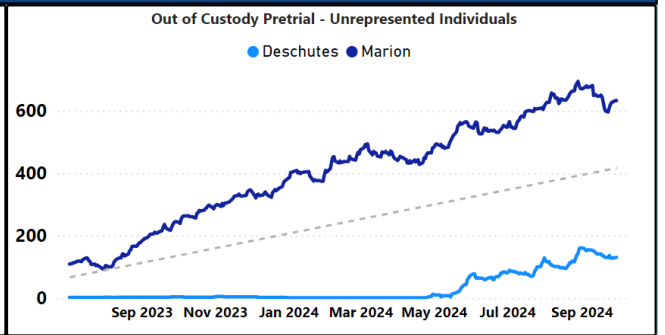
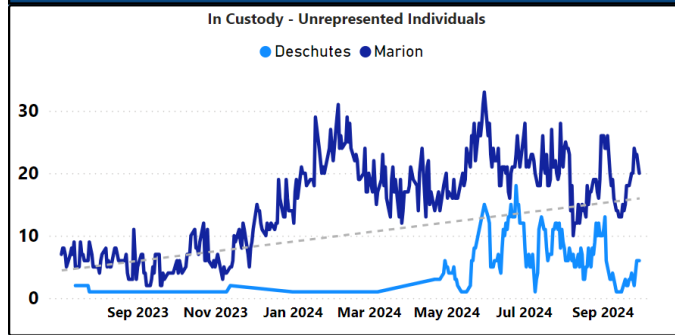
3. Unrepresented Trends

The following graphs display daily counts of In Custody and Out of Custody Pretrial Unrepresented Individuals for each county between July 1st, 2023 and September 30 2024. These categories comprise the bulk of the overall unrepresented populations (but exclude probation violations, non-criminal cases, and cases in warrant status). The graphs below are sourced from the Oregon Judicial Department’s (OJD) “OPDS Unrepresented” Dashboard.

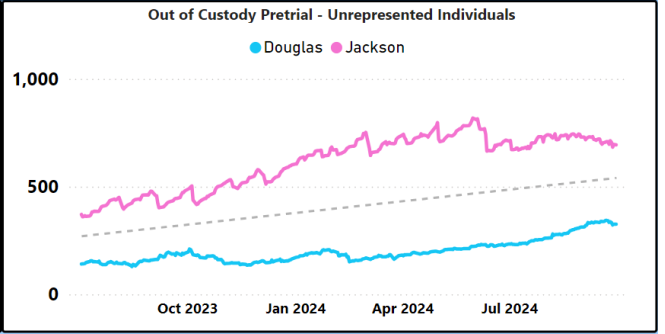
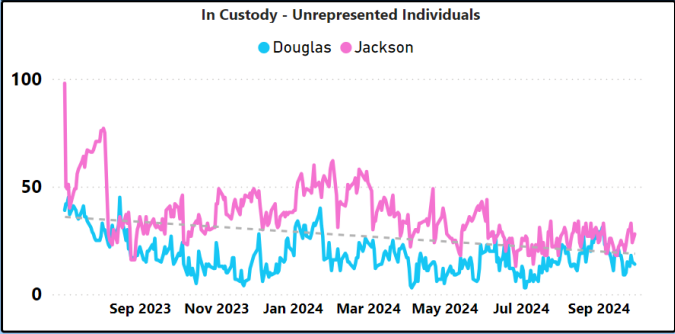
Clatsop & Coos County Unrepresented Individuals 7/1/23 - 9/30/24



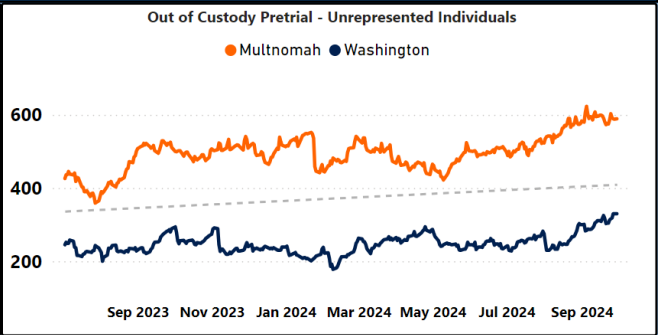
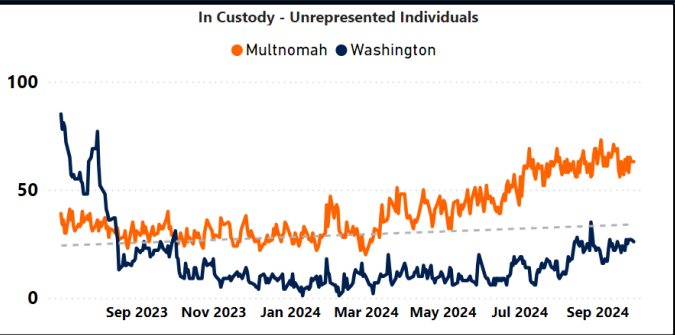
Deschutes & Marion County Unrepresented Individuals 7/1/23 - 9/30/24



Douglas & Jackson County Unrepresented Individuals 7/1/23 - 9/30/24



Multnomah & Washington County Unrepresented Individuals 7/1/23 - 9/30/24

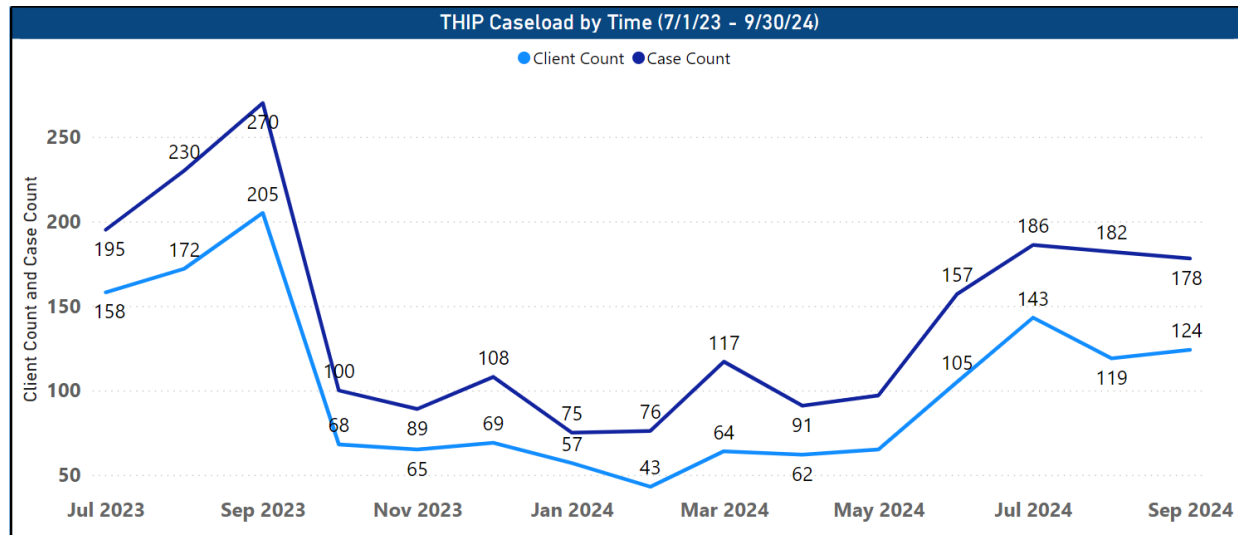


4. Temporary Hourly Increase (THIP) Caseloads

Case counts for each of these counties for the Temporary Hourly Increase Program are displayed here, showing only Criminal Cases. The visuals display case counts by county, case type, and over time. Beginning in October 2023, THIP was limited to only In-Custody Unrepresented cases, which means fewer THIP eligible cases. Additionally, in May 2024 OPDC added a second Unrepresented Persons Analyst and began using a new Nintex form to process case assignments and automate communication with courts. Both of these facts have contributed to the increased number of THIP case assignments the agency is able to process daily since May 2024.

THIP Case Count by County (7/1/23 - 9/30/24)									
Year	Clatsop	Coos	Deschutes	Douglas	Jackson	Marion	Multnomah	Washington	Total
2023	13	52	10	104	73	188	332	221	992
July		6	5	17	14	35	73	45	195
August	1	23	2	18	27	48	61	50	230
September		5	3	27	17	43	113	63	270
October	1	6		19	6	26	25	17	100
November	4	3		5	7	13	35	22	89
December	7	9		18	2	23	25	24	108
2024	53	147	99	166	106	143	186	261	1,159
January	2	6		15	4	20	13	15	75
February		1		7	3	7	30	28	76
March	14	6	5	12	12	18	25	25	117
April	2	5	6	13	10	12	18	25	91
May	12	12	16	9	6	9	14	19	97
June	7	21	43	9	15	15	15	34	157
July	2	48	18	30	17	15	25	31	186
August	12	35	7	28	18	27	11	44	182
September	2	13	4	43	21	20	35	40	178
Total	66	199	109	270	179	331	518	482	2,151

The Criminal Contract retention numbers, vacancy funding, utilization rates, & shut-off notices can have effects on those counties' unrepresented trends which impact how many eligible THIP cases and assignments are made each month. For example, Deschutes and Coos county lost multiple attorneys from contracts in recent months which resulted in increased reliance on THIP assignments during that time.



THIP Case Count by Case Type (7/1/23 - 9/30/24)										
Case County	Civil Commitment	Jessica Law	Major Felony	Measure 11	Minor Felony	Misdemeanor	Murder	PCR/Habeas	Probation Violations-Criminal	Total
Clatsop	2		2	12	21	20				9
Coos	13	3	14	16	47	91	6			199
Deschutes		3	8	6	16	52	5			109
Douglas		1	23	19	96	109	9			270
Jackson	12		16	9	46	82	1			179
Marion	1	5	22	36	81	62	8	8		331
Multnomah	1	5	25	28	202	223	26	2		518
Washington		7	63	76	140	160	7	4		482
Total	29	24	173	202	649	798	62	14	209	2,151

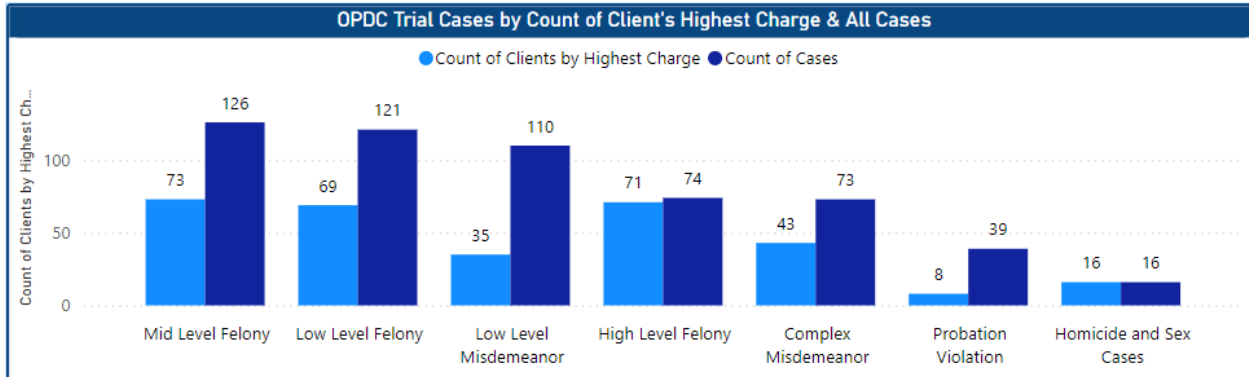
5. State Trial Division Caseloads

The OPDC State Trial Division now has three office locations: Northwest, Central Valley, and Southwest. As of September 30th, 2024, the State Trial Division attorneys have taken a total of 559 cases in Coos, Douglas, Deschutes, Jackson, Marion, Multnomah, and Washington counties. They have not taken any cases in Clatsop County.

OPDC Trial Division Cases			
County	Closed	Open	Total
Coos		6	6
Deschutes	1	1	2
Douglas	10	17	27
Jackson	120	113	233
Marion	18	76	94
Multnomah	34	50	84
Washington	17	96	113
Total	200	359	559

The State Trial Division maintains a caseload buffer to allow them to act as a backstop by accepting appointment on high priority cases subject to Betschart when no other public defenders are available. This allows the trial division to accept appointments on the highest priority cases and prevent a forced Betschart release of a person who would typically be held pretrial. The State Trial Division lawyer is then able to advocate for their clients' rights, including advocating for pretrial release, through the standard judicial process.

When attorneys are hired that were previously practicing public defenders in Oregon, they may bring their existing open caseload with them. The numbers shown here include these cases. The OPDC Data and Research Team is working with OJD to conduct more in-depth analysis on the State Trial Division caseload including which cases were unrepresented.



Oregon Public Defense Commission

FCMS Project

October 2024

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

David Martin, CIO
Presenting



OPDC FCMS Stage Gate 2-3

Accomplishments

- 1. Change Management:** Moss Adams Discovery Interviews Scheduled 10/14-10/30.
- 2. Stage 2:** On Target for Stage Gate 2 Approval 10/7.
 - Stage Gate Memorandum Letter: On Target for 10/14.
- 3. RFP Post:** Planned for October 16th.
- 4. Budget/Scope/Schedule:** Stage Gate 3 Refinement +- 10% Alignment: In progress.
- 5. Procurement Kick-Off:** October 15th.

OUR VISION

Next Steps

- Procurement Track: RFP Bids, Evaluations, and Demos.
- Change Management Discovery Interviews run through October 28th.
- Stage 3 Work – Future State Process, 150-200 Use Cases, Benefits Management Plan, Cloud Workbook 10/1-3/30.



Risk Governance

- 1. EIS Stage Gate Approvals** – mitigating Stage Gate 2 final cursory review with LFO, DAS, EIS on critical path timeline.
- 2. Bond Funding** – mitigating Bond Funding risk with application submitted to DAS for approval of \$13 million estimated.
- 3. Schedule** – risks around critical path for iQMS interviews, Change Management Discovery Sessions, Procurement Activities all running in October. SME's availability being managed closely.
- 4. LFO Concerns of Schedule/Scope/Budget** – Addressed and shared significant work to date and artifacts for Schedule/Scope/Budget.

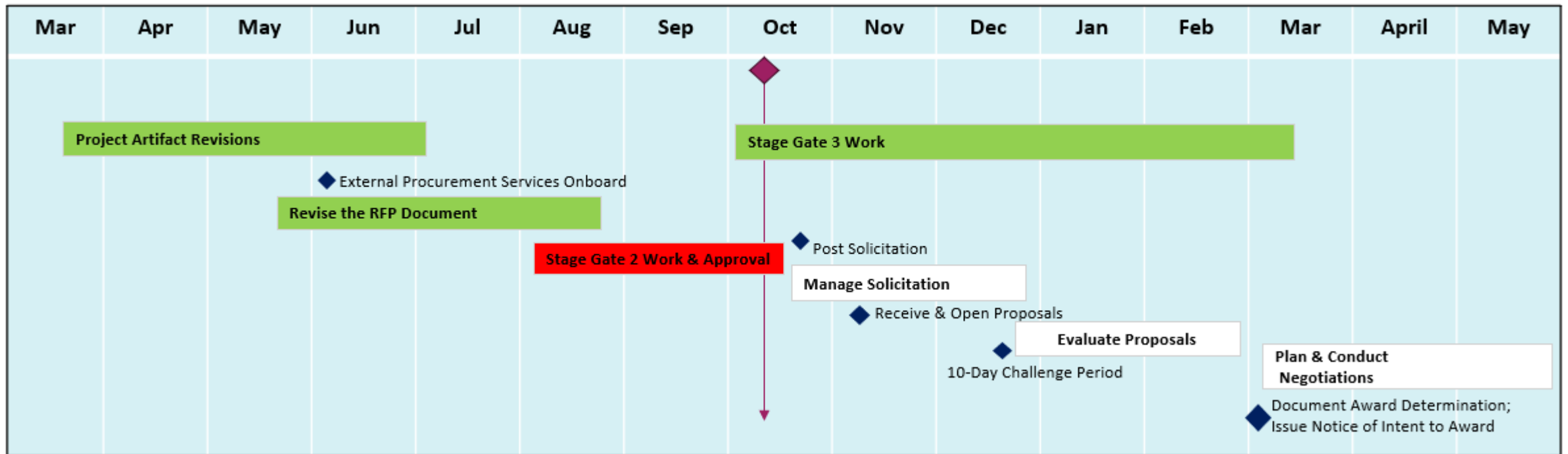
Schedule – Critical Path

- Publish RFP October 16, 2024
- Deadline for Questions, November 15, 2024
- RFP Addendum Q&A published November 26, 2024
- The RFP Protest period ends December 3, 2024
- Proposals due deadline, December 20, 2024
- Round 1 Evaluation complete, January 22, 2025
- Round 2 Evaluations complete, February 24, 2025

Procurement Timeline

Current Dependencies

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



Status

FCMS Monthly Project Status Report - September

Project Status – Medium Risk *Critical Path items for Stage Gate 2 Approval and Procurement Timeline allow little lag in schedule presenting timeline constraints.

Budget Status – Medium Risk *Until Bond Funding is officially approved, and POP 101 approval completes; status unchanged.

Schedule Status - Medium Risk *Multiple resources assigned to multiple tracks scheduled at the same time: Moss Adams Change Management Discovery Phase, Procurement Milestones, iQMS interviews, Stage 3 Work.

Resources Status - Medium Risk *Moss Adams contractors for OCM & 2nd BA, 2nd PM onboarded, significant reduction in risk. 2nd PM and 2nd BA 50% allocated to FCMS on 3 tracks of work: Change Management, Procurement, Stage Gate 3. Significant Resource Alignment for Procurement and Change Management anticipated.

Scope Status - Medium Risk *RFP Legal Sufficiency Review complete, Scope Alignment solidified with Stage 2 Reviews for 18 PMBOK Artifacts. Will go Green after SG 2 Approval.

Thank you

